

THE DECLINE AND FALL OF THE  
ROMAN EMPIRE

VOL. VII



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EDWARD GIBBON

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VOLUME VII



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THE HISTORY  
OF THE  
DECLINE AND FALL OF  
THE ROMAN EMPIRE

BY  
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WITH AN INTRODUCTION  
BY  
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VOL. VII

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# THE HISTORY OF THE DECLINE AND FALL OF THE ROMAN EMPIRE

## CHAPTER XL

*Elevation of Justin the Elder — Reign of Justinian: — I. The Empress Theodora — II. Factions of the Circus, and Sedition of Constantinople — III. Trade and Manufacture of Silk — IV. Finances and Taxes — V. Edifices of Justinian — Church of St. Sophia — Fortifications and Frontiers of the Eastern Empire — Abolition of the Schools of Athens and the Consulship of Rome*

THE emperor Justinian was born<sup>1</sup> near the ruins of Sardica (the modern Sophia), of an obscure race<sup>2</sup> of Barba-

<sup>1</sup> There is some difficulty in the date of his birth (Ludewig in Vit. Justiniani, p. 125); none in the place — the district Bederiana — the village Tauresium, which he afterwards decorated with his name and splendour (D'Anville, Mém. de l'Acad. &c. tom. xxxi. p. 287-292). [See below, p. 60, n. 114.]

<sup>2</sup> The names of these Dardanian peasants are Gothic, and almost English: *Justinian* is a translation of *uprauda* (*upright*); his father *Sabatius* (in Græco-Barbarous language *stipes*) was styled in his village *istock* (*stock*); his mother Bigleniza was softened into Vigilantia. [For the name of Justinian's father *Sabatius* we have the authority of Procopius; it is a Thracian word, connected with the name of the Thracian sun-god. But it was the family name, for Justinian himself also bore it; see his full name below, note 9. The other names are Slavonic (not Gothic) and are derived from the *Justiniani Vita* of Theophilus, quoted by Alemanni and rediscovered by Mr. Bryce (see above, vol. i., Introduction, p. lxvi., lxvii.). Mediæval Slavonic legend (if it is represented in this work) conceived Justinian as a Slav. *Uprava* is a translation of Justinianus (and not *vice versa*); *istok* means a fountain; *Biglenizza* is explained as coming from *bieli* "white." But these (and other Slavonic names in the *Vita*) are late and bad formations (compare

rians,<sup>3</sup> the inhabitants of a wild and desolate country, to which the names of Dardania, of Dacia, and of Bulgaria have been successively applied. His elevation was prepared by the adventurous spirit of his uncle Justin, who, with two other peasants of the same village, deserted, for the profession of arms, the more useful employment of husbandmen or shepherds.<sup>4</sup> On foot, with a scanty provision of biscuit in their knapsacks, the three youths followed the highroad of Constantinople, and were soon enrolled, for their strength and stature, among the guards of the emperor Leo. Under the two succeeding reigns, the fortunate peasant emerged to wealth and honours; and his escape from some dangers which threatened his life was afterwards ascribed to the guardian angel who watches over the fate of kings. His long and laudable service in the Isaurian and Persian wars would not have preserved from oblivion the name of Justin; yet they might warrant the military promotion which in the course of fifty years he gradually obtained; the rank of tribune, of count, and of general, the dignity of senator, and the command of the guards, who obeyed him as their chief, at the important crisis when the emperor Anastasius was removed from the world. The powerful kinsmen whom he had raised and enriched were excluded from the throne; and the eunuch Amantius, who reigned in the palace, had secretly

C. Jireček, Eng. Hist. Review, 1887, p. 685). The only result from the *Vila*, Mr. Bryce thinks, is "to give us a glimpse into a sort of cyclus of Slavonic legends, attaching themselves to the great name of Justinian" (*ib.* p. 684). Prof. Jagič thinks the names are mainly a fabrication of Lucari (Copioso ristretto degli Annali di Rausa, 1605) and other Dalmatian scholars of the time. Arch. für slavische Philologie, xi. 300-4, 1888.]

<sup>3</sup> Ludewig (p. 127-135) attempts to justify the Anician name of Justinian and Theodora, and to connect them with a family from which the house of Austria has been derived.

<sup>4</sup> See the anecdotes of Procopius (c. 6) with the notes of N. Alemannus. The satirist would not have sunk, in the vague and decent appellation of γεωργός, the βούκολος and στυφορβός of Zonaras. Yet why are those names disgraceful? — and what German baron would not be proud to descend from the Eumæus of the Odyssey?

resolved to fix the diadem on the head of the most obsequious of his creatures. A liberal donative, to conciliate the suffrage of the guards, was entrusted for that purpose in the hands of their commander. But these weighty arguments were treacherously employed by Justin in his own favour; and, as no competitor presumed to appear, the Dacian peasant was invested with the purple, by the unanimous consent of the soldiers who knew him to be brave and gentle, of the clergy and people who believed him to be orthodox, and of the provincials who yielded a blind and implicit submission to the will of the capital. The elder Justin, as he is distinguished from another emperor of the same family and name, ascended the Byzantine throne at the age of sixty-eight years; and, had he been left to his own guidance, every moment of a nine years' reign must have exposed to his subjects the impropriety of their choice. His ignorance was similar to that of Theodoric; and it is remarkable that, in an age not destitute of learning, two contemporary monarchs had never been instructed in the knowledge of the alphabet. But the genius of Justin was far inferior to that of the Gothic king; the experience of a soldier had not qualified him for the government of an empire<sup>4</sup>; and, though personally brave, the consciousness of his own weakness was naturally attended with doubt, distrust, and political apprehension. But the official business of the state was diligently and faithfully transacted by the quæstor Proclus:<sup>5</sup> and the aged emperor adopted the talents and ambition of his nephew Justinian, an aspiring youth, whom his uncle had drawn from the rustic solitude of Dacia, and educated at Constantinople, as the heir of his private fortune, and at length of the Eastern empire.

Since the eunuch Amantius had been defrauded of his

<sup>4</sup> [Cp. John Lydus, *de Mag.* 3, c. 51, ἀνὴρ δὲ ἦν ἀπράγμων καὶ μηδὲν ἀπλῶς παρὰ τὴν τῶν θπλων πείραν ἐπιστάμενος.]

<sup>5</sup> His virtues are praised by Procopius (*Persic.* l. i. c. 11). The quæstor Proclus was the friend of Justinian, and the enemy of every other adoption.

money, it became necessary to deprive him of his life. The task was easily accomplished by the charge of a real or fictitious conspiracy; and the judges were informed, as an accumulation of guilt, that he was secretly addicted to the Manichæan heresy.<sup>6</sup> Amantius lost his head; three of his companions, the first domestics of the palace, were punished either with death or exile; and their unfortunate candidate for the purple was cast into a deep dungeon, overwhelmed with stones, and ignominiously thrown, without burial, into the sea. The ruin of Vitalian was a work of more difficulty and danger. That Gothic chief had rendered himself popular by the civil war which he boldly waged against Anastasius for the defence of the orthodox faith, and, after the conclusion of an advantageous treaty, he still remained in the neighbourhood of Constantinople at the head of a formidable and victorious army of Barbarians. By the frail security of oaths, he was tempted to relinquish this advantageous situation, and to trust his person within the walls of a city whose inhabitants, particularly the *blue* faction, were artfully incensed against him by the remembrance even of his pious hostilities. The emperor and his nephew embraced him as the faithful and worthy champion of the church and state; and gratefully adorned their favourite with the titles of consul and general; but, in the seventh month of his consulship, Vitalian was stabbed with seventeen wounds at the royal banquet;<sup>7</sup> and Justinian, who inherited the spoil,

<sup>6</sup> Manichæan signifies Eutychnian. Hear the furious acclamations of Constantinople and Tyre, the former no more than six days after the decease of Anastasius. *They* produced, the latter applauded, the eunuch's death (Baronius, A.D. 518, P. ii. No. 15. Fleury, Hist. Ecclés. tom. vii. p. 200, 205, from the Councils, tom. v. p. 182, 207).

<sup>7</sup> His power, character, and intentions are perfectly explained by the Count de Buat (tom. ix. p. 54-81). He was great-grandson of Aspar, hereditary prince in the Lesser Scythia, and count of the Gothic *fœderati* of Thrace. The Bessi, whom he could influence, are the minor Goths of Jornandes (c. 51). [For the position of Justinian in Justin's reign see Appendix I.]

was accused as the assassin of a spiritual brother, to whom he had recently pledged his faith in the participation of the Christian mysteries.<sup>8</sup> After the fall of his rival, he was promoted, without any claim of military service, to the office of master-general of the Eastern armies, whom it was his duty to lead into the field against the public enemy. But, in the pursuit of fame, Justinian might have lost his present dominion over the age and weakness of his uncle; and instead of acquiring by Scythian or Persian trophies the applause of his countrymen,<sup>9</sup> the prudent warrior solicited their favour in the churches, the circus, and the senate of Constantinople. The Catholics were attached to the nephew of Justin, who, between the Nestorian and Eutychian heresies, trod the narrow path of inflexible and intolerant orthodoxy.<sup>10</sup> In the first days of the new reign, he prompted and gratified the popular enthusiasm against the memory of the deceased emperor. After a schism of thirty-four years, he reconciled the proud and angry spirit of the Roman pontiff, and spread among the Latins a favourable report of his pious respect for the apostolic see. The thrones of the East were filled with Catholic bishops devoted to his interest, the clergy and the monks were gained by his liberality, and the people were taught to pray for their future sovereign, the hope and

<sup>8</sup> Justiniani patricii factione dicitur interfectus fuisse (Victor Tununensis, Chron. in Thesaur. Temp. Scaliger, P. ii. p. 7 [ad ann. 523]). Procopius (Anecdot. c. 7) styles him a tyrant, but acknowledges the ἀδελφοποισία, which is well explained by Alemannus. [Cp. Evagrius, iv. 3.]

<sup>9</sup> In his earliest youth (plane adolescens) he had passed some time as an hostage with Theodoric. For this curious fact, Alemannus (ad Procop. Anecdot. c. 9, p. 34, of the first edition) quotes a MS. history of Justinian, by his preceptor Theophilus. Ludewig (p. 143) wishes to make him a soldier. [Justinian was Master of Soldiers *in praes.* in A. D. 521. See the diptych in CIL, 5, 8120, 3, where his full name and titles appear: F(lavius) Petrus Sabbat(ius) Justinian(us) v(ir) i(n)lustris com(es) mag. eqq. et p(editum) praes(entalis) et (consul) ord(inarius). Comes means comes domesticorum.]

<sup>10</sup> The ecclesiastical history of Justinian will be shewn hereafter. See Baronius, A. D. 518-521, and the copious article *Justinianus* in the index to the viith volume of his annals.

pillar of the true religion. The magnificence of Justinian was displayed in the superior pomp of his public spectacles, an object not less sacred and important in the eyes of the multitude than the creed of Nice or Chalcedon; the expense of his consulship was estimated at two hundred and eighty-eight thousand pieces of gold; twenty lions, and thirty leopards, were produced at the same time in the amphitheatre, and a numerous train of horses, with their rich trappings, was bestowed as an extraordinary gift on the victorious charioteers of the circus. While he indulged the people of Constantinople, and received the addresses of foreign kings, the nephew of Justin assiduously cultivated the friendship of the senate. That venerable name seemed to qualify its members to declare the sense of the nation, and to regulate the succession of the Imperial throne; the feeble Anastasius had permitted the vigour of government to degenerate into the form or substance of an aristocracy; and the military officers who had obtained the senatorial rank were followed by their domestic guards, a band of veterans, whose arms or acclamations might fix in a tumultuous moment the diadem of the East. The treasures of the state were lavished to procure the voices of the senators, and their unanimous wish, that he would be pleased to adopt Justinian for his colleague, was communicated to the emperor. But this request, which too clearly admonished him of his approaching end, was unwelcome to the jealous temper of an aged monarch, desirous to retain the power which he was incapable of exercising; and Justin, holding his purple with both his hands, advised them to prefer, since an election was so profitable, some older candidate. Notwithstanding this reproach, the senate proceeded to decorate Justinian with the royal epithet of *nobilissimus*; and their decree was ratified by the affection or the fears of his uncle. After some time the languor of mind and body, to which he was reduced by an incurable wound in his thigh, indispensably required the aid of a guardian. He summoned the patriarch and senators;

and in their presence solemnly placed the diadem on the head of his nephew, who was conducted from the palace to the circus, and saluted by the loud and joyful applause of the people. The life of Justin was prolonged about four months, but from the instant of this ceremony he was considered as dead to the empire, which acknowledged Justinian, in the forty-fifth year of his age, for the lawful sovereign of the East.<sup>11</sup>

From his elevation to his death, Justinian governed the Roman empire thirty-eight years, seven months, and thirteen days. The events of his reign, which excite our curious attention by their number, variety, and importance, are diligently related by the secretary of Belisarius, a rhetorician whom eloquence had promoted to the rank of senator and prefect of Constantinople. According to the vicissitudes of courage or servitude, of favour or disgrace, Procopius<sup>12</sup> successively composed the *history*, the *panegyric*, and the *satire* of his own times. The eight books of the Persian, Vandalic, and Gothic wars,<sup>13</sup> which are continued in the five books of Agathias, deserve our esteem as a laborious and successful imitation of the Attic, or at least of the Asiatic,

<sup>11</sup> The reign of the elder Justin may be found in the three Chronicles of Marcellinus, Victor, and John Malala (tom. ii. p. 130-150), the last of whom (in spite of Hody, Prolegom. No. 14, 39, edit. Oxon.) lived soon after Justinian (Jortin's remarks, &c. vol. iv. p. 383 [cp. vol. vi. Appendix 2]); in the Ecclesiastical History of Evagrius (l. iv. c. 1, 2, 3, 9), and the Excerpta of Theodorus (Lector. No. 37 [p. 565, ed. Val.]), and in Cedrenus (p. 362-366 [i. 636 sqq., ed. Bonn]), and Zonaras (l. xiv. p. 58-61 [c. 5]), who may pass for an original. [Cp. George Mon., ed. Muralt, p. 518.]

<sup>12</sup> See the characters of Procopius and Agathias in La Mothe le Vayer (tom. viii. p. 144-174), Vossius (de Historicis Græcis, l. ii. c. 22), and Fabricius (Bibliot. Græc. l. v. c. 5, tom. vi. p. 248-278). Their religion, an honourable problem, betrays occasional conformity, with a secret attachment to Paganism and Philosophy. [On the life of Procopius, and the chronology of his works, see vol. vi. Appendix 2.]

<sup>13</sup> In the seven first books, two Persian, two Vandalic, and three Gothic, Procopius has borrowed from Appian the division of provinces and wars: the viii<sup>th</sup> book, though it bears the name of Gothic, is a miscellaneous and general supplement down to the spring of the year 553, from whence it is continued by Agathias till 559 (Pagi, Critica, A.D. 579, No. 5).

writers of ancient Greece. His facts are collected from the personal experience and free conversation of a soldier, a statesman, and a traveller; his style continually aspires, and often attains, to the merit of strength and elegance; his reflections, more especially in the speeches, which he too frequently inserts, contain a rich fund of political knowledge; and the historian, excited by the generous ambition of pleasing and instructing posterity, appears to disdain the prejudices of the people and the flattery of courts. The writings of Procopius<sup>14</sup> were read and applauded by his contemporaries;<sup>15</sup> but, although he respectfully laid them at the foot of the throne, the pride of Justinian must have been wounded by the praise of an hero, who perpetually eclipses the glory of his inactive sovereign. The conscious dignity of independence was subdued by the hopes and fears of a slave; and the secretary of Belisarius laboured for pardon and reward in the six books of the Imperial *edifices*. He had dexterously chosen a subject of apparent splendour, in which he could loudly celebrate the genius, the magnificence, and the piety of a prince who, both as a conqueror and legislator, had

<sup>14</sup> The literary fate of Procopius has been somewhat unlucky. 1. His books de Bello Gothico were stolen by Leonard Aretin, and published (Fulgini, 1470, Venet. 1471, apud Janson. Mattaire, Annal. Typograph. tom. i. edit. posterior, p. 290, 304, 279, 299) in his own name (see Vossius de Hist. Lat. l. iii. c. 5, and the feeble defence of the Venice Giornale de' Letterati, tom. xix. p. 207). 2. His works were mutilated by the first Latin translators, Christopher Persona (Giornale, tom. xix. p. 340-348) and Raphael de Volaterra (Huet, de Claris. Interpretibus, p. 166), who did not even consult the MS. of the Vatican library, of which they were prefects (Aleman. in Præfat. Anecdote). 3. The Greek text was not printed till 1607, by Hoeschelius of Augsburg (Dictionnaire de Bayle, tom. ii. p. 782). 4. The Paris edition was imperfectly executed by Claude Maltret, a Jesuit of Toulouse (in 1663), far distant from the Louvre press and the Vatican MS., from which, however, he obtained some supplements. His promised commentaries, &c. have never appeared. The Agathias of Leyden (1594) had been wisely reprinted by the Paris editor, with the Latin version of Bonaventura Vulcanius, a learned interpreter (Huet. p. 176).

<sup>15</sup> Agathias in Præfat. p. 7, 8, l. iv. p. 137 [*leg.* 136; c. 26]. Evagrius, l. iv. c. 12. See likewise Photius, cod. lxxiii. p. 65.

surpassed the puerile virtues of Themistocles and Cyrus.<sup>16</sup> Disappointment might urge the flatterer to secret revenge; and the first glance of favour might again tempt him to suspend and suppress a libel,<sup>17</sup> in which the Roman Cyrus is degraded into an odious and contemptible tyrant, in which both the emperor and his consort Theodora are seriously represented as two demons, who had assumed an human form for the destruction of mankind.<sup>18</sup> Such base inconsistency must doubtless sully the reputation, and detract from the credit, of Procopius; yet, after the venom of his malignity has been suffered to exhale, the residue of the *anecdotes*, even the most disgraceful facts, some of which had been tenderly hinted in his public history, are established by their internal evidence, or the authentic monuments of the times.<sup>19</sup> From these various materials, I shall now proceed to describe the reign of Justinian, which will deserve and occupy an ample space. The present chapter will explain the elevation and character of Theodora, the factions of the circus, and the peaceful administration of the sovereign of

<sup>16</sup> *Κύρου παιδὲλα* (says he, Præfat. ad l. de Ædificiis, *περὶ κτισμάτων*) is no more than *Κύρου παιδί* — a pun! In these five books, Procopius affects a Christian as well as a courtly style. [It is highly probable that the task of writing the Edifices was set the historian by the Emperor. Cp. vol. vi. Appendix 2.]

<sup>17</sup> Procopius discloses himself (Præfat. ad Anecd. c. 1, 2, 5), and the anecdotes are reckoned as the ixth book by Suidas (tom. iii. p. 186, edit. Kuster). The silence of Evagrius is a poor objection. Baronius (A.D. 548, No. 24) regrets the loss of this secret history: it was then in the Vatican library, in his own custody, and was first published sixteen years after his death, with the learned, but partial, notes of Nicholas Alemannus (Lugd. 1623). [Cp. vol. vi. Appendix 2.]

<sup>18</sup> Justinian an ass — the perfect likeness of Domitian (Anecd. c. 8) — Theodora's lovers driven from her bed by rival demons — her marriage foretold with a great demon — a monk saw the prince of the demons, instead of Justinian, on the throne — the servants who watched beheld a face without features, a body walking without an head, &c. &c. Procopius declares his own and his friends' belief in these diabolical stories (c. 12).

<sup>19</sup> Montesquieu (Considérations sur la Grandeur et la Décadence des Romains, c. xx.) gives credit to these anecdotes, as connected, 1, with the weakness of the empire, and 2, with the instability of Justinian's laws.

the East. In the three succeeding chapters I shall relate the wars of Justinian which achieved the conquest of Africa and Italy; and I shall follow the victories of Belisarius and Narses, without disguising the vanity of their triumphs, or the hostile virtue of the Persian and Gothic heroes. The series of this and the following volume will embrace the jurisprudence and theology of the emperor; the controversies and sects which still divide the Oriental church; the reformation of the Roman law, which is obeyed or respected by the nations of modern Europe.

I. In the exercise of supreme power, the first act of Justinian was to divide it with the woman whom he loved, the famous Theodora,<sup>20</sup> whose strange elevation cannot be applauded as the triumph of female virtue. Under the reign of Anastasius, the care of the wild beasts maintained by the green faction of Constantinople was entrusted to Acacius, a native of the isle of Cyprus, who, from his employment, was surnamed the master of the bears. This honourable office was given after his death to another candidate, notwithstanding the diligence of his widow, who had already provided a husband and a successor. Acacius had left three daughters, Comito,<sup>21</sup> THEODORA, and Anastasia, the eldest of whom did not then exceed the age of seven years. On a solemn festival, these helpless orphans were sent by their distressed and indignant mother, in the garb of suppliants, into the midst of the theatre; the green faction received them with contempt, the blues with compassion; and this difference, which sunk deep into the mind of Theodora, was felt long afterwards in the administration of the empire. As they improved in age and beauty, the three sisters were

<sup>20</sup> For the life and manners of the empress Theodora, see the Anecdotes; more especially c. 1-5, 9, 10-15, 16, 17, with the learned notes of Alemannus — a reference which is always implied. [Cp. vol. vi. Appendix 2.]

<sup>21</sup> Comito was afterwards married to Sittas duke of Armenia, the father perhaps, at least she might be the mother, of the empress Sophia. Two nephews of Theodora may be the sons of Anastasia (Aleman. p. 30, 31).

successively devoted to the public and private pleasures of the Byzantine people; and Theodora, after following Comito on the stage, in the dress of a slave, with a stool on her head, was at length permitted to exercise her independent talents. She neither danced, nor sung, nor played on the flute; her skill was confined to the pantomime arts; she excelled in buffoon characters, and, as often as the comedian swelled her cheeks, and complained with a ridiculous tone and gesture of the blows that were inflicted, the whole theatre of Constantinople resounded with laughter and applause. The beauty of Theodora<sup>22</sup> was the subject of more flattering praise, and the source of more exquisite delight. Her features were delicate and regular; her complexion, though somewhat pale, was tinged with a natural colour; every sensation was instantly expressed by the vivacity of her eyes; her easy motions displayed the graces of a small but elegant figure; and even love or adulation might proclaim that painting and poetry were incapable of delineating the matchless excellence of her form. But this form was degraded by the facility with which it was exposed to the public eye and prostituted to licentious desire. Her venal charms were abandoned to a promiscuous crowd of citizens and strangers, of every rank, and of every profession; the fortunate lover who had been promised a night of enjoyment was often driven from her bed by a stronger or more wealthy favourite; and, when she passed through the streets, her presence was avoided by all who wished to escape either the scandal or the temptation. The satirical historian has not blushed<sup>23</sup> to describe the

<sup>22</sup> Her statue was raised at Constantinople, on a porphyry column. See Procopius (*de Ædific.* l. i. c. 11), who gives her portrait in the *Anecdotes* (c. 10). Aleman. (p. 47) produces one from a Mosaic at Ravenna [in the apse of the church of San Vitale], loaded with pearls and jewels, and yet handsome.

<sup>23</sup> A fragment of the *Anecdotes* (c. 9), somewhat too naked, was suppressed by Alemannus, though extant in the Vatican MS.; nor has the defect been supplied in the Paris or Venice editions. La Mothe le Vayer (tom. viii. p. 155) gave the first hint of this curious and genuine passage (Jortin's

naked scenes which Theodora was not ashamed to exhibit in the theatre.<sup>24</sup> After exhausting the arts of sensual pleasure,<sup>25</sup> she most ungratefully murmured against the parsimony of Nature; <sup>26</sup> but her murmurs, her pleasures, and her arts must be veiled in the obscurity of a learned language. After reigning for some time, the delight and contempt of the capital, she condescended to accompany Ecebolus, a native of Tyre, who had obtained the government of the African Pentapolis. But this union was frail and transient; Ecebolus soon rejected an expensive or faithless concubine; she was reduced at Alexandria to extreme distress; and, in her laborious return to Constantinople, every city of the East admired and enjoyed the fair Cyprian, whose merit appeared to justify her descent from the peculiar island of Venus. The vague commerce of Theodora, and the most detestable precautions, preserved her from the danger which she feared; yet once, and once only, she became a mother. The infant was saved and educated in Arabia, by his father, who imparted to him on his death-bed that he was the son of an empress. Filled with ambitious hopes, the unsuspecting youth immediately hastened to the palace of Constantinople,

Remarks, vol. iv. p. 366), which he had received from Rome, and it has been since published in the Menagiana (tom. iii. p. 254-259), with a Latin version.

<sup>24</sup> After the mention of a narrow girdle (as none could appear stark-naked in the theatre), Procopius thus proceeds: ἀναπεπτωκυιά τε ἐν τῷ ἐδάφει ὑπτία ἔκειτο. Θῆτες δέ τινες . . . κριθὰς αὐτῇ ὑπερθεν τῶν αἰδοίων ἔρριπτον ἃς δὴ οἱ χῆνες, οἱ ἐς τοῦτο παρεσκευασμένοι ἐτύγγανον, τοῖς στόμασιν ἐνθένδε κατὰ μίαν ἀνελόμενοι ἦσθιον. I have heard that a learned prelate, now deceased, was fond of quoting this passage in conversation.

<sup>25</sup> Theodora surpassed the Crispa of Ausonius (Epigram lxxi.), who imitated the capitalis luxus of the females of Nola. See Quintilian, Institut. viii. 6, and Torrentius ad Horat. Sermon. l. i. sat. 2, v. 101. At a memorable supper, thirty slaves waited round the table; ten young men feasted with Theodora. Her charity was *universal*.

Et lassata viris, necdum satiata, recessit.

<sup>26</sup> Ἡ δὲ καὶ τριῶν τρυπημάτων ἐργαζομένη ἐνεκάλει τῇ φύσει δυσφορομένη ὅτι δὴ μὴ καὶ τιτθοῦς αὐτῇ εὐρύτερον ἢ νῦν εἰσι τρυπήνῃ, ὅπως δυνατῆ εἴη καὶ ἐκεῖνη ἐργάζεσθαι. She wished for a *fourth* altar, on which she might pour libations to the god of love.

and was admitted to the presence of his mother. As he was never more seen, even after the decease of Theodora, she deserves the foul imputation of extinguishing with his life a secret so offensive to her Imperial virtue.

In the most abject state of her fortune and reputation, some vision, either of sleep or of fancy, had whispered to Theodora the pleasing assurance that she was destined to become the spouse of a potent monarch. Conscious of her approaching greatness, she returned from Paphlagonia to Constantinople; assumed, like a skilful actress, a more decent character; relieved her poverty by the laudable industry of spinning wool; and affected a life of chastity and solitude in a small house, which she afterwards changed into a magnificent temple.<sup>27</sup> Her beauty, assisted by art or accident, soon attracted, captivated, and fixed the patrician Justinian, who already reigned with absolute sway under the name of his uncle. Perhaps she contrived to enhance the value of a gift which she had so often lavished on the meanest of mankind; perhaps she inflamed, at first by modest delays, and at last by sensual allurements, the desires of a lover, who from nature or devotion was addicted to long vigils and abstemious diet. When his first transports had subsided, she still maintained the same ascendant over his mind, by the more solid merit of temper and understanding. Justinian delighted to ennoble and enrich the object of his affection; the treasures of the East were poured at her feet; and the nephew of Justin was determined, perhaps by religious scruples, to bestow on his concubine the sacred and legal character of a wife. But the laws of Rome expressly prohibited the marriage of a senator with any female who had been dishonoured by a servile origin or theatrical profession; the empress Lupicina, or Euphemia, a Barbarian of rustic manners but

<sup>27</sup> Anonym. de Antiquitat. C. P. l. iii. 132 in Banduri Imperium Orient. tom. i. p. 48. Ludewig (p. 154) argues sensibly that Theodora would not have immortalised a brothel; but I apply this fact to her second and chaster residence at Constantinople.

of irreproachable virtue, refused to accept a prostitute for her niece; and even Vigilantia, the superstitious mother of Justinian, though she acknowledged the wit and beauty of Theodora, was seriously apprehensive lest the levity and arrogance of that artful paramour might corrupt the piety and happiness of her son. These obstacles were removed by the inflexible constancy of Justinian. He patiently expected the death of the empress; he despised the tears of his mother, who soon sunk under the weight of her affliction; and a law was promulgated in the name of the emperor Justin, which abolished the rigid jurisprudence of antiquity. A glorious repentance (the words of the edict) was left open for the unhappy females who had prostituted their persons on the theatre, and they were permitted to contract a legal union with the most illustrious of the Romans.<sup>28</sup> This indulgence was speedily followed by the solemn nuptials of Justinian and Theodora; her dignity was gradually exalted with that of her lover; and, as soon as Justin had invested his nephew with the purple, the patriarch of Constantinople placed the diadem on the heads of the emperor and empress of the East. But the usual honours which the severity of Roman manners had allowed to the wives of princes could not satisfy either the ambition of Theodora or the fondness of Justinian. He seated her on the throne as an equal and independent colleague in the sovereignty of the empire, and an oath of allegiance was imposed on the governors of the provinces in the joint names of Justinian and Theodora.<sup>29</sup> The Eastern

<sup>28</sup> See the old law in Justinian's code (l. v. tit. v. leg. 7, tit. xxvii. leg. 1) under the years 336 and 454. The new edict (about the year 521 or 522. Aleman. p. 38, 96) very awkwardly repeals no more than the clause of *mulieres scenicae, libertinae, tabernariae*. See the novels 89 and 117 [111 and 141, ed. Zachar.; dated A.D. 539 and 542], and a Greek rescript from Justinian to the bishops (Aleman. p. 41). [Note (1) that the only authority for the objections of Justinian's mother to his marriage is the *Life* of Theophilus; and (2) that the law of c. 522 A.D. (Cod. Just. v. 4, 23) had no connection with Theodora, notwithstanding the statement of Procopius, Anecd. c. 9.]

<sup>29</sup> I swear by the Father, &c., by the Virgin Mary, by the Four Gospels,

world fell prostrate before the genius and fortune of the daughter of Acacius. The prostitute, who, in the presence of innumerable spectators, had polluted the theatre of Constantinople, was adored as a queen in the same city, by grave magistrates, orthodox bishops, victorious generals, and captive monarchs.<sup>30</sup>

Those who believe that the female mind is totally depraved by the loss of chastity will eagerly listen to all the invectives of private envy or popular resentment, which have dissembled the virtues of Theodora, exaggerated her vices, and condemned with rigour the venal or voluntary sins of the youthful harlot. From a motive of shame or contempt, she often declined the servile homage of the multitude, escaped from the odious light of the capital, and passed the greatest part of the year in the palaces and gardens which were pleasantly seated on the sea-coast of the Propontis and the Bosphorus. Her private hours were devoted to the prudent as well as grateful care of her beauty, the luxury of the bath and table, and the long slumber of the evening and the morning. Her secret apartments were occupied by the favourite women and eunuchs, whose interests and passions she indulged at the expense of justice; the most illustrious personages of the state were crowded into a dark and sultry antichamber, and when at last, after tedious attendance, they were admitted to kiss the feet of Theodora, they experienced, as her humour might suggest, the silent arrogance of an empress or the capricious levity of a comedian. Her rapacious avarice to accumulate an immense treasure may be excused by the apprehension of her husband's death, which could leave no

*quæ in manibus teneo, and by the holy Archangels Michael and Gabriel, puram conscientiam germanumque servitium me servaturum, sacratissimis DDNN. Justiniano et Theodoræ conjugii ejus (Novell. viii. tit. 3 [xvi. p. 123, ed. Zach.]). Would the oath have been binding in favour of the widow? Communes tituli et triumphii, &c. (Aleman. p. 47, 48).*

<sup>30</sup> "Let greatness own her, and she's mean no more," &c. Without Warburton's critical telescope, I should never have seen, in the general picture of triumphant vice, any personal allusion to Theodora.

alternative between ruin and the throne; and fear as well as ambition might exasperate Theodora against two generals, who, during a malady of the emperor, had rashly declared that they were not disposed to acquiesce in the choice of the capital. But the reproach of cruelty, so repugnant even to her softer vices, has left an indelible stain on the memory of Theodora. Her numerous spies observed, and zealously reported, every action, or word, or look, injurious to their royal mistress. Whomsoever they accused were cast into her peculiar prisons,<sup>31</sup> inaccessible to the inquiries of justice; and it was rumoured that the torture of the rack or scourge had been inflicted in the presence of a female tyrant, insensible to the voice of prayer or of pity.<sup>32</sup> Some of these unhappy victims perished in deep unwholesome dungeons, while others were permitted, after the loss of their limbs, their reason, or their fortune, to appear in the world the living monuments of her vengeance, which was commonly extended to the children of those whom she had suspected or injured. The senator, or bishop, whose death or exile Theodora had pronounced, was delivered to a trusty messenger, and his diligence was quickened by a menace from her own mouth. "If you fail in the execution of my commands, I swear by him who liveth for ever, that your skin shall be flayed from your body."<sup>33</sup>

If the creed of Theodora had not been tainted with heresy, her exemplary devotion might have atoned, in the opinion of her contemporaries, for pride, avarice, and cruelty. But, if she employed her influence to assuage the intolerant fury of the emperor, the present age will allow some merit to her religion,

<sup>31</sup> Her prisons, a labyrinth, a Tartarus (Anecdot. c. 4), were under the palace. Darkness is propitious to cruelty, but it is likewise favourable to calumny and fiction. [John of Ephesus mentions that Theodora kept condemned heretics safely hidden for years in her palace.]

<sup>32</sup> A more jocular whipping was inflicted on Saturninus, for presuming to say that his wife, a favourite of the empress, had not been found *ἄρρητος* (Anecdot. c. 17).

<sup>33</sup> *Per viventem in sæcula excoriari te faciam.* Anastasius de Vitis Pont. Roman. in *Vigilio*, p. 40.

and much indulgence to her speculative errors.<sup>54</sup> The name of Theodora was introduced, with equal honour, in all the pious and charitable foundations of Justinian; and the most benevolent institution of his reign may be ascribed to the sympathy of the empress for her less fortunate sisters, who had been seduced or compelled to embrace the trade of prostitution. A palace, on the Asiatic side of the Bosphorus, was converted into a stately and spacious monastery, and a liberal maintenance was assigned to five hundred women, who had been collected from the streets and brothels of Constantinople. In this safe and holy retreat, they were devoted to perpetual confinement; and the despair of some, who threw themselves headlong into the sea, was lost in the gratitude of the penitents, who had been delivered from sin and misery by their generous benefactress.<sup>55</sup> The prudence of Theodora is celebrated by Justinian himself; and his laws are attributed to the sage counsels of his most reverend wife, whom he had received as the gift of the Deity.<sup>56</sup> Her courage was displayed amidst the tumult of the people and the terrors of the court. Her chastity, from the moment of her union with Justinian, is founded on the silence of her implacable enemies; and, although the daughter of Acacius might be satiated with love, yet some applause is due to the firmness of a mind which could sacrifice pleasure and habit to the stronger sense either of duty or interest. The wishes and prayers of Theodora could never obtain the blessing of a lawful son, and she buried an infant daughter, the sole offspring of her marriage.<sup>57</sup> Not-

<sup>54</sup> Ludewig, p. 161-166. I give him credit for the charitable attempt, although *he* hath not much charity in his temper.

<sup>55</sup> Compare the Anecdotes (c. 17) with the Edifices (l. i. c. 9) — how differently may the same fact be stated! John Malala (tom. ii. p. 174, 175 [441, ed. Bonn]) observes that on this or a similar occasion she released and clothed the girls whom she had purchased from the stews at five aurei apiece.

<sup>56</sup> Novel. viii. [xvi., ed. Zach.] 1. An allusion to Theodora. Her enemies read the name Dæmonodora (Aleman. p. 66). [*Dæmonodora* (or, rather, *Vraghidara*) comes only from the *Vita* of Theophilus.]

<sup>57</sup> St. Sabas refused to pray for a son of Theodora, lest he should prove an

withstanding this disappointment, her dominion was permanent and absolute; she preserved, by art or merit, the affections of Justinian; and their seeming dissensions were always fatal to the courtiers who believed them to be sincere. Perhaps her health had been impaired by the licentiousness of her youth; but it was always delicate, and she was directed by her physicians to use the Pythian warm baths. In this journey, the empress was followed by the Prætorian prefect, the great treasurer, several counts and patricians, and a splendid train of four thousand attendants; the highways were repaired at her approach; a palace was erected for her reception; and, as she passed through Bithynia, she distributed liberal alms to the churches, the monasteries, and the hospitals, that they might implore heaven for the restoration of her health.<sup>38</sup> At length, in the twenty-fourth year of her marriage, and the twenty-second of her reign, she was consumed by a cancer;<sup>39</sup> and the irreparable loss was deplored by her husband, who, in the room of a theatrical prostitute, might have selected the purest and most noble virgin of the East.<sup>40</sup>

II. A material difference may be observed in the games of antiquity: the most eminent of the Greeks were actors, the Romans were merely spectators. The Olympic stadium was

heretic worse than Anastasius himself (Cyril in Vit. St. Sabæ, apud Aleman. p. 70, 109).

<sup>38</sup> See [John Malala, tom. ii. p. 174 [441]. Theophanes, p. 158. Procopius, de Ædific. l. v. c. 3.

<sup>39</sup> Theodora Chalcedonensis synodi inimica canceris plagâ toto corpore [*leg.* corpore toto] perfusa vitam prodigiose finivit (Victor. Tununensis in Chron. [ad A.D. 549]). On such occasions, an orthodox mind is steeled against pity. Alemannus (p. 12, 13) understands the *εὐσεβῶς ἐκοιμήθη* of Theophanes as civil language, which does not imply either piety or repentance; yet two years after her death St. Theodora is celebrated by Paul Silentiarius (in Proem. v. 58-62).

<sup>40</sup> As she persecuted the popes, and rejected a council, Baronius exhausts the names of Eve, Dalila, Herodias, &c.; after which he has recourse to his infernal dictionary: *civis inferni* — *alumna dæmonum* — *satanico agitata spiritu* — *oestro percita diabolico*, &c. &c. (A.D. 548, No. 24).

open to wealth, merit, and ambition; and, if the candidates could depend on their personal skill and activity, they might pursue the footsteps of Diomede and Menelaus, and conduct their own horses in the rapid career.<sup>41</sup> Ten, twenty, forty, chariots were allowed to start at the same instant; a crown of leaves was the reward of the victor; and his fame, with that of his family and country, was chaunted in lyric strains more durable than monuments of brass and marble. But a senator, or even a citizen, conscious of his dignity, would have blushed to expose his person or his horses in the circus of Rome. The games were exhibited at the expense of the republic, the magistrates, or the emperors: but the reins were abandoned to servile hands; and, if the profits of a favourite charioteer sometimes exceeded those of an advocate, they must be considered as the effects of popular extravagance, and the high wages of a disgraceful profession. The race, in its first institution, was a simple contest of two chariots, whose drivers were distinguished by *white* and *red* liveries; two additional colours, a light *green* and a cærulean *blue*, were afterwards introduced; and, as the races were repeated twenty-five times, one hundred chariots contributed in the same day to the pomp of the circus. The four *factions* soon acquired a legal establishment, and a mysterious origin; and their fanciful colours were derived from the various appearances of nature in the four seasons of the year: the red dog-star of summer, the snows of winter, the deep shades of autumn, and the cheerful verdure of the spring.<sup>42</sup> Another interpreta-

<sup>41</sup> Read and feel the *xxiii*d book of the *Iliad*, a living picture of manners, passions, and the whole form and spirit of the chariot race. West's *Dissertation on the Olympic Games* (sect. *xii.*-*xvii.*) affords much curious and authentic information.

<sup>42</sup> The four colours, *albat*, *russati*, *prasini*, *veneti*, represent the four seasons, according to Cassiodorus (*Var.* *iii.* 51), who lavishes much wit and eloquence on this theatrical mystery. Of these colours, the three first may be fairly translated *white*, *red*, and *green*. *Venetus* is explained by *cæruleus*, a word various and vague: it is properly the sky reflected in the sea; but

tion preferred the elements to the seasons, and the struggle of the green and blue was supposed to represent the conflict of the earth and sea. Their respective victories announced either a plentiful harvest or a prosperous navigation, and the hostility of the husbandmen and mariners was somewhat less absurd than the blind ardour of the Roman people, who devoted their lives and fortunes to the colour which they had espoused. Such folly was disdained and indulged by the wisest princes; but the names of Caligula, Nero, Vitellius, Verus, Commodus, Caracalla, and Elagabalus were enrolled in the blue or green factions of the circus; they frequented their stables, applauded their favourites, chastised their antagonists, and deserved the esteem of the populace by the natural or affected imitation of their manners. The bloody and tumultuous contest continued to disturb the public festivity till the last age of the spectacles of Rome; and Theodoric, from a motive of justice or affection, interposed his authority to protect the greens against the violence of a consul and a patrician, who were passionately addicted to the blue faction of the circus.<sup>43</sup>

Constantinople adopted the follies, though not the virtues, of ancient Rome; and the same factions which had agitated the circus raged with redoubled fury in the hippodrome. Under the reign of Anastasius, this popular frenzy was inflamed by religious zeal; and the greens, who had treacherously concealed stones and daggers under baskets of fruit, massacred, at a solemn festival, three thousand of their blue adversaries.<sup>44</sup> From the capital, this pestilence was diffused

custom and convenience may allow *blue* as an equivalent (Robert. Stephan. sub. voce. Spence's Polymetis, p. 228).

<sup>43</sup> See Onuphrius Panvinius de Ludis Circensibus, l. i. c. 10, 11; the xviii<sup>th</sup> Annotation on Mascou's History of the Germans; and Aleman. ad. c. vii. [See Appendix 2.]

<sup>44</sup> Marcellin. in Chron. p. 47 [A.D. 501]. Instead of the vulgar word *veneta*, he uses the more exquisite terms of *cærulea* and *cerealis*. Baronius (A.D. 501, No. 4, 5, 6) is satisfied that the blues were orthodox; but Tille-

into the provinces and cities of the East, and the sportive distinction of two colours produced two strong and irreconcilable factions, which shook the foundations of a feeble government.<sup>45</sup> The popular dissensions, founded on the most serious interest, or holy pretence, have scarcely equalled the obstinacy of this wanton discord, which invaded the peace of families, divided friends and brothers, and tempted the female sex, though seldom seen in the circus, to espouse the inclinations of their lovers or to contradict the wishes of their husbands. Every law, either human or divine, was trampled underfoot, and, as long as the party was successful, its deluded followers appeared careless of private distress or public calamity. The licence, without the freedom, of democracy was revived at Antioch and Constantinople, and the support of a faction became necessary to every candidate for civil or ecclesiastical honours. A secret attachment to the family or sect of Anastasius was imputed to the greens; the blues were zealously devoted to the cause of orthodoxy and Justinian,<sup>46</sup> and their grateful patron protected, above five years, the disorders of a faction, whose seasonable tumults overawed the palace, the senate, and the capitals of the East. Insolent with royal favour, the blues affected to strike terror by a peculiar and Barbaric dress, the long hair of the Huns, their close sleeves and ample garments, a lofty step, and a sonorous voice. In the day they concealed their two-edged poniards, but in the night they boldly assembled in arms and in numerous bands, prepared for every act of violence and rapine. Their adversaries of the green faction, or even in-

mont is angry at the supposition, and will not allow any martyrs in a play-house (Hist. des Emp. tom. vi. p. 554).

<sup>45</sup> See Procopius, Persic. l. i. c. 24. In describing the vices of the factions and of the government, the *public*, is not more favourable than the *secret*, historian. Aleman. (p. 26) has quoted a fine passage from Gregory Nazianzen, which proves the inveteracy of the evil.

<sup>46</sup> The partiality of Justinian for the blues (Anecd. c. 7) is attested by Evagrius (Hist. Eccles. l. iv. c. 32); John Malala (tom. ii. p. 138, 139 [p. 416, ed. Bonn]), especially for Antioch; and Theophanes (p. 142).

offensive citizens, were stripped and often murdered by these nocturnal robbers, and it became dangerous to wear any gold buttons or girdles, or to appear at a late hour in the streets of a peaceful capital. A daring spirit, rising with impunity, proceeded to violate the safeguard of private houses; and fire was employed to facilitate the attack, or to conceal the crimes, of these factious rioters. No place was safe or sacred from their depredations; to gratify either avarice or revenge, they profusely spilt the blood of the innocent; churches and altars were polluted by atrocious murders; and it was the boast of the assassins that their dexterity could always inflict a mortal wound with a single stroke of their dagger. The dissolute youth of Constantinople adopted the blue livery of disorder; the laws were silent, and the bonds of society were relaxed; creditors were compelled to resign their obligations; judges to reverse their sentence; masters to enfranchise their slaves; fathers to supply the extravagance of their children; noble matrons were prostituted to the lust of their servants; beautiful boys were torn from the arms of their parents; and wives, unless they preferred a voluntary death, were ravished in the presence of their husbands.<sup>47</sup> The despair of the greens, who were persecuted by their enemies, and deserted by the magistrate, assumed the privilege of defence, perhaps of retaliation; but those who survived the combat were dragged to execution, and the unhappy fugitives, escaping to woods and caverns, preyed without mercy on the society from whence they were expelled. Those ministers of justice who had courage to punish the crimes, and to brave the resentment, of the blues became the victims of their indiscreet zeal; a prefect of Constantinople fled for refuge to the holy sepulchre, a count of the East was ignominiously whipped, and a governor of Cilicia was hanged, by the order of Theodora, on

<sup>47</sup> A wife (says Procopius), who was seized and almost ravished by a blue-coat, threw herself into the Bosphorus. The bishops of the second Syria (Aleman. p. 26) deplore a similar suicide, the guilt or glory of female chastity, and name the heroine.

the tomb of two assassins, whom he had condemned for the murder of his groom and a daring attack upon his own life.<sup>48</sup> An aspiring candidate may be tempted to build his greatness on the public confusion, but it is the interest as well as the duty of a sovereign to maintain the authority of the laws. The first edict of Justinian, which was often repeated and sometimes executed, announced his firm resolution to support the innocent and to chastise the guilty of every denomination and *colour*. Yet the balance of justice was still inclined in favour of the blue faction, by the secret affection, the habits, and the fears of the emperor; his equity, after an apparent struggle, submitted, without reluctance, to the implacable passions of Theodora, and the empress never forgot, or forgave, the injuries of the comedian. At the accession of the younger Justin, the proclamation of equal and rigorous justice indirectly condemned the partiality of the former reign. "Ye blues, Justinian is no more! ye greens, he is still alive!"<sup>49</sup>

A sedition, which almost laid Constantinople in ashes, was excited by the mutual hatred and momentary reconciliation of the two factions. In the fifth year of his reign, Justinian celebrated the festival of the ides of January: the games were incessantly disturbed by the clamorous discontent of the greens; till the twenty-second race, the emperor maintained his silent gravity; at length, yielding to his impatience, he condescended to hold, in abrupt sentences, and by the voice of a crier, the most singular dialogue<sup>50</sup> that ever passed

<sup>48</sup> The doubtful credit of Procopius (Anecd. c. 17) is supported by the less partial Evagrius, who confirms the fact and specifies the names. The tragic fate of the prefect of Constantinople is related by John Malala (tom. ii. p. 139 [p. 416]).

<sup>49</sup> See John Malala (tom. ii. p. 147 [p. 422]); yet he owns that Justinian was attached to the blues. The seeming discord of the emperor and Theodora is perhaps viewed with too much jealousy and refinement by Procopius (Anecd. c. 10). See Aleman. Præfat. p. 6.

<sup>50</sup> This dialogue, which Theophanes has preserved, exhibits the popular language, as well as the manners, of Constantinople in the sixth century. Their Greek is mingled with many strange and barbarous words, for which Ducange cannot always find a meaning or etymology.

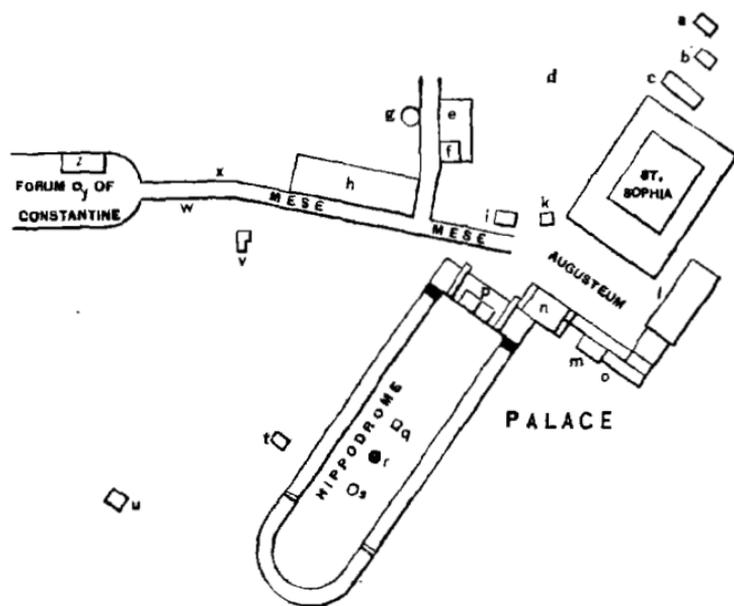
between a prince and his subjects. Their first complaints were respectful and modest; they accused the subordinate ministers of oppression, and proclaimed their wishes for the long life and victory of the emperor. "Be patient and attentive, ye insolent railers!" exclaimed Justinian; "be mute, ye Jews, Samaritans, and Manichæans!" The greens still attempted to awaken his compassion. "We are poor, we are innocent, we are injured, we dare not pass through the streets: a general persecution is exercised against our name and colour. Let us die, O emperor! but let us die by your command, and for your service!" But the repetition of partial and passionate invectives degraded, in their eyes, the majesty of the purple; they renounced allegiance to the prince who refused justice to his people; lamented that the father of Justinian had been born; and branded his son with the opprobrious names of an homicide, an ass,<sup>51</sup> and a perjured tyrant. "Do you despise your lives?" cried the indignant monarch: the blues rose with fury from their seats; their hostile clamours thundered in the hippodrome; and their adversaries, deserting the unequal contest, spread terror and despair through the streets of Constantinople. At this dangerous moment, seven notorious assassins of both factions, who had been condemned by the prefect, were carried round the city, and afterwards transported to the place of execution in the suburb of Pera. Four were immediately beheaded; a fifth was hanged; but when the same punishment was inflicted on the remaining two, the rope broke, they fell alive to the ground, the populace applauded their escape, and the monks of St. Conon, issuing from the neighbouring convent, conveyed them in a boat to the sanctuary of the church.<sup>52</sup> As

<sup>51</sup> [σγαύδαρι (Chron. Pasch. p. 624, i.), a mysterious word, for which Ducange proposed γάδαρε (ass!) and A. Schmidt still more improbably conjectured a corruption of Latin *garrule* (nonsense!).]

<sup>52</sup> See this church and monastery in Ducange, *C. P. Christiana*, l. iv. p. 182. [The monks took them, not to the church of St. Conon, but to that of St. Laurentius, which had the privilege of asylum.]

# PART OF CONSTANTINOPLE

TO ILLUSTRATE THE NIKA RIOT



- a. XENON OF EUBULUS
- b. CHURCH OF ST. IRENE
- c. XENON OF SAMPHON
- d. QUARTER OF CHALKOPRATEIA
- e. BASILICA
- f. CISTERN OF ILLUS (HERE BATAN SERAI)
- g. OCTAGON (CONJECTURAL SITE)
- h. PALACE OF LAUSUS (CONJECTURAL)
- i. CHURCH OF ST. JOHN (CONJECTURAL)
- k. MILION
- l. SENATE HOUSE OF THE AUGUSTEUM
- m. CHALKE (ENTRANCE AND FORERUILDINGS OF THE PALACE)
- n. ZEUXIPPUS BATHS
- o. GUARDHOUSES

- p. KATHISMA
- q. OBELISK
- r. SERPENT-PILLAR
- s. COLUMN
- t. CHURCH OF ST. EUPHEMIA
- u. CHURCH OF ST. ANASTASIA
- v. CISTERN (BIN BIR DIREK, OR A THOUSAND AND ONE COLUMNS)
- w. PRAETORIUM (CONJECTURAL SITE)
- x. QUARTER OF ARGYROPRATEIA, SILVERSMITHS (CONJECTURAL)
- y. COLUMN OF CONSTANTINE (KNOWN AS THE BURNT COLUMN)
- z. SENATE HOUSE OF THE FORUM

one of these criminals was of the blue, and the other of the green, livery, the two factions were equally provoked by the cruelty of their oppressor, or the ingratitude of their patron; and a short truce was concluded, till they had delivered their prisoners and satisfied their revenge. The palace of the prefect, who withstood the seditious torrent, was instantly burnt, his officers and guards were massacred, the prisons were forced open, and freedom was restored to those who could only use it for the public destruction. A military force, which had been despatched to the aid of the civil magistrate, was fiercely encountered by an armed multitude, whose numbers and boldness continually increased; and the Heruli, the wildest Barbarians in the service of the empire, overturned the priests and their relics, which, from a pious motive, had been rashly interposed to separate the bloody conflict. The tumult was exasperated by this sacrilege, the people fought with enthusiasm in the cause of God; the women, from the roofs and windows, showered stones on the heads of the soliders, who darted firebrands against the houses; and the various flames, which had been kindled by the hands of citizens and strangers spread without control over the face of the city. The conflagration involved the cathedral of St. Sophia, the baths of Zeuxippus, a part of the palace, from the first entrance to the altar of Mars, and the long portico from the palace to the forum of Constantine; a large hospital, with the sick patients, was consumed; many churches and stately edifices were destroyed, and an immense treasure of gold and silver was either melted or lost. From such scenes of horror and distress, the wise and wealthy citizens escaped over the Bosphorus to the Asiatic side; and during five days Constantinople was abandoned to the factions, whose watch-word, NIKA, *vanquish!* has given a name to this memorable sedition.<sup>68</sup>

As long as the factions were divided, the triumphant blues

<sup>68</sup> The history of the *Nika* sedition is extracted from Marcellinus (in Chron.), Procopius (Persic. l. i. c. 26), John Malala (tom. ii. p. 213-218 [p. 473 sqq., ed. Bonn]), Chron. Paschal. (p. 336-340 [p. 620 sqq., ed. Bonn]),

and desponding greens appeared to behold with the same indifference the disorders of the state. They agreed to censure the corrupt management of justice and the finance; and the two responsible ministers, the artful Tribonian and the rapacious John of Cappadocia, were loudly arraigned as the authors of the public misery. The peaceful murmurs of the people would have been disregarded: they were heard with respect when the city was in flames; the quæstor and the prefect were instantly removed, and their offices were filled by two senators of blameless integrity. After this popular concession, Justinian proceeded to the hippodrome to confess his own errors and to accept the repentance of his grateful subjects; but they distrusted his assurances, though solemnly pronounced in the presence of the holy gospels; and the emperor, alarmed by their distrust, retreated with precipitation to the strong fortress of the palace. The obstinacy of the tumult was now imputed to a secret and ambitious conspiracy, and a suspicion was entertained that the insurgents, more especially the green faction, had been supplied with arms and money by Hypatius and Pompey, two patricians, who could neither forget with honour, nor remember with safety, that they were the nephews of the emperor Anastasius. Capriciously trusted, disgraced, and pardoned by the jealous levity of the monarch, they had appeared as loyal servants before the throne; and, during five days of the tumult, they were detained as important hostages; till at length, the fears of Justinian prevailing over his prudence, he viewed the two brothers in the light of spies, perhaps of assassins, and sternly commanded them to depart from the palace. After a fruitless representation that obedience might lead to involuntary treason, they retired to their houses, and in the morning of the sixth day Hypatius was surrounded and seized by the people, who, regardless of his virtuous resistance and the tears of his

Theophanes (*Chronograph.* p. 154-158 [181-6, ed. de Boor]), and Zonaras (*l. xiv. p. 61-63* [c. 6]). [See Appendix 3.]

wife, transported their favourite to the forum of Constantine, and, instead of a diadem, placed a rich collar on his head. If the usurper, who afterwards pleaded the merit of his delay, had complied with the advice of his senate, and urged the fury of the multitude, their first irresistible effort might have oppressed or expelled his trembling competitor. The Byzantine palace enjoyed a free communication with the sea; vessels lay ready at the garden-stairs; and a secret resolution was already formed to convey the emperor with his family and treasures to a safe retreat, at some distance from the capital.

Justinian was lost, if the prostitute whom he raised from the theatre had not renounced the timidity, as well as the virtues, of her sex. In the midst of a council, where Belisarius was present, Theodora alone displayed the spirit of an hero; and she alone, without apprehending his future hatred, could save the emperor from the imminent danger and his unworthy fears. "If flight," said the consort of Justinian, "were the only means of safety, yet I should disdain to fly. Death is the condition of our birth; but they who have reigned should never survive the loss of dignity and dominion. I implore heaven that I may never be seen, not a day, without my diadem and purple; that I may no longer behold the light, when I cease to be saluted with the name of queen. If you resolve, O Cæsar! to fly, you have treasures; behold the sea, you have ships; but tremble lest the desire of life should expose you to wretched exile and ignominious death. For my own part, I adhere to the maxim of antiquity, that the throne is a glorious sepulchre." The firmness of a woman restored the courage to deliberate and act, and courage soon discovers the resources of the most desperate situation. It was an easy and a decisive measure to revive the animosity of the factions; the blues were astonished at their own guilt and folly, that a trifling injury should provoke them to conspire with their implacable enemies against a gracious and liberal benefactor; they again proclaimed the majesty of Justinian, and the greens, with their upstart emperor, were left alone in the

hippodrome. The fidelity of the guards was doubtful; but the military force of Justinian consisted in three thousand veterans, who had been trained to valour and discipline in the Persian and Illyrian wars. Under the command of Belisarius and Mundus, they silently marched in two divisions from the palace, forced their obscure way through narrow passages, expiring flames, and falling edifices, and burst open at the same moment the two opposite gates of the hippodrome. In this narrow space, the disorderly and affrighted crowd was incapable of resisting on either side a firm and regular attack; the blues signalled the fury of their repentance; and it is computed that above thirty thousand persons were slain in the merciless and promiscuous carnage of the day. Hypatius was dragged from his throne, and conducted with his brother Pompey to the feet of the emperor; they implored his clemency; but their crime was manifest, their innocence uncertain, and Justinian had been too much terrified to forgive. The next morning the two nephews of Anastasius, with eighteen *illustrious* accomplices of patrician or consular rank, were privately executed by the soldiers; their bodies were thrown into the sea, their palaces razed, and their fortunes confiscated. The hippodrome itself was condemned during several years to a mournful silence; with the restoration of the games, the same disorders revived; and the blue and green factions continued to afflict the reign of Justinian, and to disturb the tranquillity of the Eastern empire.<sup>54</sup>

III. That empire, after Rome was Barbarous, still embraced the nations whom she had conquered beyond the Hadriatic and as far as the frontiers of Ethiopia and Persia.

<sup>54</sup> Marcellinus says in general terms, *innumeris populis in circo trucidatis*. Procopius numbers 30,000 victims [so Marius of Aventicum (ad ann.), who was probably drawing from *Consularia Italica*]; and the 35,000 of Theophanes are swelled to 40,000 by the more recent Zonaras. Such is the usual progress of exaggeration. [This remark is blunted by the fact that John Lydus, a contemporary, gives a still higher number, 50,000. *De Mag.* p. 266.]

Justinian reigned over sixty-four provinces and nine hundred and thirty-five cities; <sup>56</sup> his dominions were blessed by nature with the advantages of soil, situation, and climate; and the improvements of human art had been perpetually diffused along the coast of the Mediterranean and the banks of the Nile, from ancient Troy to the Egyptian Thebes. Abraham <sup>58</sup> had been relieved by the well-known plenty of Egypt; the same country, a small and populous tract, was still capable of exporting each year two hundred and sixty thousand quarters of wheat for the use of Constantinople; <sup>57</sup> and the capital of Justinian was supplied with the manufactures of Sidon, fifteen centuries after they had been celebrated in the poems of Homer. <sup>58</sup> The annual powers of vegetation, instead of being exhausted by two thousand harvests, were renewed and invigorated by skilful husbandry, rich manure, and seasonable repose. The breed of domestic animals was infinitely multiplied. Plantations, buildings, and the instruments of labour and luxury, which are more durable than the term of human life, were accumulated by the care of successive generations. Tradition preserved, and experience simplified, the humble practice of the arts; society was enriched by the division of labour and the facility of exchange; and

<sup>56</sup> Hierocles, a contemporary of Justinian, composed his *Συνέκδημος* (Itineraria, p. 631), or review of the Eastern provinces and cities, before the year 535 (Wesseling in Præfat. and Not. ad p. 623, &c.). [Best edition by A. Burckhardt, 1893.]

<sup>56</sup> See the book of Genesis (xii. 10), and the administration of Joseph. The annals of the Greeks and Hebrews agree in the early arts and plenty of Egypt; but this antiquity supposes a long series of improvements; and Warburton, who is almost stifled by the Hebrew, calls aloud for the Samaritan chronology (Divine Legation, vol. iii. p. 29, &c.).

<sup>57</sup> Eight millions of Roman modii, besides a contribution of 80,000 aurei for the expenses of water-carriage, from which the subject was graciously excused. See the xiiiith Edict of Justinian; the numbers are checked and verified by the agreement of the Greek and Latin texts.

<sup>58</sup> Homer's Iliad, vi. 289. These veils, *πέπλοι παμποίκιλοι*, were the work of the Sidonian women. But this passage is more honourable to the manufactures than to the navigation of Phœnicia, from whence they had been imported to Troy in Phrygian bottoms.

every Roman was lodged, clothed, and subsisted by the industry of a thousand hands. The invention of the loom and distaff has been piously ascribed to the gods. In every age, a variety of animal and vegetable productions, hair, skins, wool, flax, cotton, and at length *silk*, have been skilfully manufactured to hide or adorn the human body; they were stained with an infusion of permanent colours; and the pencil was successfully employed to improve the labours of the loom. In the choice of those colours<sup>59</sup> which imitate the beauties of nature, the freedom of taste and fashion was indulged; but the deep purple<sup>60</sup> which the Phœnicians extracted from a shell-fish was restrained to the sacred person and palace of the emperor; and the penalties of treason were denounced against the ambitious subjects who dared to usurp the prerogative of the throne.<sup>61</sup>

I need not explain that *silk*<sup>62</sup> is originally spun from the

<sup>59</sup> See in Ovid (*de Arte Amandi*, iii. 269, &c.) a poetical list of twelve colours borrowed from flowers, the elements, &c. But it is almost impossible to discriminate by words all the nice and various shades both of art and nature.

<sup>60</sup> By the discovery of Cochineal, &c. we far surpass the colours of antiquity. Their royal purple had a strong smell, and a dark cast as deep as bull's blood — *obscuritas rubens* (says Cassiodorus, *Var.* 1, 2), *nigredo sanguinea*. The president Goguet (*Origine des Loix et des Arts*, part ii. l. ii. c. 2, p. 184-215) will amuse and satisfy the reader. I doubt whether his book, especially in England, is as well known as it deserves to be.

<sup>61</sup> Historical proofs of this jealousy have been occasionally introduced, and many more might have been added; but the arbitrary acts of despotism were justified by the sober and general declarations of law (*Codex Theodosian.* l. x. tit. 21, leg. 3. *Codex Justinian.* l. xi. tit. 8, leg. 5). An inglorious permission, and necessary restriction, was applied to the *mimæ*, the female dancers (*Cod. Theodos.* l. xv. tit. 7, leg. 11).

<sup>62</sup> In the history of insects (far more wonderful than Ovid's *Metamorphoses*) the silk-worm holds a conspicuous place. The bombyx of the isle of Ceos, as described by Pliny (*Hist. Natur.* xi. 26, 27, with the notes of the two learned Jesuits, Hardouin and Brotier), may be illustrated by a similar species in China (*Mémoires sur les Chinois*, tom. ii. p. 575-598); but our silk-worm, as well as the white mulberry-tree, were unknown to Theophrastus and Pliny. [Here the author has curiously confused Ceos with Cos. The earliest notice of the silk-worm is in Aristotle, *Hist. Animal.* 5, 19: ἐκ δὲ τοῦτου τοῦ ζώου καὶ τὰ βομβύκια ἀναλόουσι τῶν γυναικῶν τιπὲς ἀνακηρῖζόμεναι κἀπειτα ὑφάλλουσι. The early Chinese Chronicle Hou-han-shu, which was partly writ-

bowels of a caterpillar, and that it composes the golden tomb from whence a worm emerges in the form of a butterfly. Till the reign of Justinian, the silk-worms who feed on the leaves of the white mulberry-tree were confined to China; those of the pine, the oak, and the ash were common in the forests both of Asia and Europe; but, as their education is more difficult and their produce more uncertain, they were generally neglected, except in the little island of Ceos, near the coast of Attica. A thin gauze was procured from their webs, and this Cean manufacture, the invention of a woman, for female use, was long admired both in the East and at Rome. Whatever suspicions may be raised by the garments of the Medes and Assyrians, Virgil is the most ancient writer who expressly mentions the soft wool which was combed from the trees of the Seres or Chinese;<sup>63</sup> and this natural error, less marvellous than the truth, was slowly corrected by the knowledge of a valuable insect, the first artificer of the luxury of nations. That rare and elegant luxury was censured, in the reign of Tiberius, by the gravest of the Romans; and Pliny, in affected though forcible language, has condemned the thirst of gain, which explored the last confines of the earth for the pernicious purpose of exposing to the public eye naked draperies and

ten during the 5th cent. A.D. and covers the period A.D. 25 to 220, states that in Ta-tsin (the eastern part of the Roman empire) the people "practise the planting of trees and the rearing of silk-worms" (Hirth, *China and the Roman Orient*, p. 40). In a later work, the Wei-shu, contemporary with Justinian, mulberry-trees are specified in a proximity which is perhaps significant. "The country produces all kinds of grain, the mulberry-tree and hemp. The inhabitants busy themselves with silk-worms and fields" (Hirth, *ib.* p. 50).]

<sup>63</sup> *Georgic.* ii. 121 [cp. Claudian, *Prob. et Olyb.* 179]. *Serica quando venerint in usum planissime non scio: suspicor tamen in Julii Cæsaris ævo, nam ante non invenio*, says Justus Lipsius (*Excursus i. ad Tacit. Annal.* ii. 32). See Dion Cassius (l. xliii. p. 358, edit. Reimar), and Pausanias (l. vi. p. 519), the first who describes, however strangely, the Seric insect. [For the silk trade see Pardessus, *Mémoire sur le commerce de soie chez les anciens*, in *Mém. de l'Acad. des Inscriptions*, 1842; F. Hirth, *China and the Roman Orient*, 1885 (see Appendix 4); for the mulberry-tree, see Hehn, *Kulturpflanzen und Haustiere*, p. 336 sqq.]

transparent matrons.<sup>64</sup> A dress which shewed the turn of the limbs and colour of the skin might gratify vanity or provoke desire; the silks which had been closely woven in China were sometimes unravelled by the Phœnician women, and the precious materials were multiplied by a looser texture and the intermixture of linen threads.<sup>65</sup> Two hundred years after the age of Pliny, the use of pure or even of mixed silks was confined to the female sex, till the opulent citizens of Rome and the provinces were insensibly familiarised with the example of Elagabalus, the first who, by this effeminate habit, had sullied the dignity of an emperor and a man. Aurelian complained that a pound of silk was sold at Rome for twelve ounces of gold; but the supply increased with the demand, and the price diminished with the supply. If accident or monopoly sometimes raised the value even above the standard of Aurelian, the manufacturers of Tyre and Berytus were sometimes compelled, by the operation of the same causes, to content themselves with a ninth part of that extravagant rate.<sup>66</sup>

<sup>64</sup> Tam longinquo orbe petitur, ut in publico matrona transluceat . . . ut denudet feminas vestis (Plin. vi. 20, xi. 21). Varro and Publius Syrus had already played on the Toga vitrea, ventus textilis, and nebula linea (Horat. Sermon. i. 2, 101, with the notes of Torrentius and Dacier). [Cp. Athenæus, iv. 3.]

<sup>65</sup> On the texture, colours, names, and use of the silk, half silk, and linen garments of antiquity, see the profound, diffuse, and obscure researches of the great Salmasius (in Hist. August. p. 127, 309, 310, 339, 341, 342, 344, 388-391, 395, 513), who was ignorant of the most common trades of Dijon or Leyden. [The authority for the unravelling and reweaving in Syria of woven silks imported from China is Pliny (in the passages cited in the last note). The statement has been regarded by some as a figment, but F. Hirth (*op. cit.*) has shown that it is confirmed in a striking way by Chinese authorities: by the Wei-lio (compiled before A.D. 429) and in the Encyclopædia of Ma Tuan-lin. The former says: "They [the inhabitants of the Roman Orient, esp. Syria] were always anxious to get Chinese silk for severing it in order to make hu-ling [damask, gauze, Coan transparencies?], for which reason they frequently trade by sea with the countries of An-hsi (Parthia)." Hirth's translation, p. 72. Cp. p. 257-8. Pardessus takes the same view of the passages in Pliny (*op. cit.* p. 14, 15).]

<sup>66</sup> Flavius Vopiscus in Aurelian. c. 45, in Hist. August. p. 224. See Salmasius ad Hist. Aug. p. 392, and Plinian. Exercit. in Solinum, p. 694, 695.

A law was thought necessary to discriminate the dress of comedians from that of senators; and of the silk exported from its native country the far greater part was consumed by the subjects of Justinian. They were still more intimately acquainted with a shell-fish of the Mediterranean, surnamed the silk-worm of the sea; the fine wool or hair by which the mother-of-pearl affixes itself to the rock is now manufactured for curiosity rather than use; and a robe obtained from the same singular materials was the gift of the Roman emperor to the satraps of Armenia.<sup>87</sup>

A valuable merchandise of small bulk is capable of defraying the expense of land carriage; and the caravans traversed the whole latitude of Asia in two hundred and forty-three days from the Chinese ocean to the sea-coast of Syria. Silk was immediately delivered to the Romans by the Persian merchants,<sup>88</sup> who frequented the fairs of Armenia and Nisibis; but this trade, which in the intervals of truce was oppressed by avarice and jealousy, was totally interrupted by the long wars of the rival monarchies. The great king might proudly number Sogdiana, and even *Serica*, among the provinces of his empire; but his real dominion was bounded by the Oxus, and his useful intercourse with the Sogdoites, beyond the river, depended on the pleasure of their conquerors, the white Huns and the Turks, who successively reigned over that industrious people. Yet the most savage dominion has not extirpated the seeds of agriculture and commerce in a region

The Anecdotes of Procopius (c. 25) state a partial and imperfect rate of the price of silk in the time of Justinian.

<sup>87</sup> Procopius de *Ædific.* l. iii. c. 1. These *pinnes de mer* are found near Smyrna, Sicily, Corsica, and Minorca; and a pair of gloves of their silk was presented to Pope Benedict XIV. [This cloth is the *byssus* woven from the threads of the *pinna squamosa*.]

<sup>88</sup> Procopius, *Persic.* l. i. c. 20; l. ii. c. 25. Gothic. l. iv. c. 17. Menander in *Excerpt. Legat.* p. 107 [fr. 18, F.H.G. iv. p. 225]. Of the Parthian or Persian empire, Isidore of Charax (in *Stathmis Parthicus*, p. 7, 8, in Hudson, *Geograph. Minor*, tom. ii.) has marked the roads, and Ammianus Marcellinus (l. xxiii. c. 6, p. 400) has enumerated the provinces.

which is celebrated as one of the four gardens of Asia; the cities of Samarcand and Bochara are advantageously seated for the exchange of its various productions; and their merchants purchased from the Chinese<sup>69</sup> the raw or manufactured silk which they transported into Persia for the use of the Roman empire. In the vain capital of China, the Sogdian caravans were entertained as the suppliant embassies of tributary kingdoms, and, if they returned in safety, the bold adventure was rewarded with exorbitant gain. But the difficult and perilous march from Samarcand to the first town of Shensi could not be performed in less than sixty, eighty, or one hundred days; as soon as they had passed the Jaxartes, they entered the desert; and the wandering hords, unless they are restrained by armies and garrisons, have always considered the citizen and the traveller as the objects of lawful rapine. To escape the Tartar robbers and the tyrants of Persia, the silk caravans explored a more southern road; they traversed the mountains of Thibet, descended the streams of the Ganges or the Indus, and patiently expected, in the ports of Guzerat and Malabar, the annual fleets of the West.<sup>70</sup> But the dangers of the desert were found less intolerable than toil, hunger, and the loss of time; the attempt was seldom renewed; and the only European who has passed that unre-

<sup>69</sup> The blind admiration of the Jesuits confounds the different periods of the Chinese history. They are more critically distinguished by M. de Guignes (*Hist. des Huns*, tom. i. part i. in the *Tables*, part ii. in the *Geography*, *Mémoires de l'Académie des Inscriptions*, tom. xxxii. xxxvi. xlii. xliii.), who discovers the gradual progress of the truth of the annals, and the extent of the monarchy, till the Christian era. He has searched, with a curious eye, the connections of the Chinese with the nations of the West; but these connections are slight, casual, and obscure; nor did the Romans entertain a suspicion that the Seres or Sinæ possessed an empire not inferior to their own. [Cp. Appendix 4.]

<sup>70</sup> The roads from China to Persia and Hindostan may be investigated in the relations of Hackluyt and Thévenot (the ambassadors of Sharokh, Anthony Jenkinson, the Père Grueber, &c.). See likewise Hanway's *Travels*, vol. i. p. 345-357. A communication through Thibet has been lately explored by the English sovereigns of Bengal.

quented way applauds his own diligence, that in nine months after his departure from Pekin he reached the mouth of the Indus. The ocean, however, was open to the free communication of mankind. From the great river to the tropic of Cancer, the provinces of China were subdued and civilised by the emperors of the North; they were filled about the time of the Christian era with cities and men, mulberry-trees and their precious inhabitants; and, if the Chinese, with the knowledge of the compass, had possessed the genius of the Greeks or Phœnicians, they might have spread their discoveries over the southern hemisphere. I am not qualified to examine, and I am not disposed to believe, their distant voyages to the Persian gulf or the Cape of Good Hope; but their ancestors might equal the labours and success of the present race, and the sphere of their navigation might extend from the isles of Japan to the straits of Malacca, the pillars, if we may apply that name, of an Oriental Hercules.<sup>71</sup> Without losing sight of land, they might sail along the coast to the extreme promontory of Achin, which is annually visited by ten or twelve ships laden with the productions, the manufactures, and even the artificers of China; the island of Sumatra and the opposite peninsula are faintly delineated <sup>72</sup> as the regions of gold and silver; and the trading cities named in the geography of Ptolemy may indicate that this wealth was not solely derived from the mines. The direct interval between Sumatra and Ceylon is about three hundred leagues; the Chinese and

<sup>71</sup> For the Chinese navigation to Malacca and Achin, perhaps to Ceylon, see Renaudot (on the two Mahometan Travellers, p. 8-11, 13-17, 141-157), Dampier (vol. ii. p. 136), the *Hist. Philosophique des deux Indes* (tom. i. p. 98), and the *Hist. Générale des Voyages* (tom. vi. p. 201).

<sup>72</sup> The knowledge, or rather ignorance, of Strabo, Pliny, Ptolemy, Arrian, Marcian, &c. of the countries eastward of Cape Comorin is finely illustrated by d'Anville (*Antiquité Géographique de l'Inde*, especially p. 161-198). Our geography of India is improved by commerce and conquest; and has been illustrated by the excellent maps and memoirs of Major Rennel. If he extends the sphere of his inquiries with the same critical knowledge and sagacity, he will succeed, and may surpass, the first of modern geographers.

Indian navigators were conducted by the flight of birds and periodical winds, and the ocean might be securely traversed in square-built ships, which, instead of iron, were sewed together with the strong thread of the cocoa-nut. Ceylon, Serendib, or Taprobana was divided between two hostile princes; one of whom possessed the mountains, the elephants, and the luminous carbuncle; and the other enjoyed the more solid riches of domestic industry, foreign trade, and the capacious harbour of Trinquemale, which received and dismissed the fleets of the East and West. In this hospitable isle, at an equal distance (as it was computed) from their respective countries, the silk merchants of China, who had collected in their voyages aloes, cloves, nutmegs, and sandal-wood, maintained a free and beneficial commerce with the inhabitants of the Persian gulf. The subjects of the great king exalted, without a rival, his power and magnificence; and the Roman, who confounded their vanity by comparing his paltry coin with a gold medal of the emperor Anastasius, had sailed to Ceylon in an Æthiopian ship, as a simple passenger.<sup>73</sup>

As silk became of indispensable use, the emperor Justinian saw, with concern, that the Persians had occupied by land and sea the monopoly of this important supply, and that the wealth of his subjects was continually drained by a nation of enemies and idolaters. An active government would have restored the trade of Egypt and the navigation of the Red Sea, which had decayed with the prosperity of the empire; and the Roman vessels might have sailed, for the purchase of silk, to the ports of Ceylon, of Malacca, or even of China. Justinian embraced a more humble expedient, and solicited the aid of his Christian allies, the Æthiopians of Abyssinia, who had

<sup>73</sup> The Taprobane of Pliny (vi. 24), Solinus (c. 53), and Salmas. (*Plinianæ Exercitat.* p. 781, 782), and most of the ancients, who often confound the islands of Ceylon and Sumatra, is more clearly described by Cosmas *Indicopleustes*; yet even the Christian topographer has exaggerated its dimensions. His information on the Indian and Chinese trade is rare and curious (l. ii. p. 138; l. xi. p. 337, 338, edit. Montfaucon).

recently acquired the arts of navigation, the spirit of trade, and the seaport of Adulis,<sup>74</sup> still decorated with the trophies of a Grecian conqueror. Along the African coast, they penetrated to the equator in search of gold, emeralds, and aromatics; but they wisely declined an unequal competition, in which they must be always prevented by the vicinity of the Persians to the markets of India; and the emperor submitted to the disappointment, till his wishes were gratified by an unexpected event. The gospel had been preached to the Indians: a bishop already governed the Christians of St. Thomas on the pepper coast of Malabar; a church was planted in Ceylon; and the missionaries pursued the footsteps of commerce to the extremities of Asia.<sup>75</sup> Two Persian monks had long resided in China, perhaps in the royal city of Nankin, the seat of a monarch addicted to foreign superstitions, and who actually received an embassy from the isle of Ceylon. Amidst their pious occupations, they viewed with a curious eye the common dress of the Chinese, the manufactures of silk, and the myriads of silk-worms, whose education (either on trees or in houses) had once been considered as the labour of queens.<sup>76</sup> They soon discovered that it was impracticable to transport the short-lived insect, but that in the eggs a numerous progeny might be preserved and multiplied in a distant climate. Religion or interest had more power over the Persian monks than the love of their country: after a long

<sup>74</sup> See Procopius, *Persic.* (l. ii. c. 20). Cosmas affords some interesting knowledge of the port and inscription [two inscriptions, (1) of Ptolemy Euergetes (iii.); (2) of a king of Axum, of a much later date] of Adulis (*Topograph. Christ.* l. ii. p. 138, 140-143), and of the trade of the Axumites along the African coast of Barbaria or Zingi (p. 138, 139), and as far as Taprobane (l. xi. p. 339). [On the Axumites, see Dillmann's article in the *Abhandlungen* of the Berlin Academy, 1878.]

<sup>75</sup> See the Christian missions in India, in Cosmas (l. iii. p. 178, 179, l. xi. p. 337), and consult Asseman. *Bibliot. Orient.* (tom. iv. p. 413-548).

<sup>76</sup> The invention, manufacture, and general use of silk in China may be seen in Duhalde (*Description Générale de la Chine*, tom. ii. p. 165, 205-223). The province of Chekian is the most renowned both for quantity and quality.

journey, they arrived at Constantinople, imparted their project to the emperor, and were liberally encouraged by the gifts and promises of Justinian. To the historians of that prince, a campaign at the foot of Mount Caucasus has seemed more deserving of a minute relation than the labours of these missionaries of commerce, who again entered China, deceived a jealous people by concealing the eggs of the silk-worm in a hollow cane, and returned in triumph with the spoils of the East. Under their direction, the eggs were hatched at the proper season by the artificial heat of dung; the worms were fed with mulberry leaves; they lived and laboured in a foreign climate; a sufficient number of butterflies was saved to propagate the race; and trees were planted to supply the nourishment of the rising generations. Experience and reflection corrected the errors of a new attempt, and the Sogdoite ambassadors acknowledged, in the succeeding reign, that the Romans were not inferior to the natives of China in the education of the insects and the manufactures of silk,<sup>77</sup> in which both China and Constantinople have been surpassed by the industry of modern Europe. I am not insensible of the benefits of elegant luxury; yet I reflect with some pain that, if the importers of silk had introduced the art of printing, already practised by the Chinese, the comedies of Menander and the entire decads of Livy would have been perpetuated in the editions of the sixth century. A larger view of the globe might at least have promoted the improvement of speculative science, but the Christian geography was forcibly extracted from texts of scripture, and the study of nature was the surest symptom of an unbelieving mind. The orthodox faith confined the habitable world to *one* temperate zone, and rep-

<sup>77</sup> Procopius, l. viii. (Gothic. iv.) c. 17. Theophanes Byzant. apud Phot. Cod. lxxxiv. p. 38. Zonaras, tom. ii. l. xiv. p. 69. Pagi (tom. ii. p. 602) assigns to the year 552 this memorable importation. Menander (in Excerpt. Legat. p. 107 [fr. 18, F.H.G. iv.]) mentions the admiration of the Sogdoites; and Theophylact Simocatta (l. vii. c. 9) darkly represents the two rival kingdoms in (*China*) the country of silk.

resented the earth as an oblong surface, four hundred days' journey in length, two hundred in breadth, encompassed by the ocean, and covered by the solid crystal of the firmament.<sup>78</sup>

IV. The subjects of Justinian were dissatisfied with the times, and with the government. Europe was over-run by the Barbarians, and Asia by the monks; the poverty of the West discouraged the trade and manufactures of the East; the produce of labour was consumed by the unprofitable servants of the church, the state, and the army; and a rapid decrease was felt in the fixed and circulating capitals which constitute the national wealth. The public distress had been alleviated by the economy of Anastasius, and that prudent emperor accumulated an immense treasure while he delivered his people from the most odious or oppressive taxes. Their gratitude universally applauded the abolition of the *gold of affliction*, a personal tribute on the industry of the poor,<sup>79</sup> but more intolerable, as it should seem, in the form than in the substance, since the flourishing city of Edessa paid only one hundred

<sup>78</sup> Cosmas, surnamed Indicopleustes, or the Indian navigator, performed his voyage about the year 522, and composed at Alexandria, between 535 and 547, Christian Topography (Montfaucon, Præfat. c. 1), in which he refutes the impious opinion that the earth is a globe; and Photius had read this work (Cod. xxxvi. p. 9, 10), which displays the prejudices of a monk, with the knowledge of a merchant; the most valuable part has been given in French and in Greek by Melchisedec Thévenot (Relations Curieuses, part i.), and the whole is since published in a splendid edition by the Père Montfaucon (Nova Collectio Patrum, Paris, 1707, 2 vols. in fol. tom. ii. p. 113-346). But the editor, a theologian, might blush at not discovering the Nestorian heresy of Cosmas, which has been detected by la Croze (Christianisme des Indes, tom. i. p. 40-56). [On Cosmas, see H. Gelzer, in Jahrb. f. protestantische Theologie, ix. p. 105 sqq. (1883).]

<sup>79</sup> Evagrius (l. iii. c. 39, 40) is minute and grateful, but angry with Zosimus for calumniating the great Constantine. In collecting all the bonds and records of the tax, the humanity of Anastasius was diligent and artful; fathers were sometimes compelled to prostitute their daughters (Zosim. Hist. l. ii. c. 38, p. 165, 166. Lipsiæ, 1784). Timotheus of Gaza chose such an event for the subject of a tragedy (Suidas, tom. iii. p. 475), which contributed to the abolition of the tax (Cedrenus, p. 35), — an happy instance (if it be true) of the use of the theatre. [On Anastasius' finance cp. John Lydus, De Mag. iii. 45, 46.]

and forty pounds of gold, which was collected in four years from ten thousand artificers.<sup>80</sup> Yet such was the parsimony which supported this liberal disposition that, in a reign of twenty-seven years, Anastasius saved, from his annual revenue, the enormous sum of thirteen millions sterling, or three hundred and twenty thousand pounds of gold.<sup>81</sup> His example was neglected, and his treasure was abused, by the nephew of Justin. The riches of Justinian were speedily exhausted by alms and buildings, by ambitious wars, and ignominious treaties. His revenues were found inadequate to his expenses. Every art was tried to extort from the people the gold and silver which he scattered with a lavish hand from Persia to France; <sup>82</sup> his reign was marked by the vicissitudes, or rather by the combat, of rapaciousness and avarice, of splendour and poverty; he lived with the reputation of hidden treasures,<sup>83</sup> and bequeathed to his successor the payment of his debts.<sup>84</sup> Such a character has been justly accused by the voice of the people and of posterity; but public discontent is credulous; private malice is bold; and a lover of truth will peruse with a suspicious eye the instructive anecdotes of Procopius. The secret historian represents only the vices of

<sup>80</sup> See Josua Stylites, in the *Bibliotheca Orientalis* of Asseman (tom. i. p. 268 [c. 31, p. 22, ed. Wright]). This capitation tax is slightly mentioned in the *Chronicle of Edessa*.

<sup>81</sup> Procopius (*Anecd.* c. 19) fixes this sum from the report of the treasurers themselves. Tiberius had *vicies ter millies*; but far different was his empire from that of Anastasius.

<sup>82</sup> Evagrius (l. iv. c. 30), in the next generation, was moderate and well-informed; and Zonaras (l. xiv. p. 61 [c. 6]), in the xiith century, had read with care, and thought without prejudice; yet their colours are almost as black as those of the *Anecdotes*.

<sup>83</sup> Procopius (*Anecd.* c. 30) relates the idle conjectures of the times. The death of Justinian, says the secret historian, will expose his wealth or poverty.

<sup>84</sup> See Corippus, *de Laudibus Justinii Aug.* l. ii. 260, &c. 384, &c.

“*Plurima sunt vivo nimium neglecta parenti,  
Unde tot exhaustus contraxit debita fiscus.*”

Centenaries of gold were brought by strong arms into the hippodrome: —

“*Debita genitoris persolvit, cauta recepit.*”

Justinian, and those vices are darkened by his malevolent pencil. Ambiguous actions are imputed to the worst motives; error is confounded with guilt, accident with design, and laws with abuses; the partial injustice of a moment is dexterously applied as the general maxim of a reign of thirty-two years; the emperor alone is made responsible for the faults of his officers, the disorders of the times, and the corruption of his subjects; and even the calamities of nature, plagues, earthquakes, and inundations are imputed to the prince of the demons, who had mischievously assumed the form of Justinian.<sup>85</sup>

After this precaution I shall briefly relate the anecdotes of avarice and rapine, under the following heads: I. Justinian was so profuse that he could not be liberal. The civil and military officers, when they were admitted into the service of the palace, obtained an humble rank and a moderate stipend; they ascended by seniority to a station of affluence and repose; the annual pensions, of which the most honourable class was abolished by Justinian, amounted to four hundred thousand pounds; and this domestic economy was deplored by the venal or indigent courtiers as the last outrage on the majesty of the empire. The posts, the salaries of physicians, and the nocturnal illuminations were objects of more general concern; and the cities might justly complain that he usurped the municipal revenues which had been appropriated to these useful institutions. Even the soldiers were injured; and such was the decay of military spirit that they were injured with impunity. The emperor refused, at the return of each fifth year, the customary donative of five pieces of gold, reduced his veterans to beg their bread, and suffered unpaid armies to melt away in the wars of Italy and Persia. II. The humanity of his predecessors had always remitted, in some auspicious circumstance of their reign, the arrears of

<sup>85</sup> The Anecdotes (c. 11-14, 18, 20-30) supply many facts and more complaints.

the public tribute; and they dexterously assumed the merit of resigning those claims which it was impracticable to enforce. "Justinian in the space of thirty-two years has never granted a similar indulgence; and many of his subjects have renounced the possession of those lands whose value is insufficient to satisfy the demands of the treasury. To the cities which had suffered by hostile inroads, Anastasius promised a general exemption of seven years: the provinces of Justinian have been ravaged by the Persians and Arabs, the Huns and Sclavonians; but his vain and ridiculous dispensations of a single year have been confined to those places which were actually taken by the enemy." Such is the language of the secret historian, who expressly denies that *any* indulgence was granted to Palestine after the revolt of the Samaritans: a false and odious charge, confuted by the authentic record, which attests a relief of thirteen centenaries of gold (fifty-two thousand pounds) obtained for that desolate province by the intercession of St. Sabas.<sup>88</sup> III. Procopius has not condescended to explain the system of taxation, which fell like a hail-storm upon the land, like a devouring pestilence on its inhabitants; but we should become the accomplices of his malignity, if we imputed to Justinian alone the ancient though rigorous principle that a whole district should be condemned to sustain the partial loss of the persons or property of individuals. The *Annona*, or supply of corn for the use of the army and capital, was a grievous and arbitrary exaction, which exceeded, perhaps in a tenfold proportion, the ability of the farmer; and his distress was aggravated by the partial injustice of weights and measures, and the expense and labour of distant carriage. In a time of scarcity an extraordinary

<sup>88</sup> One to Scythopolis, capital of the second Palestine, and twelve for the rest of the province. Aleman. (p. 59) honestly produces this fact from a MS. life of St. Sabas, by his disciple Cyril, in the Vatican library, and since published by Cotelierius. [Ecc. Gr. Mon. vol. 3, p. 220 *sqq.*; p. 400 and 416 in the ed. of Pomyalovski, who has published the Greek text with an old Slavonic translation, 1890.]

requisition was made to the adjacent provinces of Thrace, Bithynia, and Phrygia; but the proprietors, after a wearisome journey and a perilous navigation, received so inadequate a compensation that they would have chosen the alternative of delivering both the corn and price at the doors of their granaries. These precautions might indicate a tender solicitude for the welfare of the capital; yet Constantinople did not escape the rapacious despotism of Justinian. Till his reign, the straits of the Bosphorus and Hellespont were open to the freedom of trade, and nothing was prohibited except the exportation of arms for the service of the Barbarians. At each of these gates of the city, a prætor was stationed, the minister of Imperial avarice; heavy customs were imposed on the vessels and their merchandise; the oppression was retaliated on the helpless consumer; the poor were afflicted by the artificial scarcity and exorbitant price of the market; and a people, accustomed to depend on the liberality of their prince, might sometimes complain of the deficiency of water and bread.<sup>97</sup> The *aerial* tribute, without a name, a law, or a definite object, was an annual gift of one hundred and twenty thousand pounds, which the emperor accepted from his Prætorian prefect; and the means of payment were abandoned to the discretion of that powerful magistrate. IV. Even such a tax was less intolerable than the privilege of monopolies, which checked the fair competition of industry, and, for the sake of a small and dishonest gain, imposed an arbitrary burthen on the wants and luxury of the subject. "As soon (I transcribe the Anecdotes) as the exclusive sale of silk was usurped by the Imperial treasurer, a whole people, the manufacturers of Tyre and Berytus, was reduced to extreme misery, and either perished with hunger or fled to the hostile dominions of Persia."

<sup>97</sup> John Malala (tom. ii. p. 232 [p. 488]) mentions the want of bread, and Zonaras (l. xiv. p. 63 [c. 6]) the leaden pipes, which Justinian, or his servants, stole from the aqueducts.

A province might suffer by the decay of its manufactures, but in this example of silk Procopius has partially overlooked the inestimable and lasting benefit which the empire received from the curiosity of Justinian. His addition of one seventh to the ordinary price of copper money may be interpreted with the same candour; and the alteration, which might be wise, appears to have been innocent; since he neither alloyed the purity, nor enhanced the value, of the gold coin,<sup>88</sup> the legal measure of public and private payments. V. The ample jurisdiction required by the farmers of the revenue to accomplish their engagements might be placed in an odious light, as if they had purchased from the emperor the lives and fortunes of their fellow-citizens. And a more direct sale of honours and offices was transacted in the palace, with the permission, or at least with the connivance, of Justinian and Theodora. The claims of merit, even those of favour, were disregarded, and it was almost reasonable to expect that the bold adventurer who had undertaken the trade of a magistrate should find a rich compensation for infamy, labour, danger, the debts which he had contracted, and the heavy interest which he paid. A sense of the disgrace and mischief of this venal practice at length awakened the slumbering virtue of Justinian; and he attempted, by the sanction of oaths<sup>89</sup> and penalties, to guard the integrity of his government; but at the end of a year of perjury his rigorous edict was suspended, and corruption licentiously abused her triumph over the impotence of the laws. VI. The testament of Eulalius, count of the domestics, declared the emperor his

<sup>88</sup> For an aureus, one sixth of an ounce of gold, instead of 210, he gave no more than 180 folles, or ounces of copper. A disproportion of the mint, below the market price, must have soon produced a scarcity of small money. In England, *twelve* pence in copper would sell for no more than *seven* pence (Smith's Inquiry into the Wealth of Nations, vol. i. p. 49). For Justinian's gold coin, see Evagrius (l. iv. c. 30). [Cp. Appendix 5.]

<sup>89</sup> The oath is conceived in the most formidable words (Novell. viii. tit. 3). The defaulters imprecate on themselves, *quicquid habent telorum armentaria celi*: the part of Judas, the leprosy of Giezi, the tremor of Cain, &c. besides all temporal pains.

sole heir, on condition, however, that he should discharge his debts and legacies, allow to his three daughters a decent maintenance, and bestow each of them in marriage, with a portion of ten pounds of gold. But the splendid fortune of Eulalius had been consumed by fire; and the inventory of his goods did not exceed the trifling sum of five hundred and sixty-four pieces in gold. A similar instance in Grecian history admonished the emperor of the honourable part prescribed for his imitation. He checked the selfish murmurs of the treasury, applauded the confidence of his friend, discharged the legacies and debts, educated the three virgins under the eye of the empress Theodora, and doubled the marriage portion which had satisfied the tenderness of their father.<sup>90</sup> The humanity of a prince (for princes cannot be generous) is entitled to some praise; yet even in this act of virtue we may discover the inveterate custom of supplanting the legal or natural heirs, which Procopius imputes to the reign of Justinian. His charge is supported by eminent names and scandalous examples; neither widows nor orphans were spared; and the art of soliciting, or extorting, or supposing testaments was beneficially practised by the agents of the palace. This base and mischievous tyranny invades the security of private life; and the monarch who has indulged an appetite for gain will soon be tempted to anticipate the moment of succession, to interpret wealth as an evidence of guilt, and to proceed from the claim of inheritance to the power of confiscation. VII. Among the forms of rapine, a philosopher may be permitted to name the conversion of Pagan or heretical riches to the use of the faithful; but in the time of Justinian this holy plunder was condemned by the sectaries alone, who became the victims of his orthodox avarice.<sup>91</sup>

<sup>90</sup> A similar or more generous act of friendship is related by Lucian of Eudamidas of Corinth (in *Toxare*, c. 22, 23, tom. ii. p. 530), and the story has produced an ingenious, though feeble, comedy of Fontenelle.

<sup>91</sup> John Malala, tom. ii. p. 101, 102, 103 [p. 439-40, ed. Bonn].

Dishonour might be ultimately reflected on the character of Justinian; but much of the guilt, and still more of the profit, was intercepted by the ministers, who were seldom promoted for their virtues, and not always selected for their talents.<sup>91</sup> The merits of Tribonian the quæstor will hereafter be weighed in the reformation of the Roman law; but the economy of the East was subordinate to the Prætorian prefect, and Procopius has justified his Anecdotes by the portrait, which he exposes in his public history, of the notorious vices of John of Cappadocia.<sup>92</sup> His knowledge was not borrowed from the schools,<sup>93</sup> and his style was scarcely legible; but he excelled in the powers of native genius to suggest the wisest counsels and to find expedients in the most desperate situations. The corruption of his heart was equal to the vigour of his understanding. Although he was suspected of magic and Pagan superstition, he appeared insensible to the fear of God or the reproaches of man; and his aspiring fortune was raised on the death of thousands, the poverty of millions, the ruin of cities, and the desolation of provinces. From the dawn of light to the moment of dinner, he assiduously laboured to enrich his master and himself at the expense of the Roman world; the remainder of the day was spent in sensual and obscene pleasures; and the silent hours of the night were interrupted by the perpetual dread of the justice of an assassin. His abilities, perhaps his vices, recommended him to the lasting

<sup>91</sup> One of these, Anatolius, perished in an earthquake — doubtless a judgment! The complaints and clamours of the people in Agathias (l. v. p. 146, 147) are almost an echo of the anecdote. The *aliena pecunia reddenda* of Corippus (l. ii. 381, &c.) is not very honourable to Justinian's memory.

<sup>92</sup> See the history and character of John of Cappadocia in Procopius (Persic. l. i. c. 24, 25; l. ii. c. 30. Vandal. l. i. c. 13. Anecdote. c. 2, 17, 22). The agreement of the history and Anecdotes is a mortal wound to the reputation of the prefect. [Besides Procopius, we have a long notice in the treatise *De Magistratibus* of John Lydus, who is equally unsparing.]

<sup>93</sup> Οὐ γὰρ ἄλλο οὐδὲν ἐς γραμματιστοῦ φοιτῶν ἔμαθεν ὅτι μὴ γράμματα, καὶ ταῦτα κακῶς γράψαι — a forcible expression.

friendship of Justinian; the emperor yielded with reluctance to the fury of the people; his victory was displayed by the immediate restoration of their enemy; and they felt above ten years, under his oppressive administration, that he was stimulated by revenge rather than instructed by misfortune. Their murmurs served only to fortify the resolution of Justinian; but the prefect in the insolence of favour provoked the resentment of Theodora, disdained a power before which every knee was bent, and attempted to sow the seeds of discord between the emperor and his beloved consort. Even Theodora herself was constrained to dissemble, to wait a favourable moment, and by an artful conspiracy to render John of Cappadocia the accomplice of his own destruction. At a time when Belisarius, unless he had been a hero, must have shewn himself a rebel, his wife Antonina, who enjoyed the secret confidence of the empress, communicated his feigned discontent to Euphemia, the daughter of the prefect; the credulous virgin imparted to her father the dangerous project; and John, who might have known the value of oaths and promises, was tempted to accept a nocturnal, and almost treasonable, interview with the wife of Belisarius. An ambuscade of guards and eunuchs had been posted by the command of Theodora; they rushed with drawn swords to seize or to punish the guilty minister; he was saved by the fidelity of his attendants; but, instead of appealing to a gracious sovereign who had privately warned him of his danger, he pusillanimously fled to the sanctuary of the church. The favourite of Justinian was sacrificed to conjugal tenderness or domestic tranquillity; the conversion of a prefect into a priest extinguished his ambitious hopes; but the friendship of the emperor alleviated his disgrace, and he retained in the mild exile of Cyzicus an ample portion of his riches. Such imperfect revenge could not satisfy the unrelenting hatred of Theodora; the murder of his old enemy, the bishop of Cyzicus, afforded a decent pretence; and John of Cappadocia, whose actions had deserved a thousand deaths, was at last

condemned for a crime of which he was innocent. A great minister, who had been invested with the honours of consul and patrician, was ignominiously scourged like the vilest of malefactors; a tattered cloak was the sole remnant of his fortunes; he was transported in a bark to the place of his banishment at Antinopolis in Upper Egypt, and the prefect of the East begged his bread through the cities which had trembled at his name. During an exile of seven years, his life was protracted and threatened by the ingenious cruelty of Theodora; and, when her death permitted the emperor to recall a servant whom he had abandoned with regret, the ambition of John of Cappadocia was reduced to the humble duties of the sacerdotal profession. His successors convinced the subjects of Justinian that the arts of oppression might still be improved by experience and industry; the frauds of a Syrian banker were introduced into the administration of the finances; and the example of the prefect was diligently copied by the quæstor, the public and private treasurer, the governors of provinces, and the principal magistrates of the Eastern empire.\*

V. The *edifices* of Justinian were cemented with the blood and treasure of his people; but those stately structures appeared to announce the prosperity of the empire, and actually displayed the skill of their architects. Both the theory and practice of the arts which depend on mathematical science and mechanical power were cultivated under the patronage of the emperors; the fame of Archimedes was rivalled by Proclus and Anthemius; and, if their *miracles* had been related by intelligent spectators, they might now enlarge the speculations, instead of exciting the distrust, of philoso-

\* The chronology of Procopius is loose and obscure; but with the aid of Pagi I can discern that John was appointed Prætorian prefect of the East in the year 530; that he was removed in January 532 — restored before June 533 — banished in 541 [to Cyzicus] — and recalled between June 548 and April 1, 549. Aleman. (p. 96, 97) gives the list of his ten successors — a rapid series in a part of a single reign.

phers. A tradition has prevailed that the Roman fleet was reduced to ashes in the port of Syracuse by the burning-glasses of Archimedes;<sup>65</sup> and it is asserted that a similar expedient was employed by Proclus to destroy the Gothic vessels in the harbour of Constantinople, and to protect his benefactor Anastasius against the bold enterprise of Vitalian.<sup>66</sup> A machine was fixed on the walls of the city, consisting of an hexagon mirror of polished brass, with many smaller and moveable polygons to receive and reflect the rays of the meridian sun; and a consuming flame was darted to the distance, perhaps, of two hundred feet.<sup>67</sup> The truth of these two extraordinary facts is invalidated by the silence of the most authentic historians; and the use of burning-glasses was never adopted in the attack or defence of places.<sup>68</sup> Yet the admirable experiments of a French philosopher<sup>69</sup>

<sup>65</sup> This conflagration is hinted by Lucian (in *Hippia*, c. 2) and Galen (l. iii. de *Temperamentis*, tom. i. p. 81, edit. Basil) in the second century. A thousand years afterwards, it is positively affirmed by Zonaras (l. ix. p. 424) on the faith of Dion Cassius, by Tzetzes (*Chiliad* ii. 119, &c.), Eustathius (ad *Iliad*. E. p. 338), and the scholiast of Lucian. See Fabricius (*Bibliot. Græc.* l. iii. c. 22, tom. ii. p. 551, 552), to whom I am more or less indebted for several of these quotations.

<sup>66</sup> Zonaras (l. xiv. p. 55 [c. 3]) affirms the fact, without quoting any evidence. [He seems to have followed George Monachus here (ed. Muralt, i. 517), but to have added the artifice of the mirror, out of his own head.]

<sup>67</sup> Tzetzes describes the artifice of these burning-glasses, which he had read, perhaps with no learned eyes, in a mathematical treatise of Anthemius. That treatise, *περὶ παραδόξων μηχανημάτων*, has been lately published, translated, and illustrated, by M. Dupuys, a scholar and a mathematician (*Mémoires de l'Académie des Inscriptions*, tom. xlii. p. 392-451). [See A. Westermann's *Paradoxographi*, p. 149 *sqq.*; and, for a new fragment of Anthemius, C. Belger in *Hermes*, xvi. p. 261 *sqq.* (1881), and C. Wachsmuth, *ib.* p. 637 *sqq.*]

<sup>68</sup> In the siege of Syracuse, by the silence of Polybius, Plutarch, Livy; in the siege of Constantinople, by that of Marcellinus and all the contemporaries of the sixth century.

<sup>69</sup> Without any previous knowledge of Tzetzes or Anthemius, the immortal Buffon imagined and executed a set of burning-glasses, with which he could inflame planks at the distance of 200 feet (*Supplément à l'Hist. Naturelle*, tom. i. p. 399-483, quarto edition). What miracles would not his genius have performed for the public service, with royal expense, and in the strong sun of Constantinople or Syracuse?

have demonstrated the possibility of such a mirror; and, since it is possible, I am more disposed to attribute the art to the greatest mathematicians of antiquity than to give the merit of the fiction to the idle fancy of a monk or a sophist. According to another story, Proclus applied sulphur to the destruction of the Gothic fleet;<sup>100</sup> in a modern imagination, the name of sulphur is instantly connected with the suspicion of gunpowder, and that suspicion is propagated by the secret arts of his disciple Anthemius.<sup>101</sup> A citizen of Tralles in Asia had five sons, who were all distinguished in their respective professions by merit and success. Olympius excelled in the knowledge and practice of the Roman jurisprudence. Dioscorus and Alexander became learned physicians; but the skill of the former was exercised for the benefit of his fellow-citizens, while his more ambitious brother acquired wealth and reputation at Rome. The fame of Metrodorus the grammarian, and of Anthemius the mathematician and architect, reached the ears of the emperor Justinian, who invited them to Constantinople; and, while the one instructed the rising generation in the schools of eloquence, the other filled the capital and provinces with more lasting monuments of his art. In a trifling dispute relative to the walls or windows of their contiguous houses, he had been vanquished by the eloquence of his neighbour Zeno; but the orator was defeated in his turn by the master of mechanics, whose malicious, though harmless, stratagems are darkly represented by the ignorance of Agathias. In a lower room, Anthemius arranged several vessels or cauldrons of water, each of them covered by the wide bottom of a leathern tube, which rose to a narrow top, and was artificially conveyed among the joists and rafters of the

<sup>100</sup> John Malala (tom. ii. p. 120-124 [403-5]) relates the fact; but he seems to confound the names or persons of Proclus and Marinus. [Marinus was the Prætorian prefect to whom Proclus gave his mixture.]

<sup>101</sup> Agathias, l. v. p. 149-152. The merit of Anthemius as an architect is loudly praised by Procopius (de *Ædif.* l. i. c. 1), and Paulus Silentarius (part i. 134, &c.).

adjacent building. A fire was kindled beneath the cauldron; the steam of the boiling water ascended through the tubes; the house was shaken by the efforts of imprisoned air, and its trembling inhabitants might wonder that the city was unconscious of the earthquake which they had felt. At another time, the friends of Zeno, as they sat at table, were dazzled by the intolerable light which flashed in their eyes from the reflecting mirrors of Anthemius; they were astonished by the noise which he produced from a collision of certain minute and sonorous particles; and the orator declared in tragic style to the senate, that a mere mortal must yield to the power of an antagonist who shook the earth with the trident of Neptune and imitated the thunder and lightning of Jove himself. The genius of Anthemius and his colleague Isidore the Milesian was excited and employed by a prince whose taste for architecture had degenerated into a mischievous and costly passion. His favourite architects submitted their designs and difficulties to Justinian, and discreetly confessed how much their laborious meditations were surpassed by the intuitive knowledge or celestial inspiration of an emperor, whose views were always directed to the benefit of his people, the glory of his reign, and the salvation of his soul.<sup>102</sup>

The principal church, which was dedicated by the founder of Constantinople to Saint Sophia, or the eternal wisdom, had been twice destroyed by fire: after the exile of John Chrysostom, and during the *Nika* of the blue and green factions. No sooner did the tumult subside than the Christian populace deplored their sacrilegious rashness; but they might have rejoiced in the calamity, had they foreseen the glory of the new temple, which at the end of forty days was

<sup>102</sup> See Procopius (de *Ædificiis*, l. i. c. 1, 2, l. ii. c. 3). He relates a coincidence of dreams which supposes some fraud in Justinian or his architect. They both saw, in a vision, the same plan for stopping an inundation at Dara. A stone quarry near Jerusalem was revealed to the emperor (l. v. c. 6); an angel was tricked into the perpetual custody of St. Sophia (Anonym. de Antiq. C. P. l. iv. p. 70).

strenuously undertaken by the piety of Justinian.<sup>103</sup> The ruins were cleared away, a more spacious plan was described, and, as it required the consent of some proprietors of ground, they obtained the most exorbitant terms from the eager desires and timorous conscience of the monarch. Anthemius formed the design, and his genius directed the hands of ten thousand workmen, whose payment in pieces of fine silver was never delayed beyond the evening. The emperor himself, clad in a linen tunic, surveyed each day their rapid progress, and encouraged their diligence by his familiarity, his zeal, and his rewards. The new cathedral of St. Sophia was consecrated by the patriarch, five years, eleven months, and ten days from the first foundation; and, in the midst of the solemn festival, Justinian exclaimed with devout vanity, "Glory be to God who hath thought me worthy to accomplish so great a work; I have vanquished thee, O Solomon!"<sup>104</sup> But the pride of the Roman Solomon, before

<sup>103</sup> Among the crowd of ancients and moderns who have celebrated the edifice of St. Sophia, I shall distinguish and follow, 1. Four original spectators and historians: Procopius (*de Ædific.* l. i. c. 1), Agathias (l. v. p. 152, 153), Paul Silentiarius (in a poem of 1026 hexameters, *ad calcem Annæ Comnen. Alexiad.*), and Evagrius (l. iv. c. 31). 2. Two legendary Greeks of a later period: George Codinus (*de Origin. C. P.* p. 64-74), and the anonymous writer of Banduri (*Imp. Orient. tom. i. l. iv. p. 65-80*). 3. The great Byzantine antiquarian Ducange (*Comment. ad Paul. Silentiar.* p. 525-598, and *C. P. Christ.* l. iii. p. 5-78). 4. Two French travellers — the one Peter Gyllius (*de Topograph. C. P.* l. ii. c. 3, 4) in the xvith, the other, Grelot (*Voyage de C. P.* p. 95-164. Paris 1680, in quarto): he has given plans, prospects and inside views of St. Sophia; and his plans, though on a smaller scale, appear more correct than those of Ducange. I have adopted and reduced the measures of Grelot; but, as no Christian can now ascend the dome, the height is borrowed from Evagrius, compared with Gyllius, Greaves, and the Oriental Geographer. [The dimensions of St. Sophia given in the text differ by but a few feet from those given in Salzenberg's great work on the church (*Altchristliche Baudenkmale von Constantinopel*) The best and fullest study of the church is Lethaby and Swainson, *Sancta Sophia.*]

<sup>104</sup> Solomon's temple was surrounded with courts, porticoes, &c.; but the proper structure of the house of God was no more (if we take the Egyptian or Hebrew cubit at 22 inches) than 55 feet in height, 36½ in breadth, and 110

twenty years had elapsed, was humbled by an earthquake, which overthrew the eastern part of the dome. Its splendour was again restored by the perseverance of the same prince; and in the thirty-sixth year of his reign Justinian celebrated the second dedication of a temple, which remains, after twelve centuries, a stately monument of his fame. The architecture of St. Sophia, which is now converted into the principal mosch, has been imitated by the Turkish sultans, and that venerable pile continues to excite the fond admiration of the Greeks, and the more rational curiosity of European travellers. The eye of the spectator is disappointed by an irregular prospect of half domes and shelving roofs; the western front, the principal approach, is destitute of simplicity and magnificence; and the scale of dimensions has been much surpassed by several of the Latin cathedrals. But the architect who first erected an *aerial* cupola is entitled to the praise of bold design and skilful execution. The dome of St. Sophia, illuminated by four and twenty windows, is formed with so small a curve that the depth is equal only to one sixth of its diameter; the measure of that diameter is one hundred and fifteen feet; and the lofty centre, where a crescent has supplanted the cross, rises to the perpendicular height of one hundred and eighty feet above the pavement. The circle which encompasses the dome lightly reposes on four strong arches, and their weight is firmly supported by four massy piles whose strength is assisted on the northern and southern sides by four columns of Egyptian granite. A Greek cross, inscribed in a quadrangle, represents the form of the edifice; the exact breadth is two hundred and forty-three feet, and two hundred and sixty-nine may be assigned for the extreme length from the sanctuary in the east to the nine western doors which open into the vestibule, and from thence into the *narthex* or exterior portico. That portico

in length — a small parish church, says Prideaux (Connection, vol. i. p. 144 folio); but few sanctuaries could be valued at four or five millions sterling!

was the humble station of the penitents. The nave or body of the church was filled by the congregation of the faithful; but the two sexes were prudently distinguished, and the upper and lower galleries were allotted for the more private devotion of the women. Beyond the northern and southern piles, a balustrade, terminated on either side by the thrones of the emperor and the patriarch, divided the nave from the choir; and the space, as far as the steps of the altar, was occupied by the clergy and singers. The altar itself, a name which insensibly became familiar to Christian ears, was placed in the eastern recess, artificially built in the form of a demi-cylinder; and this sanctuary communicated by several doors with the sacristy, the vestry, the baptistery, and the contiguous buildings subservient either to the pomp of worship or the private use of the ecclesiastical ministers. The memory of past calamities inspired Justinian with a wise resolution that no wood, except for the doors, should be admitted into the new edifice; and the choice of the materials was applied to the strength, the lightness, or the splendour of the respective parts. The solid piles which sustained the cupola were composed of huge blocks of freestone, hewn into squares and triangles, fortified by circles of iron, and firmly cemented by the infusion of lead and quicklime; but the weight of the cupola was diminished by the levity of its substance, which consists either of pumice-stone that floats in the water or of bricks from the isle of Rhodes five times less ponderous than the ordinary sort. The whole frame of the edifice was constructed of brick; but those base materials were concealed by a crust of marble; and the inside of St. Sophia, the cupola, the two larger and the six smaller semi-domes, the walls, the hundred columns, and the pavement, delight even the eyes of Barbarians with a rich and variegated picture. A poet,<sup>105</sup> who beheld the primitive lustre of St. Sophia,

<sup>105</sup> Paul Silentarius, in dark and poetic language, describes the various stones and marbles that were employed in the edifice of St. Sophia (P. ii.

enumerates the colours, the shades, and the spots of ten or twelve marbles, jaspers, and porphyries, which nature had profusely diversified, and which were blended and contrasted as it were by a skilful painter. The triumph of Christ was adorned with the last spoils of Paganism, but the greater part of these costly stones was extracted from the quarries of Asia Minor, the isles and continent of Greece, Egypt, Africa, and Gaul. Eight columns of porphyry, which Aurelian had placed in the temple of the sun, were offered by the piety of a Roman matron; eight others of green marble were presented by the ambitious zeal of the magistrates of Ephesus: both are admirable by their size and beauty, but every order of architecture disclaims their fantastic capitals. A variety of ornaments and figures was curiously expressed in mosaic; and the images of Christ, of the Virgin, of saints, and of angels, which have been defaced by Turkish fanaticism, were dangerously exposed to the superstition of the Greeks. According to the sanctity of each object, the precious metals were distributed in thin leaves or in solid masses. The balustrade of the choir, the capitals of the pillars, the ornaments of the doors and galleries, were of gilt bronze; the spectator was dazzled by the glittering aspect of the cupola; the sanctuary contained forty thousand pounds weight of silver; and the holy vases and vestments of the altar were of the purest gold, enriched with inestimable gems. Before the structure of the church had risen two cubits above the ground, forty-five thousand two hundred pounds were already consumed; and the whole expense amounted to three hundred

p. 129, 133, &c. &c.): 1. The *Carystian* — pale, with iron veins. 2. The *Phrygian* — of two sorts, both of a rosy hue; the one with a white shade, the other purple, with silver flowers. 3. The *Porphyry of Egypt* — with small stars. 4. The *green marble of Laconia*. 5. The *Carian* — from Mount Iassis, with oblique veins, white and red. 6. The *Lydian* — pale, with a red flower. 7. The *African*, or *Mauritanian* — of a gold or saffron hue. 8. The *Celtic* — black with white veins. 9. The *Bosphoric* — white, with black edges. Besides the *Proconnesian*, which formed the pavement; the *Thessalian*, *Molossian*, &c. which are less distinctly painted.

and twenty thousand : each reader, according to the measure of his belief, may estimate their value either in gold or silver; but the sum of one million sterling is the result of the lowest computation. A magnificent temple is a laudable monument of national taste and religion, and the enthusiast who entered the dome of St. Sophia might be tempted to suppose that it was the residence, or even the workmanship, of the Deity. Yet how dull is the artifice, how insignificant is the labour, if it be compared with the formation of the vilest insect that crawls upon the surface of the temple !

So minute a description of an edifice which time has respected may attest the truth, and excuse the relation, of the innumerable works, both in the capital and provinces, which Justinian constructed on a smaller scale and less durable foundations.<sup>106</sup> In Constantinople alone, and the adjacent suburbs, he dedicated twenty-five churches to the honour of Christ, the Virgin, and the saints: most of these churches were decorated with marble and gold; and their various situation was skilfully chosen in a populous square or a pleasant grove, on the margin of the sea-shore or on some lofty eminence which overlooked the continents of Europe and Asia. The church of the Holy Apostles at Constantinople and that of St. John at Ephesus appear to have been framed on the same model: their domes aspired to imitate the cupolas of St. Sophia; but the altar was more judiciously placed under the centre of the dome, at the junction of four stately porticoes, which more accurately expressed the figure of the Greek cross. The Virgin of Jerusalem might exult in the temple erected by her Imperial votary on a most un-

<sup>106</sup> The six books of the *Edifices* of Procopius are thus distributed: the *first* is confined to Constantinople; the *second* includes Mesopotamia and Syria; the *third*, Armenia and the Euxine; the *fourth*, Europe; the *fifth*, Asia Minor and Palestine; the *sixth*, Egypt and Africa. Italy is forgot by the emperor or the historian, who published this work of adulation before the date (A.D. 555) of its final conquest. [It was not published before A.D. 560. Cp. vol. vi. Appendix 2.]

grateful spot, which afforded neither ground nor materials to the architect. A level was formed, by raising part of a deep valley to the height of the mountain. The stones of a neighbouring quarry were hewn into regular forms; each block was fixed on a peculiar carriage drawn by forty of the strongest oxen; and the roads were widened for the passage of such enormous weights. Lebanon furnished her loftiest cedars for the timbers of the church; and the seasonable discovery of a vein of red marble supplied its beautiful columns, two of which, the supporters of the exterior portico, were esteemed the largest in the world. The pious munificence of the emperor was diffused over the Holy Land; and, if reason should condemn the monasteries of both sexes which were built or restored by Justinian, yet charity must applaud the wells which he sunk, and the hospitals which he founded, for the relief of the weary pilgrims. The schismatical temper of Egypt was ill-entitled to the royal bounty; but in Syria and Africa some remedies were applied to the disasters of wars and earthquakes, and both Carthage and Antioch, emerging from their ruins, might revere the name of their gracious benefactor.<sup>107</sup> Almost every saint in the calendar acquired the honours of a temple; almost every city of the empire obtained the solid advantages of bridges, hospitals, and aqueducts; but the severe liberality of the monarch disdained to indulge his subjects in the popular luxury of baths and theatres. While Justinian laboured for the public service, he was not unmindful of his own dignity and ease. The Byzantine palace, which had been damaged by the conflagration, was restored with new magnificence; and some notion may be conceived of the whole edifice by the vestibule or hall, which, from the doors perhaps or the roof, was surnamed *chalice*, or the brazen. The dome of a spacious quad-

<sup>107</sup> Justinian once gave forty-five centenaries of gold (180,000l.) for the repairs of Antioch after the earthquake (John Malala, tom. ii. p. 146-149 [p. 422 sqq.]).

range was supported by massy pillars; the pavement and walls were encrusted with many-coloured marbles — the emerald green of Laconia, the fiery red, and the white Phrygian stone intersected with veins of a sea-green hue: the mosaic paintings of the dome and sides represented the glories of the African and Italian triumphs. On the Asiatic shore of the Propontis, at a small distance to the east of Chalcedon, the costly palace and gardens of Heræum<sup>108</sup> were prepared for the summer residence of Justinian, and more especially of Theodora. The poets of the age have celebrated the rare alliance of nature and art, the harmony of the nymphs of the groves, the fountains, and the waves; yet the crowd of attendants who followed the court complained of their inconvenient lodgings,<sup>109</sup> and the nymphs were too often alarmed by the famous Porphyrio, a whale of ten cubits in breadth and thirty in length, who was stranded at the mouth of the river Sangarius, after he had infested more than half a century the seas of Constantinople.<sup>110</sup>

The fortifications of Europe and Asia were multiplied by Justinian; but the repetition of those timid and fruitless precautions exposes to a philosophic eye the debility of the empire.<sup>111</sup> From Belgrade to the Euxine, from the confluent

<sup>108</sup> For the Heræum, the palace of Theodora, see Gyllius (*de Bosphoro Thracio*, l. iii. c. xi.), Aleman. (*Not. ad Anecd.* p. 80, 81, who quotes several epigrams of the Anthology), and Ducange (*C. P. Christ.* l. iv. c. 13, p. 175, 176).

<sup>109</sup> Compare, in the Edifices (l. i. c. 11) and in the Anecdotes (c. 8, 15), the different styles of adulation and malevolence: stript of the paint, or cleansed from the dirt, the object appears to be the same.

<sup>110</sup> Procopius, l. viii. [*leg.* vii.] 29; most probably a stranger and a wanderer, as the Mediterranean does not breed whales. *Balænzæ quoque in nostra maria penetrant* (Plin. *Hist. Natur.* ix. 2). Between the polar circle and the tropic, the cetaceous animals of the ocean grow to the length of 50, 80, or 100 feet (*Hist. des Voyages*, tom. xv. p. 289. Pennant's *British Zoology*, vol. iii. p. 35).

<sup>111</sup> Montesquieu observes (tom. iii. p. 503, *Considérations sur la Grandeur et la Décadence des Romains*, c. xx.) that Justinian's empire was like France in the time of the Norman inroads — never so weak as when every village was fortified. [The author does scant justice to the fortifications of Justinian's time. The best study on the admirable "Byzantine system of

of the Save to the mouth of the Danube, a chain of above fourscore fortified places was extended along the banks of the great river. Single watch-towers were changed into spacious citadels; vacant walls, which the engineers contracted or enlarged according to the nature of the ground, were filled with colonies or garrisons; a strong fortress defended the ruins of Trajan's bridge,<sup>112</sup> and several military stations affected to spread beyond the Danube the pride of the Roman name. But that name was divested of its terrors; the Barbarians, in their annual inroads, passed, and contemptuously repassed, before these useless bulwarks; and the inhabitants of the frontier, instead of reposing under the shadow of the general defence, were compelled to guard, with incessant vigilance, their separate habitations. The solitude of ancient cities was replenished; the new foundations of Justinian acquired, perhaps too hastily, the epithets of impregnable and populous; and the auspicious place of his own nativity attracted the grateful reverence of the vainest of princes. Under the name of *Justiniana prima*, the obscure village of Tauresium became the seat of an archbishop and a prefect, whose jurisdiction extended over seven warlike provinces of Illyricum;<sup>113</sup> and the corrupt appellation of *Giustendil* still indicates, about twenty miles to the south of

defence" (with plans) will be found in Diehl's *L'Afrique byzantine*, p. 138-225.]

<sup>112</sup> Procopius affirms (l. iv. c. 6) that the Danube was stopped by the ruins of the bridge. Had Apollodorus the architect left a description of his own work, the fabulous wonders of Dion Cassius (l. lxxviii. p. 1129 [c. 13]) would have been corrected by the genuine picture. Trajan's bridge consisted of twenty or twenty-two stone piles with wooden arches; the river is shallow, the current gentle, and the whole interval no more than 443 (Reimar ad Dion., from Marsigli) or 515 *toises* (d'Anville, *Géographie Ancienne*, tom. i. p. 305).

<sup>113</sup> Of the two Dacias, *Mediterranea* and *Ripensis*, Dardania, Prævalitana, the second Mæsia, and the second Macedonia [and, 7th, part of the Second Pannonia]. See Justinian (Novell. xi. [xix. ed. Zach.]), who speaks of his castles beyond the Danube, and of *homines semper bellicis sudoribus inhærentes*.

Sophia, the residence of a Turkish sanjak.<sup>144</sup> For the use of the emperor's countrymen, a cathedral, a palace, and an aqueduct were speedily constructed; the public and private edifices were adapted to the greatness of a royal city; and the strength of the walls resisted, during the life-time of Justinian, the unskilful assaults of the Huns and Sclavonians. Their progress was sometimes retarded, and their hopes of rapine were disappointed, by the innumerable castles, which, in the provinces of Dacia, Epirus, Thessaly, Macedonia, and Thrace, appeared to cover the whole face of the country. Six hundred of these forts were built or repaired by the emperor; but it seems reasonable to believe that the far greater part consisted only of a stone or brick tower, in the midst of a square or circular area, which was surrounded by a wall and ditch, and afforded in a moment of danger some protec-

<sup>144</sup> See d'Anville (*Mémoires de l'Académie*, &c. tom. xxxi. p. 289, 290), Rycaut (*Present State of the Turkish Empire*, p. 97, 316), Marsigli (*Stato Militare del Imperio Ottomano*, p. 130). The Sanjak of Giustendil is one of the twenty under the beglerbeg of Rumelia, and his district maintains 48 *zaims* and 588 *timariots*. [This identification is due to a false etymology. Küstendil corresponds to the ancient Pautalia, and derived this name from a mediæval despot, Constantine (of which Küstendil is the Turkish form). Justiniana Prima, the birthplace of Justinian, is the ancient Scupi, the modern Üsküp. This has been completely demonstrated by Mr. A. J. Evans, *Antiquarian Researches in Illyricum*, part 4, p. 134 *seq.* Tauresium and Bederiane (see above, p. 1) are probably to be found (as Von Hahn suggested) in the villages of Taor and Bader. Mr. Evans points out (p. 82) that "the site of Scupi lies at the crossing-point of great natural routes across the western part of the Illyrian Peninsula. To those approaching the Aegean port [Thessalonica] from the middle Danube it occupied a position almost precisely analogous to that held by Serdica on the military road to Constantinople." It is on the river Vardar (Axius) which connects it with Stobi and Thessalonica. "A direct line of Roman way through the pass of Kačanik brought Scupi into peculiarly intimate relations with the Dardanian sister-town of Ulpiana." To Ulpiana Justinian gave the new name of Justiniana Secunda, and in its neighbourhood he built a city, Justinopolis, in honour of his uncle. This Dardanian foundation confirms the Dardanian origin of Justinian's family. Compare John Mal. apud Momms., *Hermes* 6, 339, 'Ιουστινῶς ἐκ Βεδεριανῶν φρουρίου πλησιάζοντος Ναισσοῦ, where the "proximity to Naissus" cannot be pressed.]



tion to the peasants and cattle of the neighbouring villages.<sup>115</sup> Yet these military works, which exhausted the public treasure, could not remove the just apprehensions of Justinian and his European subjects. The warm baths of Anchialus in Thrace were rendered as safe as they were salutary; but the rich pastures of Thessalonica were foraged by the Scythian cavalry; the delicious vale of Tempe, three hundred miles from the Danube, was continually alarmed by the sound of war;<sup>116</sup> and no unfortified spot, however distant or solitary, could securely enjoy the blessings of peace. The straits of Thermopylæ, which seemed to protect, but which had so often betrayed, the safety of Greece, were diligently strengthened by the labours of Justinian. From the edge of the seashore, through the forests and valleys, and as far as the summit of the Thessalian mountains, a strong wall was continued, which occupied every practicable entrance. Instead of an hasty crowd of peasants, a garrison of two thousand soldiers was stationed along the rampart; granaries of corn and reservoirs of water were provided for their use; and, by a precaution that inspired the cowardice which it foresaw, convenient fortresses were erected for their retreat. The walls of Corinth, overthrown by an earthquake, and the mouldering bulwarks of Athens and Plataea, were carefully restored; the Barbarians were discouraged by the prospect of successive and painful sieges; and the naked cities of Peloponnesus were covered by the fortifications of the isthmus of Corinth. At the extremity of Europe, another peninsula, the Thracian Chersonesus, runs three days' journey into the sea, to form, with the adjacent shores of Asia, the

<sup>115</sup> These fortifications may be compared to the castles in Mingrelia (Chardin, *Voyages en Perse*, tom. i. p. 60, 131) — a natural picture.

<sup>116</sup> The valley of Tempe is situate along the river Peneus, between the hills of Ossa and Olympus: it is only five miles long, and in some places no more than 120 feet in breadth. Its verdant beauties are elegantly described by Pliny (*Hist. Natur.* l. iv. 15), and more diffusely by Ælian (*Hist. Var.* l. iii. c. 1).

straits of the Hellespont. The intervals between eleven populous towns were filled by lofty woods, fair pastures, and arable lands; and the isthmus, of thirty-seven stadia or furlongs, had been fortified by a Spartan general nine hundred years before the reign of Justinian.<sup>117</sup> In an age of freedom and valour, the slightest rampart may prevent a surprise; and Procopius appears insensible of the superiority of ancient times, while he praises the solid construction and double parapet of a wall whose long arms stretched on either side into the sea; but whose strength was deemed insufficient to guard the Chersonesus, if each city, and particularly Gallipoli and Sestus, had not been secured by their peculiar fortifications. The *long wall*, as it was emphatically styled, was a work as disgraceful in the object, as it was respectable in the execution. The riches of a capital diffuse themselves over the neighbouring country, and the territory of Constantinople, a paradise of nature, was adorned with the luxurious gardens and villas of the senators and opulent citizens. But their wealth served only to attract the bold and rapacious Barbarians; the noblest of the Romans, in the bosom of peaceful indolence, were led away into Scythian captivity, and their sovereign might view from his palace the hostile flames which were insolently spread to the gates of the Imperial city. At the distance only of forty miles Anastasius was constrained to establish a last frontier; his long wall, of sixty miles from the Propontis to the Euxine, proclaimed the impotence of his arms; and, as the danger became more imminent, new fortifications were added by the indefatigable prudence of Justinian.<sup>118</sup>

Asia Minor, after the submission of the Isaurians,<sup>119</sup> re-

<sup>117</sup> Xenophon, *Hellenic*. l. iii. c. 2. After a long and tedious conversation with the Byzantine declaimers, how refreshing is the truth, the simplicity, the elegance of an Attic writer!

<sup>118</sup> See the long wall in Evagrius (l. iv. c. 38). This whole article is drawn from the fourth book of the *Edifices*, except Anchialus (l. iii. c. 7).

<sup>119</sup> Turn back to vol. ii. p. 56. In the course of this history, I have some-

mained without enemies and without fortifications. Those bold savages, who had disdained to be the subjects of Gallienus, persisted two hundred and thirty years in a life of independence and rapine. The most successful princes respected the strength of the mountains and the despair of the natives; their fierce spirit was sometimes soothed with gifts, and sometimes restrained by terror; and a military count, with three legions, fixed his permanent and ignominious station in the heart of the Roman provinces.<sup>120</sup> But no sooner was the vigilance of power relaxed or diverted, than the light-armed squadrons descended from the hills and invaded the peaceful plenty of Asia. Although the Isaurians were not remarkable for stature or bravery, want rendered them bold, and experience made them skilful, in the exercise of predatory war. They advanced with secrecy and speed to the attack of villages and defenceless towns; their flying parties have sometimes touched the Hellespont, the Euxine, and the gates of Tarsus, Antioch, or Damascus;<sup>121</sup> and the spoil was lodged in their inaccessible mountains, before the Roman troops had received their orders, or the distant province had computed its loss. The guilt of rebellion and robbery excluded them from the rights of national enemies; and the magistrates were instructed by an edict, that the trial or punishment of an Isaurian, even on the festival of Easter, was a meritorious act of justice and piety.<sup>122</sup> If the

times mentioned, and much oftener slighted, the hasty inroads of the Isaurians, which were not attended with any consequences.

<sup>120</sup> Trebellius Pollio in *Hist. August.* p. 107 [xxiv. c. 26], who lived under Diocletian, or Constantine. See likewise Pancirolus ad *Notit. Imp. Orient.* c. 115, 141. See *Cod. Theodos.* l. ix. tit. 35, leg. 37, with a copious collective Annotation of Godefroy, tom. iii. p. 256, 257.

<sup>121</sup> See the full and wide extent of their inroads in Philostorgius (*Hist. Eccles.* l. xi. c. 8), with Godefroy's learned Dissertations.

<sup>122</sup> *Cod. Justinian.* l. ix. tit. 12, leg. 10. The punishments are severe — a fine of an hundred pounds of gold, degradation, and even death. The public peace might afford a pretence, but Zeno was desirous of monopolising the valour and service of the Isaurians.

captives were condemned to domestic slavery, they maintained, with their sword or dagger, the private quarrel of their masters; and it was found expedient for the public tranquillity to prohibit the service of such dangerous retainers. When their countryman Tarcalissæus or Zeno ascended the throne, he invited a faithful and formidable band of Isaurians, who insulted the court and city, and were rewarded by an annual tribute of five thousand pounds of gold. But the hopes of fortune depopulated the mountains, luxury enervated the hardiness of their minds and bodies, and, in proportion as they mixed with mankind, they became less qualified for the enjoyment of poor and solitary freedom. After the death of Zeno, his successor Anastasius suppressed their pensions, exposed their persons to the revenge of the people, banished them from Constantinople, and prepared to sustain a war, which left only the alternative of victory or servitude. A brother of the last emperor usurped the title of Augustus, his cause was powerfully supported by the arms, the treasures, and the magazines, collected by Zeno; and the native Isaurians must have formed the smallest portion of the hundred and fifty thousand Barbarians under his standard, which was sanctified, for the first time, by the presence of a fighting bishop. Their disorderly numbers were vanquished in the plains of Phrygia by the valour and discipline of the Goths; but a war of six years almost exhausted the courage of the emperor.<sup>123</sup> The Isaurians retired to their mountains; their fortresses were successively besieged and

<sup>123</sup> The Isaurian war and the triumph of Anastasius are briefly and darkly represented by John Malala (tom. ii. p. 106, 107 [and some of the Escorial frags. published by Mommsen, *Hermes*, vi. p. 371]), Evagrius (l. iii. c. 35 [whose account is taken from Eustathius of Epiphania]), Theophanes (p. 118-120), and the Chronicle of Marcellinus. [Also: Josua Stylites (who is however mainly valuable for the Isaurians under Zeno); John of Antioch, frags. ap. Müller, vols. iv. and v.; Theodorus Lector. The notices of Theophanes are derived from Malalas. The best and fullest account of the Isaurian episode under Leo, Zeno, and Anastasius is given by Mr. E. W. Brooks, in *Eng. Histor. Review*, 1893, p. 209 *sqq.*]

ruined; their communication with the sea was intercepted; the bravest of their leaders died in arms; the surviving chiefs, before their execution, were dragged in chains through the hippodrome; a colony of their youth was transplanted into Thrace, and the remnant of the people submitted to the Roman government. Yet some generations elapsed before their minds were reduced to the level of slavery. The populous villages of Mount Taurus were filled with horsemen and archers; they resisted the imposition of tributes, but they recruited the armies of Justinian; and his civil magistrates, the proconsul of Cappadocia, the count of Isauria, and the prætors of Lycaonia and Pisidia, were invested with military power to restrain the licentious practice of rapes and assassinations.<sup>124</sup>

If we extend our view from the tropic to the mouth of the Tanais, we may observe, on one hand, the precautions of Justinian to curb the savages of Æthiopia,<sup>125</sup> and, on the other, the long walls which he constructed in Crimea for the protection of his friendly Goths, a colony of three thousand shepherds and warriors.<sup>126</sup> From that peninsula to Trebizond, the eastern curve of the Euxine was secured by forts,

<sup>124</sup> Fortes ea regio (says Justinian) viros habet, nec in ullo differt ab Isauriâ, though Procopius (Persic. l. i. c. 18) marks an essential difference between their military character; yet in former times the Lycaonians and Pisidians had defended their liberty against the great king (Xenophon, Anabasis, l. iii. c. 2). Justinian introduces some false and ridiculous erudition of the ancient empire of the Pisidians, and of Lycaon, who, after visiting Rome (long before Æneas), gave a name and people to Lycaonia (Novell. 24, 25, 27, 30 [23, 24, 26, 44, ed. Zachariä]).

<sup>125</sup> See Procopius, Persic. l. i. c. 19. The altar of national concord, of annual sacrifice and oaths, which Diocletian had erected in the isle of Elephantine, was demolished by Justinian with less policy than zeal.

<sup>126</sup> Procopius de Ædificiis, l. iii. c. 7. Hist. l. viii. c. 3, 4. These unambitious Goths had refused to follow the standard of Theodoric. As late as the xvth and xvith century, the name and nation might be discovered between Caffa and the straits of Azov (d'Anville, Mémoires de l'Académie, tom. xxx. p. 240). They well deserved the curiosity of Busbequius (p. 321-326), but seem to have vanished in the more recent account of the Missions du Levant (tom. i.), Tott, Peyssonel, &c.

by alliance, or by religion; and the possession of *Lazica*, the Colchos of ancient, the Mingrelia of modern, geography, soon became the object of an important war. Trebizond, in after-times the seat of a romantic empire, was indebted to the liberality of Justinian for a church, an aqueduct, and a castle, whose ditches are hewn in the solid rock. From that maritime city, a frontier-line of five hundred miles may be drawn to the fortress of Circesium, the last Roman station on the Euphrates.<sup>127</sup> Above Trebizond immediately, and five days' journey to the south, the country rises into dark forests and craggy mountains, as savage though not so lofty as the Alps and the Pyrenees. In this rigorous climate,<sup>128</sup> where the snows seldom melt, the fruits are tardy and tasteless, even honey is poisonous; the most industrious tillage would be confined to some pleasant valleys; and the pastoral tribes obtained a scanty sustenance from the flesh and milk of their cattle. The *Chalybians*<sup>129</sup> derived their name and temper from the iron quality of the soil; and, since the days of Cyrus, they might produce, under the various appellations of Chaldæans and Zanians, an uninterrupted prescription of

<sup>127</sup> For the geography and architecture of this Armenian border, see the Persian Wars and Edifices (l. ii. c. 4-7; l. iii. c. 2-7) of Procopius.

<sup>128</sup> The country is described by Tournefort (*Voyage au Levant*, tom. iii. lettre xvii. xviii.). That skilful botanist soon discovered the plant that infects the honey (Plin. xxi. 44, 45); he observes that the soldiers of Lucullus might indeed be astonished at the cold, since, even in the plain of Erzerum, snow sometimes falls in June and the harvest is seldom finished before September. The hills of Armenia are below the fortieth degree of latitude; but in the mountainous country which I inhabit, it is well known that an ascent of some hours carries the traveller from the climate of Languedoc to that of Norway, and a general theory has been introduced that under the line an elevation of 2400 *toises* is equivalent to the cold of the polar circle (Remond, *Observations sur les Voyages de Coxe dans la Suisse*, tom. ii. p. 104).

<sup>129</sup> The identity or proximity of the Chalybians, or Chaldæans, may be investigated in Strabo (l. xii. p. 825, 826 [c. 3, § 19 *sqq.*]), Cellarius (*Geograph. Antiq.* tom. ii. p. 202-204), and Fréret (*Mém. de l'Académie*, tom. iv. p. 594). Xenophon supposes, in his romance (*Cyropæd.* l. iii. [c. 3]), the same Barbarians against whom he had fought in his retreat (*Anabasis*, l. iv. [c. 2]).

war and rapine. Under the reign of Justinian, they acknowledged the God and the emperor of the Romans, and seven fortresses were built in the most accessible passes, to exclude the ambition of the Persian monarch.<sup>180</sup> The principal source of the Euphrates descends from the Chalybian mountains, and seems to flow towards the west and the Euxine; bending to the south-west, the river passes under the walls of Satala and Melitene (which were restored by Justinian as the bulwarks of the lesser Armenia), and gradually approaches the Mediterranean sea; till at length, repelled by Mount Taurus,<sup>181</sup> the Euphrates inclines his long and flexible course to the south-east and the gulf of Persia. Among the Roman cities beyond the Euphrates, we distinguish two recent foundations, which were named from Theodosius and the relics of the Martyrs; and two capitals, Amida and Edessa, which are celebrated in the history of every age. Their strength was proportioned by Justinian to the danger of their situation. A ditch and palisade might be sufficient to resist the artless force of the cavalry of Scythia; but more elaborate works were required to sustain a regular siege against the arms and treasures of the great king. His skilful engineers understood the methods of conducting deep mines, and of raising platforms to the level of the rampart; he shook the strongest battlements with his military engines, and sometimes advanced to the assault with a line of moveable turrets on the backs of elephants. In the great cities of the East, the disadvantage of space, perhaps of position, was compensated by the zeal of the people, who seconded the garrison in the defence of their country and religion; and the fabulous promise of the Son of God, that Edessa should never be taken, filled the citizens with valiant confidence, and chilled

<sup>180</sup> Procopius, *Persic.* l. i. c. 15. *De Ædific.* l. iii. c. 6.

<sup>181</sup> Ni Taurus obstet in nostra maria venturus (Pomponius Mela, iii. 8). Pliny, a poet as well as a naturalist (v. 20), personifies the river and mountain, and describes their combat. See the course of the Tigris and Euphrates, in the excellent treatise of d'Anville.

the besiegers with doubt and dismay.<sup>122</sup> The subordinate towns of Armenia and Mesopotamia were diligently strengthened, and the posts which appeared to have any command of ground or water were occupied by numerous forts, substantially built of stone, or more hastily erected with the obvious materials of earth and brick. The eye of Justinian investigated every spot; and his cruel precautions might attract the war into some lonely vale, whose peaceful natives, connected by trade and marriage, were ignorant of national discord and the quarrels of princes. Westward of the Euphrates, a sandy desert extends above six hundred miles to the Red Sea. Nature had interposed a vacant solitude between the ambition of two rival empires; the Arabians, till Mahomet arose, were formidable only as robbers; and, in the proud security of peace, the fortifications of Syria were neglected on the most vulnerable side.

But the national enmity, at least the effects of that enmity, had been suspended by a truce, which continued above four-score years. An ambassador from the emperor *Zeno* accompanied the rash and unfortunate *Perozes*, in his expedition against the *Nepthalites* or white Huns, whose conquests had been stretched from the Caspian to the heart of India, whose throne was enriched with emeralds,<sup>123</sup> and whose cavalry was

<sup>122</sup> Procopius (*Persic.* l. ii. c. 12) tells the story with a tone half sceptical, half superstitious, of Herodotus. The promise was not in the primitive lie of Eusebius, but dates at least from the year 400; and a third lie, the *Veronica*, was soon raised on the two former (*Evagrius*, l. iv. c. 27). As *Edessa* has been taken, Tillemont *must* disclaim the promise (*Mém. Ecclés.* tom. i. p. 362, 383, 617).

<sup>123</sup> They were purchased from the merchants of *Adulis* who traded to *India* (*Cosmas*, *Topograph. Christ.* l. xi. p. 339); yet, in the estimate of precious stones, the *Scythian* emerald was the first, the *Bactrian* the second, the *Æthiopian* only the third (*Hill's Theophrastus*, p. 61, &c. 92). The production, mines, &c. of emeralds are involved in darkness; and it is doubtful whether we possess any of the twelve sorts known to the ancients (*Gouquet*, *Origine des Loix*, &c. part ii. l. ii. c. 2, art. 3). In this war the Huns got, or at least *Perozes* lost, the finest pearl in the world, of which Procopius relates a ridiculous fable.

supported by a line of two thousand elephants.<sup>134</sup> The Persians were twice circumvented, in a situation which made valour useless and flight impossible; and the double victory of the Huns was achieved by military stratagem. They dismissed their royal captive after he had submitted to adore the majesty of a Barbarian; and the humiliation was poorly evaded by the casuistical subtilty of the Magi, who instructed Perozes to direct his attention to the rising sun. The indignant successor of Cyrus forgot his danger and his gratitude: he renewed the attack with headstrong fury, and lost both his army and his life.<sup>135</sup> The death of Perozes abandoned Persia to her foreign and domestic enemies; and twelve years of confusion elapsed before his son Cabades or Kobad could embrace any designs of ambition or revenge. The unkind parsimony of Anastasius was the motive or pretence of a Roman war;<sup>136</sup> the Huns and Arabs marched under the

<sup>134</sup> The Indo-Scythæ continued to reign from the time of Augustus (Dionys. Perieget. 1088, with the Commentary of Eustathius, in Hudson, Geograph. Minor. tom. iv.) to that of the elder Justin (Cosmas, Topograph. Christ. l. xi. p. 338, 339). On their origin and conquests, see d'Anville (sur l'Inde, p. 18, 45, &c. 69, 85, 89). In the second century they were masters of Larice or Guzerat.

<sup>135</sup> See the fate of Phirouz or Perozes, and its consequences, in Procopius (Persic. l. i. c. 3-6), who may be compared with the fragments of Oriental history (d'Herbelot, Bibliot. Orient. p. 351, and Texeria, History of Persia, translated or abridged by Stevens, l. i. c. 32, p. 132-138). The chronology is ably ascertained by Asseman (Bibliot. Orient. tom. iii. p. 396-427). [The death of Perozes occurred soon after the total eclipse of the sun on Jan. 14, 484. His successor Balâsh reigned to 488; and Cobad's first year was counted from July 22, 488. See Nöldeke, Gesch. der Perser, &c. p. 425-7.]

<sup>136</sup> The Persian war, under the reigns of Anastasius and Justin, may be collected from Procopius (Persic. l. i. c. 7, 8, 9), Theophanes (in Chronograph. p. 124-127), Evagrius (l. iii. c. 37), Marcellinus (in Chron. p. 47), and Josua Stylites apud Asseman. (tom. i. p. 272-281). [Josua Stylites (ed. Wright, see vol. vi. Appendix 2) describes, with considerable detail, the two sieges of Amida, (1) by the Persians (Oct. 502-Jan. 503), and (2) by the Romans, under "Patricius" and Hypatius (503), and the siege of Edessa (504-5). He relates a defeat sustained by Patricius at Opadnâ (= al-Fudain, acc. to Nöldeke, on the river Chaboras) in A.D. 503; and an unsuccessful attempt of Cobad to take Constantinâ. The Continuator of Zacharias of Mytilene gives an account of the war and also describes at length the first siege of Amida. The

Persian standard; and the fortifications of Armenia and Mesopotamia were at that time in a ruinous or imperfect condition. The emperor returned his thanks to the governor and people of Martyropolis for the prompt surrender of a city which could not be successfully defended, and the conflagration of Theodosiopolis might justify the conduct of their prudent neighbours. Amida sustained a long and destructive siege: at the end of three months the loss of fifty thousand of the soldiers of Cabades was not balanced by any prospect of success, and it was in vain that the Magi deduced a flattering prediction from the indecency of the women on the ramparts, who had revealed their most secret charms to the eyes of the assailants. At length, in a silent night, they ascended the most accessible tower, which was guarded only by some monks, oppressed, after the duties of a festival, with sleep and wine. Scaling-ladders were applied at the dawn of day; the presence of Cabades, his stern command, and his drawn sword compelled the Persians to vanquish; and, before it was sheathed, fourscore thousand of the inhabitants had expiated the blood of their companions. After the siege of Amida, the war continued three years, and the unhappy frontier tasted the full measure of its calamities. The gold of Anastasius was offered too late; the number of his troops was defeated by the number of their generals; the country was stripped of its inhabitants; and both the living and the dead were abandoned to the wild beasts of the desert. The resistance of Edessa, and the deficiency of spoil, inclined the mind of Cabades to peace; he sold his conquests for an exorbitant price; and the same line, though marked with slaughter and devastation, still separated the two empires. To avert the repetition of the same evils, Anastasius resolved to form a new colony, so strong that it should defy the power

account in Evagrius is taken from Eustathius of Epiphania. On the character of Cobad, cp. Nöldeke (*Gesch. der Perser*, &c. p. 143), who concludes that he was energetic and able.]

of the Persian, so far advanced towards Assyria that its stationary troops might defend the province by the menace or operation of offensive war. For this purpose, the town of Dara,<sup>137</sup> fourteen miles from Nisibis, and four days' journey from the Tigris, was peopled and adorned; the hasty works of Anastasius were improved by the perseverance of Justinian; and, without insisting on places less important, the fortifications of Dara may represent the military architecture of the age. The city was surrounded with two walls, and the interval between them, of fifty paces, afforded a retreat to the cattle of the besieged. The inner wall was a monument of strength and beauty: it measured sixty feet from the ground, and the height of the towers was one hundred feet; the loop-holes, from whence an enemy might be annoyed with missile weapons, were small, but numerous; the soldiers were planted along the rampart, under the shelter of double galleries; and a third platform, spacious and secure, was raised on the summit of the towers. The exterior wall appears to have been less lofty, but more solid; and each tower was protected by a quadrangular bulwark. A hard rocky soil resisted the tools of the miners, and on the south-east, where the ground was more tractable, their approach was retarded by a new work, which advanced in the shape of an half-moon. The double and treble ditches were filled with a stream of water; and in the management of the river the most skilful labour was employed to supply the inhabitants, to distress the besiegers, and to prevent the mischiefs of a natural or artificial inundation. Dara continued more than sixty years to fulfil the wishes of its founders, and to provoke the jealousy of the Persians, who incessantly complained that this impregnable fortress had been con-

<sup>137</sup> The description of Dara is amply and correctly given by Procopius (*Persic.* l. i. c. 10; l. ii. c. 13. *De Ædific.* l. ii. c. 1, 2, 3; l. iii. c. 5). See the situation in d'Anville (*l'Euphrate et le Tigre*, p. 53, 54, 55), though he seems to double the interval between Dara and Nisibis. [For the founding of Dara see *Contin. of Zacharias Myt.*, c. 11 (ap. Mai, *Scr. Vet. Coll.*, vol. x.)]

structed in manifest violation of the treaty of peace between the two empires.

Between the Euxine and the Caspian, the countries of Colchos, Iberia, and Albania are intersected in every direction by the branches of Mount Caucasus; and the two principal *gates* or passes from north to south have been frequently confounded in the geography both of the ancients and moderns. The name of *Caspian* or *Albanian gates* is properly applied to Derbend,<sup>138</sup> which occupies a short declivity between the mountains and the sea; the city, if we give credit to local tradition, had been founded by the Greeks; and this dangerous entrance was fortified by the kings of Persia with a mole, double walls, and doors of iron. The *Iberian gates*<sup>139</sup> are formed by a narrow passage of six miles in Mount Caucasus, which opens from the northern side of Iberia or Georgia into the plain that reaches to the Tanais and the Volga. A fortress, designed by Alexander, perhaps, or one of his successors, to command that important pass, had descended by right of conquest or inheritance to a prince of the Huns, who offered it for a moderate price to the emperor; but, while Anastasius paused, while he timorously computed the cost and the distance, a more vigilant rival interposed, and Cabades forcibly occupied the straits of Caucasus. The Albanian and Iberian gates excluded the horsemen of Scythia from the shortest and most practicable roads, and the whole front of the mountains was covered by

<sup>138</sup> For the city and pass of Derbend, see d'Herbelot (Bibliot. Orient. p. 157, 291, 807), Petit de la Croix (Hist. de Gengiscan, l. iv. c. 9), Histoire Généalogique des Tatars (tom. i. p. 120), Olearius (Voyage en Perse, p. 1039-1041), and Corneille le Bruyn (Voyages, tom. i. p. 146, 147): his view may be compared with the plan of Olearius, who judges the wall to be of shells and gravel hardened by time. [Cf. Ritter, Erdkunde, p. 261.]

<sup>139</sup> Procopius, though with some confusion, always denominates them Caspian (Persic. l. i. c. 10). The pass is now styled Tartartopa, the Tartar-gates (d'Anville, Géographie Ancienne, tom. ii. p. 119, 120). [In B.G. iv. 3, Procopius distinguishes the pass of Τζούρ (Armen. *Cor*) from the "Caspian Gates."]

the rampart of Gog and Magog, the long wall which has excited the curiosity of an Arabian caliph<sup>140</sup> and a Russian conqueror.<sup>141</sup> According to a recent description, huge stones seven feet thick, twenty-one feet in length or height, are artificially joined without iron or cement, to compose a wall which runs above three hundred miles from the shores of Derbend, over the hills and through the valleys of Daghestan and Georgia. Without a vision, such a work might be undertaken by the policy of Cabades; without a miracle, it might be accomplished by his son, so formidable to the Romans under the name of Chosroes, so dear to the Orientals under the appellation of Nushirwan. The Persian monarch held in his hand the keys both of peace and war; but he stipulated, in every treaty, that Justinian should contribute to the expense of a common barrier, which equally protected the two empires from the inroads of the Scythians.<sup>142</sup>

VII. Justinian suppressed the schools of Athens and the consulship of Rome, which had given so many sages and heroes to mankind. Both these institutions had long since degenerated from their primitive glory; yet some reproach may be justly inflicted on the avarice and jealousy of a prince by whose hands such venerable ruins were destroyed.

Athens, after her Persian triumphs, adopted the philosophy of Ionia and the rhetoric of Sicily; and these studies became the patrimony of a city whose inhabitants, about thirty thou-

<sup>140</sup> The imaginary rampart of Gog and Magog, which was seriously explored and believed by a caliph of the ixth century, appears to be derived from the gates of Mount Caucasus, and a vague report of the wall of China (Geograph. Nubiensis, p. 267-270. Mémoires de l'Académie, tom. xxxi. p. 210-219).

<sup>141</sup> See a learned dissertation of Baier, *de muro Caucaseo*, in Comment. Acad. Petropol. ann. 1726, tom. i. p. 425-463; but it is destitute of a map or plan. When the czar Peter I. became master of Derbend in the year 1722, the measure of the wall was found to be 3285 Russian *orgyia*, or fathom, each of seven feet English; in the whole somewhat more than four miles in length.

<sup>142</sup> See the fortifications and treaties of Chosroes or Nushirwan, in Procopius (Persic. l. i. c. 16, 22; l. ii.) and d'Herbelot (p. 682).

sand males, condensed, within the period of a single life, the genius of ages and millions. Our sense of the dignity of human nature is exalted by the simple recollection that Isocrates<sup>143</sup> was the companion of Plato and Xenophon; that he assisted, perhaps with the historian Thucydides, at the first representations of the *Œdipus* of Sophocles and the *Iphigenia* of Euripides; and that his pupils *Æschines* and *Demosthenes* contended for the crown of patriotism in the presence of Aristotle, the master of *Theophrastus*, who taught at Athens with the founders of the Stoic and Epicurean sects.<sup>144</sup> The ingenuous youth of Attica enjoyed the benefits of their domestic education, which was communicated without envy to the rival cities. Two thousand disciples heard the lessons of *Theophrastus*;<sup>145</sup> the schools of rhetoric must have been still more populous than those of philosophy; and a rapid succession of students diffused the fame of their teachers as far as the utmost limits of the Grecian language and name. Those limits were enlarged by the victories of Alexander; the arts of Athens survived her freedom and dominion; and the Greek colonies which the Macedonians planted in Egypt, and scattered over Asia, undertook long and frequent pilgrimages to worship the Muses in their favourite temple on the banks of the *Ilissus*. The Latin conquerors respectfully listened to the instructions of their subjects and captives; the names of Cicero and Horace were

<sup>143</sup> The life of Isocrates extends from Olymp. lxxxvi. 1, to cx. 3 (ante Christ. 436-338). See Dionys. Halicarn. tom. ii. p. 149, 150, edit. Hudson; Plutarch (sive anonymus), in Vit. X. Oratorum, p. 1538-1543, edit. H. Steph.; Phot. cod. cclix. p. 1453.

<sup>144</sup> The schools of Athens are copiously though concisely represented in the *Fortuna Attica* of Meursius (c. viii. p. 59-73, in tom. i. Opp.). For the state and arts of the city, see the first book of Pausanias, and a small tract of *Dicæarchus* (in the second volume of Hudson's Geographers), who wrote about Olymp. cxvii. (Dodwell's Dissertat. sect. 4). [For the last age of the schools see a good account in Hertzberg, *Geschichte Griechenlands*, i. p. 71 sqq. Paparrigopoulos, *Ἱστορία τοῦ Ἑλληνικοῦ ἔθνους*, 3, p. 202. Gregorovius, *Gesch. der Stadt Athen*, i. 54.]

<sup>145</sup> Diogen. Laert. de Vit. Philosoph. l. v. segm. 37, p. 289.

enrolled in the schools of Athens; and, after the perfect settlement of the Roman empire, the natives of Italy, of Africa, and of Britain conversed in the groves of the academy with their fellow-students of the East. The studies of philosophy and eloquence are congenial to a popular state, which encourages the freedom of inquiry and submits only to the force of persuasion. In the republics of Greece and Rome, the art of speaking was the powerful engine of patriotism or ambition; and the schools of rhetoric poured forth a colony of statesmen and legislators. When the liberty of public debate was suppressed, the orator, in the honourable profession of an advocate, might plead the cause of innocence and justice; he might abuse his talents in the more profitable trade of panegyric; and the same precepts continued to dictate the fanciful declamations of the sophist and the chaster beauties of historical composition. The systems which professed to unfold the nature of God, of man, and of the universe entertained the curiosity of the philosophic student; and, according to the temper of his mind, he might doubt with the sceptics or decide with the Stoics, sublimely speculate with Plato or severely argue with Aristotle. The pride of the adverse sects had fixed an unattainable term of moral happiness and perfection; but the race was glorious and salutary; the disciples of Zeno, and even those of Epicurus, were taught both to act and to suffer; and the death of Petronius was not less effectual than that of Seneca to humble a tyrant by the discovery of his impotence. The light of science could not indeed be confined within the walls of Athens. Her incomparable writers address themselves to the human race; the living masters emigrated to Italy and Asia; Berytus, in later times, was devoted to the study of the law; astronomy and physic were cultivated in the museum of Alexandria; but the Attic schools of rhetoric and philosophy maintained their superior reputation from the Peloponnesian war to the reign of Justinian. Athens, though situate in a barren soil, possessed a pure air, a free naviga-

tion, and the monuments of ancient art. That sacred retirement was seldom disturbed by the business of trade or government; and the last of the Athenians were distinguished by their lively wit, the purity of their taste and language, their social manners, and some traces, at least in discourse, of the magnanimity of their fathers. In the suburbs of the city, the *academy* of the Platonists, the *lyceum* of the Peripatetics, the *portico* of the Stoics, and the *garden* of the Epicureans were planted with trees and decorated with statues; and the philosophers, instead of being immured in a cloister, delivered their instructions in spacious and pleasant walks, which at different hours were consecrated to the exercises of the mind and body. The genius of the founders still lived in those venerable seats; the ambition of succeeding to the masters of human reason excited a generous emulation; and the merit of the candidates was determined, on each vacancy, by the free voices of an enlightened people. The Athenian professors were paid by their disciples; according to their mutual wants and abilities, the price appears to have varied from a mina to a talent; and Isocrates himself, who derides the avarice of the sophists, required in his school of rhetoric about thirty pounds from each of his hundred pupils. The wages of industry are just and honourable, yet the same Isocrates shed tears at the first receipt of a stipend; the Stoic might blush when he was hired to preach the contempt of money; and I should be sorry to discover that Aristotle or Plato so far degenerated from the example of Socrates, as to exchange knowledge for gold. But some property of lands and houses was settled by the permission of the laws, and the legacies of deceased friends, on the philosophic chairs of Athens. Epicurus bequeathed to his disciples the gardens which he had purchased for eighty minæ or two hundred and fifty pounds, with a fund sufficient for their frugal subsistence and monthly festivals;<sup>146</sup> and the patrimony of Plato afforded

<sup>146</sup> See the testament of Epicurus in Diogen. Laert. l. x. segm. 16-20, p.

an annual rent, which, in eight centuries, was gradually increased from three to one thousand pieces of gold.<sup>147</sup> The schools of Athens were protected by the wisest and most virtuous of the Roman princes. The library which Hadrian founded was placed in a portico adorned with pictures, statues, and a roof of alabaster, and supported by one hundred columns of Phrygian marble. The public salaries were assigned by the generous spirit of the Antonines; and each professor, of politics, of rhetoric, of the Platonic, the Peripatetic, the Stoic, and the Epicurean philosophy, received an annual stipend of ten thousand drachmæ, or more than three hundred pounds sterling.<sup>148</sup> After the death of Marcus, these liberal donations, and the privileges attached to the *thrones* of science, were abolished and revived, diminished and enlarged; but some vestige of royal bounty may be found under the successors of Constantine; and their arbitrary choice of an unworthy candidate might tempt the philosophers of Athens to regret the days of independence and poverty.<sup>149</sup> It is remarkable that the impartial favour of the Antonines was bestowed on the four adverse sects of philosophy, which they considered as equally useful, or at least as equally innocent. Socrates had formerly been the glory and the reproach of his country; and the first lessons of Epicurus so strangely scandalised the pious ears of the Athenians that by his exile, and that of his antagonists, they silenced all vain disputes concerning the nature of the gods. But in the ensuing year

611, 612 [c. 1]. A single epistle (ad Familiares, xiii. 1) displays the injustice of the Areopagus, the fidelity of the Epicureans, the dexterous politeness of Cicero, and the mixture of contempt and esteem with which the Roman senators considered the philosophy and philosophers of Greece.

<sup>147</sup> Damascius, in Vit. Isidor. apud Photium, cod. ccxlii. p. 1054.

<sup>148</sup> See Lucian (in Eunuch. tom. ii. p. 350-359, edit. Reitz), Philostratus (in Vit. Sophist. l. ii. c. 2), and Dion Cassius, or Xiphilin (l. lxxi. p. 1195 [c. 31]), with their editors Du Soul, Olearius, and Reimar, and, above all, Salmasius (ad Hist. August. p. 72). A judicious philosopher (Smith's Wealth of Nations, vol. ii. p. 340-374) prefers the free contributions of the students to a fixed stipend for the professor.

<sup>149</sup> Brucker, Hist. Crit. Philosoph. tom. ii. p. 310, &c.

they recalled the hasty decree, restored the liberty of the schools, and were convinced, by the experience of ages, that the moral character of philosophers is not affected by the diversity of their theological speculations.<sup>150</sup>

The Gothic arms were less fatal to the schools of Athens than the establishment of a new religion, whose ministers superseded the exercise of reason, resolved every question by an article of faith, and condemned the infidel or sceptic to eternal flames. In many a volume of laborious controversy, they exposed the weakness of the understanding and the corruption of the heart, insulted human nature in the sages of antiquity, and proscribed the spirit of philosophical inquiry, so repugnant to the doctrine, or at least to the temper, of an humble believer. The surviving sect of the Platonists, whom Plato would have blushed to acknowledge, extravagantly mingled a sublime theory with the practice of superstition and magic; and, as they remained alone in the midst of a Christian world, they indulged a secret rancour against the government of the church and state, whose severity was still suspended over their heads. About a century after the reign of Julian,<sup>151</sup> Proclus<sup>152</sup> was permitted to teach in the philosophic chair of the academy, and such was his industry that

<sup>150</sup> The birth of Epicurus is fixed to the year 342 before Christ (Bayle), Olympiad cix. 3; and he opened his school at Athens, Olymp. cxviii. 3, 306 years before the same era. This intolerant law (Athenæus, l. xiii. p. 610. Diogen. Laertius, l. v. s. 38, p. 290 [c. 2]. Julius Pollux, ix. 5) was enacted in the same, or the succeeding, year (Sigonius, Opp. tom. v. p. 62. Menagius, ad Diogen. Laert. p. 204. Corsini, Fasti Attici, tom. iv. p. 67, 68). Theophrastus, chief of the Peripatetics, and disciple of Aristotle, was involved in the same exile.

<sup>151</sup> This is no fanciful era: the Pagans reckoned their calamities from the reign of their hero. Proclus, whose nativity is marked by his horoscope (A.D. 412, February 8, at C.P.), died 124 years ἀπὸ Ἰουλιανοῦ βασιλείας, A.D. 485 (Marin. in Vita Procli, c. 36).

<sup>152</sup> The life of Proclus, by Marinus, was published by Fabricius (Hamburg, 1700, et ad calcem Bibliot. Latin. Lond. 1703). See Suidas (tom. iii. p. 185, 186), Fabricius (Bibliot. Græc. l. v. c. 26, p. 449-552), and Brucker (Hist. Crit. Philosoph. tom. ii. p. 319-326). [The *Vita Procli*, edited by Boissonade, is published in the Didot series along with Diogenes Laertius, etc.]

he frequently, in the same day, pronounced five lessons and composed seven hundred lines. His sagacious mind explored the deepest questions of morals and metaphysics, and he ventured to urge eighteen arguments against the Christian doctrine of the creation of the world. But in the intervals of study he *personally* conversed with Pan, Æsculapius, and Minerva, in whose mysteries he was secretly initiated, and whose prostrate statues he adored; in the devout persuasion that the philosopher, who is a citizen of the universe, should be the priest of its various deities. An eclipse of the sun announced his approaching end; and his life, with that of his scholar Isidore,<sup>153</sup> compiled by two of their most learned disciples, exhibits a deplorable picture of the second childhood of human reason. Yet the golden chain, as it was fondly styled, of the Platonic succession, continued forty-four years from the death of Proclus to the edict of Justinian,<sup>154</sup>

<sup>153</sup> The life of Isidore was composed by Damascius (apud Photium, cod. cxxlii. p. 1028-1076). See the last age of the Pagan Philosophers in Brucker (tom. ii. p. 341-351).

<sup>154</sup> The suppression of the schools of Athens is recorded by John Malala (tom. ii. p. 187, sub Decio Cos. Sol.), and an anonymous Chronicle in the Vatican library (apud Aleman. p. 106). [The suppression of the schools by Justinian has been unsuccessfully called in question by Paparrigopolus and Gregorovius (*loc. cit.*). The authority of Malalas is good for the reign of Justinian (see vol. vi. App. 2). His words are: (Justinian) *θεσπίσας πρόσταξιν ἐπεμψέν ἐν Ἀθήναις κελεύσας μηδένα διδάσκειν φιλοσοφίαν μήτε νόμιμα ἐξηγεῖσθαι κ.τ.λ.* (p. 449, ed. Bonn). Justinian had already taken stringent measures against pagans (*ib.* p. 447, and Procopius, Anecd. c. 11). It is not difficult to guess what happened. The edicts against paganism, strictly interpreted, involved the cessation of Neoplatonic propagandism at Athens. The schools went on as before, and in a month or two the proconsul of Achaia would communicate with the Emperor on the subject and ask his pleasure. The *πρόσταξις* mentioned by Malalas was the rescript to the proconsul. At the same time the closing of the schools was ensured by withdrawing the revenue, as we may infer from Procopius, Anecd. c. 26, *ἀλλὰ καὶ τοὺς λατροῖς τε καὶ διδασκάλους τῶν ἐλευθερίων τῶν ἀναγκαίων στερεῖσθαι πεποίηκε. τὰς τε γὰρ σιτήσεις ἅς οἱ πρότερον βεβασιλευκότες ἐκ τοῦ δημοσίου χορηγεῖσθαι τοῖσιν διὰ τοῖς ἐπιτηδεύμασιν ἔταξαν, ταύτας δὴ οὐτος ἀφείλετο πάσας.* It should be observed that the teaching of law was expressly forbidden. The study of jurisprudence was to be limited to the schools of Constantinople and Berytus. The statement of Malalas that Justinian sent his Code, A.D. 529, to Athens and Berytus, is

which imposed a perpetual silence on the schools of Athens, and excited the grief and indignation of the few remaining votaries of Grecian science and superstition. Seven friends and philosophers, Diogenes and Hermias, Eulalius and Priscian, Damascius, Isidore, and Simplicius, who dissented from the religion of their sovereign, embraced the resolution of seeking, in a foreign land, the freedom which was denied in their native country. They had heard, and they credulously believed, that the republic of Plato was realised in the despotic government of Persia, and that a patriotic king reigned over the happiest and most virtuous of nations. They were soon astonished by the natural discovery that Persia resembled the other countries of the globe; that Chosroes, who affected the name of a philosopher, was vain, cruel, and ambitious; that bigotry, and a spirit of intolerance, prevailed among the Magi; that the nobles were haughty, the courtiers servile, and the magistrates unjust; that the guilty sometimes escaped, and that the innocent were often oppressed. The disappointment of the philosophers provoked them to overlook the real virtues of the Persians; and they were scandalised, more deeply perhaps than became their profession, with the plurality of wives and concubines, the incestuous marriages, and the custom of exposing dead bodies to the dogs and vultures, instead of hiding them in the earth or consuming them with fire. Their repentance was expressed by a precipitate return, and they loudly declared that they had rather die on the borders of the empire than enjoy the wealth and favour of the Barbarian. From this journey, however, they derived a benefit which reflects the purest lustre on the

remarkable, and has been used, by Gregorovius to throw doubt on the other statement of Malalas, by Hertzberg to support it. We may grant Gregorovius that there was no solemn formal abolition of the schools, but there is no reason to question that they were directly and suddenly suppressed through a rescript to the proconsul. The matter is noticed by Krumbacher, *Gesch. der byz. Litteratur* (ed. 2), p. 6, and Gelzer, *ib.* p. 940, who rightly says, "Justinian confiscated the property of the Platonic Academy, and forbade at the University of Athens teaching in philosophy and law."]

character of Chosroes. He required that the seven sages who had visited the court of Persia should be exempted from the penal laws which Justinian enacted against his Pagan subjects; and this privilege, expressly stipulated in a treaty of peace, was guarded by the vigilance of a powerful mediator.<sup>155</sup> Simplicius and his companions ended their lives in peace and obscurity; and, as they left no disciples, they terminate the long list of Grecian philosophers, who may be justly praised, notwithstanding their defects, as the wisest and most virtuous of their contemporaries. The writings of Simplicius are now extant. His physical and metaphysical commentaries on Aristotle have passed away with the fashion of the times; but his moral interpretation of Epictetus is preserved in the library of nations, as a classic book, most excellently adapted to direct the will, to purify the heart, and to confirm the understanding, by a just confidence in the nature both of God and man.

About the same time that Pythagoras first invented the appellation of philosopher, liberty and the consulship were founded at Rome by the elder Brutus. The revolutions of the consular office, which may be viewed in the successive lights of a substance, a shadow, and a name, have been occasionally mentioned in the present history. The first magistrates of the republic had been chosen by the people, to exercise, in the senate and in the camp, the powers of peace and war, which were afterwards translated to the emperors. But the tradition of ancient dignity was long revered by the Romans and Barbarians. A Gothic historian applauds the consulship of Theodoric as the height of all temporal glory and greatness;<sup>156</sup> the king of Italy himself congratulates those

<sup>155</sup> Agathias (l. ii. p. 69, 70, 71) relates this curious story. Chosroes ascended the throne in the year 531, and made his first peace with the Romans in the beginning of 533, a date most compatible with his *young* fame and the *old* age of Isidore (Asseman. *Bibliot. Orient.* tom. iii. p. 404. Pagi, tom. ii. p. 543, 550).

<sup>156</sup> Cassiodor. *Variarum Epist.* vi. 1. Jornandes, c. 57, p. 696, edit. Grot. *Quod summum bonum primumque in mundo decus edicitur.*

annual favourites of fortune who, without the cares, enjoyed the splendour of the throne; and at the end of a thousand years two consuls were created by the sovereigns of Rome and Constantinople, for the sole purpose of giving a date to the year and a festival to the people. But the expenses of this festival, in which the wealthy and the vain aspired to surpass their predecessors, insensibly arose to the enormous sum of fourscore thousand pounds; the wisest senators declined an useless honour, which involved the certain ruin of their families; and to this reluctance I should impute the frequent chasms in the last age of the consular *Fasti*. The predecessors of Justinian had assisted from the public treasures the dignity of the less opulent candidates; the avarice of that prince preferred the cheaper and more convenient method of advice and regulation.<sup>157</sup> Seven *processions* or spectacles were the number to which his edict confined the horse and chariot races, the athletic sports, the music and pantomimes of the theatre, and the hunting of wild beasts; and small pieces of silver were discreetly substituted to the gold medals, which had always excited tumult and drunkenness, when they were scattered with a profuse hand among the populace. Notwithstanding these precautions and his own example, the succession of consuls finally ceased in the thirteenth year of Justinian, whose despotic temper might be gratified by the silent extinction of a title which admonished the Romans of their ancient freedom.<sup>158</sup> Yet the annual consulship still lived in the minds of the people; they fondly expected its speedy restoration; they applauded the gracious condescension of successive princes, by whom

<sup>157</sup> See the regulations of Justinian (Novell. cv.), dated at Constantinople, July 5, and addressed to Strategius, treasurer of the empire. [Nov. 81, ed. Zach.]

<sup>158</sup> Procopius, in Anecdot. c. 26. Aleman. p. 106. In the xviii<sup>th</sup> year after the consulship of Basilius, according to the reckoning of Marcellinus, Victor, Marius, &c. the secret history was composed [but see vol. vi. Appendix 2], and, in the eyes of Procopius, the consulship was finally abolished.

it was assumed in the first year of their reign; and three centuries elapsed, after the death of Justinian, before that obsolete dignity, which had been suppressed by custom, could be abolished by law.<sup>159</sup> The imperfect mode of distinguishing each year by the name of a magistrate was usefully supplied by the date of a permanent era: the creation of the world, according to the septuagint version, was adopted by the Greeks;<sup>160</sup> and the Latins, since the age of Charlemagne, have computed their time from the birth of Christ.<sup>161</sup>

<sup>159</sup> By Leo the philosopher (Novell. xciv. A.D. 886-911). [Zachariä von L., *Jus Græco-Romanum*, iii. p. 191.] See Pagi (Dissertat. Hypatica, p. 325-362), and Ducange (Gloss. Græc. p. 1635, 1636). Even the title was vilified; *consulatus codicilli . . . vilescunt*, says the emperor himself.

<sup>160</sup> According to Julius Africanus, &c. the world was created the first of September, 5508 years, three months, and twenty-five days before the birth of Christ (see Pezron, *Antiquité des Temps défendue*, p. 20-28); and this era has been used by the Greeks, the Oriental Christians, and even by the Russians, till the reign of Peter I. The period, however arbitrary, is clear and convenient. Of the 7296 years which are supposed to elapse since the creation, we shall find 3000 of ignorance and darkness; 2000 either fabulous or doubtful; 1000 of ancient history, commencing with the Persian empire, and the republics of Rome and Athens; 1000 from the fall of the Roman empire in the West to the discovery of America; and the remaining 296 will almost complete three centuries of the modern state of Europe and mankind. I regret this chronology, so far preferable to our double and perplexed method of counting backwards and forwards the years before and after the Christian era. [See above, vol. ii. Appendix 13.]

<sup>161</sup> The era of the world has prevailed in the East since the sixth general council (A.D. 681). In the West the Christian era was first invented in the sixth century; it was propagated in the eighth by the authority and writings of venerable Bede; but it was not till the tenth that the use became legal and popular. See *l'Art de vérifier les Dates*, Dissert. Préliminaire, p. iii. xii. *Dictionnaire Diplomatique*, tom. i. p. 329-337: the works of a laborious society of Benedictine monks.

## CHAPTER XLI

*Conquests of Justinian in the West — Character and first Campaigns of Belisarius — He invades and subdues the Vandal Kingdom of Africa — His Triumph — The Gothic War — He recovers Sicily, Naples, and Rome — Siege of Rome by the Goths — Their Retreat and Losses — Surrender of Ravenna — Glory of Belisarius — His domestic Shame and Misfortunes*

WHEN Justinian ascended the throne, about fifty years after the fall of the Western empire, the kingdom of the Goths and Vandals had obtained a solid and, as it might seem, a legal establishment both in Europe and Africa. The titles which Roman victory had inscribed were erased with equal justice by the sword of the Barbarians; and their successful rapine derived a more venerable sanction from time, from treaties, and from the oaths of fidelity, already repeated by a second or third generation of obedient subjects. Experience and Christianity had refuted the superstitious hope that Rome was founded by the gods to reign for ever over the nations of the earth. But the proud claim of perpetual and indefeasible dominion, which her soldiers could no longer maintain, was firmly asserted by her statesmen and lawyers, whose opinions have been sometimes revived and propagated in the modern schools of jurisprudence. After Rome herself had been stripped of the Imperial purple, the princes of Constantinople assumed the sole and sacred sceptre of the monarchy; demanded, as their rightful inheritance, the provinces which had been subdued by the consuls or possessed by the Cæsars; and feebly aspired to deliver their faithful subjects of the West from the usurpation of heretics

and Barbarians. The execution of this splendid design was in some degree reserved for Justinian. During the five first years of his reign, he reluctantly waged a costly and unprofitable war against the Persians; till his pride submitted to his ambition, and he purchased, at the price of four hundred and forty thousand pounds sterling, the benefit of a precarious truce, which, in the language of both nations, was dignified with the appellation of the *endless* peace. The safety of the East enabled the emperor to employ his forces against the Vandals; and the internal state of Africa afforded an honourable motive, and promised a powerful support, to the Roman arms.<sup>1</sup>

According to the testament of the founder, the African kingdom had lineally descended to Hilderic the eldest of the Vandal princes. A mild disposition inclined the son of a tyrant, the grandson of a conqueror, to prefer the counsels of clemency and peace; and his accession was marked by the salutary edict which restored two hundred bishops to their churches and allowed the free profession of the Athanasian creed.<sup>2</sup> But the Catholics accepted with cold and transient gratitude a favour so inadequate to their pretensions, and the virtues of Hilderic offended the prejudices of his countrymen. The Arian clergy presumed to insinuate that he had renounced the faith, and the soldiers more loudly complained that he had degenerated from the courage, of his ancestors. His ambassadors were suspected of a secret and disgraceful nego-

<sup>1</sup> The complete series of the Vandal war is related by Procopius in a regular and elegant narrative (l. i. c. 9-25; l. ii. c. 1-13); and happy would be my lot, could I always tread in the footsteps of such a guide. From the entire and diligent perusal of the Greek text, I have a right to pronounce that the Latin and French versions of Grotius and Cousin may not be implicitly trusted; yet the president Cousin has been often praised, and Hugo Grotius was the first scholar of a learned age.

<sup>2</sup> See Ruinart, *Hist. Persecut. Vandal.* c. xii. p. 589. His best evidence is drawn from the life of St. Fulgentius, composed by one of his disciples, transcribed in a great measure in the annals of Baronius, and printed in several great collections (*Catalog. Bibliot. Bunaviænæ*, tom. i. vol. ii. p. 1258).

tiation in the Byzantine court; and his general, the Achilles,<sup>3</sup> as he was named, of the Vandals, lost a battle against the naked and disorderly Moors. The public discontent was exasperated by Gelimer,<sup>4</sup> whose age, descent, and military fame gave him an apparent title to the succession; he assumed, with the consent of the nation, the reins of government; and his unfortunate sovereign sunk without a struggle from the throne to a dungeon, where he was strictly guarded with a faithful counsellor and his unpopular nephew, the Achilles of the Vandals. But the indulgence which Hilderic had shewn to his Catholic subjects had powerfully recommended him to the favour of Justinian, who, for the benefit of his own sect, could acknowledge the use and justice of religious toleration; their alliance, while the nephew of Justin remained in a private station, was cemented by the mutual exchange of gifts and letters; and the emperor Justinian asserted the cause of royalty and friendship. In two successive embassies, he admonished the usurper to repent of his treason, or to abstain, at least, from any further violence, which might provoke the displeasure of God and of the Romans; to reverence the laws of kindred and succession; and to suffer an infirm old man peaceably to end his days either on the throne of Carthage or in the palace of Constantinople. The passions or even the prudence of Gelimer compelled him to reject these requests, which were urged in the haughty tone of menace and command; and he justified his ambition in a language rarely spoken in the Byzantine

<sup>3</sup> For what quality of the mind or body? For speed, or beauty, or valour? — In what language did the Vandals read Homer? — Did he speak German? — The Latins had four versions (Fabric. tom. i. l. ii. c. 3, p. 297); yet, in spite of the praises of Seneca (Consol. c. 26), they appear to have been more successful in imitating, than in translating, the Greek poets. But the name of Achilles might be famous and popular, even among the illiterate Barbarians. [The Moorish leader in the battle, which led to the fall of Hilderic, was Antála, chief of the Frexenses, a Moorish tribe of Byzantium. See Corippus, *Johannis*, 3, 184 *sqq.*]

<sup>4</sup> [The true form of the name is Geilimir.]

court, by alleging the right of a free people to remove or punish their chief magistrate, who had failed in the execution of the kingly office.<sup>5</sup> After this fruitless expostulation, the captive monarch was more rigorously treated, his nephew was deprived of his eyes, and the cruel Vandal, confident in his strength and distance, derided the vain threats and slow preparations of the emperor of the East. Justinian resolved to deliver or revenge his friend, Gelimer to maintain his usurpation; and the war was preceded, according to the practice of civilised nations, by the most solemn protestations that each party was sincerely desirous of peace.

The report of an African war was grateful only to the vain and idle populace of Constantinople, whose poverty exempted them from tribute, and whose cowardice was seldom exposed to military service. But the wiser citizens, who judged of the future by the past, revolved in their memory the immense loss both of men and money, which the empire had sustained in the expedition of Basiliscus. The troops, which, after five laborious campaigns, had been recalled from the Persian frontier, dreaded the sea, the climate, and the arms of an unknown enemy. The ministers of the finances computed, as far as they might compute, the demands of an African war; the taxes which must be found and levied to supply those insatiate demands; and the danger lest their own lives, or at least their lucrative employments, should be made responsible for the deficiency of the supply. Inspired by such selfish motives (for we may not suspect him of any zeal for the public good), John of Cappadocia ventured to oppose in full council the inclinations of his master. He confessed that a victory of such importance could not be too dearly purchased; but he represented in a grave discourse the certain difficulties and the uncertain event. "You undertake," said the prefect, "to besiege Carthage by land, the distance

<sup>5</sup> [In his letter Gelimer styled himself *basileus*, a title exclusively used by the emperor.]

is not less than one hundred and forty days' journey; on the sea, a whole year<sup>o</sup> must elapse before you can receive any intelligence from your fleet. If Africa should be reduced, it cannot be preserved without the additional conquest of Sicily and Italy. Success will impose the obligation of new labours; a single misfortune will attract the Barbarians into the heart of your exhausted empire." Justinian felt the weight of this salutary advice; he was confounded by the unwonted freedom of an obsequious servant; and the design of the war would perhaps have been relinquished, if his courage had not been revived by a voice which silenced the doubts of profane reason. "I have seen a vision," cried an artful or fanatic bishop of the East. "It is the will of heaven, O emperor! that you should not abandon your holy enterprise for the deliverance of the African church. The God of battles will march before your standard, and disperse your enemies, who are the enemies of his Son." The emperor might be tempted, and his counsellors were constrained, to give credit to this seasonable revelation; but they derived more rational hope from the revolt which the adherents of Hilderic or Athanasius had already excited on the borders of the Vandal monarchy. Pudentius, an African subject, had privately signified his loyal intentions, and a small military aid restored the province of Tripoli to the obedience of the Romans. The government of Sardinia had been entrusted to Godas, a valiant Barbarian; he suspended the payment of tribute, disclaimed his allegiance to the usurper, and gave audience to the emissaries of Justinian, who found him master of that fruitful island, at the head of his guards, and proudly invested with the ensigns of royalty. The forces of the Vandals were diminished by discord and suspicion; the

<sup>o</sup> *A year* — absurd exaggeration! The conquest of Africa may be dated A.D. 533, September 14: it is celebrated by Justinian in the preface to his Institutes, which were published November 21, of the same year. Including the voyage and return, such a computation might be truly applied to *our* Indian empire.

Roman armies were animated by the spirit of Belisarius: one of those heroic names which are familiar to every age and to every nation.

The Africanus of new Rome was born, and perhaps educated, among the Thracian peasants,<sup>7</sup> without any of those advantages which had formed the virtues of the elder and the younger Scipio: a noble origin, liberal studies, and the emulation of a free state. The silence of a loquacious secretary may be admitted to prove that the youth of Belisarius could not afford any subject of praise: he served, most assuredly with valour and reputation, among the private guards of Justinian; and, when his patron became emperor, the domestic was promoted to military command. After a bold inroad into Persarmenia, in which his glory was shared by a colleague and his progress was checked by an enemy, Belisarius repaired to the important station of Dara, where he first accepted the service of Procopius, the faithful companion, and diligent historian, of his exploits.<sup>8</sup> The Mirranes<sup>9</sup> of Persia advanced, with forty thousand of her best troops, to raze the fortifications of Dara; and signified the day and the hour on which the citizens should prepare a bath for his refreshment after the toils of victory. He encountered an adversary equal to himself, by the new title of General of the East:<sup>10</sup> his superior in the science of war, but much inferior in the number and quality of his troops,

<sup>7</sup> Ὀμηροῦ δὲ ὁ Βελισάριος ἐκ Γερμανίας, ἢ Θρακῶν τε καὶ Ἰλλυρίων μεταξὺ κεῖται (Procop. Vandal. l. i. c. 11). Aleman. (Not. ad Anecd. p. 5), an Italian, could easily reject the German vanity of Giphanius and Velserus, who wished to claim the hero; but his Germania, a metropolis of Thrace, I cannot find in any civil or ecclesiastical lists of the provinces and cities. [Γερμάνη, near Sardica, is mentioned by Procop., de Æd. 4, 1; Γερμάνη, obviously the same place, by Hierocles, under Dacia Medit. p. 14, ed. Burckhardt (Γερμανός in Const. Porph. iii. 56).]

<sup>8</sup> The two first Persian campaigns of Belisarius are fairly and copiously related by his secretary (Persic. l. i. c. 12-18).

<sup>9</sup> [Mihrān is the name, not of an office, but of a family. Cp. Theophylact Simoc., 3, 18, and Nöldeke, Gesch. der Perser, &c. p. 139.]

<sup>10</sup> [No new title, but that of Mag. Mil. per Orientem; but about this time

which amounted only to twenty-five thousand Romans and strangers, relaxed in their discipline, and humbled by recent disasters. As the level plain of Dara refused all shelter to stratagem and ambush, Belisarius protected his front with a deep trench, which was prolonged at first in perpendicular and afterwards in parallel lines, to cover the wings of cavalry advantageously posted to command the flanks and rear of the enemy.<sup>11</sup> When the Roman centre was shaken, their well-timed and rapid charge decided the conflict: the standard of Persia fell; the *immortals* fled; the infantry threw away their bucklers; and eight thousand of the vanquished were left on the field of battle. In the next campaign, Syria was invaded on the side of the desert; and Belisarius, with twenty thousand men, hastened from Dara to the relief of the province. During the whole summer, the designs of the enemy were baffled by his skilful dispositions: he pressed their retreat, occupied each night their camp of the preceding day, and would have secured a bloodless victory if he could have resisted the impatience of his own troops. Their valiant promise was faintly supported in the hour of battle; the right wing was exposed by the treacherous or cowardly desertion of the Christian Arabs; the Huns, a veteran band of eight hundred warriors, were oppressed by superior numbers; the flight of the Isaurians was intercepted; but the Roman infantry stood firm on the left, for Belisarius himself, dismounting from his horse, shewed them that intrepid despair was their only safety. They turned their backs to the Euphrates, and their faces to the enemy; innumerable arrows glanced without effect from the compact and shelving order of their bucklers; an impenetrable line of pikes was opposed to the repeated assaults of the Persian cavalry; and, after a resistance of many hours, the remaining troops were skilfully

a new command was introduced, that of *Mag. Militum* in Armenia, and was conferred on Sittas, who married the Empress Theodora's sister.]

<sup>11</sup> [For a diagram of this battle see Bury, *Later Roman Empire*, i. p. 375.]

embarked under the shadow of the night. The Persian commander retired with disorder and disgrace, to answer a strict account of the lives of so many soldiers which he had consumed in a barren victory. But the fame of Belisarius was not sullied by a defeat, in which he alone had saved his army from the consequences of their own rashness;<sup>12</sup> the approach of peace relieved him from the guard of the eastern frontier, and his conduct in the sedition of Constantinople amply discharged his obligations to the emperor. When the African war became the topic of popular discourse and secret deliberation, each of the Roman generals was apprehensive, rather than ambitious, of the dangerous honour; but, as soon as Justinian had declared his preference of superior merit, their envy was rekindled by the unanimous applause which was given to the choice of Belisarius. The temper of the Byzantine court may encourage a suspicion that the hero was darkly assisted by the intrigues of his wife, the fair and subtle Antonina, who alternately enjoyed the confidence, and incurred the hatred, of the empress Theodora. The birth of Antonina was ignoble, she descended from a family of charioteers; and her chastity has been stained with the foulest reproach. Yet she reigned with long and absolute power over the mind of her illustrious husband; and, if Antonina disdained the merit of conjugal fidelity, she expressed a manly friendship to Belisarius, whom she accompanied with undaunted resolution in all the hardships and dangers of a military life.<sup>13</sup>

The preparations for the African war were not unworthy of the last contest between Rome and Carthage. The pride and flower of the army consisted of the guards of Belisarius, who according to the pernicious indulgence of the times, devoted themselves by a particular oath of fidelity to the

<sup>12</sup> [This is the account of Procopius; but John Malalas, who is very full here, lays the blame on Belisarius.]

<sup>13</sup> See the birth and character of Antonina, in the *Anecdotes*, c. 1, and the notes of Alemannus, p. 3.

service of their patrons. Their strength and stature, for which they had been curiously selected, the goodness of their horses and armour, and the assiduous practice of all the exercises of war, enabled them to act whatever their courage might prompt; and their courage was exalted by the social honour of their rank and the personal ambition of favour and fortune. Four hundred of the bravest of the Heruli marched under the banner of the faithful and active Pharas; their untractable valour was more highly prized than the tame submission of the Greeks and Syrians; and of such importance was it deemed to procure a reinforcement of six hundred Massagetæ, or Huns, that they were allured by fraud and deceit to engage in a naval expedition. Five thousand horse and ten thousand foot were embarked at Constantinople for the conquest of Africa, but the infantry, for the most part levied in Thrace and Isauria, yielded to the more prevailing use and reputation of the cavalry; and the Scythian bow was the weapon on which the armies of Rome were now reduced to place their principal dependence. From a laudable desire to assert the dignity of his theme, Procopius defends the soldiers of his own time against the morose critics who confined that respectable name to the heavy-armed warriors of antiquity and maliciously observed that the word *archer* is introduced by Homer<sup>14</sup> as a term of contempt. "Such contempt might, perhaps, be due to the naked youths who appeared on foot in the fields of Troy, and, lurking behind a tomb-stone, or the shield of a friend, drew the bow-string to their breast,<sup>15</sup> and dismissed a feeble and lifeless arrow.

<sup>14</sup> See the preface of Procopius. The enemies of archery might quote the reproaches of Diomedes (Iliad, A 385, &c.) and the *permittere vulnera ventis* of Lucan (viii. 384); yet the Romans could not despise the arrows of the Parthians; and in the siege of Troy Pandarus, Paris, and Teucer pierced those haughty warriors who insulted them as women or children.

<sup>15</sup> *Νευρήν μὲν μαζῶν πέλασεν, τόξω δὲ σιδήρον* (Iliad, Δ. 123). How concise — how just — how beautiful is the whole picture! I see the attitudes of the archer — I hear the twanging of the bow.

*λίγξε βίως, νευρή δὲ μέγ' ἔαχεν, ἄλτο δ' ὀϊστός.*

But our archers (pursues the historian), are mounted on horses, which they manage with admirable skill; their head and shoulders are protected by a cask or buckler; they wear greaves of iron on their legs, and their bodies are guarded by a coat of mail. On their right side hangs a quiver, a sword on their left, and their hand is accustomed to wield a lance or javelin in closer combat. Their bows are strong and weighty; they shoot in every possible direction, advancing, retreating, to the front, to the rear, or to either flank; and, as they are taught to draw the bow-string not to the breast, but to the right ear, firm, indeed, must be the armour that can resist the rapid violence of their shaft." Five hundred transports, navigated by twenty thousand mariners of Egypt, Cilicia, and Ionia, were collected in the harbour of Constantinople. The smallest of these vessels may be computed at thirty, the largest at five hundred, tons; and the fair average will supply an allowance, liberal but not profuse, of about one hundred thousand tons,<sup>10</sup> for the reception of thirty-five thousand soldiers and sailors, of five thousand horses, of arms, engines, and military stores, and of a sufficient stock of water and provisions for a voyage, perhaps, of three months. The proud galleys, which in former ages swept the Mediterranean with so many hundred oars, had long since disappeared; and the fleet of Justinian was escorted only by ninety-two light brigantines, covered from the missile weapons of the enemy, and rowed by two thousand

<sup>10</sup> The text appears to allow for the largest vessels 50,000 medimni, or 3000 tons (since the *medimnus* weighed 160 Roman, or 120 avoirdupois, pounds). I have given a more rational interpretation, by supposing that the Attic style of Procopius conceals the legal and popular *modius*, a sixth part of the *medimnus* (Hooper's Ancient Measures, p. 152, &c.). A contrary, and indeed a stranger, mistake has crept into an oration of Dinarchus (contra Demosthenem, in Reiske Orator. Græc. tom. iv. P. ii. p. 34). By reducing the *number* of ships from 500 to 50, and translating *μεδιμοι* by *mines*, or pounds, Cousin has generously allowed 500 tons for the whole of the Imperial fleet! — Did he never think? [Mr. Hodgkin calculates the longest vessel at 750, the smallest at 45, tons.]

of the brave and robust youth of Constantinople. Twenty-two generals are named, most of whom were afterwards distinguished in the wars of Africa and Italy; but the supreme command, both by land and sea, was delegated to Belisarius alone, with a boundless power of acting according to his discretion as if the emperor himself were present. The separation of the naval and military professions is at once the effect and the cause of the modern improvements in the science of navigation and maritime war.

In the seventh year of the reign of Justinian, and about the time of the summer solstice, the whole fleet of six hundred ships was ranged in martial pomp before the gardens of the palace. The patriarch pronounced his benediction, the emperor signified his last commands, the general's trumpet gave the signal of departure, and every heart, according to its fears or wishes, explored with anxious curiosity the omens of misfortune and success. The first halt was made at Perinthus or Heraclea, where Belisarius waited five days to receive some Thracian horses, a military gift of his sovereign. From thence the fleet pursued their course through the midst of the Propontis; but, as they struggled to pass the straits of the Hellespont, an unfavourable wind detained them four days at Abydus, where the general exhibited a memorable lesson of firmness and severity. Two of the Huns, who in a drunken quarrel had slain one of their fellow-soldiers, were instantly shewn to the army suspended on a lofty gibbet. The national indignity was resented by their countrymen, who disclaimed the servile laws of the empire, and asserted the free privilege of Scythia, where a small fine was allowed to expiate the hasty sallies of intemperance and anger. Their complaints were specious, their clamours were loud, and the Romans were not averse to the example of disorder and impunity. But the rising sedition was appeased by the authority and eloquence of the general; and he represented to the assembled troops the obligation of justice, the importance of discipline, the rewards of piety and virtue, and the unpardonable guilt

of murder, which, in his apprehension, was aggravated rather than excused by the vice of intoxication.<sup>17</sup> In the navigation from the Hellespont to Peloponnesus, which the Greeks, after the siege of Troy, had performed in four days,<sup>18</sup> the fleet of Belisarius was guided in their course by his master-galley, conspicuous in the day by the redness of the sails, and in the night by the torches blazing from the mast-head. It was the duty of the pilots, as they steered between the islands, and turned the capes of Malea and Tænarum, to preserve the just order and regular intervals of such a multitude of ships; as the wind was fair and moderate, their labours were not unsuccessful, and the troops were safely disembarked at Methone on the Messenian coast, to repose themselves for a while after the fatigues of the sea. In this place they experienced how avarice, invested with authority, may sport with the lives of thousands which are bravely exposed for the public service. According to military practice, the bread or biscuit of the Romans was twice prepared in the oven, and a diminution of one fourth was cheerfully allowed for the loss of weight. To gain this miserable profit, and to save the expense of wood, the prefect John of Cappadocia had given orders that the flour should be slightly baked by the same fire which warmed the baths of Constantinople; and, when the sacks were opened, a soft and mouldy paste was distributed to the army. Such unwholesome food, assisted by the heat of the climate and season, soon produced an epidemical disease, which swept away five hundred soldiers. Their health was restored by the diligence of

<sup>17</sup> I have read of a Greek legislator who inflicted a *double* penalty on the crimes committed in a state of intoxication; but it seems agreed that this was rather a political than a moral law.

<sup>18</sup> Or even in three days, since they anchored the first evening in the neighbouring isle of Tenedos; the second day they sailed to Lesbos, the third to the promontory of Eubœa, and on the fourth they reached Argos (Homer, *Odys.* *Γ.* 130-183. Wood's *Essay on Homer*, p. 40-46). A pirate sailed from the Hellespont to the seaport at Sparta in three days (Xenophon, *Hellen.* *l. ii. c. 1*).

Belisarius, who provided fresh bread at Methone, and boldly expressed his just and humane indignation; the emperor heard his complaint; the general was praised; but the minister was not punished. From the port of Methone, the pilots steered along the western coast of Peloponnesus, as far as the isle of Zacynthus or Zant, before they undertook the voyage (in their eyes a most arduous voyage) of one hundred leagues over the Ionian sea. As the fleet was surprised by a calm, sixteen days were consumed in the slow navigation; and even the general would have suffered the intolerable hardship of thirst, if the ingenuity of Antonina had not preserved the water in glass bottles, which she buried deep in the sand in a part of the ship impervious to the rays of the sun. At length the harbour of Caucana,<sup>19</sup> on the southern side of Sicily, afforded a secure and hospitable shelter. The Gothic officers who governed the island in the name of the daughter and grandson of Theodoric obeyed their imprudent orders, to receive the troops of Justinian like friends and allies: provisions were liberally supplied, the cavalry was remounted,<sup>20</sup> and Procopius soon returned from Syracuse with correct information of the state and designs of the Vandals. His intelligence determined Belisarius to hasten his operations, and his wise impatience was seconded by the winds. The fleet lost sight of Sicily, passed before the isle of Malta, discovered the capes of Africa, ran along the coast with a strong gale from the north-east, and finally cast anchor at the promontory of Caput Vada, about five days' journey to the south of Carthage.<sup>21</sup>

<sup>19</sup> Caucana, near Camarina, is at least 50 miles (350 or 400 stadia) from Syracuse (Cluver, *Sicilia Antiqua*, p. 191). [Caucana is Porto Lombardo. In Walter of Malaterra, iv. 16, it is called *Resacramba*.]

<sup>20</sup> Procopius, Gothic. l. i. c. 3. *Tibi tollit hinnitum apta quadrigis equa*, in the Sicilian pastures of Grosphus (Horat. *Carm.* ii. 16). *Acragas . . . magnanimūm quondam generator equorum* (Virg. *Æneid*, iii. 704). Thero's horses, whose victories are immortalised by Pindar, were bred in this country.

<sup>21</sup> The Caput Vada of Procopius (where Justinian afterwards founded a city — de *Ædific.* l. vi. c. 6) is the promontory of Ammon in Strabo, the

If Gelimer had been informed of the approach of the enemy, he must have delayed the conquest of Sardinia, for the immediate defence of his person and kingdom. A detachment of five thousand soldiers, and one hundred and twenty galleys, would have joined the remaining forces of the Vandals; and the descendant of Genseric might have surprised and oppressed a fleet of deep-laden transports incapable of action, and of light brigantines that seemed only qualified for flight. Belisarius had secretly trembled when he overheard his soldiers, in the passage, emboldening each other to confess their apprehensions: if they were once on shore, they hoped to maintain the honour of their arms; but, if they should be attacked at sea, they did not blush to acknowledge that they wanted courage to contend at the same time with the winds, the waves, and the Barbarians.<sup>22</sup> The knowledge of their sentiments decided Belisarius to seize the first opportunity of landing them on the coast of Africa, and he prudently rejected, in a council of war, the proposal of sailing with the fleet and army into the port of Carthage. Three months after their departure from Constantinople, the men and horses, the arms and military stores, were safely disembarked, and five soldiers were left as a guard on board each of the ships, which were disposed in the form of a semi-circle. The remainder of the troops occupied a camp on the sea-shore, which they fortified, according to ancient discipline, with a ditch and rampart; and the discovery of a source of fresh water, while it allayed the thirst, excited the superstitious confidence, of the Romans. The next morning, some of the neighbouring gardens were pillaged; and Beli-

Brachodes of Ptolemy, the Capaudia of the moderns, a long narrow slip that runs into the sea (Shaw's Travels, p. 111). [The distance of Caput Vada from Carthage was about 175 Roman miles, nine days' march for the army of Belisarius (cp. Tissot, *Géogr. de l'Afrique rom.*, 2, 108 *sqq.*).]

<sup>22</sup> A centurion of Mark Anthony expressed, though in a more manly strain, the same dislike to the sea and to naval combats (Plutarch, in Antonio, p. 1730, edit. Hen. Steph.).

sarius, after chastising the offenders, embraced the slight occasion, but the decisive moment, of inculcating the maxims of justice, moderation, and genuine policy. "When I first accepted the commission of subduing Africa, I depended much less," said the general, "on the numbers, or even the bravery, of my troops, than upon the friendly disposition of the natives and their immortal hatred to the Vandals. You alone can deprive me of this hope: if you continue to extort by rapine, what might be purchased for a little money, such acts of violence will reconcile these implacable enemies, and unite them in a just and holy league against the invaders of their country." These exhortations were enforced by a rigid discipline, of which the soldiers themselves soon felt and praised the salutary effects. The inhabitants, instead of deserting their houses, or hiding their corn, supplied the Romans with a fair and liberal market; the civil officers of the province continued to exercise their functions in the name of Justinian; and the clergy, from motives of conscience and interest, assiduously laboured to promote the cause of a Catholic emperor. The small town of Sullecte,<sup>23</sup> one day's journey from the camp, had the honour of being foremost to open her gates and to resume her ancient allegiance; the larger cities of Leptis and Adrumetum imitated the example of loyalty as soon as Belisarius appeared; and he advanced without opposition as far as Grassé, a palace of the Vandal kings, at the distance of fifty miles from Carthage. The weary Romans indulged themselves in the refreshment of shady groves, cool fountains, and delicious fruits; and the preference which Procopius allows to these gardens over any that he had seen, either in the East or West, may be ascribed either to the taste or the fatigue of

<sup>23</sup> Sullecte is perhaps the *Turris Hannibalis*, an old building, now as large as the Tower of London. [See Tissot, *Géog. comparée de la prov. romaine d'Afrique*, ii. 179.] The march of Belisarius to Leptis, Adrumetum, &c. is illustrated by the campaign of Cæsar (*Hirtius, de Bello Africano*, with the *Analyse of Guichardt*), and *Shaw's Travels* (p. 105-113) in the same country.

the historian. In three generations prosperity and a warm climate had dissolved the hardy virtue of the Vandals, who insensibly became the most luxurious of mankind. In their villas and gardens, which might deserve the Persian name of *paradise*,<sup>24</sup> they enjoyed a cool and elegant repose; and, after the daily use of the bath, the Barbarians were seated at a table profusely spread with the delicacies of the land and sea. Their silken robes, loosely flowing after the fashion of the Medes, were embroidered with gold; love and hunting were the labours of their life; and their vacant hours were amused by pantomimes, chariot-races, and the music and dances of the theatre.

In a march of ten or twelve days, the vigilance of Belisarius was constantly awake and active against his unseen enemies, by whom, in every place and at every hour, he might be suddenly attacked. An officer of confidence and merit, John the Armenian, led the vanguard of three hundred horse; six hundred Massagetæ covered at a certain distance the left flank; and the whole fleet, steering along the coast, seldom lost sight of the army, which moved each day about twelve miles, and lodged in the evening in strong camps or in friendly towns. The near approach of the Romans to Carthage filled the mind of Gelimer with anxiety and terror. He prudently wished to protract the war till his brother, with his veteran troops, should return from the conquest of Sardinia; and he now lamented the rash policy of his ancestors, who, by destroying the fortifications of Africa, had left him only the dangerous resource of risking a battle in the neighbourhood of his capital. The Vandal conquerors, from their original number of fifty thousand, were multiplied, without including their women and children, to one hundred

<sup>24</sup> Παράδεισος κάλλιστος ἀπάντων ὅν ἡμεῖς ἴσμεν. The paradises, a name and fashion adopted from Persia, may be represented by the royal garden of Ispahan (*Voyage d'Olearius*, p. 774). See, in the Greek romances, their most perfect model (*Longus, Pastoral*. l. iv. p. 99-101. *Achilles Tatius*, l. i. p. 22, 23).

and sixty thousand<sup>25</sup> fighting men; and such forces, animated with valour and union, might have crushed, at their first landing, the feeble and exhausted bands of the Roman general. But the friends of the captive king were more inclined to accept the invitations, than to resist the progress, of Belisarius; and many a proud Barbarian disguised his aversion to war under the more specious name of his hatred to the usurper. Yet the authority and promises of Gelimer collected a formidable army, and his plans were concerted with some degree of military skill. An order was despatched to his brother Ammatas, to collect all the forces of Carthage and to encounter the van of the Roman army at the distance of ten miles from the city; his nephew Gibamund, with two thousand horse, was destined to attack their left, when the monarch himself, who silently followed, should charge their rear in a situation which excluded them from the aid or even the view of their fleet. But the rashness of Ammatas was fatal to himself and his country. He anticipated the hour of attack, outstripped his tardy followers, and was pierced with a mortal wound, after he had slain, with his own hand, twelve of his boldest antagonists. His Vandals fled to Carthage; the highway, almost ten miles, was strewed with dead bodies; and it seemed incredible that such multitudes could be slaughtered by the swords of three hundred Romans. The nephew of Gelimer was defeated after a slight combat by the six hundred Massagetæ; they did not equal the third part of his numbers; but each Scythian was fired by the example of his chief, who gloriously exercised the privilege of his family by riding foremost and alone to shoot the first arrow against the enemy. In the meanwhile, Gelimer himself, ignorant of the event, and misguided by the windings of the hills, inadvertently passed the Roman army, and

<sup>25</sup> [Rather 150,000, Proc. B.V. vol. i. p. 418; but *ib.* 334, Proc. gives 80,000 (cp. Anecd. c. 3). The number of the Vandal army was probably not more than 40,000. Cp. Pflugk-Harttung, *Belisars Vandalenkrieg*, *Hist. Ztsch.*, 61 (1889), p. 72.]

reached the scene of action where Ammatas had fallen. He wept the fate of his brother and of Carthage, charged with irresistible fury the advancing squadrons, and might have pursued, and perhaps decided the victory, if he had not wasted those inestimable moments in the discharge of a vain, though pious, duty to the dead. While his spirit was broken by this mournful office, he heard the trumpet of Belisarius, who, leaving Antonina and his infantry in the camp, pressed forwards with his guards and the remainder of the cavalry to rally his flying troops and to restore the fortune of the day. Much room could not be found in this disorderly battle for the talents of a general; but the king fled before the hero; and the Vandals, accustomed only to a Moorish enemy, were incapable of withstanding the arms and discipline of the Romans. Gelimer retired with hasty steps towards the desert of Numidia; but he had soon the consolation of learning that his private orders for the execution of Hilderic and his captive friends had been faithfully obeyed. The tyrant's revenge was useful only to his enemies. The death of a lawful prince excited the compassion of his people; his life might have perplexed the victorious Romans; and the lieutenant of Justinian, by a crime of which he was innocent, was relieved from the painful alternative of forfeiting his honour or relinquishing his conquests.

As soon as the tumult had subsided, the several parts of the army informed each other of the accidents of the day; and Belisarius pitched his camp on the field of victory, to which the tenth mile-stone from Carthage had applied the Latin appellation of *Decimus*. From a wise suspicion of the stratagems and resources of the Vandals, he marched the next day in order of battle, halted in the evening before the gates of Carthage, and allowed a night of repose, that he might not in darkness and disorder expose the city to the licentiousness of the soldiers or the soldiers themselves to the secret ambush of the city. But, as the fears of Belisarius were the result of calm and intrepid reason, he was soon

satisfied that he might confide, without danger, in the peaceful and friendly aspect of the capital. Carthage blazed with innumerable torches, the signals of the public joy; the chain was removed that guarded the entrance of the port; the gates were thrown open; and the people, with acclamations of gratitude, hailed and invited their Roman deliverers. The defeat of the Vandals and the freedom of Africa were announced to the city on the eve of St. Cyprian, when the churches were already adorned and illuminated for the festival of the martyr, whom three centuries of superstition had almost raised to a local deity. The Arians, conscious that their reign had expired, resigned the temple to the Catholics, who rescued their saint from profane hands, performed the holy rites, and loudly proclaimed the creed of Athanasius and Justinian. One awful hour reversed the fortunes of the contending parties. The suppliant Vandals, who had so lately indulged the vices of conquerors, sought an humble refuge in the sanctuary of the church; while the merchants of the East were delivered from the deepest dungeon of the palace by their affrighted keeper, who implored the protection of his captives, and shewed them, through an aperture in the wall, the sails of the Roman fleet. After their separation from the army, the naval commanders had proceeded with slow caution along the coast, till they reached the Hermæan promontory and obtained the first intelligence of the victory of Belisarius. Faithful to his instructions, they would have cast anchor about twenty miles from Carthage, if the more skilful seamen had not represented the perils of the shore and the signs of an impending tempest. Still ignorant of the revolution, they declined, however, the rash attempt of forcing the chain of the port; and the adjacent harbour and suburb of Mandracium were insulted only by the rapine of a private officer who disobeyed and deserted his leaders. But the Imperial fleet, advancing with a fair wind, steered through the narrow entrance of the Goletta, and occupied in the deep and capacious lake of Tunis a

secure station about five miles from the capital.<sup>26</sup> No sooner was Belisarius informed of their arrival than he despatched orders that the greatest part of the mariners should be immediately landed to join the triumph, and to swell the apparent numbers, of the Romans. Before he allowed them to enter the gates of Carthage, he exhorted them, in a discourse worthy of himself and the occasion, not to disgrace the glory of their arms; and to remember that the Vandals had been the tyrants, but that *they* were the deliverers, of the Africans, who must now be respected as the voluntary and affectionate subjects of their common sovereign. The Romans marched through the streets in close ranks, prepared for battle if an enemy had appeared; the strict order maintained by the general imprinted on their minds the duty of obedience; and, in an age in which custom and impunity almost sanctified the abuse of conquest, the genius of one man repressed the passions of a victorious army. The voice of menace and complaint was silent; the trade of Carthage was not interrupted; while Africa changed her master and her government, the shops continued open and busy; and the soldiers, after sufficient guards had been posted, modestly departed to the houses which were allotted for their reception. Belisarius fixed his residence in the palace; seated himself on the throne of Genseric; accepted and distributed the Barbaric spoil; granted their lives to the suppliant Vandals; and laboured to repair the damage which the suburb of Mandracium had sustained in the preceding night. At supper he entertained his principal officers with the form and magnificence of a royal banquet.<sup>27</sup> The victor was respectfully served by the

<sup>26</sup> The neighbourhood of Carthage, the sea, the land, and the rivers are changed almost as much as the works of man. The isthmus, or neck, of the city is now confounded with the continent: the harbour is a dry plain; and the lake, or stagnum, no more than a morass, with six or seven feet water in the mid-channel. See d'Anville (*Géographie Ancienne*, tom. iii. p. 82), Shaw (*Travels*, p. 77-84), Marmol (*Description de l'Afrique*, tom. ii. p. 465), and Thuanus (*lvi. 12*, tom. iii. p. 534).

<sup>27</sup> From Delphi, the name of Delphicum was given, both in Greek and

captive officers of the household; and in the moments of festivity, when the impartial spectators applauded the fortune and merit of Belisarius, his envious flatterers secretly shed their venom on every word and gesture which might alarm the suspicions of a jealous monarch. One day was given to these pompous scenes, which may not be despised as useless, if they attracted the popular veneration; but the active mind of Belisarius, which in the pride of victory could suppose a defeat, had already resolved that the Roman empire in Africa should not depend on the chance of arms or the favour of the people. The fortifications of Carthage had alone been exempted from the general proscription; but in the reign of ninety-five years they were suffered to decay by the thoughtless and indolent Vandals. A wiser conqueror restored with incredible despatch the walls and ditches of the city. His liberality encouraged the workmen; the soldiers, the mariners, and the citizens vied with each other in the salutary labour; and Gelimer, who had feared to trust his person in an open town, beheld with astonishment and despair the rising strength of an impregnable fortress.

That unfortunate monarch, after the loss of his capital, applied himself to collect the remains of an army scattered, rather than destroyed, by the preceding battle; and the hopes of pillage attracted some Moorish bands to the standard of Gelimer. He encamped in the fields of Bulla, four days' journey from Carthage; insulted the capital, which he deprived of the use of an aqueduct; proposed an high reward for the head of every Roman; affected to spare the persons and property of his African subjects; and secretly negotiated with the Arian sectaries and the confederate Huns. Under these circumstances, the conquest of Sardinia served only to aggravate his distress; he reflected, with the deepest anguish,

Latin, to a tripod; and, by an easy analogy, the same appellation was extended at Rome, Constantinople, and Carthage, to the royal banqueting room (Procopius, *Vandal.* l. i. c. 21. Ducange, *Gloss. Græc.* p. 277, *Δελφικόν*, ad *Alexiad.* p. 412).

that he had wasted in that useless enterprise five thousand of his bravest troops; and he read,<sup>28</sup> with grief and shame, the victorious letter of his brother Zano, who expressed a sanguine confidence that the king, after the example of their ancestors, had already chastised the rashness of the Roman invader. "Alas! my brother," replied Gelimer, "Heaven has declared against our unhappy nation. While you have subdued Sardinia, we have lost Africa. No sooner did Belisarius appear with a handful of soldiers than courage and prosperity deserted the cause of the Vandals. Your nephew Gibamund, your brother Ammatas, have been betrayed to death by the cowardice of their followers. Our horses, our ships, Carthage itself, and all Africa are in the power of the enemy. Yet the Vandals still prefer an ignominious repose at the expense of their wives and children, their wealth and liberty. Nothing now remains, except the field of Bulla and the hope of your valour. Abandon Sardinia; fly to our relief; restore our empire, or perish by our side." On the receipt of this epistle, Zano imparted his grief to the principal Vandals; but the intelligence was prudently concealed from the natives of the island. The troops embarked in one hundred and twenty galleys at the port of Cagliari, cast anchor the third day on the confines of Mauritania, and hastily pursued their march to join the royal standard in the camp of Bulla. Mournful was the interview: the two brothers embraced; they wept in silence; no questions were asked of the Sardinian victory; no inquiries were made of the African misfortunes; they saw before their eyes the whole extent of their calamities; and the absence of their wives and children afforded a melancholy proof that either death or captivity had been their lot. The languid spirit of the Vandals was at length awakened and united by the entreaties of their king, the example of Zano, and the instant danger which threatened their monarchy

<sup>28</sup> [He did not read it, for it had fallen into the hands of the Romans.]

and religion. The military strength of the nation advanced to battle; and such was the rapid increase that, before their army reached Tricameron, about twenty miles from Carthage, they might boast, perhaps with some exaggeration, that they surpassed, in a tenfold proportion, the diminutive powers of the Romans. But these powers were under the command of Belisarius; and, as he was conscious of their superior merit, he permitted the Barbarians to surprise him at an unseasonable hour. The Romans were instantly under arms; a rivulet covered their front; the cavalry formed the first line, which Belisarius supported in the centre, at the head of five hundred guards; the infantry, at some distance, was posted in the second line; and the vigilance of the general watched the separate station and ambiguous faith of the Massagetæ, who secretly reserved their aid for the conquerors. The historian has inserted, and the reader may easily supply, the speeches<sup>29</sup> of the commanders, who, by arguments the most apposite to their situation, inculcated the importance of victory and the contempt of life. Zano, with the troops which had followed him to the conquest of Sardinia, was placed in the centre; and the throne of Genseric might have stood, if the multitude of Vandals had imitated their intrepid resolution. Casting away their lances and missile weapons, they drew their swords, and expected the charge; the Roman cavalry thrice passed the rivulet; they were thrice repulsed; and the conflict was firmly maintained, till Zano fell, and the standard of Belisarius was displayed. Gelimer retreated to his camp; the Huns joined the pursuit; and the victors despoiled the bodies of the slain. Yet no more than fifty Romans and eight hundred Vandals were found on the field of battle; so inconsiderable was the carnage of a day which extinguished a nation and transferred the empire of Africa. In the evening Belisarius led his infantry to the attack of the

<sup>29</sup> These orations always express the sense of the times and sometimes of the actors. I have condensed that sense, and thrown away declamation.

camp; and the pusillanimous flight of Gelimer exposed the vanity of his recent declarations that, to the vanquished, death was a relief, life a burthen, and infamy the only object of terror. His departure was secret; but, as soon as the Vandals discovered that their king had deserted them, they hastily dispersed, anxious only for their personal safety, and careless of every object that is dear or valuable to mankind. The Romans entered the camp without resistance; and the wildest scenes of disorder were veiled in the darkness and confusion of the night. Every Barbarian who met their swords was inhumanly massacred; their widows and daughters, as rich heirs or beautiful concubines, were embraced by the licentious soldiers; and avarice itself was almost satiated with the treasures of gold and silver, the accumulated fruits of conquest or economy in a long period of prosperity and peace. In this frantic search, the troops even of Belisarius forgot their caution and respect. Intoxicated with lust and rapine, they explored, in small parties, or alone, the adjacent fields, the woods, the rocks, and the caverns, that might possibly conceal any desirable prize; laden with booty, they deserted their ranks, and wandered, without a guide, on the high road to Carthage; and, if the flying enemies had dared to return, very few of the conquerors would have escaped. Deeply sensible of the disgrace and danger, Belisarius passed an apprehensive night on the field of victory; at the dawn of day he planted his standard on a hill, recalled his guards and veterans, and gradually restored the modesty and obedience of the camp. It was equally the concern of the Roman general to subdue the hostile, and to save the prostrate, Barbarian; and the suppliant Vandals, who could be found only in churches, were protected by his authority, disarmed, and separately confined, that they might neither disturb the public peace nor become the victims of popular revenge. After despatching a light detachment to tread the footsteps of Gelimer, he advanced with his whole army, about ten days' march, as far as Hippo Regius, which no longer possessed

the relics of St. Augustin.<sup>30</sup> The season, and the certain intelligence that the Vandal<sup>1</sup> had fled to the inaccessible country of the Moors, determined Belisarius to relinquish the vain pursuit and to fix his winter quarters at Carthage. From thence he despatched his principal lieutenant, to inform the emperor that, in the space of three months, he had achieved the conquest of Africa.

Belisarius spoke the language of truth. The surviving Vandals yielded, without resistance, their arms and their freedom; the neighbourhood of Carthage submitted to his presence; and the more distant provinces were successively subdued by the report of his victory. Tripoli was confirmed in her voluntary allegiance; Sardinia and Corsica surrendered to an officer, who carried, instead of a sword, the head of the valiant Zano; and the isles of Majorca, Minorca, and Yvica consented to remain an humble appendage of the African kingdom. Cæsarea, a royal city, which in looser geography may be confounded with the modern Algiers, was situate thirty days' march to the westward of Carthage; by land the road was infested by the Moors; but the sea was open, and the Romans were now masters of the sea. An active and discreet tribune sailed as far as the Straits, where he occupied Septem or Ceuta,<sup>31</sup> which rises opposite to Gibraltar on

<sup>30</sup> The relics of St. Augustin were carried by the African bishops to their Sardinian exile (A.D. 500); and it was believed in the viiith century that Liutprand, king of the Lombards, transported them (A.D. 721) from Sardinia to Pavia. In the year 1695, the Augustin friars of that city *found* a brick arch, marble coffin, silver case, silk wrapper, bones, blood, &c.; and, perhaps, an inscription of Agostin in Gothic letters. But this useful discovery has been disputed by reason and jealousy (Baronius, Annal. A.D. 725, No. 2-9. Tillemont, Mém. Ecclés. tom. xiii. p. 944. Montfaucon, Diarium Ital. p. 26-30. Muratori, Antiq. Ital. Medii Ævi, tom. v. dissert. lviii. p. 9, who had composed a separate treatise before the decree of the bishop of Pavia, and Pope Benedict XIII.).

<sup>31</sup> Τὰ τῆς πολιτείας προοίμια, is the expression of Procopius (de Ædific. l. vi. c. 7). Ceuta, which has been defaced by the Portuguese, flourished in nobles and palaces, in agriculture and manufactures, under the more prosperous reign of the Arabs (l'Afrique de Marmol, tom. ii. p. 236).

the African coast; that remote place was afterwards adorned and fortified by Justinian; and he seems to have indulged the vain ambition of extending his empire to the columns of Hercules. He received the messengers of victory at the time when he was preparing to publish the pandects of the Roman law; and the devout or jealous emperor celebrated the divine goodness, and confessed in silence the merit of his successful general.<sup>32</sup> Impatient to abolish the temporal and spiritual tyranny of the Vandals, he proceeded, without delay, to the full establishment of the Catholic church. Her jurisdiction, wealth, and immunities, perhaps the most essential part of episcopal religion, were restored and amplified with a liberal hand; the Arian worship was suppressed; the Donatist meetings were proscribed;<sup>33</sup> and the synod of Carthage, by the voice of two hundred and seventeen bishops,<sup>34</sup> applauded the just measure of pious retaliation. On such an occasion, it may not be presumed that many orthodox prelates were absent; but the comparative smallness of their number, which in ancient councils had been twice or even thrice multiplied, most clearly indicates the decay both of the church and state. While Justinian approved himself the defender of the faith, he entertained an ambitious hope that his victorious lieutenant would speedily enlarge the narrow limits of his dominion to the space which they occupied before the invasion of the Moors and Vandals; and Belisarius

<sup>32</sup> See the second and third preambles to the Digest, or Pandects, promulgated A.D. 533, December 16. To the titles of *Vandalicus* and *Africanus*, Justinian, or rather Belisarius, had acquired a just claim: *Gothicus* was premature, and *Francicus* false and offensive to a great nation.

<sup>33</sup> See the original acts in Baronius (A.D. 535, No. 21-54). The emperor applauds his own clemency to the heretics, *cum sufficiat eis vivere*.

<sup>34</sup> Dupin (*Geograph. Sacra Africana*, p. lix. ad Optat. Milev.) observes and bewails this episcopal decay. In the more prosperous age of the church, he had noticed 690 bishoprics; but, however minute were the dioceses, it is not probable that they all existed at the same time. [Morcelli, *Africa Christiana*, vol. i., enumerates 715 bishoprics, and observes (p. 372) that the list is not exhaustive.]

was instructed to establish five *dukes* or commanders in the convenient stations of Tripoli, Leptis, Cirta, Cæsarea, and Sardinia, and to compute the military force of *palatines* or *borderers* that might be sufficient for the defence of Africa. The kingdom of the Vandals was not unworthy of the presence of a prætorian prefect; and four consulars, three presidents, were appointed to administer the seven provinces under his civil jurisdiction. The number of their subordinate officers, clerks, messengers, or assistants was minutely expressed; three hundred and ninety-six for the prefect himself, fifty for each of his vicegerents; and the rigid definition of their fees and salaries was more effectual to confirm the right than to prevent the abuse. These magistrates might be oppressive, but they were not idle; and the subtle questions of justice and revenue were infinitely propagated under the new government, which professed to revive the freedom and equity of the Roman republic. The conqueror was solicitous to extract a prompt and plentiful supply from his African subjects; and he allowed them to claim, even in the third degree, and from the collateral line, the houses and lands of which their families had been unjustly despoiled by the Vandals. After the departure of Belisarius, who acted by an high and special commission, no ordinary provision was made for a master-general of the forces; but the office of Prætorian prefect was entrusted to a soldier; the civil and military powers were united, according to the practice of Justinian, in the chief governor; and the representative of the emperor in Africa, as well as in Italy, was soon distinguished by the appellation of Exarch.<sup>85</sup>

Yet the conquest of Africa was imperfect, till her former sovereign was delivered either alive or dead into the hands of the Romans. Doubtful of the event, Gelimer had given secret

<sup>85</sup> The African laws of Justinian are illustrated by his German biographer (Cod. l. i. tit. 27. Novel. 36, 37, 131 [8, 34, 132, 140, 160, 169, ed. Zachariæ.] Vit. Justinian. p. 349-377). [Cp. Appendix 11.]

orders that a part of his treasure should be transported to Spain, where he hoped to find a secure refuge at the court of the king of the Visigoths. But these intentions were disappointed by accident, treachery, and the indefatigable pursuit of his enemies, who intercepted his flight from the sea-shore, and chased the unfortunate monarch, with some faithful followers, to the inaccessible mountain of Papua,<sup>36</sup> in the inland country of Numidia. He was immediately besieged by Pharas, an officer whose truth and sobriety were the more applauded, as such qualities could seldom be found among the Heruli, the most corrupt of the Barbarian tribes. To his vigilance Belisarius had entrusted this important charge; and, after a bold attempt to scale the mountain, in which he lost an hundred and ten soldiers, Pharas expected, during a winter siege, the operation of distress and famine on the mind of the Vandal king. From the softest habits of pleasure, from the unbounded command of industry and wealth, he was reduced to share the poverty of the Moors,<sup>37</sup> supportable only to themselves by their ignorance of a happier condition. In their rude hovels of mud and hurdles, which confined the smoke and excluded the light, they promiscuously slept on the ground, perhaps on a sheep-skin, with their wives, their children, and their cattle. Sordid and scanty were their garments; the use of bread and wine was unknown; and their oaten or barley cakes, imperfectly baked in the ashes, were devoured almost in a crude state by the hungry savages. The health of Gelimer must have sunk under these strange and unwonted hardships, from whatsoever cause they had been endured; but his actual

<sup>36</sup> Mount Papua is placed by d'Anville (tom. iii. p. 92, and Tabul. Imp. Rom. Occident.) near Hippo Regius and the sea; yet this situation ill agrees with the long pursuit beyond Hippo and the words of Procopius (l. ii. c. 4), *ἐν τοῖς Νουμιδίας ἐσχατοῖς*.

<sup>37</sup> Shaw (Travels, p. 220) most accurately represents the manners of the Bedoweens and Kabyles, the last of whom, by their language, are the remnant of the Moors; yet how changed — how civilised are these modern savages! — provisions are plenty among them, and bread is common.

misery was embittered by the recollection of past greatness, the daily insolence of his protectors, and the just apprehension that the light and venal Moors might be tempted to betray the rights of hospitality. The knowledge of his situation dictated the humane and friendly epistle of Pharas. "Like yourself," said the chief of the Heruli, "I am an illiterate Barbarian, but I speak the language of plain sense and an honest heart. Why will you persist in hopeless obstinacy? Why will you ruin yourself, your family, and nation? The love of freedom and abhorrence of slavery? Alas! my dearest Gelimer, are you not already the worst of slaves, the slave of the vile nation of the Moors? Would it not be preferable to sustain at Constantinople a life of poverty and servitude, rather than to reign the undoubted monarch of the mountain of Papua? Do you think it a disgrace to be the subject of Justinian? Belisarius is his subject; and we ourselves, whose birth is not inferior to your own, are not ashamed of our obedience to the Roman emperor. That generous prince will grant you a rich inheritance of lands, a place in the senate, and the dignity of Patrician: such are his gracious intentions, and you may depend with full assurance on the word of Belisarius. So long as heaven has condemned us to suffer, patience is a virtue; but, if we reject the proffered deliverance, it degenerates into blind and stupid despair." "I am not insensible," replied the king of the Vandals, "how kind and rational is your advice. But I cannot persuade myself to become the slave of an unjust enemy, who has deserved my implacable hatred. *Him* I had never injured either by word or deed; yet he has sent against me, I know not from whence, a certain Belisarius, who has cast me headlong from the throne into this abyss of misery. Justinian is a man; he is a prince; does he not dread for himself a similar reverse of fortune? I can write no more: my grief oppresses me. Send me, I beseech you, my dear Pharas, send me a lyre,<sup>88</sup> a sponge, and a loaf

<sup>88</sup> By Procopius it is styled a *lyre*; perhaps *harp* would have been more

of bread." From the Vandal messenger, Pharas was informed of the motives of this singular request. It was long since the king of Africa had tasted bread; a defluxion had fallen on his eyes, the effect of fatigue or incessant weeping; and he wished to solace the melancholy hours by singing to the lyre the sad story of his own misfortunes. The humanity of Pharas was moved; he sent the three extraordinary gifts; but even his humanity prompted him to redouble the vigilance of his guard, that he might sooner compel his prisoner to embrace a resolution advantageous to the Romans, but salutary to himself. The obstinacy of Gelimer at length yielded to reason and necessity; the solemn assurances of safety and honourable treatment were ratified in the emperor's name, by the ambassador of Belisarius; and the king of the Vandals descended from the mountain. The first public interview was in one of the suburbs of Carthage; and, when the royal captive accosted his conqueror, he burst into a fit of laughter. The crowd might naturally believe that extreme grief had deprived Gelimer of his senses; but in this mournful state unseasonable mirth insinuated to more intelligent observers that the vain and transitory scenes of human greatness are unworthy of a serious thought.<sup>89</sup>

Their contempt was soon justified by a new example of a vulgar truth; that flattery adheres to power, and envy to superior merit. The chiefs of the Roman army presumed to think themselves the rivals of an hero. Their private despatches maliciously affirmed that the conqueror of Africa, strong in his reputation and the public love, conspired to seat

national. The instruments of music are thus distinguished by Venantius Fortunatus:—

Romanusque *lyrâ* tibi plaudat, Barbarus *harpâ*.

<sup>89</sup> Herodotus elegantly describes the strange effects of grief in another royal captive, Psammetichus of Egypt, who wept at the lesser and was silent at the greatest of his calamities (l. iii. c. 14). In the interview of Paulus Æmilius and Perseus, Belisarius might study his part; but it is probable that he never read either Livy or Plutarch; and it is certain that his generosity did not need a tutor.

himself on the throne of the Vandals. Justinian listened with too patient an ear; and his silence was the result of jealousy rather than of confidence. An honourable alternative, of remaining in the province or of returning to the capital, was indeed submitted to the discretion of Belisarius; but he wisely concluded, from intercepted letters and the knowledge of his sovereign's temper, that he must either resign his head, erect his standard, or confound his enemies by his presence and submission. Innocence and courage decided his choice: his guards, captives, and treasures were diligently embarked; and so prosperous was the navigation that his arrival at Constantinople preceded any certain account of his departure from the port of Carthage. Such unsuspecting loyalty removed the apprehensions of Justinian; envy was silenced and inflamed by the public gratitude; and the third Africanus obtained the honours of a triumph, a ceremony which the city of Constantine had never seen, and which ancient Rome, since the reign of Tiberius, had reserved for the *auspicious* arms of the Cæsars.<sup>40</sup> From the palace of Belisarius, the procession was conducted through the principal streets to the hippodrome; and this memorable day seemed to avenge the injuries of Genseric, and to expiate the shame of the Romans. The wealth of nations was displayed, the trophies of martial or ineffeminate luxury: rich armour, golden thrones, and the chariots of state which had been used by the Vandal queen; the massy furniture of the royal banquet, the splendour of precious stones, the elegant forms of statues and vases, the more substantial treasure of gold, and the holy vessels of the Jewish temple, which, after their long peregrination, were respectfully deposited in the Christian church of Jerusalem. A long train of the noblest Vandals reluctantly exposed their lofty stature and manly countenance. Gelimer slowly ad-

<sup>40</sup> After the title of *imperator* had lost the old military sense, and the Roman *auspices* were abolished by Christianity (see La Blérierie, *Mém. de l'Académie*, tom. xxi. p. 302-332), a triumph might be given with less inconsistency to a private general.

vanced: he was clad in a purple robe, and still maintained the majesty of a king. Not a tear escaped from his eyes, not a sigh was heard; but his pride or piety derived some secret consolation from the words of Solomon,<sup>41</sup> which he repeatedly pronounced, VANITY! VANITY! ALL IS VANITY! Instead of ascending a triumphal car drawn by four horses or elephants, the modest conqueror marched on foot at the head of his brave companions: his prudence might decline an honour too conspicuous for a subject; and his magnanimity might justly disdain what had been so often sullied by the vilest of tyrants. The glorious procession entered the gate of the hippodrome; was saluted by the acclamations of the senate and people; and halted before the throne where Justinian and Theodora were seated to receive the homage of the captive monarch and the victorious hero. They both performed the customary adoration, and, falling prostrate on the ground, respectfully touched the footstool of a prince who had not unsheathed his sword, and of a prostitute who had danced on the theatre; some gentle violence was used to bend the stubborn spirit of the grandson of Genseric; and, however, trained to servitude, the genius of Belisarius must have secretly rebelled. He was immediately declared consul for the ensuing year, and the day of his inauguration resembled the pomp of a second triumph: his curule chair was borne aloft on the shoulders of captive Vandals; and the spoils of war, gold cups, and rich girdles were profusely scattered among the populace.

But the purest reward of Belisarius was in the faithful execution of a treaty for which his honour had been pledged to the king of the Vandals. The religious scruples of Gelimer, who adhered to the Arian heresy, were incompatible with

<sup>41</sup> If the Ecclesiastes be truly a work of Solomon, and not, like Prior's poem, a pious and moral composition of more recent times, in his name, and on the subject of his repentance. The latter is the opinion of the learned and free-spirited Grotius (*Opp. Theolog.* tom. i. p. 258); and indeed the Ecclesiastes and Proverbs display a larger compass of thought and experience than seem to belong either to a Jew or a king.

the dignity of senator or patrician; but he received from the emperor an ample estate in the province of Galatia, where the abdicated monarch retired with his family and friends, to a life of peace, of affluence, and perhaps of content.<sup>42</sup> The daughters of Hilderic were entertained with the respectful tenderness due to their age and misfortune; and Justinian and Theodora accepted the honour of educating and enriching the female descendants of the great Theodosius. The bravest of the Vandal youth were distributed into five squadrons of cavalry, which adopted the name of their benefactor, and supported in the Persian wars the glory of their ancestors. But these rare exceptions, the reward of birth or valour, are insufficient to explain the fate of a nation, whose numbers, before a short and bloodless war, amounted to more than six hundred thousand persons. After the exile of their king and nobles, the servile crowd might purchase their safety by abjuring their character, religion, and language; and their degenerate posterity would be insensibly mingled with the common herd of African subjects. Yet even in the present age, and in the heart of the Moorish tribes, a curious traveller has discovered the white complexion and long flaxen hair of a Northern race;<sup>43</sup> and it was formerly believed that the boldest of the Vandals fled beyond the power, or even the knowledge, of the Romans, to enjoy their solitary freedom on the shores of the Atlantic ocean.<sup>44</sup> Africa had been their

<sup>42</sup> In the *Bélisaire* of Marmontel, the king and the conqueror of Africa meet, sup, and converse, without recollecting each other. It is surely a fault of that romance, that not only the hero, but all to whom he had been so conspicuously known, appear to have lost their eyes or their memory.

<sup>43</sup> Shaw, p. 59. Yet, since Procopius (l. ii. c. 13) speaks of a people of Mount Atlas, as already distinguished by white bodies and yellow hair, the phenomenon (which is likewise visible in the Andes of Peru, Buffon, tom. iii. p. 504) may naturally be ascribed to the elevation of the ground and the temperature of the air.

<sup>44</sup> The geographer of Ravenna (l. iii. c. xi. p. 129, 130, 131. Paris, 1688) describes the Mauritania *Gaditana* (opposite to Cadiz), *ubi gens Vandalorum, a Belisario devicta in Africa, fugit, et nunquam comparuit.*

empire, it became their prison; nor could they entertain an hope, or even a wish, of returning to the banks of the Elbe, where their brethren, of a spirit less adventurous, still wandered in their native forests. It was impossible for cowards to surmount the barriers of unknown seas and hostile Barbarians; it was impossible for brave men to expose their nakedness and defeat before the eyes of their countrymen, to describe the kingdoms which they had lost, and to claim a share of the humble inheritance which, in a happier hour, they had almost unanimously renounced.<sup>45</sup> In the country between the Elbe and the Oder, several populous villages of Lusatia are inhabited by the Vandals: they still preserve their language, their customs, and the purity of their blood; support with some impatience, the Saxon or Prussian yoke; and serve with secret and voluntary allegiance the descendant of their ancient kings, who in his garb and present fortune is confounded with the meanest of his vassals.<sup>46</sup> The name and situation of this unhappy people might indicate their descent from one common stock with the conquerors of Africa. But the use of a Slavonian dialect more clearly represents them as the last remnant of the new colonies, who succeeded to the genuine Vandals, already scattered or destroyed in the age of Procopius.<sup>47</sup>

<sup>45</sup> A single voice had protested, and Genseric dismissed, without a formal answer, the Vandals of Germany; but those of Africa derided his prudence and affected to despise the poverty of their forests (Procopius, *Vandal.* l. i. c. 22).

<sup>46</sup> From the mouth of the great elector (in 1687), Tollius describes the secret royalty and rebellious spirit of the Vandals of Brandenburg, who could muster five or six thousand soldiers who had procured some cannon, &c. (*Itinerar. Hungar.* p. 42, apud Dubos, *Hist. de la Monarchie Française*, tom. i. p. 182, 183). The veracity, not of the elector, but of Tollius himself, may justly be suspected. [The (Teutonic) Vandals have, of course, nothing to do with the (Slavonic) Wends. The confusion arose from a custom of mediæval writers to use *Vandali* to designate the Wends. Cp. the use of *Siculi* for the Szeklers of Transylvania.]

<sup>47</sup> Procopius (l. i. c. 22) was in total darkness — οὐδὲ μνήμη τις οὐδὲ ὄνομα ἐστὶ ἐμὲ σφίγγεται. Under the reign of Dagobert (A.D. 630), the Slavonian tribes

If Belisarius had been tempted to hesitate in his allegiance, he might have urged, even against the emperor himself, the indispensable duty of saving Africa from an enemy more barbarous than the Vandals. The origin of the Moors is involved in darkness; they were ignorant of the use of letters.<sup>48</sup> Their limits cannot be precisely defined: a boundless continent was opened to the Libyan shepherds; the change of seasons and pastures regulated their motions; and their rude huts and slender furniture were transported with the same ease as their arms, their families, and their cattle, which consisted of sheep, oxen, and camels.<sup>49</sup> During the vigour of the Roman power, they observed a respectable distance from Carthage and the sea-shore; under the feeble reign of the Vandals they invaded the cities of Numidia, occupied the sea-coast from Tangier to Cæsarea, and pitched their camps, with impunity, in the fertile province of Byzacium. The formidable strength and artful conduct of Belisarius secured the neutrality of the Moorish princes, whose vanity aspired to receive, in the emperor's name, the ensigns of their regal dignity.<sup>50</sup> They were astonished by the rapid event, and trembled in the presence of their conqueror. But his approaching departure soon relieved the apprehensions of a savage and superstitious people; the number of their wives allowed them to disregard the safety of their infant hostages;

of the Sorbi and Venedi already bordered on Thuringia (Mascou, *Hist. of the Germans*, xv. 3, 4, 5).

<sup>48</sup> Sallust represents the Moors as a remnant of the army of Heracles (de Bell. Jugurth. c. 21), and Procopius (*Vandal. l. ii. c. 10*) as the posterity of the Cananæans who fled from the robber Joshua (Ἰησοῦς). He quotes two columns, with a Phœnician inscription. I believe in the columns — I doubt the inscription — and I reject the pedigree.

<sup>49</sup> Virgil (*Georgic. iii. 339*) and Pomponius Mela (*i. 8*) describe the wandering life of the African shepherds, similar to that of the Arabs and Tartars; and Shaw (p. 222) is the best commentator on the poet and the geographer.

<sup>50</sup> The customary gifts were a sceptre, a crown or cap, a white cloak, a figured tunic and shoes, all adorned with gold and silver; nor were these precious metals less acceptable in the shape of coin (*Procop. Vandal. l. i. c. 25*).

and, when the Roman general hoisted sail in the port of Carthage, he heard the cries, and almost beheld the flames, of the desolated province. Yet he persisted in his resolution; and, leaving only a part of his guards to reinforce the feeble garrisons, he entrusted the command of Africa to the eunuch Solomon,<sup>51</sup> who proved himself not unworthy to be the successor of Belisarius. In the first invasion, some detachments, with two officers of merit, were surprised and intercepted; but Solomon speedily assembled his troops, marched from Carthage into the heart of the country, and in two great battles destroyed sixty thousand of the Barbarians. The Moors depended on their multitude, their swiftness, and their inaccessible mountains; and the aspect and smell of their camels are said to have produced some confusion in the Roman cavalry.<sup>52</sup> But, as soon as they were commanded to dismount, they derided this contemptible obstacle; as soon as the columns ascended the hills, the naked and disorderly crowd was dazzled by glittering arms and regular evolutions; and the menace of their female prophets was repeatedly fulfilled, that the Moors should be discomfited by a *beardless* antagonist. The victorious eunuch advanced thirteen days' journey from Carthage, to besiege Mount Aurasius,<sup>53</sup> the

<sup>51</sup> See the African government and warfare of Solomon, in Procopius (Vandal. l. ii. c. 10, 11, 12, 13, 19, 20). He was recalled, and again restored; and his last victory dates in the xiii<sup>th</sup> year of Justinian (A.D. 539). An accident in his childhood had rendered him an eunuch (l. i. c. 11); the other Roman generals were amply furnished with beards, *πύγωνος ἐμπιπλάμενος* (l. ii. c. 8).

<sup>52</sup> This natural antipathy of the horse for the camel is affirmed by the ancients (Xenophon, *Cyropæd.* l. vi. p. 438; l. vii. p. 483, 492, edit. Hutchinson. *Polyæn. Stratagem.* vii. 6. *Plin. Hist. Nat.* viii. 26. *Ælian. de Natur. Animal.* l. iii. c. 7); but it is disproved by daily experience, and derided by the best judges, the Orientals (*Voyage d'Oléarius*, p. 553).

<sup>53</sup> Procopius is the first who describes Mount Aurasius (Vandal. l. ii. c. 13. *De Ædific.* l. vi. c. 7). He may be compared with Leo Africanus (dell' *Africa*, parte v. in Ramusio [*Navigazioni et Viaggi*, 1563], tom. i. fol. 77 [leg. 71] recto), Marmol (tom. ii. p. 430), and Shaw (p. 56-59). [Cp. Diehl, *L'Afrique byzant.*, p. 237 sqq.]

citadel, and at the same time the garden, of Numidia. That range of hills, a branch of the great Atlas, contains within a circumference of one hundred and twenty miles, a rare variety of soil and climate; the intermediate valleys and elevated plains abound with rich pastures, perpetual streams, and fruits of a delicious taste and uncommon magnitude. This fair solitude is decorated with the ruins of Lambesa, a Roman city, once the seat of a legion, and the residence of forty thousand inhabitants. The Ionic temple of Æsculapius is encompassed with Moorish huts; and the cattle now graze in the midst of an amphitheatre, under the shade of Corinthian columns. A sharp perpendicular rock rises above the level of the mountain, where the African princes deposited their wives and treasures; and a proverb is familiar to the Arabs, that the man may eat fire, who dares to attack the craggy cliffs and inhospitable natives of Mount Aurasius. This hardy enterprise was twice attempted by the eunuch Solomon: from the first he retreated with some disgrace; and in the second, his patience and provisions were almost exhausted; and he must again have retired, if he had not yielded to the impetuous courage of his troops, who audaciously scaled, to the astonishment of the Moors, the mountain, the hostile camp, and the summit of the Geminian Rock. A citadel was erected to secure this important conquest, and to remind the Barbarians of their defeat; and, as Solomon pursued his march to the west, the long-lost province of Mauritanian Sitifi was again annexed to the Roman empire. The Moorish war continued several years after the departure of Belisarius; but the laurels which he resigned to a faithful lieutenant may be justly ascribed to his own triumph.

The experience of past faults, which may sometimes correct the mature age of an individual, is seldom profitable to the successive generations of mankind. The nations of antiquity, careless of each other's safety, were separately vanquished and enslaved by the Romans. This awful lesson might have instructed the Barbarians of the West to oppose, with timely

counsels and confederate arms, the unbounded ambition of Justinian. Yet the same error was repeated, the same consequences were felt, and the Goths, both of Italy and Spain, insensible of their approaching danger, beheld with indifference, and even with joy, the rapid downfall of the Vandals. After the failure of the royal line, Theudes, a valiant and powerful chief, ascended the throne of Spain, which he had formerly administered in the name of Theodoric and his infant grandson. Under his command the Visigoths besieged the fortress of Ceuta on the African coast; but, while they spent the Sabbath-day in peace and devotion, the pious security of their camp was invaded by a sally from the town; and the king himself, with some difficulty and danger, escaped from the hands of a sacrilegious enemy.<sup>64</sup> It was not long before his pride and resentment were gratified by a suppliant embassy from the unfortunate Gelimer, who implored, in his distress, the aid of the Spanish monarch. But, instead of sacrificing these unworthy passions to the dictates of generosity and prudence, Theudes amused the ambassadors, till he was secretly informed of the loss of Carthage, and then dismissed them with obscure and contemptuous advice, to seek in their native country a true knowledge of the state of the Vandals.<sup>65</sup> The long continuance of the Italian war delayed the punishment of the Visigoths; and the eyes of Theudes were closed before they tasted the fruits of his mistaken policy. After his death, the sceptre of Spain was disputed by a civil war. The weaker candidate solicited the protection of Justinian, and ambitiously subscribed a treaty of alliance, which deeply wounded the independence and happiness of his country. Several cities, both on the ocean

<sup>64</sup> Isidor. Chron. p. 722, edit. Grot. Mariana, Hist. Hispan. l. v. c. 8, p. 173. Yet, according to Isidore, the siege of Ceuta and the death of Theudes happened A. æ. H. 586, A.D. 548 [this is not implied by Isidore]; and the place was defended, not by the Vandals, but by the Romans. [Maximus of Saragossa (Chr. Min. ii. 221) puts the death of Theudes in A.D. 544.]

<sup>65</sup> Procopius, Vandal. l. i. c. 24.

and the Mediterranean, were ceded to the Roman troops, who afterwards refused to evacuate those pledges, as it should seem, either of safety or payment; and, as they were fortified by perpetual supplies from Africa, they maintained their impregnable stations, for the mischievous purpose of inflaming the civil and religious factions of the Barbarians. Seventy years elapsed before this painful thorn could be extirpated from the bosom of the monarchy; and, as long as the emperors retained any share of these remote and useless possessions, their vanity might number Spain in the list of their provinces, and the successors of Alaric in the rank of their vassals.<sup>56</sup>

The error of the Goths who reigned in Italy was less excusable than that of their Spanish brethren, and their punishment was still more immediate and terrible. From a motive of private revenge, they enabled their most dangerous enemy to destroy their most valuable ally. A sister of the great Theodoric had been given in marriage to Thrasimond the African king:<sup>57</sup> on this occasion, the fortress of Lilybæum<sup>58</sup> in Sicily was resigned to the Vandals; and the princess Amalafrida was attended by a martial train of one thousand nobles, and five thousand Gothic soldiers, who signalised their valour in the Moorish wars. Their merit was over-rated by themselves, and perhaps neglected by the Vandals; they viewed the country with envy, and the conquerors with disdain; but their real or fictitious conspiracy was prevented by a massacre; the Goths were oppressed, and the captivity of

<sup>56</sup> See the original Chronicle of Isidore, and the vth and vith books of the History of Spain by Mariana. The Romans were finally expelled by Suintila king of the Visigoths (A.D. 621-626), after their reunion to the Catholic church.

<sup>57</sup> See the marriage and fate of Amalafrida in Procopius (Vandal. l. i. c. 8, 9), and in Cassiodorus (Var. ix. 1) the expostulation of her royal brother. Compare likewise the Chronicle of Victor Tunnunensis.

<sup>58</sup> Lilybæum was built by the Carthaginians, Olymp. xcv. 4; and in the first Punic war a strong situation and excellent harbour rendered that place an important object to both nations.

Amalafriada was soon followed by her secret and suspicious death. The eloquent pen of Cassiodorius was employed to reproach the Vandal court with the cruel violation of every social and public duty; but the vengeance which he threatened in the name of his sovereign might be derided with impunity, as long as Africa was protected by the sea, and the Goths were destitute of a navy. In the blind impotence of grief and indignation, they joyfully saluted the approach of the Romans, entertained the fleet of Belisarius in the ports of Sicily, and were speedily delighted or alarmed by the surprising intelligence that their revenge was executed beyond the measure of their hopes, or perhaps of their wishes. To their friendship the emperor was indebted for the kingdom of Africa, and the Goths might reasonably think that they were entitled to resume the possession of a barren rock, so recently separated as a nuptial gift from the island of Sicily. They were soon undeceived by the haughty mandate of Belisarius, which excited their tardy and unavailing repentance. "The city and promontory of Lilybæum," said the Roman general, "belonged to the Vandals, and I claim them by the right of conquest. Your submission may deserve the favour of the emperor; your obstinacy will provoke his displeasure, and must kindle a war that can terminate only in your utter ruin. If you compel us to take up arms, we shall contend, not to regain the possession of a single city, but to deprive you of all the provinces which you unjustly withhold from their lawful sovereign." A nation of two hundred thousand soldiers might have smiled at the vain menace of Justinian and his lieutenant; but a spirit of discord and disaffection prevailed in Italy, and the Goths supported, with reluctance, the indignity of a female reign.<sup>69</sup>

The birth of Amalasontha, the regent and queen of Italy,<sup>70</sup>

<sup>69</sup> Compare the different passages of Procopius (Vandal. l. ii. c. 5, Gothic. l. i. c. 3).

<sup>70</sup> For the reign and character of Amalasontha, see Procopius (Gothic. l. i. c. 2, 3, 4, and Anecd. c. 16, with the notes of Alemannus), Cassiodorius

united the two most illustrious families of the Barbarians. Her mother, the sister of Clovis, was descended from the long-haired kings of the *Merovingian* race;<sup>61</sup> and the regal succession of the *Amali* was illustrated in the eleventh generation by her father, the great Theodoric, whose merit might have ennobled a plebeian origin. The sex of his daughter excluded her from the Gothic throne; but his vigilant tenderness for his family and his people discovered the last heir of the royal line, whose ancestors had taken refuge in Spain; and the fortunate Eutharic was suddenly exalted to the rank of a consul and a prince. He enjoyed only a short time the charms of Amalasontha, and the hopes of the succession; and his widow, after the death of her husband and father, was left the guardian of her son Athalaric, and the kingdom of Italy. At the age of about twenty-eight years, the endowments of her mind and person had attained their perfect maturity. Her beauty, which, in the apprehension of Theodora herself, might have disputed the conquest of an emperor, was animated by manly sense, activity, and resolution. Education and experience had cultivated her talents; her philosophic studies were exempt from vanity; and, though she expressed herself with equal elegance and ease in the Greek, the Latin, and the Gothic tongue, the daughter of Theodoric maintained in her counsels a discreet and impenetrable silence. By a faithful imitation of the virtues, she revived the prosperity, of his reign; while she strove, with pious care, to expiate the faults, and to obliterate the darker memory, of his declining age. The children of Boethius and Symmachus were restored to their paternal inheritance; her extreme lenity never consented to inflict any corporal or pecuniary penalties on her

(Var. viii. ix. x. and xi. 1), and Jornandes (*de Rebus Geticis*, c. 59, and *De Successione Regnorum*, in Muratori, tom. i. p. 241).

<sup>61</sup> The marriage of Theodoric with Audeflada, the sister of Clovis, may be placed in the year 495, soon after the conquest of Italy (*de Buat*, *Hist. des Peuples*, tom. ix. p. 213). The nuptials of Eutharic and Amalasontha were celebrated in 515 (*Cassiodor. in Chron.* p. 453).

Roman subjects; and she generously despised the clamours of the Goths, who at the end of forty years still considered the people of Italy as their slaves or their enemies. Her salutary measures were directed by the wisdom, and celebrated by the eloquence, of Cassiodorius; she solicited and deserved the friendship of the emperor; and the kingdoms of Europe respected, both in peace and war, the majesty of the Gothic throne. But the future happiness of the queen and of Italy depended on the education of her son, who was destined, by his birth, to support the different and almost incompatible characters of the chief of a Barbarian camp and the first magistrate of a civilised nation. From the age of ten years,<sup>22</sup> Athalaric was diligently instructed in the arts and sciences, either useful or ornamental for a Roman prince; and three venerable Goths were chosen to instil the principles of honour and virtue into the mind of their young king. But the pupil who is insensible of the benefits, must abhor the restraints, of education; and the solicitude of the queen, which affection rendered anxious and severe, offended the untractable nature of her son and his subjects. On a solemn festival, when the Goths were assembled in the palace of Ravenna, the royal youth escaped from his mother's apartment, and, with tears of pride and anger, complained of a blow which his stubborn disobedience had provoked her to inflict. The Barbarians resented the indignity which had been offered to their king; accused the regent of conspiring against his life and crown; and imperiously demanded that the grandson of Theodoric should be rescued from the dastardly discipline of women and pedants, and educated, like a valiant Goth, in the society of his equals and the glorious ignorance of his ancestors. To this rude clamour, importunately urged as the voice of the nation, Amalasontha was compelled to yield her reason and

<sup>22</sup> At the death of Theodoric, his grandson Athalaric is described by Procopius as a boy about eight years old — *ὄκτω γεγονὸς ἔτη*. Cassiodorius, with authority and reason, adds two years to his age — *infantulum adhuc vix decennem*.

the dearest wishes of her heart. The king of Italy was abandoned to wine, to women, and to rustic sports; and the indiscreet contempt of the ungrateful youth betrayed the mischievous designs of his favourites and her enemies. Encompassed with domestic foes, she entered into a secret negotiation with the emperor Justinian; obtained the assurance of a friendly reception; and had actually deposited at Dyrrachium in Epirus a treasure of forty thousand pounds of gold. Happy would it have been for her fame and safety, if she had calmly retired from barbarous faction to the peace and splendour of Constantinople. But the mind of Amalasontha was inflamed by ambition and revenge; and, while her ships lay at anchor in the port, she waited for the success of a crime which her passions excused or applauded as an act of justice. Three of the most dangerous malecontents had been separately removed, under the pretence of trust and command, to the frontiers of Italy; they were assassinated by her private emissaries; and the blood of these noble Goths rendered the queen-mother absolute in the court of Ravenna, and justly odious to a free people. But, if she had lamented the disorders of her son, she soon wept his irreparable loss; and the death of Athalaric, who at the age of sixteen was consumed by premature intemperance, left her destitute of any firm support or legal authority. Instead of submitting to the laws of her country, which held as a fundamental maxim that the succession could never pass from the lance to the distaff, the daughter of Theodoric conceived the impracticable design of sharing with one of her cousins the regal title, and of reserving in her own hands the substance of supreme power. He received the proposal with profound respect and affected gratitude; and the eloquent Cassiodorius announced to the senate and the emperor, that Amalasontha and Theodatus had ascended the throne of Italy. His birth (for his mother was the sister of Theodoric) might be considered as an imperfect title; and the choice of Amalasontha was more strongly directed by her contempt of his avarice and pusil-

lanimity, which had deprived him of the love of the Italians and the esteem of the Barbarians. But Theodatus was exasperated by the contempt which he deserved; her justice had repressed and reproached the oppression which he exercised against his Tuscan neighbours; and the principal Goths, united by common guilt and resentment, conspired to instigate his slow and timid disposition. The letters of congratulation were scarcely despatched before the queen of Italy was imprisoned in a small island of the lake of Bolsena,<sup>86</sup> where, after a short confinement, she was strangled in the bath, by the order, or with the connivance, of the new king, who instructed his turbulent subjects to shed the blood of their sovereigns.

Justinian beheld with joy the dissensions of the Goths; and the mediation of an ally concealed and promoted the ambitious views of the conqueror. His ambassadors, in their public audience, demanded the fortress of Lilybæum, ten Barbarian fugitives, and a just compensation for the pillage of a small town on the Illyrian borders; but they secretly negotiated with Theodatus to betray the province of Tuscany, and tempted Amalasontha to extricate herself from danger and perplexity by a free surrender of the kingdom of Italy. A false and servile epistle was subscribed by the reluctant hand of the captive queen; but the confession of the Roman senators, who were sent to Constantinople, revealed the truth of her deplorable situation; and Justinian, by the voice of a new ambassador, most powerfully interceded for her life and liberty. Yet the secret instructions of the same minister were adapted to serve the cruel jealousy of Theodora, who dreaded the presence and superior charms of a rival: he

<sup>86</sup> The lake, from the neighbouring towns of Etruria, was styled either Vulsiniensis (now of Bolsena) or Tarquiniensis. It is surrounded with white rocks, and stored with fish and wild-fowl. The younger Pliny (Epist. ii. 96) celebrates two woody islands that floated on its waters: if a fable, how credulous the ancients! — if a fact, how careless the moderns! Yet, since Pliny, the island may have been fixed by new and gradual accessions.

prompted with artful and ambiguous hints the execution of a crime so useful to the Romans; <sup>64</sup> received the intelligence of her death with grief and indignation, and denounced, in his master's name, immortal war against the perfidious assassin. In Italy, as well as in Africa, the guilt of an usurper appeared to justify the arms of Justinian; but the forces which he prepared were insufficient for the subversion of a mighty kingdom, if their feeble numbers had not been multiplied by the name, the spirit, and the conduct of an hero. A chosen troop of guards, who served on horseback and were armed with lances and bucklers, attended the person of Belisarius; his cavalry was composed of two hundred Huns, three hundred Moors, and four thousand *confederates*, and the infantry consisted only of three thousand Isaurians. Steering the same course as in his former expedition, the Roman consul cast anchor before Catania in Sicily, to survey the strength of the island, and to decide whether he should attempt the conquest or peaceably pursue his voyage for the African coast. He found a fruitful land and a friendly people. Notwithstanding the decay of agriculture, Sicily still supplied the granaries of Rome; the farmers were graciously exempted from the oppression of military quarters, and the Goths, who trusted the defence of the island to the inhabitants, had some reason to complain that their confidence was ungratefully betrayed. Instead of soliciting and expecting the aid of the king of Italy, they yielded to the first summons a cheerful obedience; and this province, the first fruits of the Punic wars, was again, after a long separation, united to the Roman empire. <sup>65</sup> The

<sup>64</sup> Yet Procopius discredits his own evidence (Anecdot. c. 16), by confessing that in his public history he had not spoken the truth. [He could not speak it "from fear of Theodora" (δέει τῆς βασιλίδος), who was still alive.] See the Epistles from Queen Gundelina to the empress Theodora (Var. x. 20, 21, 23), and observe a suspicious word (de illâ personâ, &c.) with the elaborate commentary of Buat (tom. x. p. 177-185).

<sup>65</sup> For the conquest of Sicily, compare the narrative of Procopius with the complaints of Totila (Gothic. l. i. c. 5; l. iii. c. 16). The Gothic queen had lately relieved that thankless island (Var. ix. 10, 11).

Gothic garrison of Palermo, which alone attempted to resist, was reduced, after a short siege, by a singular stratagem. Belisarius introduced his ships into the deepest recess of the harbour; their boats were laboriously hoisted with ropes and pulleys to the topmast head, and he filled them with archers, who from that superior station commanded the ramparts of the city. After this easy though successful campaign, the conqueror entered Syracuse in triumph, at the head of his victorious bands, distributing gold medals to the people, on the day which so gloriously terminated the year of the consulship. He passed the winter season in the palace of ancient kings, amidst the ruins of a Grecian colony, which once extended to a circumference of two and twenty miles;<sup>66</sup> but in the spring, about the festival of Easter, the prosecution of his designs was interrupted by a dangerous revolt of the African forces. Carthage was saved by the presence of Belisarius, who suddenly landed with a thousand guards.<sup>67</sup> Two thousand soldiers of doubtful faith returned to the standard of their old commander; and he marched, without hesitation, above fifty miles, to seek an enemy whom he affected to pity and despise. Eight thousand rebels trembled at his approach; they were routed at the first onset by the dexterity of their master; and this ignoble victory would have restored the peace of Africa, if the conqueror had not been hastily recalled to Sicily, to appease a sedition which was kindled during his absence in his own camp.<sup>68</sup> Disorder and disobedience were the common malady of the times; the genius to command and the virtue to obey resided only in the mind of Belisarius.

<sup>66</sup> The ancient magnitude and splendour of the five quarters of Syracuse are delineated by Cicero (in Verrem, actio ii. l. iv. c. 52, 53), Strabo (l. vi. p. 415 [2, § 4]), and d'Orville (*Sicula*, tom. ii. p. 174-202). The new city, restored by Augustus, shrunk towards the island.

<sup>67</sup> [This is an error. The number was a hundred.]

<sup>68</sup> Procopius (*Vandal*. l. ii. c. 14, 15) so clearly relates the return of Belisarius into Sicily (p. 146, edit. Hoeschelii) that I am astonished at the strange misapprehension and reproaches of a learned critic (*Oeuvres de la Mothe le Vayer*, tom. xiii. p. 162, 163).

Although Theodatus descended from a race of heroes, he was ignorant of the art, and averse to the dangers, of war. Although he had studied the writings of Plato and Tully, philosophy was incapable of purifying his mind from the basest passions, avarice and fear. He had purchased a sceptre by ingratitude and murder; at the first menace of an enemy he degraded his own majesty, and that of a nation which already disdained their unworthy sovereign. Astonished by the recent example of Gelimer, he saw himself dragged in chains through the streets of Constantinople; the terrors which Belisarius inspired, were heightened by the eloquence of Peter, the Byzantine ambassador; and that bold and subtle advocate persuaded him to sign a treaty, too ignominious to become the foundation of a lasting peace. It was stipulated that in the acclamations of the Roman people the name of the emperor should be always proclaimed before that of the Gothic king; and that, as often as the statue of Theodatus was erected in brass or marble, the divine image of Justinian should be placed on its right hand. Instead of conferring, the king of Italy was reduced to solicit, the honours of the senate; and the consent of the emperor was made indispensable before he could execute, against a priest or senator, the sentence either of death or confiscation. The feeble monarch resigned the possession of Sicily; offered, as the annual mark of his dependence, a crown of gold, of the weight of three hundred pounds; and promised to supply, at the requisition of his sovereign, three thousand Gothic auxiliaries for the service of the empire. Satisfied with these extraordinary concessions, the successful agent of Justinian hastened his journey to Constantinople; but no sooner had he reached the Alban villa<sup>69</sup> than he was recalled by the anxiety

<sup>69</sup> The ancient Alba was ruined in the first age of Rome. On the same spot, or at least in the neighbourhood, successively arose, 1. The villa of Pompey, &c., 2. A camp of the Prætorian cohorts, 3. The modern episcopal city of Albanum or Albano (Procop. Goth. l. ii. c. 4. Cluver. Ital. Antiquom. ii. p. 914). [Inscriptions have proved that the camp was not of Præ-

of Theodatus; and the dialogue which passed between the king and the ambassador deserves to be represented in its original simplicity. "Are you of opinion that the emperor will ratify this treaty? *Perhaps*. If he refuses, what consequence will ensue? *War*. Will such a war be just or reasonable? *Most assuredly: every one should act according to his character*. What is your meaning? *You are a philosopher — Justinian is emperor of the Romans: it would ill become the disciple of Plato to shed the blood of thousands in his private quarrel; the successor of Augustus should vindicate his rights, and recover by arms the ancient provinces of his empire.*" This reasoning might not convince, but it was sufficient to alarm and subdue, the weakness of Theodatus; and he soon descended to his last offer, that for the poor equivalent of a pension of forty-eight thousand pounds sterling he would resign the kingdom of the Goths and Italians, and spend the remainder of his days in the innocent pleasures of philosophy and agriculture. Both treaties were entrusted to the hands of the ambassador, on the frail security of an oath not to produce the second till the first had been positively rejected. The event may be easily foreseen: Justinian required and accepted the abdication of the Gothic king. His indefatigable agent returned from Constantinople to Ravenna, with ample instructions; and a fair epistle, which praised the wisdom and generosity of the royal philosopher, granted his pension, with the assurance of such honours as a subject and a Catholic might enjoy, and wisely referred the final execution of the treaty to the presence and authority of Belisarius. But, in the interval of suspense, two Roman generals, who had entered the province of Dalmatia, were defeated and slain by the Gothic troops. From blind and abject despair, Theodatus capriciously rose to groundless and fatal presumption,<sup>70</sup> and

torians, as Cluver guessed, but of the 2nd Parthic legion. See C.I.L. xiv. p. 217. For the town of Albanum cp. Lib. Pont. 46.]

<sup>70</sup> A Sibylline oracle was ready to pronounce — *Africa captâ mundus cum nato peribit*; a sentence of portentous ambiguity (Gothic. l. i. c. 7), which

dared to receive with menace and contempt the ambassador of Justinian, who claimed his promise, solicited the allegiance of his subjects, and boldly asserted the inviolable privilege of his own character. The march of Belisarius dispelled this visionary pride; and, as the first campaign<sup>71</sup> was employed in the reduction of Sicily, the invasion of Italy is applied by Procopius to the second year of the GOTHIC WAR.<sup>72</sup>

After Belisarius had left sufficient garrisons in Palermo and Syracuse, he embarked his troops at Messina, and landed them, without resistance, on the opposite shores of Rhegium. A Gothic prince, who had married the daughter of Theodatus, was stationed with an army to guard the entrance of Italy; but he imitated, without scruple, the example of a sovereign faithless to his public and private duties. The perfidious Ebermor deserted with his followers to the Roman camp, and was dismissed to enjoy the servile honours of the Byzantine court.<sup>73</sup> From Rhegium to Naples, the fleet and army of Belisarius, almost always in view of each other, advanced near three hundred miles along the sea-coast. The people of Brutium, Lucania, and Campania, who abhorred the name and religion of the Goths, embraced the specious excuse that their ruined walls were incapable of defence; the soldiers paid a just

has been published in unknown characters by Opsopæus, an editor of the oracles. The Père Maltret has promised a commentary; but all his promises have been vain and fruitless. [Cp. Appendix 6.]

<sup>71</sup> In his chronology, imitated in some degree from Thucydides, Procopius begins each spring the years of Justinian and of the Gothic war; and his first era coincides with the first of April 535, and not 536, according to the Annals of Baronius (Pagi, Crit. tom. ii. p. 555, who is followed by Muratori and the editors of Sigonius). Yet in some passages we are at a loss to reconcile the dates of Procopius with himself and with the Chronicle of Marcellinus.

<sup>72</sup> The series of the first Gothic war is represented by Procopius (l. i. c. 5-29; l. ii. c. 1-30; l. iii. c. 1) till the captivity of Vitiges. With the aid of Sigonius (Opp. tom. i. de Imp. Occident. l. xvii. xviii.) and Muratori (Annali d'Italia, tom. v.), I have gleaned some few additional facts.

<sup>73</sup> Jornandes, de Rebus Geticis, c. 60, p. 702, edit. Grot. and tom. i. p. 221. Muratori, de Success. Regn. p. 241.

equivalent for a plentiful market; and curiosity alone interrupted the peaceful occupations of the husbandman or artificer. Naples, which has swelled to a great and populous capital, long cherished the language and manners of a Grecian colony;<sup>74</sup> and the choice of Virgil had ennobled this elegant retreat, which attracted the lovers of repose and study, from the noise, the smoke, and the laborious opulence of Rome.<sup>75</sup> As soon as the place was invested by sea and land, Belisarius gave audience to the deputies of the people, who exhorted him to disregard a conquest unworthy of his arms, to seek the Gothic king in a field of battle, and, after his victory, to claim, as the sovereign of Rome, the allegiance of the dependent cities. "When I treat with my enemies," replied the Roman chief, with an haughty smile, "I am more accustomed to give than to receive counsel; but I hold in one hand inevitable ruin, and in the other, peace and freedom, such as Sicily now enjoys." The impatience of delay urged him to grant the most liberal terms; his honour secured their performance; but Naples was divided into two factions; and the Greek democracy was inflamed by their orators, who, with much spirit and some truth, represented to the multitude that the Goths would punish their defection and that Belisarius himself must esteem their loyalty and valour. Their deliberations, however, were not perfectly free: the city was commanded by eight hundred Barbarians, whose wives and children were detained at Ravenna as the pledge of their fidelity; and even the Jews, who were rich and numerous, resisted,

<sup>74</sup> Nero (says Tacitus, *Annal.* xv. 35) *Neapolim quasi Græcam urbem delegit.* One hundred and fifty years afterwards, in the time of Septimius Severus, the *Hellenism* of the Neapolitans is praised by Philostratus: *γένος Ἑλληνας καὶ δασυκοί, ὄθεν καὶ τὰς σπουδὰς τῶν λόγων Ἑλληνικοὶ εἰσι* (*Icon.* l. i. p. 763, edit. Olear.).

<sup>75</sup> The otium of Naples is praised by the Roman poets, by Virgil, Horace, Silius Italicus, and Statius (*Cluver. Ital. Ant.* l. iv. p. 1149, 1150). In an elegant epistle (*Sylv.* l. iii. 5, p. 94-98, edit. Markland), Statius undertakes the difficult task of drawing his wife from the pleasures of Rome to that calm retreat.

with desperate enthusiasm, the intolerant laws of Justinian. In a much later period, the circumference of Naples<sup>76</sup> measured only two thousand three hundred and sixty-three paces: <sup>77</sup> the fortifications were defended by precipices or the sea; when the aqueducts were intercepted, a supply of water might be drawn from wells and fountains; and the stock of provisions was sufficient to consume the patience of the besiegers. At the end of twenty days, that of Belisarius was almost exhausted, and he had reconciled himself to the disgrace of abandoning the siege, that he might march, before the winter season, against Rome and the Gothic king. But his anxiety was relieved by the bold curiosity of an Isaurian, who explored the dry channel of an aqueduct, and secretly reported that a passage might be perforated to introduce a file of armed soldiers into the heart of the city. When the work had been silently executed, the humane general risked the discovery of his secret, by a last and fruitless admonition of the impending danger. In the darkness of the night, four hundred Romans entered the aqueduct, raised themselves by a rope, which they fastened to an olive tree, into the house or garden of a solitary matron, sounded their trumpets, surprised the sentinels, and gave admittance to their companions, who on all sides scaled the walls and burst open the gates of the city. Every crime which is punished by social justice, was practised as the rights of war; the Huns were distinguished by cruelty and sacrilege; and Belisarius alone appeared in the streets and churches of Naples to moderate the calamities which he predicted. "The gold and silver,"

<sup>76</sup> This measure was taken by Roger I. after the conquest of Naples (A.D. 1139), which he made the capital of his new kingdom (Giannone, *Istoria Civile*, tom. ii. p. 169). That city, the third in Christian Europe, is now at least twelve miles in circumference (Jul. Cæsar. *Capaccii Hist. Neapol.* l. i. p. 47), and contains more inhabitants (350,000) in a given space than any other spot in the known world.

<sup>77</sup> Not geometrical, but common, paces or steps of 22 French inches (d'Anville, *Mesures Itinéraires*, p. 7, 8): the 2363 do not make an English mile.

he repeatedly exclaimed, "are the just rewards of your valour. But spare the inhabitants, they are Christians, they are suppliants, they are now your fellow-subjects. Restore the children to their parents, the wives to their husbands; and shew them, by your generosity, of what friends they have obstinately deprived themselves." The city was saved by the virtue and authority of its conqueror,<sup>78</sup> and, when the Neapolitans returned to their houses, they found some consolation in the secret enjoyment of their hidden treasures. The Barbarian garrison enlisted in the service of the emperor; Apulia and Calabria, delivered from the odious presence of the Goths, acknowledged his dominion; and the tusks of the Calydonian boar, which were still shewn at Beneventum, are curiously described by the historian of Belisarius.<sup>79</sup>

The faithful soldiers and citizens of Naples had expected their deliverance from a prince, who remained the inactive and almost indifferent spectator of their ruin. Theodatus secured his person within the walls of Rome, while his cavalry advanced forty miles on the Appian way, and encamped in the Pomptine marshes; which, by a canal of nineteen miles in length, had been recently drained and converted into excellent pastures.<sup>80</sup> But the principal forces of the Goths were dispersed in Dalmatia, Venetia, and Gaul; and the feeble mind of their king was confounded by the unsuccessful event of a divination, which seemed to presage the downfall

<sup>78</sup> Belisarius was reprov'd by Pope Sylverius for the massacre. He re-peopled Naples, and imported colonies of African captives into Sicily, Calabria, and Apulia (Hist. Miscell. l. xvi. in Muratori, tom. i. p. 106, 107).

<sup>79</sup> Beneventum was built by Diomede, the nephew of Meleager (Cluver. tom. ii. p. 1195, 1196). The Calydonian hunt is a picture of savage life (Ovid. Metamorph. l. viii.). Thirty or forty heroes were leagued against a hog; the brutes (not the hog) quarrell'd with a lady for the head.

<sup>80</sup> The *Decennovium* is strangely confounded by Cluverius (tom. ii. p. 1007) with the river Ufens. It was in truth a canal of nineteen miles, from Forum Appii to Terracina, on which Horace embarked in the night. The *Decennovium* which is mentioned by Lucan, Dion Cassius, and Cassiodorius, has been sufficiently ruined, restored, and obliterated (d'Anville, *Analyse de l'Italie*, p. 185, &c.). [Cp. vol. vi. Appendix 9.]

of his empire.<sup>81</sup> The most abject slaves have arraigned the guilt or weakness of an unfortunate master. The character of Theodatus was rigorously scrutinised by a free and idle camp of Barbarians, conscious of their privilege and power; he was declared unworthy of his race, his nation, and his throne; and their general Vitiges, whose valour had been signalised in the Illyrian war, was raised with unanimous applause on the bucklers of his companions. On the first rumour, the abdicated monarch fled from the justice of his country; but he was pursued by private revenge. A Goth whom he had injured in his love overtook Theodatus on the Flaminian way, and, regardless of his unmanly cries, slaughtered him as he lay prostrate on the ground, like a victim (says the historian) at the foot of the altar. The choice of the people is the best and purest title to reign over them; yet such is the prejudice of every age, that Vitiges impatiently wished to return to Ravenna, where he might seize, with the reluctant hand of the daughter of Amalasontha, some faint shadow of hereditary right. A national council was immediately held, and the new monarch reconciled the impatient spirit of the Barbarians to a measure of disgrace which the misconduct of his predecessor rendered wise and indispensable. The Goths consented to retreat in the presence of a victorious enemy; to delay till the next spring the operations of offensive war; to summon their scattered forces; to relinquish their distant possessions; and to trust even Rome itself to the faith of its inhabitants. Leuderis, an aged warrior, was left in the capital with four thousand soldiers, a feeble garrison, which might have seconded the zeal, though it was incapable of opposing the wishes, of the Romans. But a momentary enthusiasm of religion and patriotism was

<sup>81</sup> A Jew gratified his contempt and hatred for *all* the Christians, by enclosing three bands, each of ten hogs, and discriminated by the names of Goths, Greeks, and Romans. Of the first, almost all were found dead — almost all the second were alive — of the third, half died, and the rest lost their bristles. No unsuitable emblem of the event.

kindled in their minds. They furiously exclaimed that the apostolic throne should no longer be profaned by the triumph or toleration of Arianism; that the tombs of the Cæsars should no longer be trampled by the savages of the North; and, without reflecting that Italy must sink into a province of Constantinople, they fondly hailed the restoration of a Roman emperor as a new era of freedom and prosperity. The deputies of the pope and clergy, of the senate and people, invited the lieutenant of Justinian to accept their voluntary allegiance, and to enter the city, whose gates would be thrown open for his reception. As soon as Belisarius had fortified his new conquests, Naples and Cumæ, he advanced about twenty miles to the banks of the Vulturnus, contemplated the decayed grandeur of Capua, and halted at the separation of the Latin and Appian ways. The work of the censor, after the incessant use of nine centuries, still preserved its primæval beauty, and not a flaw could be discovered in the large polished stones, of which that solid though narrow road was so firmly compacted.<sup>82</sup> Belisarius, however, preferred the Latin way, which, at a distance from the sea and the marshes, skirted in a space of one hundred and twenty miles along the foot of the mountains. His enemies had disappeared; when he made his entrance through the Asinarian gate, the garrison departed without molestation along the Flaminian way; and the city, after sixty years' servitude, was delivered from the yoke of the Barbarians. Leuderis alone, from a motive of pride or discontent, refused to accompany the fugitives; and the Gothic chief, himself a trophy of the victory, was sent with the keys of Rome to the throne of the emperor Justinian.<sup>83</sup>

<sup>82</sup> Bergier (*Hist. des Grands Chemins des Romains*, tom. i. p. 221-228, 440-444) examines the structure and materials, while d'Anville (*Analyse de l'Italie*, p. 200-213) defines the geographical line.

<sup>83</sup> Of the first recovery of Rome the *year* (536) is certain from the series of events, rather than from the corrupt, or interpolated, text of Procopius; the *month* (December) is ascertained by Evagrius (l. iv. c. 19); and the *day*

The first days, which coincided with the old Saturnalia, were devoted to mutual congratulation and the public joy; and the Catholics prepared to celebrate, without a rival, the approaching festival of the nativity of Christ. In the familiar conversation of an hero, the Romans acquired some notion of the virtues which history ascribed to their ancestors; they were edified by the apparent respect of Belisarius for the successor of St. Peter, and his rigid discipline secured in the midst of war the blessings of tranquillity and justice. They applauded the rapid success of his arms, which overran the adjacent country, as far as Narni, Perugia, and Spoleto; but they trembled, the senate, the clergy, and the unwarlike people, as soon as they understood that he had resolved, and would speedily be reduced, to sustain a siege against the powers of the Gothic monarchy. The designs of Vitiges were executed, during the winter season, with diligence and effect. From their rustic habitations, from their distant garrisons, the Goths assembled at Ravenna for the defence of their country; and such were their numbers that, after an army had been detached for the relief of Dalmatia, one hundred and fifty thousand fighting men marched under the royal standard. According to the degrees of rank or merit, the Gothic king distributed arms and horses, rich gifts, and liberal promises; he moved along the Flaminian way, declined the useless sieges of Perugia and Spoleto, respected the impregnable rock of Narni, and arrived within two miles of Rome at the foot of the Milvian bridge.<sup>84</sup> The narrow passage was fortified with a

(the *tenth*) may be admitted on the slight evidence of Nicephorus Callistus (l. xvii. c. 13). [And so Liber Pontificalis. But Evagrius gives the 9th. For the corrupt text of Procopius, B.G. i. c. 14, see Comparetti's note in his edition, p. 112.] For this accurate chronology, we are indebted to the diligence and judgment of Pagi (tom. ii. p. 559, 560).

<sup>84</sup> [Procopius says "bridge over the Tiber at 14 stadia from Rome." This is probably the Milvian bridge (cp. Hodgkin, 4, 134). Gregorovius however thinks that Procopius has confused the Tiber with the Anio, and that Belisarius (who, according to Procopius, marched through the Sabine territory) was all the time on the east bank.]

tower, and Belisarius had computed the value of the twenty days which must be lost in the construction of another bridge. But the consternation of the soldiers of the tower, who either fled or deserted, disappointed his hopes, and betrayed his person into the most imminent danger. At the head of one thousand horse, the Roman general sallied from the Flaminian gate to mark the ground of an advantageous position, and to survey the camp of the Barbarians; but, while he still believed them on the other side of the Tiber, he was suddenly encompassed and assaulted by their innumerable squadrons. The fate of Italy depended on his life; and the deserters pointed to the conspicuous horse, a bay,<sup>85</sup> with a white face, which he rode on that memorable day. "Aim at the bay horse," was the universal cry. Every bow was bent, every javelin was directed, against that fatal object, and the command was repeated and obeyed by thousands who were ignorant of its real motive. The bolder Barbarians advanced to the more honourable combat of swords and spears; and the praise of an enemy has graced the fall of Visandus, the standard-bearer,<sup>86</sup> who maintained his foremost station, till he was pierced with thirteen wounds, perhaps by the hand of Belisarius himself. The Roman general was strong, active, and dexterous; on every side he discharged his weighty and mortal strokes; his faithful guards imitated his valour and defended his person; and the Goths, after the loss of a thousand men, fled before the arms of an hero. They were rashly pursued to their camp; and the Romans, oppressed by multitudes, made a gradual, and at length a precipitate, retreat to the

<sup>85</sup> An horse of a bay or red colour was styled *φάλιος* by the Greeks, *balan* by the Barbarians, and *spadix* by the Romans. *Honesti spadices*, says Virgil (*Georgic. l. iii. 72*, with the Observations of Martin and Heyne). *Σπάδιξ* or *βάσιον* signifies a branch of the palm-tree, whose name, *φοίνιξ*, is synonymous to *red* (Aulus Gellius. ii. 26).

<sup>86</sup> I interpret *βανδαλάριος*, not as a proper name, but an office, standard-bearer, from *bandum* (*vexillum*), a Barbaric word adopted by the Greeks and Romans (Paul Diacon. l. i. c. 20, p. 760. *Grot. Nomina Gothica*, p. 575. *Ducange, Gloss. Latin. tom. i. p. 539, 540*). [But we should expect *βανδοφόρος*.]

gates of the city; the gates were shut against the fugitives; and the public terror was increased by the report that Belisarius was slain. His countenance was indeed disfigured by sweat, dust, and blood; his voice was hoarse, his strength was almost exhausted; but his unconquerable spirit still remained; he imparted that spirit to his desponding companions; and their last desperate charge was felt by the flying Barbarians, as if a new army, vigorous and entire, had been poured from the city. The Flaminian gate was thrown open to a *real* triumph; but it was not before Belisarius had visited every post, and provided for the public safety, that he could be persuaded by his wife and friends to taste the needful refreshments of food and sleep. In the more improved state of the art of war, a general is seldom required, or even permitted, to display the personal prowess of a soldier; and the example of Belisarius may be added to the rare examples of Henry IV., of Pyrrhus, and of Alexander.

After this first and unsuccessful trial of their enemies, the whole army of the Goths passed the Tiber, and formed the siege of the city, which continued above a year, till their final departure. Whatever fancy may conceive, the severe compass of the geographer defines the circumference of Rome within a line of twelve miles and three hundred and forty-five paces; and that circumference, except in the Vatican, has invariably been the same from the triumph of Aurelian to the peaceful but obscure reign of the modern popes.<sup>87</sup> But in the day of her greatness, the space within her walls was crowded with habitations and inhabitants; and the populous suburbs, that stretched along the public roads, were darted

<sup>87</sup> M. d'Anville has given, in the *Mémoires* of the Academy for the year 1756 (tom. xxx. p. 198-236), a plan of Rome on a smaller scale, but far more accurate than that which he had delineated in 1738 for Rollin's history. Experience had improved his knowledge; and, instead of Rossi's topography, he used the new and excellent map of Nolli. Pliny's old measure of *xiii* must be reduced to *viii* miles. It is easier to alter a text than to remove hills or buildings. [The change is unnecessary.]

like so many rays from one common centre. Adversity swept away these extraneous ornaments, and left naked and desolate a considerable part even of the seven hills. Yet Rome in its present state could send into the field above thirty thousand males of a military age; <sup>88</sup> and, notwithstanding the want of discipline and exercise, the far greater part, inured to the hardships of poverty, might be capable of bearing arms for the defence of their country and religion. The prudence of Belisarius did not neglect this important resource. His soldiers were relieved by the zeal and diligence of the people, who watched while *they* slept, and laboured while *they* reposed; he accepted the voluntary service of the bravest and most indigent of the Roman youth; and the companies of townsmen sometimes represented, in a vacant post, the presence of the troops which had been drawn away to more essential duties. But his just confidence was placed in the veterans who had fought under his banner in the Persian and African wars; and, although that gallant band was reduced to five thousand men, he undertook, with such contemptible numbers, to defend a circle of twelve miles, against an army of one hundred and fifty thousand Barbarians. In the walls of Rome, which Belisarius constructed or restored, the materials of ancient architecture may be discerned; <sup>89</sup> and the whole fortification was completed, except in a chasm still extant between the Pincian and Flaminian gates, which the prejudices of the Goths and Romans left under the effectual guard of St. Peter the apostle. <sup>90</sup> The battlements or bastions were shaped in sharp angles; a

<sup>88</sup> In the year 1709, Labat (*Voyages en Italie*, tom. iii. p. 218) reckoned 138,568 Christian souls, besides 8000 or 10,000 Jews — without souls? — In the year 1763, the numbers exceeded 160,000.

<sup>89</sup> The accurate eye of Nardini (*Roma Antica*, l. i. c. viii. p. 31) could distinguish the tumultuarie opere di Belisario.

<sup>90</sup> The fissure and leaning in the upper part of the wall, which Procopius observed (*Goth.* l. i. c. 13), is visible to the present hour (*Donat. Roma Vetus*, l. i. c. 17, p. 53, 54). [This bit is known as the Muro Torto.]

ditch, broad and deep, protected the foot of the rampart; and the archers on the rampart were assisted by military engines: the *balista*, a powerful cross-bow, which darted short but massy arrows; the *onagri*, or wild asses, which, on the principle of a sling, threw stones and bullets of an enormous size.<sup>91</sup> A chain was drawn across the Tiber; the arches of the aqueducts were made impervious, and the mole or sepulchre of Hadrian<sup>92</sup> was converted, for the first time, to the uses of a citadel. That venerable structure, which contained the ashes of the Antonines, was a circular turret, rising from a quadrangular basis: it was covered with the white marble of Paros, and decorated by the statues of gods and heroes; and the lover of the arts must read with a sigh that the works of Praxiteles or Lysippus were torn from their lofty pedestals, and hurled into the ditch on the heads of the besiegers.<sup>93</sup> To each of his lieutenants Belisarius assigned the defence of a gate with the wise and peremptory instruction that, whatever might be the alarm, they should steadily adhere to their respective posts and trust their general for the safety of Rome. The formidable host of the Goths was insufficient to embrace the ample measure of the city; of the fourteen gates, seven only were invested from the Prænestine

<sup>91</sup> Lipsius (Opp. tom. iii. Poliorcet. l. iii.) was ignorant of this clear and conspicuous passage of Procopius (Goth. l. i. c. 21). The engine was named *δραγπος*, the wild ass, a calcitrando (Hen. Steph. Thesaur. Linguæ Græc. tom. ii. p. 1340, 1341, tom. iii. p. 877). I have seen an ingenious model, contrived and executed by General Melville, which imitates or surpasses the art of antiquity.

<sup>92</sup> The description of this mausoleum, or mole, in Procopius (l. i. c. 25) is the first and best. The height above the walls *σχεδὸν ἐς λίθου βολήν* [not the height, but the length of each of the sides]. On Noll's great plan, the sides measure 260 English feet.

<sup>93</sup> Praxiteles excelled in Fauns, and that of Athens was his own masterpiece. Rome now contains above thirty of the same character. When the ditch of St. Angelo was cleansed under Urban VIII. the workmen found the sleeping Faun of the Barberini palace; but a leg, a thigh, and the right arm had been broken from that beautiful statue (Winckelmann, Hist. de l'Art, tom. ii. p. 52, 53; tom. iii. p. 265). [The Dancing Faun, now at Florence, was also found here.]

to the Flaminian way;<sup>94</sup> and Vitiges divided his troops into six camps, each of which was fortified with a ditch and rampart. On the Tuscan side of the river, a seventh encampment was formed in the field or circus of the Vatican, for the important purpose of commanding the Milvian bridge and the course of the Tiber; but they approached with devotion the adjacent church of St. Peter; and the threshold of the holy apostles was respected during the siege by a Christian enemy. In the ages of victory, as often as the senate decreed some distant conquest, the consul denounced hostilities, by unbarring in solemn pomp the gates of the temple of Janus.<sup>95</sup> Domestic war now rendered the admonition superfluous, and the ceremony was superseded by the establishment of a new religion. But the brazen temple of Janus was left standing in the forum; of a size sufficient only to contain the statue of the god, five cubits in height, of a human form, but with two faces, directed to the east and west. The double gates were likewise of brass; and a fruitless effort to turn them on their rusty hinges revealed the scandalous secret that some Romans were still attached to the superstition of their ancestors.

Eighteen days were employed by the besiegers to provide all the instruments of attack which antiquity had invented. Fascines were prepared to fill the ditches, scaling ladders to ascend the walls. The largest trees of the forest supplied the

<sup>94</sup> [The six camps of the Goths invested according to Procopius "five gates," from P. Flaminia to P. Prænestina, the intervening being P. Salaria, P. Nomentana (close to modern P. Pia) and P. Tiburtina (P. San Lorenzo). He does not include the P. Pinciana, which was only a postern. But he might have included the P. Labicana, which was adjacent to the P. Prænestina (together they form the modern P. Maggiore); as the camp which invested the one invested the other. Mr. J. H. Parker in his *Archæology of Rome* has sought to determine the positions of the camps, which are also discussed by Mr. Hodgkin (4, p. 146 *sqq.*).]

<sup>95</sup> Procopius has given the best description of the temple of Janus, a national deity of Latium (Heyne, *Excurs. v. ad. l. vii. Æneid.*). It was once a gate in the primitive city of Romulus and Numa (Nardini, p. 13, 256, 329). Virgil has described the ancient rite, like a poet and an antiquarian.

timbers of four battering-rams; their heads were armed with iron; they were suspended by ropes, and each of them was worked by the labour of fifty men. The lofty wooden turrets moved on wheels or rollers, and formed a spacious platform of the level of the rampart. On the morning of the nineteenth day, a general attack was made from the Prænestine gate to the Vatican: seven Gothic columns, with their military engines, advanced to the assault; and the Romans who lined the ramparts listened with doubt and anxiety to the cheerful assurances of their commander. As soon as the enemy approached the ditch, Belisarius himself drew the first arrow; and such was his strength and dexterity that he transfixed the foremost of the Barbarian leaders. A shout of applause and victory was re-echoed along the wall. He drew a second arrow, and the stroke was followed with the same success and the same acclamation. The Roman general then gave the word that the archers should aim at the teams of oxen; they were instantly covered with mortal wounds; the towers which they drew remained useless and immoveable, and a single moment disconcerted the laborious projects of the king of the Goths. After this disappointment, Vitiges still continued, or feigned to continue, the assault of the Salarian gate, that he might divert the attention of his adversary, while his principal forces more strenuously attacked the Prænestine gate and the sepulchre of Hadrian, at the distance of three miles from each other. Near the former, the double walls of the Vivarium<sup>96</sup> were low or broken; the fortifications of the latter were feebly guarded; the vigour of the Goths was excited by the hope of victory and spoil; and, if a single post had given way, the Romans, and Rome itself, were irrecoverably lost. This perilous day was the most glorious in the life of Belisarius. Amidst tumult and dismay, the whole

<sup>96</sup> *Vivarium* was an angle in the new wall enclosed for wild beasts (Procopius, Goth. l. i. c. 23). The spot is still visible in Nardini (l. iv. c. 2, p. 159, 160) and Nolli's great plan of Rome. [The Vivarium was probably between the wall and the Via Labicana, close to the Porta Maggiore.]

plan of the attack and defence was distinctly present to his mind; he observed the changes of each instant, weighed every possible advantage, transported his person to the scenes of danger, and communicated his spirit in calm and decisive orders. The contest was fiercely maintained from the morning to the evening; the Goths were repulsed on all sides, and each Roman might boast that he had vanquished thirty Barbarians, if the strange disproportion of numbers were not counterbalanced by the merit of one man. Thirty thousand Goths, according to the confession of their own chiefs, perished in this bloody action; and the multitude of the wounded was equal to that of the slain. When they advanced to the assault, their close disorder suffered not a javelin to fall without effect; and, as they retired, the populace of the city joined the pursuit, and slaughtered, with impunity, the backs of their flying enemies. Belisarius instantly sallied from the gates; and, while the soldiers chaunted his name and victory, the hostile engines of war were reduced to ashes. Such was the loss and consternation of the Goths that, from this day, the siege of Rome degenerated into a tedious and indolent blockade; and they were incessantly harassed by the Roman general, who in frequent skirmishes destroyed above five thousand of their bravest troops. Their cavalry was unpractised in the use of the bow; their archers served on foot; and this divided force was incapable of contending with their adversaries, whose lances and arrows, at a distance or at hand, were alike formidable. The consummate skill of Belisarius embraced the favourable opportunities; and, as he chose the ground and the moment, as he pressed the charge or sounded the retreat,<sup>97</sup> the squadrons which he detached were seldom unsuccessful. These partial advantages diffused an im-

<sup>97</sup> For the Roman trumpet and its various notes, consult Lipsius, de Militiâ Romanâ (Opp. tom. iii. l. iv. Dialog. x. p. 125-129). A mode of distinguishing the *charge* by the horse-trumpet of solid brass, and the *retreat* by the foot-trumpet of leather and light wood, was recommended by Procopius, and adopted by Belisarius (Goth. l. ii. c. 23).

patient ardour among the soldiers and people, who began to feel the hardships of a siege, and to disregard the dangers of a general engagement. Each plebeian conceived himself to be an hero, and the infantry, who, since the decay of discipline, were rejected from the line of battle, aspired to the ancient honours of the Roman legion. Belisarius praised the spirit of his troops, condemned their presumption, yielded to their clamours, and prepared the remedies of a defeat, the possibility of which he alone had courage to suspect. In the quarter of the Vatican, the Romans prevailed; and, if the irreparable moments had not been wasted in the pillage of the camp, they might have occupied the Milvian bridge, and charged in the rear of the Gothic host. On the other side of the Tiber, Belisarius advanced from the Pincian<sup>88</sup> and Salarian gates. But his army, four thousand soldiers perhaps, was lost in a spacious plain; they were encompassed and oppressed by fresh multitudes, who continually relieved the broken ranks of the Barbarians. The valiant leaders of the infantry were unskilled to conquer; they died; the retreat (an hasty retreat) was covered by the prudence of the general, and the victors started back with affright from the formidable aspect of an armed rampart. The reputation of Belisarius was unsullied by a defeat; and the vain confidence of the Goths was not less serviceable to his designs than the repentance and modesty of the Roman troops.<sup>89</sup>

From the moment that Belisarius had determined to sustain a siege, his assiduous care provided Rome against the danger of famine, more dreadful than the Gothic arms. An extraordinary supply of corn was imported from Sicily; the harvests of Campania and Tuscany were forcibly swept for the use of the city; and the rights of private property were infringed by the strong plea of the public safety. It might easily be fore-

<sup>88</sup> [The Pincian was a small gate between the Flaminian and Salarian gates; it is almost always spoken of by Procopius as a *πυλῆς* or postern.]

<sup>89</sup> [This battle took place *after* the arrival of the reinforcements under Martin and Valerian, which is recounted below.]

seen that the enemy would intercept the aqueducts; and the cessation of the water-mills was the first inconvenience, which was speedily removed by mooring large vessels, and fixing mill-stones, in the current of the river. The stream was soon embarrassed by the trunks of trees, and polluted with dead bodies; yet so effectual were the precautions of the Roman general that the waters of the Tiber still continued to give motion to the mills and drink to the inhabitants; the more distant quarters were supplied from domestic wells; and a besieged city might support, without impatience, the privation of her public baths. A large portion of Rome, from the Prænestine gate to the church of St. Paul, was never invested by the Goths; their excursions were restrained by the activity of the Moorish troops; the navigation of the Tiber, and the Latin, Appian, and Ostian ways, were left free and unmolested for the introduction of corn and cattle, or the retreat of the inhabitants, who sought a refuge in Campania or Sicily. Anxious to relieve himself from an useless and devouring multitude, Belisarius issued his peremptory orders for the instant departure of the women, the children, and slaves; required his soldiers to dismiss their male and female attendants; and regulated their allowance, that one moiety should be given in provisions and the other in money. His foresight was justified by the increase of the public distress, as soon as the Goths had occupied two important posts in the neighbourhood of Rome. By the loss of the port, or, as it is now called, the city of Porto, he was deprived of the country on the right of the Tiber, and the best communication with the sea; and he reflected with grief and anger, that three hundred men, could he have spared such a feeble band, might have defended its impregnable works. Seven miles from the capital, between the Appian and the Latin ways, two principal aqueducts crossing, and again crossing each other, enclosed within their solid and lofty arches a fortified space,<sup>100</sup> where

<sup>100</sup> Procopius (Goth. l. ii. c. 3) has forgot to name these aqueducts; nor

Vitiges established a camp of seven thousand Goths to intercept the convoys of Sicily and Campania. The granaries of Rome were insensibly exhausted, the adjacent country had been wasted with fire and sword; such scanty supplies as might yet be obtained by hasty excursions were the reward of valour and the purchase of wealth: the forage of the horses and the bread of the soldiers never failed; but in the last months of the siege the people were exposed to the miseries of scarcity, unwholesome food,<sup>101</sup> and contagious disorders. Belisarius saw and pitied their sufferings; but he had foreseen, and he watched, the decay of their loyalty and the progress of their discontent. Adversity had awakened the Romans from the dreams of grandeur and freedom, and taught them the humiliating lesson that it was of small moment to their real happiness whether the name of their master was derived from the Gothic or the Latin language. The lieutenant of Justinian listened to their just complaints, but he rejected with disdain the idea of flight or capitulation; repressed their clamorous impatience for battle; amused them with the prospect of sure and speedy relief; and secured himself and the city from the effects of their despair or treachery. Twice in each month he changed the station of the officers to whom the custody of the gates was committed; the various precautions of patrols, watch-words, lights, and

can such a double intersection, at such a distance from Rome, be clearly ascertained from the writings of Frontinus, Fabretti, and Eschinard, de Aquis and de Agro Romano, or from the local maps of Lameti and Cingolani. Seven or eight miles from the city (50 stadia), on the road to Albano, between the Latin and Appian ways, I discern the remains of an aqueduct (probably the Septimian), a series (630 paces) of arches twenty-five feet high (ἑψηλῶ ἐς ἄγας). [The two aqueducts are obviously the Anio Novus + Claudia and the Marcia + Julia Tepula, which cross each other twice, and so enclose a space, near the Torre Fiscale on the Via Latina, at about three and a half miles from Rome. The only difficulty is that Procopius gives the distance from Rome as 50 stadia.]

<sup>101</sup> They made sausages, ἀλλᾶντας, of mules' flesh: unwholesome, if the animals had died of the plague. Otherwise the famous Bologna sausages are said to be made of ass flesh (Voyages de Labat, tom. ii. p. 218).

music were repeatedly employed to discover whatever passed on the ramparts; out-guards were posted beyond the ditch, and the trusty vigilance of dogs supplied the more doubtful fidelity of mankind. A letter was intercepted, which assured the king of the Goths that the Asinarian gate, adjoining to the Lateran church, should be secretly opened to his troops. On the proof or suspicion of treason, several senators were banished, and the pope Sylverius was summoned to attend the representative of his sovereign, at his head-quarters in the Pincian palace.<sup>102</sup> The ecclesiastics who followed their bishop were detained in the first or second apartment,<sup>103</sup> and he alone was admitted to the presence of Belisarius. The conqueror of Rome and Carthage was modestly seated at the feet of Antonina, who reclined on a stately couch; the general was silent, but the voice of reproach and menace issued from the mouth of his imperious wife. Accused by credible witnesses, and the evidence of his own subscription, the successor of St. Peter was despoiled of his pontifical ornaments, clad in the mean habit of a monk, and embarked without delay for a distant exile in the East. At the emperor's command, the clergy of Rome proceeded to the choice of a new bishop; and, after a solemn invocation of the Holy Ghost, elected the deacon Vigilus, who had purchased the papal throne by a bribe of two hundred pounds of gold. The profit, and consequently the guilt, of this simony was imputed to Belisarius; but the hero obeyed the orders of his wife; Antonina served the passions of the empress; and Theodora lavished her treasures, in the vain hope of obtaining

<sup>102</sup> The name of the palace, the hill, and the adjoining gate were all derived from the senator Pincius. Some recent vestiges of temples and churches are now smoothed in the garden of the Minims of the Trinità del Monte (Nardini, l. iv. c. 7, p. 196, Eschinard, p. 209, 210, the old plan of Buffalino, and the great plan of Nolli). Belisarius had fixed his station between the *Pincian* and *Salarian* gates (Procop. Goth. l. i. c. 15).

<sup>103</sup> From the mention of the *primum et secundum velum*, it should seem that Belisarius, even in a siege, represented the emperor, and maintained the proud ceremonial of the Byzantine palace.

a pontiff hostile or indifferent to the council of Chalcedon.<sup>104</sup>

The epistle of Belisarius to the emperor announced his victory, his danger, and his resolution. "According to your commands, we have entered the dominions of the Goths, and reduced to your obedience Sicily, Campania, and the city of Rome; but the loss of these conquests will be more disgraceful than their acquisition was glorious. Hitherto we have successfully fought against the multitude of the Barbarians, but their multitudes may finally prevail. Victory is the gift of Providence, but the reputation of kings and generals depends on the success or the failure of their designs. Permit me to speak with freedom: if you wish that we should live, send us subsistence; if you desire that we should conquer, send us arms, horses, and men. The Romans have received us as friends and deliverers; but, in our present distress, *they* will be either betrayed by their confidence or we shall be oppressed by *their* treachery and hatred. For myself, my life is consecrated to your service: it is yours to reflect, whether my death in this situation will contribute to the glory and prosperity of your reign." Perhaps that reign would have been equally prosperous, if the peaceful master of the East had abstained from the conquest of Africa and Italy; but, as Justinian was ambitious of fame, he made some efforts, they were feeble and languid, to support and rescue his victorious general. A reinforcement of sixteen hundred Slavonians and Huns was led by Martin and Valerian; and, as they had reposed during the winter season in the harbours of Greece, the strength of the men and horses was not impaired by the fatigues of a sea-voyage; and they distinguished their valour in the first sally against the be-

<sup>104</sup> Of this act of sacrilege, Procopius (Goth. l. i. c. 25) is a dry and reluctant witness. The narratives of Liberatus (Breviarium, c. 22) and Anastasius (de Vit. Pont. p. 39) are characteristic, but passionate. Hear the execrations of Cardinal Baronius (A.D. 536, No. 123; A.D. 538, No. 4-20): *portentum, facinus omni execratione dignum.*

siegers. About the time of the summer solstice, Euthalius landed at Terracina with large sums of money for the payment of the troops; he cautiously proceeded along the Appian way, and this convoy entered Rome through the gate Capena,<sup>105</sup> while Belisarius, on the other side, diverted the attention of the Goths by a vigorous and successful skirmish. These seasonable aids, the use and reputation of which were dexterously managed by the Roman general, revived the courage, or at least the hopes, of the soldiers and people. The historian Procopius was despatched with an important commission, to collect the troops and provisions which Campania could furnish or Constantinople had sent; and the secretary of Belisarius was soon followed by Antonina herself,<sup>106</sup> who boldly traversed the posts of the enemy, and returned with the Oriental succours to the relief of her husband and the besieged city. A fleet of three thousand Isaurians cast anchor in the bay of Naples, and afterwards at Ostia. Above two thousand horse, of whom a part were Thracians, landed at Tarentum; and, after the junction of five hundred soldiers of Campania, and a train of waggons laden with wine and flour, they directed their march on the Appian way, from Capua to the neighbourhood of Rome. The forces that arrived by land and sea were united at the mouth of the Tiber. Antonina convened a council of war: it was resolved to surmount, with sails and oars, the adverse stream of the river; and the Goths were apprehensive of disturbing, by any rash hostilities, the negotiation to which Belisarius had craftily listened. They credulously believed that they saw no more than the vanguard of a fleet and

<sup>105</sup> The old Capena was removed by Aurelian to, or near, the modern gate of St. Sebastian (see Noll's plan). That memorable spot has been consecrated by the Egerian grove, the memory of Numa, triumphal arches, the sepulchres of the Scipios, Metelli, &c.

<sup>106</sup> The expression of Procopius has an invidious cast — *τύχην ἐκ τοῦ ἀσφαλούς τὴν σφίσι συμβησομένην παραδοκεῖν* (Goth. l. ii. c. 4). Yet he is speaking of a woman.

army, which already covered the Ionian sea and the plains of Campania; and the illusion was supported by the haughty language of the Roman general, when he gave audience to the ambassadors of Vitiges. After a specious discourse to vindicate the justice of his cause, they declared that, for the sake of peace, they were disposed to announce the possession of Sicily. "The emperor is not less generous," replied his lieutenant, with a disdainful smile, "in return for a gift which you no longer possess; he presents you with an ancient province of the empire; he resigns to the Goths the sovereignty of the British island." Belisarius rejected with equal firmness and contempt the offer of a tribute; but he allowed the Gothic ambassadors to seek their fate from the mouth of Justinian himself; and consented, with seeming reluctance, to a truce of three months, from the winter solstice to the equinox of spring. Prudence might not safely trust either the oaths or hostages of the Barbarians, but the conscious superiority of the Roman chief was expressed in the distribution of his troops. As soon as fear or hunger compelled the Goths to evacuate Alba, Porto, and Centumcellæ, their place was instantly supplied; the garrisons of Narni, Spoleto, and Perugia were reinforced, and the seven camps of the besiegers were gradually encompassed with the calamities of a siege. The prayers and pilgrimage of Datius, bishop of Milan, were not without effect; and he obtained one thousand Thracians and Isaurians, to assist the revolt of Liguria against her Arian tyrant. At the same time, John the Sanguinary,<sup>107</sup> the nephew of Vitalian, was detached with two thousand chosen horse, first to Alba on the Fucine lake, and afterwards to the frontiers of Picenum on the Hadriatic sea. "In that province," said Belisarius, "the Goths have deposited their families and treasures, without a guard or the suspicion of danger. Doubtless they will violate

<sup>107</sup> Anastasius (p. 40) has preserved this epithet of *Sanguinarius*, which might do honour to a tiger.

the truce: let them feel your presence, before they hear of your motions. Spare the Italians; suffer not any fortified places to remain hostile in your rear; and faithfully reserve the spoil for an equal and common partition. It would not be reasonable," he added with a laugh, "that, whilst we are toiling to the destruction of the drones, our more fortunate brethren should rifle and enjoy the honey."

The whole nation of the Ostrogoths had been assembled for the attack, and was almost entirely consumed in the siege of Rome. If any credit be due to an intelligent spectator, one third at least of their enormous host was destroyed, in frequent and bloody combats under the walls of the city. The bad fame and pernicious qualities of the summer air might already be imputed to the decay of agriculture and population; and the evils of famine and pestilence were aggravated by their own licentiousness and the unfriendly disposition of the country. While Vitiges struggled with his fortune; while he hesitated between shame and ruin; his retreat was hastened by domestic alarms. The king of the Goths was informed by trembling messengers, that John the Sanguinary spread the devastations of war from the Apennine to the Hadriatic; that the rich spoils and innumerable captives of Picenum were lodged in the fortifications of Rimini; and that this formidable chief had defeated his uncle, insulted his capital, and seduced, by secret correspondence, the fidelity of his wife, the imperious daughter of Amalasontha. Yet, before he retired, Vitiges made a last effort either to storm or to surprise the city. A secret passage was discovered in one of the aqueducts; two citizens of the Vatican were tempted by bribes to intoxicate the guards of the Aurelian gate;<sup>108</sup> an attack was meditated on the walls beyond the

<sup>108</sup> [By the P. Aurelia is meant not the old P. Aurelia (on the Via Aurelia, in the Transtiberine region) which Procopius knew as the P. Scti. Pancratii, but a gate on the east bank, opposite the Ponte San Angelo. It does not appear however that the guards of this gate were to be drugged, but the guards who

Tiber in a place which was not fortified with towers; and the Barbarians advanced, with torches and scaling-ladders, to the assault of the Pincian gate. But every attempt was defeated by the intrepid vigilance of Belisarius and his band of veterans, who, in the most perilous moments, did not regret the absence of their companions; and the Goths, alike destitute of hope and subsistence, clamorously urged their departure, before the truce should expire, and the Roman cavalry should again be united. One year and nine days after the commencement of the siege, an army, so lately strong and triumphant, burnt their tents, and tumultuously repassed the Milvian bridge. They repassed not with impunity: their thronging multitudes, oppressed in a narrow passage, were driven headlong into the Tiber, by their own fears and the pursuit of the enemy; and the Roman general, sallying from the Pincian gate, inflicted a severe and disgraceful wound on their retreat. The slow length of a sickly and desponding host was heavily dragged along the Flaminian way; from whence the Barbarians were sometimes compelled to deviate, lest they should encounter the hostile garrisons that guarded the high road to Rimini and Ravenna. Yet so powerful was this flying army that Vitiges spared ten thousand men for the defence of the cities which he was most solicitous to preserve, and detached his nephew Uraias, with an adequate force, for the chastisement of rebellious Milan. At the head of his principal army, he besieged Rimini, only thirty-three miles distant from the Gothic capital. A feeble rampart and a shallow ditch were maintained by the skill and valour of John the Sanguinary, who shared the danger and fatigue of the meanest soldier, and emulated, on a theatre less illustrious, the military virtues of his great commander. The towers and battering engines of the Barbarians were rendered useless; their attacks were repulsed;

· were stationed to defend a weak part of the wall between this gate and the P. Flaminia (P. del Popolo). Proc., B.G. 2, 9.]

and the tedious blockade, which reduced the garrison to the last extremity of hunger, afforded time for the union and march of the Roman forces. A fleet, which had surprised Ancona, sailed along the coast of the Hadriatic, to the relief of the besieged city. The eunuch Narses landed in Picenum with two thousand Heruli and five thousand of the bravest troops of the East. The rock of the Apennine was forced; ten thousand veterans moved round the foot of the mountains under the command of Belisarius himself; and a new army, whose encampment blazed with innumerable lights, *appeared* to advance along the Flaminian way. Overwhelmed with astonishment and despair, the Goths abandoned the siege of Rimini, their tents, their standards, and their leaders;<sup>100</sup> and Vitiges, who gave or followed the example of flight, never halted till he found a shelter within the walls and morasses of Ravenna.

To these walls, and to some fortresses destitute of any mutual support, the Gothic monarchy was now reduced. The provinces of Italy had embraced the party of the emperor; and his army, gradually recruited to the number of twenty thousand men, must have achieved an easy and rapid conquest, if their invincible powers had not been weakened by the discord of the Roman chiefs. Before the end of the siege, an act of blood, ambiguous and indiscreet, sullied the fair fame of Belisarius. Presidius, a loyal Italian, as he fled from Ravenna to Rome, was rudely stopped by Constantine, the military governor of Spoleto, and despoiled, even in a church, of two daggers richly inlaid with gold and precious stones. As soon as the public danger had subsided, Presidius complained of the loss and injury; his complaint was heard, but the order of restitution was disobeyed by the pride and avarice of the offender. Exasperated by the delay, Presidius

<sup>100</sup> [Before the relief of Ariminum, Belisarius and Narses held a council of war at Firmum (Fermo), and the influence of Narses decided that it should be relieved. The objection to that course was the circumstance that Auximum, which the Goths held, would threaten the rear of the relieving army; the motive of most of the objectors was personal hostility to John.]

boldly arrested the general's horse as he passed through the forum; and with the spirit of a citizen demanded the common benefit of the Roman laws. The honour of Belisarius was engaged; he summoned a council; claimed the obedience of his subordinate officer; and was provoked, by an insolent reply, to call hastily for the presence of his guards. Constantine, viewing their entrance as the signal of death, drew his sword, and rushed on the general, who nimbly eluded the stroke, and was protected by his friends; while the desperate assassin was disarmed, dragged into a neighbouring chamber, and executed, or rather murdered, by the guards, at the arbitrary command of Belisarius.<sup>110</sup> In this hasty act of violence, the guilt of Constantine was no longer remembered; the despair and death of that valiant officer were secretly imputed to the revenge of Antonina; and each of his colleagues, conscious of the same rapine, was apprehensive of the same fate. The fear of a common enemy suspended the effects of their envy and discontent; but, in the confidence of approaching victory, they instigated a powerful rival to oppose the conqueror of Rome and Africa. From the domestic service of the palace and the administration of the private revenue, Narses the eunuch was suddenly exalted to

<sup>110</sup> This transaction is related in the public history (Goth. l. ii. c. 8) with candour or caution, in the Anecdotes (c. 7) [*leg.* 1] with malevolence or freedom; but Marcellinus, or rather his continuator (in Chron.), casts a shade of premeditated assassination over the death of Constantine. He had performed good service at Rome and Spoleto (Procop. Goth. l. i. c. 7, 14); but Alemannus confounds him with a Constantianus comes stabuli. [In the Public History Procopius dares to observe that this was the only iniquitous act committed by Belisarius and that it was foreign to his nature; for he was generally very lenient. The implication is explained in the Secret History, where Procopius states that Constantine would have been let off if Antonina had not intervened. The cause of her grudge against Constantine is told below, p. 169. Procopius adds (Anecd. 1) that Justinian and the Roman aristocracy did not forgive Belisarius for Constantine's death. This episode offers a good instance of the relation between the Military and the Secret History. Mr. Hodgkin can hardly be right in supposing that Constantine actually wounded Belisarius. The words are *ἀφῆκε τε αὐτόν* (the dagger) *ἐπὶ τῆν βελισσαρίου γαστέρα ὄσσειν*, which signify merely an attempt to wound.]

the head of an army; and the spirit of an hero, who afterwards equalled the merit and glory of Belisarius, served only to perplex the operations of the Gothic war. To his prudent counsels, the relief of Rimini was ascribed by the leaders of the discontented faction, who exhorted Narses to assume an independent and separate command. The epistle of Justinian had indeed enjoined his obedience to the general; but the dangerous exception, "as far as may be advantageous to the public service," reserved some freedom of judgment to the discreet favourite, who had so lately departed from the *sacred* and familiar conversation of his sovereign. In the exercise of this doubtful right, the eunuch perpetually dissented from the opinions of Belisarius; and, after yielding with reluctance to the siege of Urbino, he deserted his colleague in the night, and marched away to the conquest of the Æmilian province. The fierce and formidable bands of the Heruli were attached to the person of Narses;<sup>111</sup> ten thousand Romans and confederates were persuaded to march under his banners; every malecontent embraced the fair opportunity of revenging his private or imaginary wrongs; and the remaining troops of Belisarius were divided and dispersed from the garrisons of Sicily to the shores of the Adriatic. His skill and perseverance overcame every obstacle: Urbino was taken,<sup>112</sup> the sieges of Fæsulæ, Orvieto, and Auximum were undertaken and vigorously prosecuted; and the eunuch Narses was at length recalled to the domestic cares of the palace. All dissensions were healed, and all opposition was subdued, by the temperate authority of the Roman general, to whom his enemies could not refuse their

<sup>111</sup> They refused to serve after his departure; sold their captives and cattle to the Goths; and swore never to fight against them. Procopius introduces a curious digression on the manners and adventures of this wandering nation, a part of whom finally emigrated to Thule or Scandinavia (Goth. l. ii. c. 14, 15).

<sup>112</sup> [c. Dec. 21, A.D. 538. Urbs Vetus was taken early in 539; Fæsulæ and Auximum, about October or November in the same year. See Clinton, F.R. ad ann.]

esteem; and Belisarius inculcated the salutary lesson that the forces of the state should compose one body and be animated by one soul. But in the interval of discord the Goths were permitted to breathe; an important season was lost, Milan was destroyed, and the northern provinces of Italy were afflicted by an inundation of the Franks.

When Justinian first meditated the conquest of Italy, he sent ambassadors to the kings of the Franks, and adjured them, by the common ties of alliance and religion, to join in the holy enterprise against the Arians. The Goths, as their wants were more urgent, employed a more effectual mode of persuasion, and vainly strove, by the gift of lands and money, to purchase the friendship, or at least the neutrality, of a light and perfidious nation.<sup>113</sup> But the arms of Belisarius and the revolt of the Italians had no sooner shaken the Gothic monarchy than Theodebert of Austrasia, the most powerful and warlike of the Merovingian kings, was persuaded to succour their distress by an indirect and seasonable aid. Without expecting the consent of their sovereign, ten thousand Burgundians, his recent subjects, descended from the Alps, and joined the troops which Vitiges had sent to chastise the revolt of Milan. After an obstinate siege, the capital of Liguria was reduced by famine, but no capitulation could be obtained, except for the safe retreat of the Roman garrison. Datius, the orthodox bishop, who had seduced his countrymen to rebellion<sup>114</sup> and ruin, escaped to the luxury and honours of the Byzantine court;<sup>115</sup> but the clergy, perhaps the Arian clergy, were slaughtered at the foot of

<sup>113</sup> This national reproach of perfidy (Procop. Goth. l. ii. c. 25) offends the ear of la Mothe la Vayer (tom. viii. p. 163-165), who criticises, as if he had not read, the Greek historian.

<sup>114</sup> Baronius applauds his treason, and justifies the Catholic bishops — qui ne sub heretico principe degant omnem lapidem movent — an useful caution. The more rational Muratori (Annali d'Italia. tom. v. p. 54) hints at the guilt of perjury and blames at least the *imprudence* of Datius.

<sup>115</sup> St. Datius was more successful against devils than against Barbarians. He travelled with a numerous retinue, and occupied at Corinth a large house (Baronius, A.D. 538, No. 89; A.D. 539, No. 20).

their own altars by the defenders of the Catholic faith. Three hundred thousand males were *reported* to be slain;<sup>116</sup> the female sex, and the more precious spoil, was resigned to the Burgundians; and the houses, or at least the walls, of Milan were levelled with the ground. The Goths, in their last moments, were revenged by the destruction of a city, second only to Rome in size and opulence, in the splendour of its buildings, or the number of its inhabitants; and Belisarius sympathised alone in the fate of his deserted and devoted friends. Encouraged by this successful inroad, Theodebert himself, in the ensuing spring, invaded the plains of Italy with an army of one hundred thousand Barbarians.<sup>117</sup> The king and some chosen followers were mounted on horseback and armed with lances: the infantry, without bows or spears, were satisfied with a shield, a sword, and a double-edged battle-axe, which, in their hands, became a deadly and unerring weapon. Italy trembled at the march of the Franks; and both the Gothic prince and the Roman general, alike ignorant of their designs, solicited, with hope and terror, the friendship of these dangerous allies. Till he had secured the passage of the Po on the bridge of Pavia, the grandson of Clovis dissembled his intentions, which he at length declared by assaulting, almost at the same instant, the hostile camps of the Romans and Goths. Instead of uniting their arms, they fled with equal precipitation; and the fertile though desolate provinces of Liguria and Æmilia were abandoned to a licentious host of Barbarians, whose rage was not mitigated

<sup>116</sup> *Μυριάδες τριάκοντα* (compare Procopius, Goth. l. ii. c. 7, 21). Yet such population is incredible; and the second or third city of Italy need not re-pine if we only decimate the numbers of the present text. Both Milan and Genoa revived in less than thirty years (Paul Diacon. de Gestis Langobard. l. ii. c. 38).

<sup>117</sup> Besides Procopius, perhaps too Roman, see the Chronicles of Marius and Marcellinus, Jornandes (in Success. Regn. in Muratori, tom. i. p. 241), and Gregory of Tours (l. iii. c. 32, in tom. ii. of the Historians of France). Gregory supposes a defeat of Belisarius, who, in Aimoin (de Gestis Franc. l. ii. c. 23, in tom. iii. p. 59), is slain by the Franks.

by any thoughts of settlement or conquest. Among the cities which they ruined, Genoa, not yet constructed of marble, is particularly enumerated; and the deaths of thousands, according to the regular practice of war, appear to have excited less horror than some idolatrous sacrifices of women and children, which were performed with impunity in the camp of the most Christian king. If it were not a melancholy truth that the first and most cruel sufferings must be the lot of the innocent and helpless, history might exult in the misery of the conquerors, who, in the midst of riches, were left destitute of bread or wine, reduced to drink the waters of the Po, and to feed on the flesh of distempered cattle. The dysentery swept away one third of their army; and the clamours of his subjects, who were impatient to pass the Alps, disposed Theodebert to listen with respect to the mild exhortations of Belisarius. The memory of this inglorious and destructive warfare was perpetuated on the medals of Gaul; and Justinian, without unsheathing his sword, assumed the title of conqueror of the Franks. The Merovingian prince was offended by the vanity of the emperor; he affected to pity the fallen fortunes of the Goths; and his insidious offer of a federal union was fortified by the promise or menace of descending from the Alps at the head of five hundred thousand men. His plans of conquest were boundless and perhaps chimerical. The king of Austrasia threatened to chastise Justinian, and to march to the gates of Constantinople; <sup>118</sup> he was overthrown and slain <sup>119</sup> by a wild bull <sup>120</sup> as he hunted in the Belgic or German forests.

<sup>118</sup> Agathias, l. i. p. 14, 15. Could he have seduced or subdued the Gepidæ or Lombards of Pannonia, the Greek historian is confident that he must have been destroyed in Thrace.

<sup>119</sup> The king pointed his spear — the bull overturned a tree on his head — he expired the same day. Such is the story of Agathias; but the original Historians of France (tom. ii. p. 202, 403, 558, 667) impute his death to a fever.

<sup>120</sup> Without losing myself in a labyrinth of species and names — the aurochs, urus, bisons, bubalus, bonasus, buffalo, &c. (Buffon, Hist. Nat. tom. xi. and Supplément, tom. iii. vi.), it is certain that in the sixth century <sup>a</sup>

As soon as Belisarius was delivered from his foreign and domestic enemies, he seriously applied his forces to the final reduction of Italy. In the siege of Osimo, the general was nearly transpierced with an arrow, if the mortal stroke had not been intercepted by one of his guards, who lost, in that pious office, the use of his hand. The Goths of Osimo, four thousand warriors, with those of Fæsulæ and the Cottian Alps, were among the last who maintained their independence; and their gallant resistance, which almost tired the patience, deserved the esteem, of the conqueror. His prudence refused to subscribe the safe-conduct which they asked, to join their brethren of Ravenna; but they saved, by an honourable capitulation, one moiety at least of their wealth, with the free alternative of retiring peaceably to their estates, or enlisting to serve the emperor in his Persian wars. The multitudes which yet adhered to the standard of Vitiges far surpassed the number of the Roman troops; but neither prayers, nor defiance, nor the extreme danger of his most faithful subjects could tempt the Gothic king beyond the fortifications of Ravenna. These fortifications were indeed impregnable to the assaults of art or violence; and, when Belisarius invested the capital, he was soon convinced that famine only could tame the stubborn spirit of the Barbarians. The sea, the land, and the channels of the Po were guarded by the vigilance of the Roman general; and his morality extended the rights of war to the practice of poisoning the waters,<sup>121</sup> and secretly firing the granaries,<sup>122</sup> of a besieged

large wild species of horned cattle was hunted in the great forests of the Vosges in Lorraine, and the Ardennes (Greg. Turon. tom. ii. l. x. c. 10, p. 369).

<sup>121</sup> In the siege of Auximum, he first laboured to demolish an old aqueduct, and then cast into the stream, 1. dead bodies; 2. mischievous herbs; and 3. quicklime, which is named (says Procopius, l. ii. c. 29) *τιτραως* by the ancients, by the moderns *ασβεστος*. Yet both words are used as synonymous in Galen, Dioscorides, and Lucian (Hen. Steph. Thesaur. Ling. Græc. tom. iii. p. 748).

<sup>122</sup> The Goths suspected Mathasuentha as an accomplice in the mischief, which perhaps was occasioned by accidental lightning.

city.<sup>129</sup> While he pressed the blockade of Ravenna, he was surprised by the arrival of two ambassadors from Constantinople, with a treaty of peace which Justinian had imprudently signed without deigning to consult the author of his victory. By this disgraceful and precarious agreement, Italy and the Gothic treasury were divided, and the provinces beyond the Po were left with the regal title to the successor of Theodoric. The ambassadors were eager to accomplish their salutary commission; the captive Vitiges accepted, with transport, the unexpected offer of a crown; honour was less prevalent among the Goths than the want and appetite of food; and the Roman chiefs, who murmured at the continuance of the war, professed implicit submission to the commands of the emperor. If Belisarius had possessed only the courage of a soldier, the laurel would have been snatched from his hand by timid and envious counsels; but, in this decisive moment, he resolved, with the magnanimity of a statesman, to sustain alone the danger and merit of generous disobedience. Each of his officers gave a written opinion that the siege of Ravenna was impracticable and hopeless: the general then rejected the treaty of partition, and declared his own resolution of leading Vitiges in chains to the feet of Justinian. The Goths retired with doubt and dismay; this peremptory refusal deprived them of the only signature which they could trust, and filled their minds with a just apprehension that a sagacious enemy had discovered the full extent of their deplorable state. They compared the

<sup>129</sup> In strict philosophy, a limitation of the rights of war seems to imply nonsense and contradiction. Grotius himself is lost in an idle distinction between the *jus naturæ* and the *jus gentium*, between poison and infection. He balances in one scale the passages of Homer (*Odys. A. 259, &c.*) and Florus (*l. ii. c. 20, No. 7 ult.*); and in the other the examples of Solon (*Pausanias, l. x. c. 37*) and Belisarius. See his great work, *De Jure Belli et Pacis* (*l. iii. c. 4, s. 15, 16, 17*, and in Barbeyrac's version, *tom. ii. p. 257, &c.*). Yet I can understand the benefit and validity of an agreement, tacit or express, mutually to abstain from certain modes of hostility. See the Amphictyonic oath in *Æschines, de Falsâ Legatione*.

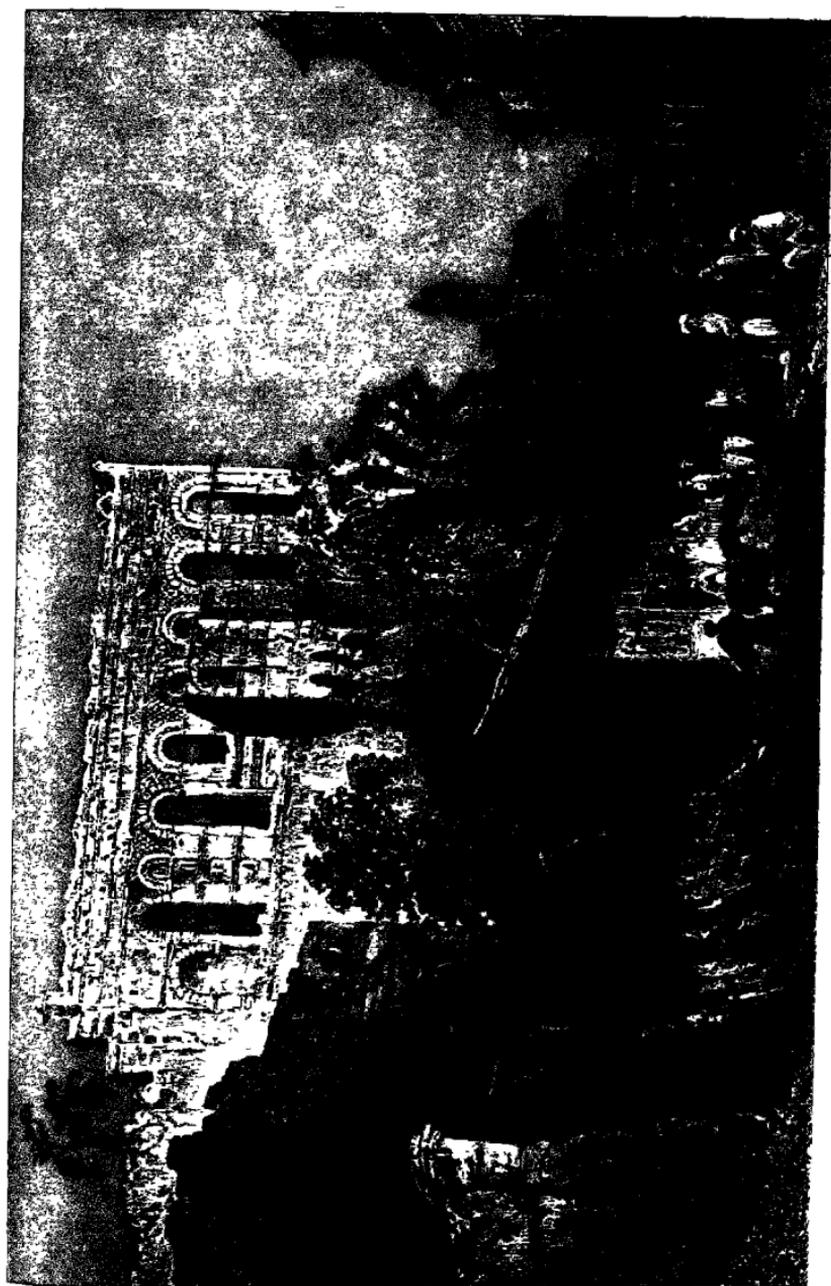
fame and fortune of Belisarius with the weakness of their ill-fated king; and the comparison suggested an extraordinary project, to which Vitiges, with apparent resignation, was compelled to acquiesce. Partition would ruin the strength, exile would disgrace the honour, of the nation; but they offered their arms, their treasures, and the fortifications of Ravenna, if Belisarius would disclaim the authority of a master, accept the choice of the Goths, and assume, as he had deserved, the kingdom of Italy. If the false lustre of a diadem could have tempted the loyalty of a faithful subject, his prudence must have foreseen the inconstancy of the Barbarians, and his rational ambition would prefer the safe and honourable station of a Roman general. Even the patience and seeming satisfaction with which he entertained a proposal of treason might be susceptible of a malignant interpretation. But the lieutenant of Justinian was conscious of his own rectitude; he entered into a dark and crooked path, as it might lead to the voluntary submission of the Goths; and his dexterous policy persuaded them that he was disposed to comply with their wishes, without engaging an oath or a promise for the performance of a treaty which he secretly abhorred. The day of the surrender of Ravenna was stipulated by the Gothic ambassadors; a fleet, laden with provisions, sailed as a welcome guest into the deepest recess of the harbour; the gates were opened to the fancied king of Italy; and Belisarius, without meeting an enemy, triumphantly marched through the streets of an impregnable city.<sup>124</sup> The Romans were astonished by their

<sup>124</sup> Ravenna was taken, not in the year 540, but in the latter end of 539; and Pagi (tom. ii. p. 569) is rectified by Muratori (Annali d'Italia, tom. v. p. 62 [leg. tom. iii. p. 343]), who proves, from an original act on papyrus (Antiquit. Italizæ Medii Ævi, tom. ii. dissert. xxxii. p. 999-1007. Maffei, Istoria Diplom. p. 155-160), that before the 3rd of January 540 peace and free correspondence were restored between Ravenna and Faenza. [The original act is a *venditio* or deed of sale dated: sub die ii nonarum Jan., ind. tertia, sexies p. c. Paulini iun.]

success; the multitude of tall and robust Barbarians were confounded by the image of their own patience; and the masculine females, spitting in the faces of their sons and husbands, most bitterly reproached them for betraying their dominion and freedom to these pygmies of the South, contemptible in their numbers, diminutive in their stature. Before the Goths could recover from the first surprise and claim the accomplishment of their doubtful hopes, the victor established his power in Ravenna, beyond the danger of repentance and revolt. Vitiges, who perhaps had attempted to escape, was honourably guarded in his palace;<sup>125</sup> the flower of the Gothic youth was selected for the service of the emperor; the remainder of the people was dismissed to their peaceful habitations in the southern provinces; and a colony of Italians was invited to replenish the depopulated city. The submission of the capital was imitated in the towns and villages of Italy, which had not been subdued, or even visited, by the Romans; and the independent Goths who remained in arms at Pavia and Verona were ambitious only to become the subjects of Belisarius. But his inflexible loyalty rejected, except as the substitute of Justinian, their oaths of allegiance; and he was not offended by the reproach of their deputies, that he rather chose to be a slave than a king.

After the second victory of Belisarius, envy again whispered, Justinian listened, and the hero was recalled. "The remnant of the Gothic war was no longer worthy of his presence; a gracious sovereign was impatient to reward his services, and to consult his wisdom; and he alone was capable of defending the East against the innumerable armies of Persia." Belisarius understood the suspicion, accepted the excuse,

<sup>125</sup> He was seized by John the Sanguinary, but an oath or sacrament was pledged for his safety in the Basilica Julii (*Hist. Miscell.* l. xvii. in Muratori, tom. i. p. 107). Anastasius (in *Vit. Pont.* p. 40) gives a dark but probable account. Montfaucon is quoted by Mascou (*Hist. of the Germans*, xii. 21) for a votive shield representing the captivity of Vitiges, and now in the collection of Signor Landi at Rome.



embarked at Ravenna his spoils and trophies; and proved, by his ready obedience, that such an abrupt removal from the government of Italy was not less unjust than it might have been indiscreet. The emperor received, with honourable courtesy, both Vitiges and his more noble consort; and, as the king of the Goths conformed to the Athanasian faith, he obtained, with a rich inheritance of lands in Asia, the rank of senator and patrician.<sup>126</sup> Every spectator admired, without peril, the strength and stature of the young Barbarians; they adored the majesty of the throne, and promised to shed their blood in the service of their benefactor. Justinian deposited in the Byzantine palace the treasures of the Gothic monarchy. A flattering senate was sometimes admitted to gaze on the magnificent spectacle; but it was enviously secluded from the public view; and the conqueror of Italy renounced, without a murmur, perhaps without a sigh, the well-earned honours of a second triumph. His glory was indeed exalted above all external pomp; and the faint and hollow praises of the court were supplied, even in a servile age, by the respect and admiration of his country. Whenever he appeared in the streets and public places of Constantinople, Belisarius attracted and satisfied the eyes of the people. His lofty stature and majestic countenance fulfilled their expectations of an hero; the meanest of his fellow-citizens were emboldened by his gentle and gracious demeanour; and the martial train which attended his footsteps left his person more accessible than in a day of battle. Seven thousand horsemen, matchless for beauty and valour, were maintained in the service, and at the private expense, of the general.<sup>127</sup> Their prowess was always conspicuous in single

<sup>126</sup> Vitiges lived two years at Constantinople, and *imperatoris in affectu convictus* (or *conjunctus*) *rebus excessit humanis*. His widow, *Mathasuenta*, the wife and mother of the patricians, the elder and younger Germanus, united the streams of Anician and Amali blood (Jornandes, c. 60, p. 221 in Muratori, tom. i.).

<sup>127</sup> Procopius, Goth. l. iii. c. 1. Aimoin, a French monk of the xith century,

combats, or in the foremost ranks; and both parties confessed that in the siege of Rome the guards of Belisarius had alone vanquished the Barbarian host. Their numbers were continually augmented by the bravest and most faithful of the enemy; and his fortunate captives, the Vandals, the Moors, and the Goths, emulated the attachment of his domestic followers. By the union of liberality and justice, he acquired the love of the soldiers, without alienating the affections of the people. The sick and wounded were relieved with medicines and money; and, still more efficaciously, by the healing visits and smiles of their commander. The loss of a weapon or a horse was instantly repaired, and each deed of valour was rewarded by the rich and honourable gifts of a bracelet or a collar, which were rendered more precious by the judgment of Belisarius. He was endeared to the husbandmen by the peace and plenty which they enjoyed under the shadow of his standard. Instead of being injured, the country was enriched, by the march of the Roman armies; and such was the rigid discipline of their camp that not an apple was gathered from the tree, not a path could be traced in the fields of corn. Belisarius was chaste and sober. In the licence of a military life, none could boast that they had seen him intoxicated with wine; the most beautiful captives of Gothic or Vandal race were offered to his embraces; but he turned aside from their charms, and the husband of Antonina was never suspected of violating the laws of conjugal fidelity. The spectator and historian of his exploits has observed that, amidst the perils of war, he was daring without rashness, prudent without fear, slow or rapid according to the exigencies of the moment; that in the deepest distress, he was animated by real or apparent hope; but that he was modest and humble in the

who had obtained, and has disfigured, some authentic information of Belisarius, mentions, in his name, 12,000 *pueri* or slaves — quos propriis alimus stipendiis — besides 18,000 soldiers (Historians of France, tom. iii. De Gestis Franc. l. ii. c. 6, p. 48).

most prosperous fortune. By these virtues he equalled, or excelled, the ancient masters of the military art. Victory, by sea and land, attended his arms. He subdued Africa, Italy, and the adjacent islands; led away captives the successors of Genseric and Theodoric; filled Constantinople with the spoils of their palaces; and in the space of six years recovered half the provinces of the Western empire. In his fame and merit, in wealth and power, he remained without a rival, the first of the Roman subjects; the voice of envy could only magnify his dangerous importance; and the emperor might applaud his own discerning spirit which had discovered and raised the genius of Belisarius.

It was the custom of the Roman triumphs that a slave should be placed behind the chariot to remind the conqueror of the instability of fortune and the infirmities of human nature. Procopius, in his Anecdotes, has assumed that servile and ungrateful office. The generous reader may cast away the libel, but the evidence of facts will adhere to his memory; and he will reluctantly confess that the fame, and even the virtue, of Belisarius were polluted by the lust and cruelty of his wife; and that the hero deserved an appellation which may not drop from the pen of the decent historian. The mother of Antonina<sup>128</sup> was a theatrical prostitute, and both her father and grandfather exercised at Thessalonica and Constantinople the vile, though lucrative, profession of charioteers. In the various situations of their fortune, she became the companion, the enemy, the servant, and the favourite of the empress Theodora: these loose and ambitious females had been connected by similar pleasures; they were separated by the jealousy of vice, and at length reconciled by the partnership of guilt. Before her marriage with Belisarius, Antonina had one husband and many lovers;

<sup>128</sup> The diligence of Alemannus could add but little to the four first and most curious chapters of the Anecdotes. Of these strange Anecdotes, a part may be true, because probable — and a part true, because improbable. Procopius must have *known* the former, and the latter he could scarcely *invent*.

Photius, the son of her former nuptials, was of an age to distinguish himself at the siege of Naples; and it was not till the autumn of her age and beauty<sup>129</sup> that she indulged a scandalous attachment to a Thracian youth. Theodosius had been educated in the Eunomian heresy; the African voyage was consecrated by the baptism and auspicious name of the first soldier who embarked; and the proselyte was adopted into the family of his spiritual parents,<sup>130</sup> Belisarius and Antonina. Before they touched the shores of Africa, this holy kindred degenerated into sensual love; and, as Antonina soon overleaped the bounds of modesty and caution, the Roman general was alone ignorant of his own dishonour. During their residence at Carthage, he surprised the two lovers in a subterraneous chamber, solitary, warm, and almost naked. Anger flashed from his eyes. "With the help of this young man," said the unblushing Antonina, "I was secreting our most precious effects from the knowledge of Justinian." The youth resumed his garments, and the pious husband consented to disbelieve the evidence of his own senses. From this pleasing and perhaps voluntary elusion Belisarius was awakened at Syracuse, by the officious information of Macedonia; and that female attendant, after requiring an oath for her security, produced two chamberlains, who, like herself, had often beheld the adulteries of Antonina. An hasty flight into Asia saved Theodosius from the justice of an injured husband, who had signified to one of his guards the order of his death; but the tears of Antonina, and her artful seductions, assured the credulous hero of her innocence; and he stooped, against

<sup>129</sup> Procopius insinuates (Anecdot. c. 4) that, when Belisarius returned to Italy (A.D. 543), Antonina was sixty years of age. A forced but more polite construction, which refers that date to the moment when he was writing (A.D. 559), would be compatible with the manhood of Photius (Gothic. l. i. c. 10) in 536.

<sup>130</sup> Compare the Vandalic war (l. i. c. 12) with the Anecdotes (c. 1) and Alemannus (p. 2, 3). This mode of baptismal adoption was revived by Leo the philosopher.

his faith and judgment, to abandon those imprudent friends who had presumed to accuse or doubt the chastity of his wife. The revenge of a guilty woman is implacable and bloody: the unfortunate Macedonia, with the two witnesses, were secretly arrested by the minister of her cruelty; their tongues were cut out, their bodies were hacked into small pieces, and their remains were cast into the sea of Syracuse. A rash though judicious saying of Constantine, "I would sooner have punished the adulteress than the boy," was deeply remembered by Antonina; and two years afterwards, when despair had armed that officer against his general, her sanguinary advice decided and hastened his execution. Even the indignation of Photius was not forgiven by his mother; the exile of her son prepared the recall of her lover; and Theodosius condescended to accept the pressing and humble invitation of the conqueror of Italy. In the absolute direction of his household, and in the important commissions of peace and war,<sup>121</sup> the favourite youth most rapidly acquired a fortune of four hundred thousand pounds sterling; and, after their return to Constantinople, the passion of Antonina, at least, continued ardent and unabated. But fear, devotion, and lassitude perhaps, inspired Theodosius with more serious thoughts. He dreaded the busy scandal of the capital and the indiscreet fondness of the wife of Belisarius; escaped from her embraces, and, retiring to Ephesus, shaved his head and took refuge in the sanctuary of a monastic life. The despair of the new Ariadne could scarcely have been excused by the death of her husband. She wept, she tore her hair, she filled the palace with her cries; "she had lost the dearest of friends, a tender, a faithful, a laborious friend!" But her warm entreaties, fortified by the prayers of Belisarius, were insufficient to draw the holy monk from the solitude of

<sup>121</sup> In November 537, Photius arrested the pope (Liberat. Brev. c. 22. Pagi, tom. ii. p. 562). About the end of 539, Belisarius sent Theodosius — τὸν τῆς οἰκίας τῆς αὐτοῦ ἐφεστῶτα — on an important and lucrative commission to Ravenna (Goth. i. ii. c. 18).

Ephesus. It was not till the general moved forward for the Persian war, that Theodosius could be tempted to return to Constantinople; and the short interval before the departure of Antonina herself was boldly devoted to love and pleasure.

A philosopher may pity and forgive the infirmities of female nature, from which he receives no real injury; but contemptible is the husband who feels, and yet endures, his own infamy in that of his wife. Antonina pursued her son with implacable hatred; and the gallant Photius<sup>132</sup> was exposed to her secret persecutions in the camp beyond the Tigris. Enraged by his own wrongs and by the dishonour of his blood, he cast away in his turn the sentiments of nature, and revealed to Belisarius the turpitude of a woman who had violated all the duties of a mother and a wife. From the surprise and indignation of the Roman general, his former credulity appears to have been sincere: he embraced the knees of the son of Antonina, adjured him to remember his obligations rather than his birth, and confirmed at the altar their holy vows of revenge and mutual defence. The dominion of Antonina was impaired by absence; and, when she met her husband, on his return from the Persian confines, Belisarius, in his first and transient emotions, confined her person and threatened her life. Photius was more resolved to punish, and less prompt to pardon: he flew to Ephesus; extorted from a trusty eunuch of his mother the full confession of her guilt; arrested Theodosius and his treasures in the church of St. John the Apostle; and concealed his captives, whose execution was only delayed, in a secure and sequestered fortress of Cilicia. Such a daring outrage against public justice could not pass with impunity; and the cause of Antonina was espoused by the empress, whose favour she had deserved by the recent services of the disgrace of a prefect and the

<sup>132</sup> Theophanes (Chronograph. p. 204) styles him *Photinus*, the son-in-law [son, *i.e.*, stepson, τὸν προγόνον] of Belisarius; and he is copied by the *Historia Miscella* and *Anastasius* [cp. Cramer, *Anecd. Par.* 2, 111].

exile and murder of a pope. At the end of the campaign, Belisarius was recalled; he complied, as usual, with the Imperial mandate. His mind was not prepared for rebellion; his obedience, however adverse to the dictates of honour, was consonant to the wishes of his heart; and, when he embraced his wife, at the command, and perhaps in the presence, of the empress, the tender husband was disposed to forgive or to be forgiven. The bounty of Theodora reserved for her companion a more precious favour. "I have found," she said, "my dearest patrician, a pearl of inestimable value: it has not yet been viewed by any mortal eye; but the sight and the possession of this jewel are destined for my friend." As soon as the curiosity and impatience of Antonina were kindled, the door of a bed-chamber was thrown open, and she beheld her lover, whom the diligence of the eunuchs had discovered in his secret prison. Her silent wonder burst into passionate exclamations of gratitude and joy, and she named Theodora her queen, her benefactress, and her saviour. The monk of Ephesus was nourished in the palace with luxury and ambition; but, instead of assuming, as he was promised, the command of the Roman armies, Theodosius expired in the first fatigues of an amorous interview. The grief of Antonina could only be assuaged by the sufferings of her son. A youth of consular rank, and a sickly constitution, was punished, without a trial, like a malefactor and a slave; yet such was the constancy of his mind that Photius sustained the tortures of the scourge and the rack without violating the faith which he had sworn to Belisarius. After this fruitless cruelty, the son of Antonina, while his mother feasted with the empress, was buried in her subterraneous prisons, which admitted not the distinction of night and day. He twice escaped to the most venerable sanctuaries of Constantinople, the churches of St. Sophia and of the Virgin; but his tyrants were insensible of religion as of pity; and the helpless youth, amidst the clamours of the clergy and people, was twice dragged from the altar to the dungeon. His third

attempt was more successful. At the end of three years, the prophet Zachariah, or some mortal friend, indicated the means of an escape; he eluded the spies and guards of the empress, reached the holy sepulchre of Jerusalem, embraced the profession of a monk; and the abbot Photius was employed, after the death of Justinian, to reconcile and regulate the churches of Egypt. The son of Antonina suffered all that an enemy can inflict; her patient husband imposed on himself the more exquisite misery of violating his promise and deserting his friend.

In the succeeding campaign, Belisarius was again sent against the Persians: he saved the East, but he offended Theodora, and perhaps the emperor himself. The malady of Justinian had countenanced the rumour of his death; and the Roman general, on the supposition of that probable event, spoke the free language of a citizen and a soldier. His colleague Buzes, who concurred in the same sentiments, lost his rank, his liberty, and his health, by the persecution of the empress; but the disgrace of Belisarius was alleviated by the dignity of his own character, and the influence of his wife, who might wish to humble, but could not desire to ruin, the partner of her fortunes. Even his removal was coloured by the assurance that the sinking state of Italy would be retrieved by the single presence of its conqueror. But no sooner had he returned, alone and defenceless, than an hostile commission was sent to the East, to seize his treasures and criminate his actions; the guards and veterans who followed his private banner were distributed among the chiefs of the army, and even the eunuchs presumed to cast lots for the partition of his martial domestics. When he passed with a small and sordid retinue through the streets of Constantinople, his forlorn appearance excited the amazement and compassion of the people. Justinian and Theodora received him with cold ingratitude; the servile crowd with insolence and contempt; and in the evening he retired with trembling steps to his deserted palace. An indisposition,

feigned or real, had confined Antonina to her apartment: and she walked disdainfully silent in the adjacent portico, while Belisarius threw himself on his bed, and expected, in an agony of grief and terror, the death which he had so often braved under the walls of Rome. Long after sun-set a messenger was announced from the empress; he opened, with anxious curiosity, the letter which contained the sentence of his fate. "You cannot be ignorant how much you have deserved my displeasure. I am not insensible of the services of Antonina. To her merits and intercession I have granted your life, and permit you to retain a part of your treasures, which might be justly forfeited to the state. Let your gratitude, where it is due, be displayed, not in words, but in your future behaviour." I know not how to believe or to relate the transports with which the hero is said to have received this ignominious pardon. He fell prostrate before his wife; he kissed the feet of his saviour; and he devoutly promised to live the grateful and submissive slave of Antonina. A fine of one hundred and twenty thousand pounds sterling was levied on the fortunes of Belisarius; and with the office of count, or master of the royal stables, he accepted the conduct of the Italian war. At his departure from Constantinople, his friends, and even the public, were persuaded that, as soon as he regained his freedom, he would renounce his dissimulation, and that his wife, Theodora, and perhaps the emperor himself, would be sacrificed to the just revenge of a virtuous rebel. Their hopes were deceived; and the unconquerable patience and loyalty of Belisarius appear either *below* or *above* the character of a MAN.<sup>123</sup>

<sup>123</sup> The continuator of the chronicle of Marcellinus gives, in a few decent words, the substance of the anecdotes: Belisarius de Oriente evocatus, in offensam periculumque incurrens grave et invidiæ subjacens, rursus remittitur in Italiam (p. 54).

## CHAPTER XLII

*State of the Barbaric World — Establishment of the Lombards on the Danube — Tribes and Inroads of the Sclavonians — Origin, Empire, and Embassies of the Turks — The Flight of the Avars — Chosroes I. or Nushirvan King of Persia — His prosperous Reign and Wars with the Romans — The Colchian or Lazic War — The Ethiopians*

OUR estimate of personal merit is relative to the common faculties of mankind. The aspiring efforts of genius or virtue, either in active or speculative life, are measured not so much by their real elevation as by the height to which they ascend above the level of their age or country; and the same stature, which in a people of giants would pass unnoticed, must appear conspicuous in a race of pygmies. Leonidas and his three hundred companions devoted their lives at Thermopylæ; but the education of the infant, the boy, and the man had prepared, and almost ensured, this memorable sacrifice; and each Spartan would approve, rather than admire, an act of duty of which himself and eight thousand of his fellow-citizens were equally capable.<sup>1</sup> The great Pompey might inscribe on his trophies, that he had defeated in battle two millions of enemies and reduced fifteen hundred cities from the lake Mæotis to the Red

<sup>1</sup> It will be a pleasure, not a task, to read Herodotus (l. vii. c. 104, 134, p. 550, 615). The conversation of Xerxes and Demaratus at Thermopylæ is one of the most interesting and moral scenes in history. It was the torture of the royal Spartan to behold, with anguish and remorse, the virtue of his country.

Sea;<sup>2</sup> but the fortune of Rome flew before his eagles; the nations were oppressed by their own fears; and the invincible legions which he commanded had been formed by the habits of conquest and the discipline of ages. In this view, the character of Belisarius may be deservedly placed above the heroes of the ancient republics. His imperfections flowed from the contagion of the times; his virtues were his own, the free gift of nature or reflection; he raised himself without a master or a rival; and so inadequate were the arms committed to his hand that his sole advantage was derived from the pride and presumption of his adversaries. Under his command, the subjects of Justinian often deserved to be called Romans; but the unwarlike appellation of Greeks was imposed as a term of reproach by the haughty Goths; who affected to blush that they must dispute the kingdom of Italy with a nation of tragedians, pantomimes, and pirates.<sup>3</sup> The climate of Asia has indeed been found less congenial than that of Europe to military spirit; those populous countries were enervated by luxury, despotism, and superstition; and the monks were more expensive and more numerous than the soldiers of the East. The regular force of the empire had once amounted to six hundred and forty-five thousand men: it was reduced, in the time of Justinian, to one hundred and fifty thousand; and this number, large as it may seem, was thinly scattered over the sea and land; in Spain and Italy, in Africa and Egypt, on the banks of the Danube, the coast of the Euxine, and the frontiers of Persia. The citizen was exhausted, yet the soldier was unpaid; his

<sup>2</sup> See this proud inscription in Pliny (Hist. Natur. vii. 27). Few men have more exquisitely tasted of glory and disgrace; nor could Juvenal (Satir. x.) produce a more striking example of the vicissitudes of fortune and the vanity of human wishes.

<sup>3</sup> Γραικούς . . . ἐξ ὧν τὰ πρότερα οὐδένα ἐς Ἰταλίαν ἤκουσα εἶδον, ὅτι μὴ τραγωδοῦν, καὶ ναύτας λωποδύτας. This last epithet of Procopius is too nobly translated by pirates; naval thieves is the proper word: strippers of garments, either for injury or insult (Demosthenes contra Conon. in Reiske Orator. Græc. tom. ii. p. 1264).

poverty was mischievously soothed by the privilege of rapine and indolence; and the tardy payments were detained and intercepted by the fraud of those agents who usurp, without courage or danger, the emoluments of war. Public and private distress recruited the armies of the state; but in the field, and still more in the presence of the enemy, their numbers were always defective. The want of national spirit was supplied by the precarious faith and disorderly service of Barbarian mercenaries. Even military honour, which has often survived the loss of virtue and freedom, was almost totally extinct. The generals, who were multiplied beyond the example of former times, laboured only to prevent the success, or to sully the reputation, of their colleagues; and they had been taught by experience that, if merit sometimes provoked the jealousy, error or even guilt would obtain the indulgence, of a gracious emperor.<sup>4</sup> In such an age the triumphs of Belisarius, and afterwards of Narses, shine with incomparable lustre; but they are encompassed with the darkest shades of disgrace and calamity. While the lieutenant of Justinian subdued the kingdoms of the Goths and Vandals, the emperor,<sup>5</sup> timid though ambitious, balanced the forces of the Barbarians, fomented their divisions by flattery and falsehood, and invited by his patience and liberality the repetition of injuries.<sup>6</sup> The keys of Carthage, Rome, and Ravenna were presented to their conqueror, while Antioch was destroyed by the Persians and Justinian trembled for the safety of Constantinople.

Even the Gothic victories of Belisarius were prejudicial to

<sup>4</sup> See the third and fourth books of the Gothic War: the writer of the Anecdotes cannot aggravate these abuses.

<sup>5</sup> Agathias, l. 5, p. 157, 158 [c. 14]. He confines this weakness of the emperor and the empire to the old age of Justinian; but, alas! he was never young.

<sup>6</sup> This mischievous policy, which Procopius (Anecdot. c. 19) imputes to the emperor, is revealed in his epistle to a Scythian prince, who was capable of understanding it. *"Αγαθὸν προμηθεῖ καὶ ἀγχινοῦστατον*, says Agathias (l. v. p. 170, 171 [c. 24]).

the state, since they abolished the important barrier of the Upper Danube, which had been so faithfully guarded by Theodoric and his daughter. For the defence of Italy, the Goths evacuated Pannonia and Noricum, which they left in a peaceful and flourishing condition; the sovereignty was claimed by the emperor of the Romans; the actual possession was abandoned to the boldness of the first invader. On the opposite banks of the Danube, the plains of Upper Hungary and the Transylvanian hills were possessed, since the death of Attila, by the tribes of the Gepidæ,<sup>6\*</sup> who respected the Gothic arms, and despised, not indeed the gold of the Romans, but the secret motive of their annual subsidies. The vacant fortifications of the river were instantly occupied by these Barbarians; their standards were planted on the walls of Sirmium and Belgrade; and the ironical tone of their apology aggravated this insult on the majesty of the empire. "So extensive, O Cæsar, are your dominions, so numerous are your cities, that you are continually seeking for nations to whom, either in peace or war, you may relinquish these useless possessions. The Gepidæ are your brave and faithful allies; and, if they have anticipated your gifts, they have shewn a just confidence in your bounty." Their presumption was excused by the mode of revenge which Justinian embraced. Instead of asserting the rights of a sovereign for the protection of his subjects, the emperor invited a strange people to invade and possess the Roman provinces between the Danube and the Alps; and the ambition of the Gepidæ was checked by the rising power and fame of the LOMBARDS.<sup>7</sup> This corrupt appellation has been

<sup>6\*</sup> [The *settlements* of the Gepidæ seem, so far as our evidence goes, to have been confined to Iazygia. Their sway may have extended east of the Theiss.]

<sup>7</sup> Gens Germanâ feritate ferociore, says Velleius Paterculus of the Lombards (ii. 106). Langobardos paucitas nobilitat. Plurimis ac valentissimis nationibus cincti non per obsequium sed præliis et periclitando tuti sunt (Tacit. de Moribus German. c. 40). See likewise Strabo (l. vii. p. 446 [2, § 4]). The best geographers place them beyond the Elbe, in the bishopric

diffused in the thirteenth century by the merchants and bankers, the Italian posterity of these savage warriors; but the original name of *Langobards* is expressive only of the peculiar length and fashion of their beards. I am not disposed either to question or to justify their Scandinavian origin;<sup>8</sup> nor to pursue the migrations of the Lombards through unknown regions and marvellous adventures. About the time of Augustus and Trajan, a ray of historic light breaks on the darkness of their antiquities, and they are discovered, for the first time, between the Elbe and the Oder. Fierce beyond the example of the Germans, they delighted to propagate the tremendous belief that their heads were formed like the heads of dogs and that they drank the blood of their enemies whom they vanquished in battle. The smallness of their numbers was recruited by the adoption of their bravest slaves; and alone, amidst their powerful neighbours, they defended by arms their high-spirited independence. In the tempests of the North, which overwhelmed so many names and nations, this little bark of the Lombards still floated on the surface; they gradually descended towards the south and the Danube; and at the end of four hundred years they again appear with their ancient valour and renown. Their manners were not less ferocious. The assassination of a royal guest was executed in the presence, and by the command, of the king's daughter, who had been provoked by some words of insult and disappointed by his diminutive stature; and a tribute, the price of blood, was imposed on the Lombards, by his brother the king of the Heruli. Adversity revived a sense of moderation and justice, and the

of Magdeburg and the middle march of Brandenburg; and their situation will agree with the patriotic remark of the Count de Hertzberg, that most of the Barbarian conquerors issued from the same countries which still produce the armies of Prussia.

<sup>8</sup> The Scandinavian origin of the Goths and Lombards, as stated by Paul Warnefrid, surnamed the deacon, is attacked by Cluverius (*Germania Antiq.* l. iii. c. 26, p. 102, &c.), a native of Prussia, and defended by Grotius (*Prolegom. ad Hist. Goth.* p. 28, &c.), the Swedish ambassador.

insolence of conquest was chastised by the signal defeat and irreparable dispersion of the Heruli, who were seated in the southern provinces of Poland.<sup>9</sup> The victories of the Lombards recommended them to the friendship of the emperors; and, at the solicitation of Justinian, they passed the Danube, to reduce, according to their treaty, the cities of Noricum and the fortresses of Pannonia. But the spirit of rapine soon tempted them beyond these ample limits; they wandered along the coast of the Hadriatic as far as Dyrrachium, and presumed, with familiar rudeness, to enter the towns and houses of their Roman allies and to seize the captives who had escaped from their audacious hands. These acts of hostility, the sallies, as it might be pretended, of some loose adventurers, were disowned by the nation and excused by the emperor; but the arms of the Lombards were more seriously engaged by a contest of thirty years, which was terminated only by the extirpation of the Gepidæ. The hostile nations often pleaded their cause before the throne of Constantinople; and the crafty Justinian, to whom the Barbarians were almost equally odious, pronounced a partial and ambiguous sentence, and dexterously protracted the war by slow and ineffectual succours. Their strength was formidable, since the Lombards, who sent into the field several *myriads* of soldiers, still claimed, as the weaker side, the protection of the Romans. Their spirit was intrepid; yet such is the uncertainty of courage that the two armies were suddenly struck with a panic; they fled from each other, and the rival kings remained with their guards in the midst of an empty plain. A short truce was obtained; but their mutual resentment again kindled; and the remembrance of their shame rendered the next encounter more desperate and bloody. Forty thousand of the Barbarians perished in the

<sup>9</sup> Two facts in the narrative of Paul Diaconus (l. i. c. 20) are expressive of national manners: 1. *Dum ad tabulam luderet* — while he played at draughts. 2. *Camporum viridantia lina*. The cultivation of flax supposes property, commerce, agriculture, and manufactures.

decisive battle, which broke the power of the Gepidæ, transferred the fears and wishes of Justinian, and first displayed the character of Alboin, the youthful prince of the Lombards, and the future conqueror of Italy.<sup>10</sup>

The wild people who dwelt or wandered in the plains of Russia, Lithuania, and Poland might be reduced, in the age of Justinian, under the two great families of the BULGARIANS<sup>11</sup> and the SCLAVONIANS. According to the Greek writers, the former, who touched the Euxine and the lake Mæotis, derived from the Huns their name or descent; and it is needless to renew the simple and well-known picture of Tartar manners. They were bold and dexterous archers, who drank the milk and feasted on the flesh of their fleet and indefatigable horses; whose flocks and herds followed, or rather guided, the motions of their roving camps; to whose inroads no country was remote or impervious, and who were practised in flight, though incapable of fear. The nation was divided into two powerful and hostile tribes, who pursued each other with fraternal hatred. They eagerly disputed the friendship or rather the gifts of the emperor; and the distinction which nature had fixed between the faithful dog and the rapacious wolf was applied by an ambassador who received only verbal instructions from the mouth of his illiterate prince.<sup>12</sup> The

<sup>10</sup> I have used, without undertaking to reconcile, the facts in Procopius (Goth. l. ii. c. 14; l. iii. c. 33, 34; l. iv. c. 18, 25), Paul Diaconus (de Gestis Langobard, l. i. c. 1-23, in Muratori, Script. Rerum Italicarum, tom. i. p. 405-419), and Jornandes (de Success. Regnorum, p. 242). The patient reader may draw some light from Mascou (Hist. of the Germans, and Annotat. xxiii.) and de Buat (Hist. des Peuples, &c. tom. ix. x. xi.).

<sup>11</sup> I adopt the appellation of Bulgarians, from Ennodius (in Panegyrt. Theodorici, Opp. Sirmond. tom. i. p. 1598, 1599), Jornandes (de Rebus Geticis, c. 5, p. 194, et de Regn. Successione, p. 242), Theophanes (p. 185), and the Chronicles of Cassiodorius and Marcellinus. The name of Huns is too vague; the tribes of Cutturgurians and Utturgurians are too minute and too harsh. [See Appendix 7.]

<sup>12</sup> Procopius (Goth. l. iv. c. 19). His verbal message (he owns himself an illiterate Barbarian) is delivered as an epistle. The style is savage, figurative, and original.

Bulgarians, of whatsoever species, were equally attracted by Roman wealth: they assumed a vague dominion over the Slavonian name, and their rapid marches could only be stopped by the Baltic sea or the extreme cold and poverty of the North. But the same race of Slavonians appears to have maintained, in every age, the possession of the same countries. Their numerous tribes, however distant or adverse, used one common language (it was harsh and irregular), and were known by the resemblance of their form, which deviated from the swarthy Tartar, and approached without attaining the lofty stature and fair complexion of the German. Four thousand six hundred villages<sup>13</sup> were scattered over the provinces of Russia and Poland, and their huts were hastily built of rough timber, in a country deficient both in stone and iron. Erected, or rather concealed, in the depth of forests, on the banks of rivers, or the edge of morasses, we may not perhaps, without flattery, compare them to the architecture of the beaver; which they resembled in a double issue, to the land and water, for the escape of the savage inhabitant, an animal less cleanly, less diligent, and less social than that marvellous quadruped. The fertility of the soil, rather than the labour of the natives, supplied the rustic plenty of the Slavonians. Their sheep and horned cattle were large and numerous, and the fields which they sowed with millet and panic<sup>14</sup> afforded, in the place of bread,

<sup>13</sup> This sum is the result of a particular list, in a curious MS. fragment of the year 550, found in the library of Milan. The obscure geography of the times provokes and exercises the patience of the count de Buat (tom. xi. p. 69-189). The French minister often loses himself in a wilderness which requires a Saxon and Polish guide. [This list, preserved in a Munich MS., is a fragment of a Bavarian geographer of the ninth century. It includes some non-Slavonic peoples. It is printed by Schafarik, *Slaw. Alterthümer*, ii. p. 673.]

<sup>14</sup> *Panicum milium*. See Columella, l. ii. c. 9, p. 430, edit. Gesner. Plin. *Hist. Natur.* xviii. 24, 25. The Sarmatians made a pap of millet, mingled with mares' milk or blood. In the wealth of modern husbandry, our millet feeds poultry, and not heroes. See the dictionaries of [Valmont-de-] Bomare [1768] and Miller.

a coarse and less nutritive food. The incessant rapine of their neighbours compelled them to bury this treasure in the earth; but on the appearance of a stranger, it was freely imparted by a people whose unfavourable character is qualified by the epithets of chaste, patient, and hospitable. As their supreme God, they adored an invisible master of the thunder. The rivers and the nymphs obtained their subordinate honours, and the popular worship was expressed in vows and sacrifice. The Slavonians disdained to obey a despot, a prince, or even a magistrate; but their experience was too narrow, their passions too headstrong, to compose a system of equal law or general defence. Some voluntary respect was yielded to age and valour; but each tribe or village existed as a separate republic, and all must be persuaded where none could be compelled. They fought on foot, almost naked, and, except an unwieldy shield, without any defensive armour; their weapons of offence were a bow, a quiver of small poisoned arrows, and a long rope, which they dexterously threw from a distance, and entangled their enemy in a running noose. In the field, the Slavonian infantry was dangerous by their speed, agility, and hardiness; they swam, they dived, they remained under water, drawing their breath through a hollow cane; and a river or lake was often the scene of their unsuspected ambuscade. But these were the achievements of spies or stragglers; the military art was unknown to the Slavonians; their name was obscure, and their conquests were inglorious.<sup>15</sup>

I have marked the faint and general outline of the Slavonians and Bulgarians, without attempting to define their

<sup>15</sup> For the name and nation, the situation and manners of the Slavonians, see the original evidence of the sixth century, in Procopius (Goth. l. ii. c. 26, l. iii. c. 14), and the emperor Mauritius or Maurice (Stratagemat. l. ii. c. 5, apud Mascou, Annotat. xxxi. [p. 272 sqq. ed. Scheffer]). The stratagems of Maurice have been printed only, as I understand, at the end of Scheffer's edition of Arrian's Tactics, at Upsal, 1664 (Fabric. Bibliot. Græc. l. iv. c. 8, tom. iii. p. 278), a scarce, and hitherto, to me, an inaccessible book. [The *Strategikon* is a work of the sixth century, but not by Maurice.]

intermediate boundaries, which were not accurately known or respected by the Barbarians themselves. Their importance was measured by their vicinity to the empire; and the level country of Moldavia and Walachia was occupied by the Antes,<sup>16</sup> a Sclavonian tribe, which swelled the titles of Justinian with an epithet of conquest.<sup>17</sup> Against the Antes he erected the fortifications of the Lower Danube; and laboured to secure the alliance of a people seated in the direct channel of Northern inundation, an interval of two hundred miles between the mountains of Transylvania and the Euxine sea. But the Antes wanted power and inclination to stem the fury of the torrent; and the light-armed Sclavonians, from an hundred tribes, pursued, with almost equal speed, the footsteps of the Bulgarian horse. The payment of one piece of gold for each soldier procured a safe and easy retreat through the country of the Gepidæ, who commanded the passage of the Upper Danube.<sup>18</sup> The hopes or fears of the Barbarians; their intestine union or discord; the accident of a frozen or shallow stream; the prospect of harvest or vintage; the prosperity or distress of the Romans; were the causes which produced the uniform repetition of annual visits,<sup>19</sup> tedious in the narrative and destructive in the event. The same year, and possibly the same month, in which Ravenna surrendered, was marked by an invasion of the Huns or Bulgarians, so dreadful that it almost effaced the memory of their past inroads. They spread from the

<sup>16</sup> Antes eorum fortissimi . . . Taysis qui rapidus et vorticosus in Histri fluenta furens devolvitur (Jornandes, c. 5, p. 194, edit. Murator. Procopius, Goth. l. iii. c. 14, et de Ædific. l. iv. c. 7). Yet the same Procopius mentions the Goths and Huns as neighbours, γειτονοῦντα, to the Danube (de Ædific. l. iv. c. 1).

<sup>17</sup> The national title of *Anticus*, in the laws and inscriptions of Justinian, was adopted by his successors, and is justified by the pious Ludewig (in Vit. Justinian. p. 515). It had strangely puzzled the civilians of the middle age.

<sup>18</sup> Procopius, Goth. l. iv. c. 25.

<sup>19</sup> An inroad of the Huns is connected, by Procopius, with a comet; perhaps that of 531 (Persic. l. ii. c. 4). Agathias (l. v. p. 154, 155 [c. 11]) borrows from his predecessor some early facts.

suburbs of Constantinople to the Ionian gulf, destroyed thirty-two cities or castles, erased Potidæa, which Athens had built and Philip had besieged, and repassed the Danube, dragging at their horses' heels one hundred and twenty thousand of the subjects of Justinian. In a subsequent inroad they pierced the wall of the Thracian Chersonesus, extirpated the habitations and the inhabitants, boldly traversed the Hellespont, and returned to their companions, laden with the spoils of Asia. Another party, which seemed a multitude in the eyes of the Romans, penetrated, without opposition, from the straits of Thermopylæ to the isthmus of Corinth; and the last ruin of Greece has appeared an object too minute for the attention of history. The works which the emperor raised for the protection, but at the expense of his subjects, served only to disclose the weakness of some neglected part; and the walls, which by flattery had been deemed impregnable, were either deserted by the garrison or scaled by the Barbarians. Three thousand Slavonians, who insolently divided themselves into two bands, discovered the weakness and misery of a triumphant reign. They passed the Danube and the Hebrus, vanquished the Roman generals who dared to oppose their progress, and plundered with impunity the cities of Illyricum and Thrace, each of which had arms and numbers to overwhelm their contemptible assailants. Whatever praise the boldness of the Slavonians may deserve, it is sullied by the wanton and deliberate cruelty which they are accused of exercising on their prisoners. Without distinction of rank, or age, or sex, the captives were impaled, or flayed alive, or suspended between four posts and beaten with clubs till they expired, or enclosed in some spacious building and left to perish in the flames with the spoil and cattle which might impede the march of these savage victors.<sup>20</sup> Perhaps a more impartial

<sup>20</sup> The cruelties of the Slavonians are related or magnified by Procopius (Goth. l. iii. c. 29, 38). For their mild and liberal behaviour to their pris-

narrative would reduce the number, and qualify the nature, of these horrid acts; and they might sometimes be excused by the cruel laws of retaliation. In the siege of Topirus,<sup>21</sup> whose obstinate defence had enraged the Slavonians, they massacred fifteen thousand males; but they spared the women and children; the most valuable captives were always reserved for labour or ransom; the servitude was not rigorous, and the terms of their deliverance were speedy and moderate. But the subject or the historian of Justinian exhaled his just indignation in the language of complaint and reproach; and Procopius has confidently affirmed that in a reign of thirty-two years each *annual* inroad of the Barbarians consumed two hundred thousand of the inhabitants of the Roman empire. The entire population of Turkish Europe, which nearly corresponds with the provinces of Justinian, would perhaps be incapable of supplying six millions of persons, the result of this incredible estimate.<sup>22</sup>

In the midst of these obscure calamities, Europe felt the shock of a revolution, which first revealed to the world the name and nation of the TURKS.<sup>23</sup> Like Romulus, the founder of that martial people was suckled by a she-wolf, who afterwards made him the father of a numerous progeny; and the representation of that animal in the banners of the Turks preserved the memory, or rather suggested the idea, of a fable, which was invented, without any mutual intercourse, by the shepherds of Latium and those of Scythia. At the equal distance of two thousand miles from the Caspian, the

oners, we may appeal to the authority, somewhat more recent, of the emperor Maurice (Stratagem. l. ii. c. 5).

<sup>21</sup> Topirus was situate near Philippi in Thrace, or Macedonia, opposite to the isle of Thasos, twelve days' journey from Constantinople (Cellarius, tom. i. p. 676, 840).

<sup>22</sup> According to the malevolent testimony of the Anecdotes (c. 18), these inroads had reduced the provinces south of the Danube to the state of a Scythian wilderness.

<sup>23</sup> [For the name and origin of the Turks see Appendix 8.]

Icy, the Chinese, and the Bengal seas, a ridge of mountains is conspicuous, the centre and perhaps the summit of Asia; which, in the language of different nations, has been styled Imaus, and Caf,<sup>24</sup> and Altai, and the Golden Mountains, and the Girdle of the Earth. The sides of the hills were productive of minerals; and the iron forges,<sup>25</sup> for the purpose of war, were exercised by the Turks, the most despised portion of the slaves of the great khan of the Geougen. But their servitude could only last till a leader, bold and eloquent, should arise, to persuade his countrymen that the same arms which they forged for their masters might become, in their own hands, the instruments of freedom and victory. They sallied from the mountain; <sup>26</sup> a sceptre was the reward of his advice; and the annual ceremony, in which a piece of iron was heated in the fire and a smith's hammer was successively handled by the prince and his nobles, recorded for ages the humble profession and rational pride of the Turkish nation.

<sup>24</sup> From Caf to Caf; which a more rational geography would interpret, from Imaus, perhaps, to Mount Atlas. According to the religious philosophy of the Mahometans, the basis of Mount Caf is an emerald, whose reflection produces the azure of the sky. The mountain is endowed with a sensitive action in its roots or nerves; and their vibration, at the command of God, is the cause of earthquakes (D'Herbelot, p. 230, 231).

<sup>25</sup> The Siberian iron is the best and most plentiful in the world; and, in the southern parts, above sixty mines are now worked by the industry of the Russians (Strahlenberg, *Hist. of Siberia*, p. 342, 387. *Voyage en Sibérie*, par l'Abbé Chappe de Auteroche, p. 603-608, edit. in 12mo. Amsterdam, 1770). The Turks offered iron for sale; yet the Roman ambassadors, with strange obstinacy, persisted in believing that it was all a trick, and that their country produced none (Menander in *Excerpt. Leg.* p. 152). [According to Mr. Parker (*Eng. Hist. Review*, 43, p. 435) Chinese authors distinctly state that the iron district in which the Turks worked for the Geougen was "somewhere between what are now called Etzinai and Kokonor, on the borders of, if not actually in, the modern Chinese province of Kansuh." It was not, as De Guignes and Gibbon say, near the river Irtish.]

<sup>26</sup> Of Irgana-kon (Abulghazi Khan, *Hist. Généalogique de Tatars*, P. ii. c. 5, p. 71-77; c. 15, p. 155). The tradition of the Moguls, of the 450 years which they passed in the mountains, agrees with the Chinese periods of the history of the Huns and Turks (De Guignes, tom. i. part ii. p. 376), and the twenty generations, from their restoration to Zingis.

Bertezena,<sup>27</sup> their first leader, signalled their valour and his own in successful combats against the neighbouring tribes; but, when he presumed to ask in marriage the daughter of the great khan, the insolent demand of a slave and a mechanic was contemptuously rejected.<sup>28</sup> The disgrace was expiated by a more noble alliance with a princess of China; and the decisive battle, which almost extirpated the nation of Geougen, established in Tartary the new and more powerful empire of the Turks. They reigned over the north; but they confessed the vanity of conquest by their faithful attachment to the mountain of their fathers. The royal encampment seldom lost sight of Mount Altai, from whence the river Irtysh descends to water the rich pastures of the Calmucks,<sup>29</sup> which nourish the largest sheep and oxen in the world. The soil is fruitful, and the climate mild and temperate; the happy region was ignorant of earthquake and pestilence; the emperor's throne was turned towards the east, and a golden wolf, on the top of a spear, seemed to guard the entrance of his tent. One of the successors of Bertezena was tempted by the luxury and superstition of China; but his design of building cities and temples was defeated by the simple wisdom of a Barbarian counsellor. "The Turks," he said, "are not equal in number to one hundredth part of the inhabitants of China. If we balance their power and elude their armies, it is because we wander without any fixed habitations, in the exercise of war and hunting. Are we strong? we advance and conquer: are we feeble? we retire and are concealed.

<sup>27</sup> [Asena, who is here confounded with Tumen, was the leader who sought the protection of the Geougen, c. 440 A.D.; see Appendix 8.]

<sup>28</sup> [Tumen was the king (according to Chinese sources) who threw off the yoke of the Geougen. He reigned 543-553. See Parker, Eng. Hist. Review, 43, p. 436.]

<sup>29</sup> The country of the Turks, now of the Calmucks, is well described in the Genealogical History, p. 521-562. The curious notes of the French translator are enlarged and digested in the second volume of the English version. [The residence of these Turkish khans was not near Mount Altai; see Appendix 8.]

Should the Turks confine themselves within the walls of cities, the loss of a battle would be the destruction of their empire. The Bonzes preach only patience, humility, and the renunciation of the world. Such, O king! is not the religion of heroes." They entertained with less reluctance the doctrines of Zoroaster; but the greatest part of the nation acquiesced, without inquiry, in the opinions, or rather in the practice, of their ancestors. The honours of sacrifice were reserved for the supreme deity; they acknowledged, in rude hymns, their obligations to the air, the fire, the water, and the earth; and their priests derived some profit from the art of divination. Their unwritten laws were rigorous and impartial: theft was punished by a tenfold restitution; adultery, treason, and murder, with death; and no chastisement could be inflicted too severe for the rare and inexpiable guilt of cowardice. As the subject nations marched under the standard of the Turks, their cavalry, both men and horses, were proudly computed by millions; one of their effective armies consisted of four hundred thousand soldiers, and in less than fifty years they were connected in peace and war with the Romans, the Persians, and the Chinese. In their northern limits, some vestige may be discovered of the form and situation of Kamtchatka, of a people of hunters and fishermen, whose sledges were drawn by dogs, and whose habitations were buried in the earth. The Turks were ignorant of astronomy; but the observation taken by some learned Chinese, with a gnomon of eight feet, fixes the royal camp in the latitude of forty-nine degrees, and marks their extreme progress within three, or at least ten, degrees of the polar circle.<sup>50</sup> Among their southern conquests, the most splendid was that of the Nephtalites or white Huns, a polite and war-like people, who possessed the commercial cities of Bochara and Samarcand, who had vanquished the

<sup>50</sup> Visdelou, p. 141, 151. The fact, though it strictly belongs to a subordinate and successive tribe, may be introduced here.

Persian monarch, and carried their victorious arms along the banks, and perhaps to the mouth, of the Indus. On the side of the west, the Turkish cavalry advanced to the lake Mæotis. They passed that lake on the ice. The khan, who dwelt at the foot of Mount Altai, issued his commands for the siege of Bosphorus,<sup>31</sup> a city, the voluntary subject of Rome, and whose princes had formerly been the friends of Athens.<sup>32</sup> To the east, the Turks invaded China, as often as the vigour of the government was relaxed; and I am taught to read in the history of the times, that they mowed down their patient enemies like hemp or grass; and that the mandarins applauded the wisdom of an emperor who repulsed these Barbarians with golden lances. This extent of savage empire compelled the Turkish monarch to establish three subordinate princes of his own blood, who soon forgot their gratitude and allegiance. The conquerors were enervated by luxury, which is always fatal except to an industrious people; the policy of China solicited the vanquished nations to resume their independence; and the power of the Turks was limited to a period of two hundred years. The revival of their name and dominion in the southern countries of Asia are the events of a later age; and the dynasties which succeeded to their native realms may sleep in oblivion, since *their* history bears no relation to the decline and fall of the Roman empire.<sup>33</sup>

In the rapid career of conquest, the Turks attacked and sub-

<sup>31</sup> Procopius, *Persic.* l. i. c. 12; l. ii. c. 3. Peyssonnel (*Observations sur les Peuples Barbares*, p. 99, 100) defines the distance between Caffa and the old Bosphorus at xvi long Tartar leagues.

<sup>32</sup> See in a *Memoir of M. de Boze* (*Mém. de l'Académie des Inscriptions*, tom. vi. p. 549-565), the ancient kings and medals of the Cimmerian Bosphorus; and the gratitude of Athens, in the *Oration of Demosthenes against Leptines* (in *Reiske, Orator. Græc.* tom. i. p. 466, 467).

<sup>33</sup> For the origin and revolutions of the first Turkish empire, the Chinese details are borrowed from *De Guignes* (*Hist. des Huns*, tom. i. P. ii. p. 367-462) and *Visdelou* (*Supplément à la Bibliothèque Orient. d'Herbelot*, p. 82-114). The Greek or Roman hints are gathered in *Menander* (p. 108-164) and *Theophylact Simocatta* (l. vii. c. 7, 8).

duced the nation of the Ogors, or Varchonites,<sup>34</sup> on the banks of the river Til, which derived the epithet of black from its dark water or gloomy forests.<sup>35</sup> The khan of the Ogors was slain with three hundred thousand of his subjects, and their bodies were scattered over the space of four days' journey: their surviving countrymen acknowledged the strength and mercy of the Turks; and a small portion, about twenty thousand warriors, preferred exile to servitude. They followed the well-known road of the Volga, cherished the error of the nations who confounded them with the Avars, and spread the terror of that false though famous appellation, which had not, however, saved its lawful proprietors from the yoke of the Turks.<sup>36</sup> After a long and victorious march, the new Avars arrived at the foot of Mount Caucasus, in the country of the Alani<sup>37</sup> and Circassians, where they first heard of the splendour and weakness of the Roman empire. They humbly requested their confederate, the prince of the Alani, to lead them to this source of riches; and their ambassador, with the permission of the governor of Lazica, was trans-

<sup>34</sup> [Theophylactus (vii. 7, 14) says that the race called Ogor (*οἱ Ὀγόροι*) were afterwards called Var-and-Chunni (*Ὀβάροι καὶ Χουννοί*); and these are clearly Menander's "Varchonites." The word *var* meant "river" and was used by the Huns for the Dnieper (Jordanes, p. 127, ed. Momms.). The Chinese sources mention Ouigours near the Tula (see next note), who seem to correspond to the Ogor of Theophylactus near the Til.]

<sup>35</sup> The river Til, or Tula, according to the geography of De Guignes (tom. i. part ii. p. lviii. and 352), is a small though grateful stream of the desert, that falls into the Orchon, Selinga, &c. See Bell, *Journey from Petersburg to Peking* (vol. ii. p. 124); yet his own description of the Keat, down which he sailed into the Oby, represents the name and attributes of the *black river* (p. 139). [The identification of this river is quite uncertain.]

<sup>36</sup> Theophylact, l. vii. c. 7, 8. And yet his *true* Avars are invisible even to the eyes of M. de Guignes; and what can be more illustrious than the *false*? The right of the fugitive Ogors to that national appellation is confessed by the Turks themselves (Menander, p. 108 [?]).

<sup>37</sup> The Alani are still found in the *Genealogical History of the Tartars* (p. 617), and in d'Anville's maps. They opposed the march of the generals of Zingis round the Caspian sea, and were overthrown in a great battle (*Hist. de Gengiscan*, l. iv. c. 9, p. 447).

ported by the Euxine sea to Constantinople. The whole city was poured forth to behold with curiosity and terror the aspect of a strange people: their long hair, which hung in tresses down their backs, was gracefully bound with ribbons, but the rest of their habit appeared to imitate the fashion of the Huns. When they were admitted to the audience of Justinian, Candish, the first of the ambassadors, addressed the Roman emperor in these terms: "You see before you, O mighty prince, the representatives of the strongest and most populous of nations, the invincible, the irresistible Avars. We are willing to devote ourselves to your service: we are able to vanquish and destroy all the enemies who now disturb your repose. But we expect, as the price of our alliance, as the reward of our valour, precious gifts, annual subsidies, and fruitful possessions." At the time of this embassy Justinian had reigned above thirty, he had lived above seventy-five, years; his mind, as well as his body, was feeble and languid; and the conqueror of Africa and Italy, careless of the permanent interest of his people, aspired only to end his days in the bosom even of inglorious peace. In a studied oration he imparted to the senate his resolution to dissemble the insult, and to purchase the friendship, of the Avars; and the whole senate, like the mandarins of China, applauded the incomparable wisdom and foresight of their sovereign. The instruments of luxury were immediately prepared to captivate the Barbarians: silken garments, soft and splendid beds, and chains and collars incrustated with gold. The ambassadors, content with such liberal reception, departed from Constantinople, and Valentin, one of the emperor's guards, was sent with a similar character to their camp at the foot of Mount Caucasus. As their destruction or their success must be alike advantageous to the empire, he persuaded them to invade the enemies of Rome; and they were easily tempted, by gifts and promises, to gratify their ruling inclinations. These fugitives who fled before the Turkish arms passed the Tanais and Borysthenes, and boldly advanced into the heart

of Poland and Germany, violating the law of nations and abusing the rights of victory. Before ten years had elapsed, their camps were seated on the Danube and the Elbe, many Bulgarian and Sclavonian names were obliterated from the earth, and the remainder of their tribes are found as tributaries and vassals under the standard of the Avars. The chagan, the peculiar title of their king, still affected to cultivate the friendship of the emperor; and Justinian entertained some thoughts of fixing them in Pannonia to balance the prevailing power of the Lombards. But the virtue or treachery of an Avar betrayed the secret enmity and ambitious designs of their countrymen; and they loudly complained of the timid though jealous policy of detaining their ambassadors, and denying the arms which they had been allowed to purchase in the capital of the empire.<sup>88</sup>

Perhaps the apparent change in the dispositions of the emperors may be ascribed to the embassy which was received from the conquerors of the Avars.<sup>89</sup> The immense distance which eluded their arms could not extinguish their resentment: the Turkish ambassadors pursued the footsteps of the vanquished to the Jaik, the Volga, Mount Caucasus, the Euxine, and Constantinople, and at length appeared before the successor of Constantine, to request that he would not espouse the cause of rebels and fugitives. Even commerce had some share in this remarkable negotiation; and the Sogdoites, who

<sup>88</sup> The embassies and first conquests of the Avars may be read in Menander (Excerpt. Legat. p. 99, 100, 101, 154, 155 [frs. 4, 5, 6, 9, 14, 28, ed. Müller, F.H.G. iv.]), Theophanes (p. 196), the *Historia Miscella* (l. xvi. p. 109), and Gregory of Tours (l. iv. c. 23, 29, in the *Historians of France*, tom. ii. p. 214, 217). [Cf. Malalas, p. 489; Cramer, *Anecd. Par.*, 2, p. 114. Theophanes probably derived his notion from the full Malalas.]

<sup>89</sup> Theophanes (Chron. p. 204) and the *Hist. Miscella* (l. xvi. p. 110), as understood by De Guignes (tom. i. part ii. p. 354), appear to speak of a Turkish embassy to Justinian himself; but that of Maniach, in the fourth year of his successor Justin, is positively the first that reached Constantinople (Menander, p. 108 [fr. 18, p. 226, ed. Müller]). [The passage in Theophanes records the embassy of the unknown *Hermechionites*.]

were now the tributaries of the Turks, embraced the fair occasion of opening, by the north of the Caspian, a new road for the importation of Chinese silk into the Roman empire. The Persian, who preferred the navigation of Ceylon, had stopped the caravans of Bochara and Samarcand; their silk was contemptuously burnt; some Turkish ambassadors died in Persia, with a suspicion of poison; and the great khan permitted his faithful vassal Maniach, the prince of the Sogdoites, to propose, at the Byzantine court, a treaty of alliance against their common enemies. Their splendid apparel and rich presents, the fruit of Oriental luxury, distinguished Maniach and his colleagues from the rude savages of the North; their letters, in the Scythian character and language, announced a people who had attained the rudiments of science;<sup>40</sup> they enumerated the conquests, they offered the friendship and military aid, of the Turks; and their sincerity was attested by direful imprecations (if they were guilty of falsehood) against their own head and the head of Disabul their master. The Greek prince entertained with hospitable regard the ambassadors of a remote and powerful monarch; the sight of silkworms and looms disappointed the hopes of the Sogdoites; the emperor renounced, or seemed to renounce, the fugitive Avars, but he accepted the alliance of the Turks; and the ratification of the treaty was carried by a Roman minister to the foot of Mount Altai.<sup>41</sup> Under the successors of Justinian, the friendship of the two nations was cultivated by frequent and cordial intercourse; the most favoured vassals were permitted to imitate the example of the great khan, and one

<sup>40</sup> The Russians have found characters, rude hieroglyphics, on the Irish and Yenisei, on medals, tombs, idols, rocks, obelisks, &c. (Strahlenberg, *Hist. of Siberia*, p. 324, 346, 406, 429). Dr. Hyde (*de Religione Veterum Persarum*, p. 521, &c.) has given two alphabets of Thibet and of the Eygours. I have long harboured a suspicion that *all* the Scythian, and *some*, perhaps *much*, of the Indian science was derived from the Greeks of Bactriana. [On recently discovered Turkish inscriptions, see Appendix 8.]

<sup>41</sup> [*Ektag* (Menander) is probably Altai. But it was not the seat of the chief khan mentioned in the Chinese sources; see next note.]

hundred and six Turks, who, on various occasions, had visited Constantinople, departed at the same time for their native country. The duration and length of the journey from the Byzantine court to Mount Altai are not specified: it might have been difficult to mark a road through the nameless deserts, the mountains, rivers, and morasses of Tartary; but a curious account has been preserved of the reception of the Roman ambassadors at the royal camp. After they had been purified with fire and incense, according to a rite still practised under the sons of Zingis, they were introduced to the presence of Disabul.<sup>a</sup> In a valley of the Golden Mountain, they found the great khan in his tent, seated in a chair with wheels, to which an horse might be occasionally harnessed. As soon as they had delivered their presents, which were received by the proper officers, they exposed, in a florid oration, the wishes of the Roman emperor, that victory might attend the arms of the Turks, that their reign might be long and prosperous, and that a strict alliance, without envy or deceit, might for ever be maintained between the two most powerful nations of the earth. The answer of Disabul corresponded with these friendly professions, and the ambassadors were seated by his side, at a banquet which lasted the greatest part of the day; the tent was surrounded with silk hangings, and a Tartar liquor was served on the table, which possessed at least the intoxicating qualities of wine. The entertainment of the succeeding day was more sumptuous; the silk hangings of the second tent were embroidered in various figures; and the royal seat, the cups, and the vases were of gold. A third pavilion was supported by columns of gilt wood; a bed of pure and massy gold was raised on four peacocks of the same metal; and, before the entrance of the tent, dishes, basons, and statues of solid silver, and admirable art,

<sup>a</sup> [Disabul (there is more authority for the form *Silsibul*) must be distinguished from the great khan Mukan (553-572), who is celebrated in the Chinese sources. Cp. Appendix 8.]

were ostentatiously piled in waggons, the monuments of valour rather than of industry. When Disabul led his armies against the frontiers of Persia, his Roman allies followed many days the march of the Turkish camp, nor were they dismissed until they had enjoyed their precedency over the envoy of the great king, whose loud and intemperate clamours interrupted the silence of the royal banquet. The power and ambition of Chosroes cemented the union of the Turks and Romans, who touched his dominions on either side; but those distant nations, regardless of each other, consulted the dictates of interest, without recollecting the obligations of oaths and treaties. While the successor of Disabul celebrated his father's obsequies, he was saluted by the ambassadors of the emperor Tiberius, who proposed an invasion of Persia, and sustained with firmness the angry, and perhaps the just, reproaches of that haughty Barbarian. "You see my ten fingers," said the great khan, and he applied them to his mouth. "You Romans speak with as many tongues, but they are tongues of deceit and perjury. To me you hold one language, to my subjects another; and the nations are successively deluded by your perfidious eloquence. You precipitate your allies into war and danger, you enjoy their labours, and you neglect your benefactors. Hasten your return, inform your master that a Turk is incapable of uttering or forgiving falsehood, and that he shall speedily meet the punishment which he deserves. While he solicits my friendship with flattering and hollow words, he is sunk to a confederate of my fugitive Varchonites. If I condescend to march against those contemptible slaves, they will tremble at the sound of our whips; they will be trampled, like a nest of ants, under the feet of my innumerable cavalry. I am not ignorant of the road which they have followed to invade your empire; nor can I be deceived by the vain pretence that Mount Caucasus is the impregnable barrier of the Romans. I know the course of the Dniester, the Danube, and the Hebrus; the most warlike nations have yielded to the arms of the Turks;

and, from the rising to the setting sun, the earth is my inheritance." Notwithstanding this menace, a sense of mutual advantage soon renewed the alliance of the Turks and Romans; but the pride of the great khan survived his resentment; and, when he announced an important conquest to his friend the emperor Maurice, he styled himself the master of the seven races, and the lord of the seven climates, of the world.<sup>43</sup>

Disputes have often arisen between the sovereigns of Asia, for the title of king of the world; while the contest has proved that it could not belong to either of the competitors. The kingdom of the Turks was bounded by the Oxus or Gihon; and *Touran* was separated by that great river from the rival monarchy of *Iran*, or Persia, which, in a smaller compass, contained perhaps a larger measure of power and population. The Persians, who alternately invaded and repulsed the Turks and the Romans, were still ruled by the house of Sassan, which ascended the throne three hundred years before the accession of Justinian. His contemporary, Cabades, or Kobad, had been successful in war against the emperor Anastasius; but the reign of that prince was distracted by civil and religious troubles. A prisoner in the hands of his subjects; an exile among the enemies of Persia; he recovered his liberty by prostituting the honour of his wife, and regained his kingdom with the dangerous and mercenary aid of the Barbarians who had slain his father. His nobles were suspicious that Kobad never forgave the authors of his expulsion, or even those of his restoration. The people was deluded and inflamed by the fanaticism of Mazdak,<sup>44</sup>

<sup>43</sup> All the details of these Turkish and Roman embassies, so curious in the history of human manners, are drawn from the Extracts of Menander (p. 106-110, 151-154, 161-164 [frs. 18, 19, 20, 21, 43, in F.H.G. iv.]), in which we often regret the want of order and connection.

<sup>44</sup> See d'Herbelot (Bibliot. Orient. p. 568, 929); Hyde (de Religione Vet. Persarum, c. 21, p. 290, 291); Pocock (Specimen Hist. Arab. p. 70, 71); Euty chius (Annal. tom. ii. p. 176); Texeira (in Stevens, Hist. of Persia, l. i. c. 34). [See further Tabari, ed. Nöldeke, p. 141 *sqq.*, and Nöldeke's fourth excursus, p. 455 *sqq.* The doctrine preached by Mazdak was not

who asserted the community of women <sup>46</sup> and the equality of mankind, whilst he appropriated the richest lands and most beautiful females to the use of his sectaries. The view of these disorders, which had been fomented by his laws and example, <sup>46</sup> embittered the declining age of the Persian monarch; and his fears were increased by the consciousness of his design to reverse the natural and customary order of succession, in favour of his third and most favoured son, so famous under the names of Chosroes and Nushirvan. To render the youth more illustrious in the eyes of the nations, Kobad was desirous that he should be adopted by the emperor Justin; the hope of peace inclined the Byzantine court to accept this singular proposal; and Chosroes might have acquired a specious claim to the inheritance of his Roman parent. But the future mischief was diverted by the advice of the quæstor Proclus: a difficulty was started, whether the adoption should be performed as a civil or military rite; <sup>47</sup> the treaty was abruptly dissolved; and the sense of this indignity sunk deep into the mind of Chosroes, who had already advanced to the Tigris on his road to Constantinople. His father did not long survive the disappointment of his wishes; the testament of their deceased sovereign was read in

invented by him but was due to an unknown namesake of the great Zarathustra (Zoroaster). Its religious character distinguishes Mazdakism from all modern socialistic theories. Cobad's object in adopting this doctrine was to damage the nobility by undermining the institution of the family and the laws of inheritance.]

<sup>46</sup> The fame of the new law for the community of women was soon propagated in Syria (Asseman. *Bibliot. Orient.* tom. iii. p. 402) and Greece (Procop. *Persic.* l. i. c. 5).

<sup>46</sup> He offered his own wife and sister to the prophet; but the prayers of Nushirvan saved his mother, and the indignant monarch never forgave the humiliation to which his filial piety had stooped: *pedes tuos deosculatus* (said he to Mazdak), *cujus fætor adhuc nares occupat* (Pocock, *Specimen Hist. Arab.* p. 71).

<sup>47</sup> Procopius, *Persic.* l. i. c. 11. Was not Proclus overwise? Was not the danger imaginary? — The excuse, at least, was injurious to a nation not ignorant of letters: *οὐ γράμμασι οἱ βάρβαροι τοῦτι παιδας ποιοῦνται ἀλλ' ὄπλων σκευῆ.* Whether any mode of adoption was practised in Persia, I much doubt.

the assembly of the nobles; and a powerful faction, prepared for the event and regardless of the priority of age, exalted Chosroes to the throne of Persia. He filled that throne during a prosperous period of forty-eight years;<sup>48</sup> and the JUSTICE of Nushirvan is celebrated as the theme of immortal praise by the nations of the East.

But the justice of kings is understood by themselves, and even by their subjects, with an ample indulgence for the gratification of passion and interest. The virtue of Chosroes was that of a conqueror, who, in the measures of peace and war, is excited by ambition and restrained by prudence; who confounds the greatness with the happiness of a nation, and calmly devotes the lives of thousands to the fame, or even the amusement, of a single man. In his domestic administration, the just Nushirvan would merit, in our feelings, the appellation of a tyrant. His two elder brothers had been deprived of their fair expectations of the diadem; their future life, between the supreme rank and the condition of subjects, was anxious to themselves and formidable to their master; fear as well as revenge might tempt them to rebel; the slightest evidence of a conspiracy satisfied the author of their wrongs; and the repose of Chosroes was secured by the death of these unhappy princes, with their families and adherents. One guiltless youth was saved and dismissed by the compassion of a veteran general; and this act of humanity, which was revealed by his son, overbalanced the merit of reducing twelve nations to the obedience of Persia. The zeal and prudence of Mebodes

<sup>48</sup> From Procopius and Agathias, Pagi (tom. ii. p. 543, 626) has proved that Chosroes Nushirvan ascended the throne in the vth year of Justinian (A.D. 531, April 1—A.D. 532, April 1). But the true chronology, which harmonises with the Greeks and Orientals, is ascertained by John Malala (tom. ii. 211). Cabades, or Kobad, after a reign of forty-three years and two months, sickened the 8th, and died the 13th of September, A.D. 531, aged eighty-two years. According to the annals of Eutychius, Nushirvan reigned forty-seven years and six months; and his death must consequently be placed in March, A.D. 579. [The name Nushirvan (properly, Anōsharvān) seems to mean *having an immortal soul, blessed*. Cp. Nöldeke, *op. cit.* p. 136.]

had fixed the diadem on the head of Chosroes himself; but he delayed to attend the royal summons, till he had performed the duties of a military review: he was instantly commanded to repair to the iron tripod, which stood before the gate of the palace,<sup>49</sup> where it was death to relieve or approach the victim; and Mebodes languished several days before his sentence was pronounced, by the inflexible pride and calm ingratitude of the son of Kobad. But the people, more especially in the East, is disposed to forgive, and even to applaud, the cruelty which strikes at the loftiest heads; at the slaves of ambition, whose voluntary choice has exposed them to live in the smiles, and to perish by the frown, of a capricious monarch. In the execution of the laws which he had no temptation to violate; in the punishment of crimes which attacked his own dignity, as well as the happiness of individuals; Nushirvan, or Chosroes, deserved the appellation of *just*. His government was firm, rigorous, and impartial. It was the first labour of his reign to abolish the dangerous theory of common or equal possessions; the lands and women which the sectaries of Mazdak had usurped were restored to their lawful owners; and the temperate chastisement of the fanatics or impostors confirmed the domestic rights of society.<sup>50</sup> Instead of listening with blind confidence to a favourite minister, he established four viziers over the four great provinces of his empire, Assyria, Media, Persia, and Bactriana. In the choice of judges, prefects, and counselors, he strove to remove the mask which is always worn in the presence of kings; he wished to substitute the natural order of talents for the accidental distinctions of birth and

<sup>49</sup> Procopius, *Persic.* l. i. c. 23. Brisson, *de Regn. Pers.* p. 494. The gate of the palace of Ispahan is, or was, the fatal scene of disgrace or death (Chardin, *Voyage en Perse*, tom. iv. p. 312, 313).

<sup>50</sup> [Arabic authorities place the massacre of the Mazdakites after the accession of Chosroes. It really took place in 528-9, while Cobad was still reigning. Cp. Malalas, p. 444, and Nöldeke, *op. cit.* p. 465. There *may* have been a second massacre, as Nöldeke admits.]

fortune; he professed, in specious language, his intention to prefer those men who carried the poor in their bosoms, and to banish corruption from the seat of justice, as dogs were excluded from the temples of the Magi. The code of laws of the first Artaxerxes was revived and published as the rule of the magistrates; but the assurance of speedy punishment was the best security of their virtue. Their behaviour was inspected by a thousand eyes, their words were overheard by a thousand ears, the secret or public agents of the throne; and the provinces, from the Indian to the Arabian confines, were enlightened by the frequent visits of a sovereign who affected to emulate his celestial brother in his rapid and salutary career. Education and agriculture he viewed as the two objects most deserving of his care. In every city of Persia, orphans and the children of the poor were maintained and instructed at the public expense; the daughters were given in marriage to the richest citizens of their own rank, and the sons, according to their different talents, were employed in mechanic trades or promoted to more honourable service. The deserted villages were relieved by his bounty; to the peasants and farmers who were found incapable of cultivating their lands, he distributed cattle, seed, and the instruments of husbandry; and the rare and inestimable treasure of fresh water was parsimoniously managed and skilfully dispersed over the arid territory of Persia.<sup>51</sup> The prosperity of that kingdom was the effect and the evidence of his virtues; his vices are those of Oriental despotism; but in the long competition between Chosroes and Justinian the advantage both of merit and fortune is almost always on the side of the Barbarian.<sup>52</sup>

<sup>51</sup> In Persia, the prince of the waters is an officer of state. The number of wells and subterraneous channels is much diminished, and with it the fertility of the soil: 400 wells have been recently lost near Tauris, and 42,000 were once reckoned in the province of Khorasan (Chardin, tom. iii. p. 99, 100. Tavernier, tom. i. p. 416).

<sup>52</sup> The character and government of Nushirvan is represented sometimes

To the praise of justice Nushirvan united the reputation of knowledge; and the seven Greek philosophers, who visited his court, were invited and deceived by the strange assurance that a disciple of Plato was seated on the Persian throne. Did they expect that a prince, strenuously exercised in the toils of war and government, should agitate, with dexterity like their own, the abstruse and profound question which amused the leisure of the schools of Athens? Could they hope that the precepts of philosophy should direct the life, and control the passions, of a despot whose infancy had been taught to consider *his* absolute and fluctuating will as the only rule of moral obligation?<sup>53</sup> The studies of Chosroes were ostentatious and superficial, but his example awakened the curiosity of an ingenious people, and the light of science was diffused over the dominions of Persia.<sup>54</sup> At Gondi Sapor,<sup>55</sup> in the neighbourhood of the royal city of Susa, an academy of physic was founded, which insensibly became a liberal school of poetry, philosophy, and rhetoric.<sup>56</sup> The annals of the monarchy<sup>57</sup> were composed; and, while recent and au-

in the words of d'Herbelot (Bibliot. Orient. p. 680, &c. from Khondemir), Euty chius (Annal. tom. ii. p. 179, 180 — very rich), Abulpharagius (Dynast. vii. p. 94, 95 — very poor), Tarikh Shikard (p. 144-150), Texeira (in Stevens, l. i. c. 35), Asseman (Bibliot. Orient. tom. iii. p. 404-410), and the Abbé Fourmont (Hist. de l'Acad. des Inscriptions, tom. vii. p. 325-334), who has translated a spurious or genuine testament of Nushirvan. [Also Tabari (ed. Nöldeke, p. 251 *sqq.*). For an account of the domestic government of Chosroes see Rawlinson's Seventh Oriental Monarchy.]

<sup>53</sup> A thousand years before his birth, the judges of Persia had given a solemn opinion τῷ βασιλεύοντι Περσέων ἐξείναι ποιεῖν το ἔν βούληται Herodot. l. iii. c. 31, p. 210, edit. Wesseling). Nor had this constitutional maxim been neglected as an useless and barren theory.

<sup>54</sup> On the literary state of Persia, the Greek versions, philosophers, sophists, the learning or ignorance of Chosroes, Agathias (l. ii. c. 66-71) displays much information and strong prejudices.

<sup>55</sup> [For this town (to be sought in the ruins of Shāhābād) see Nöldeke, *op. cit.* 41-2. It was the capital of Susiana.]

<sup>56</sup> Asseman. Bibliot. Orient. tom. iv. p. DCCXLV. vi. vii.

<sup>57</sup> The Shah Nameh, or book of Kings, is perhaps the original record of history which was translated into Greek by the interpreter Sergius (Agathias, l. v. p. 141), preserved after the Mahometan conquest, and versified in the

thetic history might afford some useful lessons both to the prince and people, the darkness of the first ages was embellished by the giants, the dragons, and the fabulous heroes of Oriental romance.<sup>58</sup> Every learned or confident stranger was enriched by the bounty, and flattered by the conversation, of the monarch: he nobly rewarded a Greek physician,<sup>59</sup> by the deliverance of three thousand captives; and the sophists who contended for his favour, were exasperated by the wealth and insolence of Uranius, their more successful rival. Nushirvan believed, or at least respected, the religion of the Magi; and some traces of persecution may be discovered in his reign.<sup>60</sup> Yet he allowed himself freely to compare the tenets of the various sects; and the theological disputes in which he frequently presided diminished the authority of the priest and enlightened the minds of the people. At his command, the most celebrated writers of Greece and India were translated into the Persian language: a smooth and elegant idiom, recommended by Mahomet to the use of paradise though it is branded with the epithets of savage and unmusical by the

year 994, by the national poet Ferdoussi. See d'Anquetil (*Mém. de l'Académie*, tom. *xxxi.* p. 379), and Sir William Jones (*Hist. of Nadir Shah*, p. 161). [The *Shāhnāma* was begun by Dakikī and completed by Firdausī (who died A.D. 1020). The material probably goes back to a lost *Chodāināma*, or book of Lords, drawn up by the orders of Nushirvan, and worked up into a fuller form under Yazdegerd iii. (633–637). See Nöldeke, *Tabari*, p. xv.]

<sup>58</sup> In the fifth century the name of Restom or Rostam, an hero who equalled the strength of twelve [*Jeg.* 120] elephants, was familiar to the Armenians (Moses Chorenensis, *Hist. Armen.* l. ii. c. 7, p. 96, edit. Whiston). In the beginning of the seventh, the Persian romance of Rostam and Isfendiar was applauded at Mecca (Sale's *Koran*, c. *xxxi.* p. 335). Yet this exposition of *ludicrum novæ historiæ* is not given by Maracci (*Refutat. Alcoran.* p. 544–548).

<sup>59</sup> Procop. *Goth.* l. iv. c. 10. Kobad had a favourite Greek physician, Stephen of Edessa (*Persic.* l. ii. c. 26). The practice was ancient; and Herodotus relates the adventures of Democedes of Crotona (l. iii. c. 125–137).

<sup>60</sup> See Pagi, tom. ii. p. 626. In one of the treaties an honourable article was inserted for the toleration and burial of the Catholics (Menander, in *Excerpt. Legat.* p. 142 [fr. 11; p. 213, in F.H.G. iv.]). Nushizad, a son of Nushirvan, was a Christian, a rebel, and — a martyr? (D'Herbelot, p. 681.)

ignorance and presumption of Agathias.<sup>61</sup> Yet the Greek historian might reasonably wonder that it should be found possible to execute an entire version of Plato and Aristotle in a foreign dialect, which had not been framed to express the spirit of freedom and the subtleties of philosophic disquisition. And, if the reason of the Stagyrite might be equally dark or equally intelligible in every tongue, the dramatic art and verbal argumentation of the disciple of Socrates<sup>62</sup> appear to be indissolubly mingled with the grace and perfection of his Attic style. In the search of universal knowledge, Nushirvan was informed that the moral and political fables of Pilpay, an ancient Brachman, were preserved with jealous reverence among the treasures of the kings of India. The physician Perozes was secretly despatched to the banks of the Ganges, with instructions to procure, at any price, the communication of this valuable work. His dexterity obtained a transcript, his learned diligence accomplished the translation; and the fables of Pilpay<sup>63</sup> were read and admired in the assembly

<sup>61</sup> On the Persian language, and its three dialects, consult d'Anquetil (p. 339-343) and Jones (p. 153-185): *ἀγρία τιμὴ γλώττη καὶ ἀμουσοπάτη*, is the character which Agathias (l. ii. p. 66) ascribes to an idiom renowned in the East for poetical softness.

<sup>62</sup> Agathias specifies the Gorgias, Phædon, Parmenides, and Timæus. Renaudot (Fabricius, *Bibliot. Græc.* tom. xii. p. 246-261) does not mention this Barbaric version of Aristotle.

<sup>63</sup> Of these fables, I have seen three copies in three different languages: 1. In *Greek*, translated by Simeon Seth (A.D. 1100) from the Arabic, and published by Starck at Berlin in 1697, in 12mo. 2. In *Latin*, a version from the Greek, *Sapientia Indorum*, inserted by Père Poussin at the end of his edition of Pachymer (p. 547-620, edit. Roman). 3. In *French*, from the Turkish, dedicated, in 1540, to Sultan Soliman: *Contes et Fables Indiennes de Bidpai et de Lokman*, par MM. Galland et Cardonne, Paris, 1778, 3 vols. in 12mo. Mr. Wharton (*History of English Poetry*, vol. i. p. 129-131) takes a larger scope. [These fables formed the collection entitled the *Panchatantra*. They are translated from Sanskrit into German by Theodore Benfey, who in the first volume of his famous work (*Pantschatantra*, 1859) gives a full account of the origin and diffusion of the fables. There is no reason to doubt that they were translated into Pehlevi in Nushirvan's reign (cp. Benfey, *op. cit.* i. p. 6, footnote), and from this translation was made in 8th century the extant Arabic version (ed. by Silvestre de Sacy,

of Nushirvan and his nobles. The Indian original and the Persian copy have long since disappeared; but this venerable monument has been saved by the curiosity of the Arabian caliphs, revived in the modern Persic, the Turkish, the Syriac, the Hebrew, and the Greek idioms, and transfused through successive versions into the modern languages of Europe. In their present form the peculiar character, the manners and religion of the Hindoos, are completely obliterated; and the intrinsic merit of the fables of Pilpay is far inferior to the concise elegance of Phædrus and the native graces of La Fontaine. Fifteen moral and political sentences are illustrated in a series of apologues; but the composition is intricate, the narrative prolix, and the precept obvious and barren. Yet the Brachman may assume the merit of *inventing* a pleasing fiction, which adorns the nakedness of truth, and alleviates, perhaps, to a royal ear the harshness of instruction. With a similar design to admonish kings that they are strong only in the strength of their subjects, the same Indians invented the game of chess, which was likewise introduced into Persia under the reign of Nushirvan.<sup>64</sup>

The son of Kobad found his kingdom involved in a war with the successor of Constantine; and the anxiety of his domestic situation inclined him to grant the suspension of arms, which Justinian was impatient to purchase. Chosroes saw the

"Calila et Dimna ou fables de Bidpai," 1816; English translation by Knatchbull, 1819). Then this Arabic version was translated into Persian (12th century) by Nasr Allah, and a free recension of this version by Husain Vatz was done into English by Eastwick, 1854. In the Greek translation of Seth the title is not Kalilah and Dimnah, but "Stephanites and Ichnelates." It has been edited critically by V. Puntoni (1889). A Syriac version has been edited by W. Wright (1884), and translated into English by Mr. Keith Falconer (1885). See further, Benfey, *op. cit.*; Krumbacher, *Gesch. der byz. Litt.* p. 895. It may be added that Bidpai was a philosopher who appears in some of the fables; and their authorship was ascribed to him by the Arabic translator.]

<sup>64</sup> See the *Historia Shahiludii* of Dr. Hyde (*Syntagm. Dissertat.* tom. ii. p. 61-69). [Van der Linde, *Geschichte und Litteratur des Schachspiels*, 1874; D. Forbes, *History of Chess*, 1860.]

Roman ambassadors at his feet. He accepted eleven thousand pounds of gold, as the price of an *endless* or indefinite peace;<sup>65</sup> some mutual exchanges were regulated; the Persian assumed the guard of the gates of Caucasus, and the demolition of Dara was suspended, on condition that it should never be made the residence of the general of the East. This interval of repose had been solicited, and was diligently improved, by the ambition of the emperor; his African conquests were the first fruits of the Persian treaty; and the avarice of Chosroes was soothed by a large portion of the spoils of Carthage, which his ambassadors required in a tone of pleasantry and under the colour of friendship.<sup>66</sup> But the trophies of Belisarius disturbed the slumbers of the great king; and he heard with astonishment, envy, and fear that Sicily, Italy, and Rome itself had been reduced in three rapid campaigns to the obedience of Justinian. Unpractised in the art of violating treaties, he secretly excited his bold and subtle vassal Almondar. That prince of the Saracens, who resided at Hira,<sup>67</sup> had not been included in the general peace, and still waged an obscure war against his rival Arethas, the chief of the tribe of Gassan, and confederate of the empire. The subject of their dispute was an extensive sheep-walk in the desert to the south of Palmyra. An immemorial tribute for the licence of pasture appeared to attest the rights of Almondar,

<sup>65</sup> The endless peace (Procopius, Persic. l. i. c. 21) was concluded or ratified in the vith year and iiiiid consulship of Justinian (A.D. 533, between January 1 and April 1, Pagi, tom. ii. p. 550). Marcellinus, in his Chronicle, uses the style of Medes and Persians.

<sup>66</sup> Procopius, Persic. l. i. c. 26.

<sup>67</sup> Almondar, king of Hira, was deposed by Kobad, and restored by Nushirvan. [So Hamza; but it is doubtful.] His mother, from her beauty, was surnamed *Celestial Water*, an appellation which became hereditary, and was extended for a more noble cause (liberality in famine) to the Arab princes of Syria (Pocock, Specimen Hist. Arab. p. 69, 70). [Between the territories of Hira and the Gnassanides was the region of the Tha'labites, who are mentioned by Josua Stylites (c. 57, as within the sphere of Roman influence. For the career of Almondar (Mundhir), king of Hira A.D. 505-554, cp. Nöldeke, Tabari, p. 170-1.]

while the Gassanite appealed to the Latin name of *strata*, a paved road, as an unquestionable evidence of the sovereignty and labours of the Romans.<sup>68</sup> The two monarchs supported the cause of their respective vassals; and the Persian Arab, without expecting the event of a slow and doubtful arbitration, enriched his flying camp with the spoil and captives of Syria. Instead of repelling the arms, Justinian attempted to seduce the fidelity, of Almondar, while he called from the extremities of the earth the nations of Æthiopia and Scythia to invade the dominions of his rival. But the aid of such allies was distant and precarious, and the discovery of this hostile correspondence justified the complaints of the Goths and Armenians, who implored, almost at the same time, the protection of Chosroes. The descendants of Arsaces, who were still numerous in Armenia, had been provoked to assert the last relics of national freedom and hereditary rank; and the ambassadors of Vitiges had secretly traversed the empire to expose the instant, and almost inevitable, danger of the kingdom of Italy. Their representations were uniform, weighty, and effectual. "We stand before your throne, the advocates of your interest as well as of our own. The ambitious and faithless Justinian aspires to be the sole master of the world. Since the endless peace, which betrayed the common freedom of mankind, that prince, your ally in words, your enemy in actions, has alike insulted his friends and foes, and has filled the earth with blood and confusion. Has he not violated the privileges of Armenia, the independence of Colchos, and the wild liberty of the Tzanian mountains? Has he not usurped, with equal avidity, the city of Bosphorus on the frozen Mæotis and the vale of palm-trees on the shores of the Red Sea? The Moors, the Vandals, the Goths, have been successively oppressed, and each nation has calmly remained the spectator of their

<sup>68</sup> Procopius, *Persic.* l. ii. c. 1. We are ignorant of the origin and object of this *strata*, a paved road of ten days' journey from Auranitis to Babylonia. (See a Latin note in Delisle's *Map Imp. Orient.*) Wesseling and d'Anville are silent.

neighbour's ruin. Embrace, O king! the favourable moment; the East is left without defence, while the armies of Justinian and his renowned general are detained in the distant regions of the West. If you hesitate and delay, Belisarius and his victorious troops will soon return from the Tiber to the Tigris, and Persia may enjoy the wretched consolation of being the last devoured."<sup>69</sup> By such arguments Chosroes was easily persuaded to imitate the example which he condemned; but the Persian, ambitious of military fame, disdained the inactive warfare of a rival, who issued his sanguinary commands from the secure station of the Byzantine palace.

Whatever might be the provocations of Chosroes, he abused the confidence of treaties; and the just reproaches of dissimulation and falsehood could only be concealed by the lustre of his victories.<sup>70</sup> The Persian army, which had been assembled in the plains of Babylon, prudently declined the strong cities of Mesopotamia, and followed the western bank of the Euphrates, till the small, though populous, town of Dura presumed to arrest the progress of the great king. The gates of Dura, by treachery and surprise, were burst open; and, as soon as Chosroes had stained his scymitar with the blood of the inhabitants, he dismissed the ambassador of Justinian to inform his master in what place he had left the enemy of the Romans. The conqueror still affected the praise of humanity and justice; and, as he beheld a noble matron with her infant rudely dragged along the ground,

<sup>69</sup> I have blended, in a short speech, the two orations of the Arsacides of Armenia and the Gothic ambassadors. Procopius, in his public history, feels, and makes us feel, that Justinian was the true author of the war (Persic. l. ii. c. 2, 3).

<sup>70</sup> The invasion of Syria, the ruin of Antioch, &c. are related in a full and regular series by Procopius (Persic. l. ii. c. 5-14). Small collateral aid can be drawn from the Orientals: yet not they, but d'Herbelot himself (p. 680), should blush, when he blames them for making Justinian and Nushirvan contemporaries. On the geography of the seat of war, d'Anville (*l'Euphrate et le Tigre*) is sufficient and satisfactory.

he sighed, he wept, and implored the divine justice to punish the author of these calamities. Yet the herd of twelve thousand captives was ransomed for two hundred pounds of gold; the neighbouring bishop of Sergiopolis pledged his faith for the payment; and in the subsequent year the unfeeling avarice of Chosroes exacted the penalty of an obligation which it was generous to contract and impossible to discharge. He advanced into the heart of Syria; but a feeble enemy, who vanished at his approach, disappointed him of the honour of victory; and, as he could not hope to establish his dominion, the Persian king displayed in this inroad the mean and rapacious vices of a robber. Hierapolis, Berrhœa or Aleppo, Apamea, and Chalcis were successively besieged; they redeemed their safety by a ransom of gold or silver, proportioned to their respective strength and opulence; and their new master enforced, without observing, the terms of capitulation. Educated in the religion of the Magi, he exercised, without remorse, the lucrative trade of sacrilege; and, after stripping of its gold and gems a piece of the true cross, he generously restored the naked relic to the devotion of the Christians of Apamea. No more than fourteen years had elapsed since Antioch was ruined by an earthquake; but the queen of the East, the new Theopolis, had been raised from the ground by the liberality of Justinian; and the increasing greatness of the buildings and the people already erased the memory of this recent disaster. On one side, the city was defended by the mountain, on the other by the river Orontes; but the most accessible part was commanded by a superior eminence; the proper remedies were rejected, from the despicable fear of discovering its weakness to the enemy; and Germanus, the emperor's nephew, refused to trust his person and dignity within the walls of a besieged city. The people of Antioch had inherited the vain and satirical genius of their ancestors: they were elated by a sudden reinforcement of six thousand soldiers; they disdained the offers of an easy capitulation; and their intemperate clamours insulted



from the ramparts the majesty of the great king. Under his eye the Persian myriads mounted with scaling-ladders to the assault; the Roman mercenaries fled through the opposite gate of Daphne; and the generous resistance of the youth of Antioch served only to aggravate the miseries of their country. As Chosroes, attended by the ambassadors of Justinian, was descending from the mountain, he affected, in a plaintive voice, to deplore the obstinacy and ruin of that unhappy people; but the slaughter still raged with unrelenting fury; and the city, at the command of a Barbarian, was delivered to the flames. The cathedral of Antioch was indeed preserved by the avarice, not the piety, of the conqueror; a more honourable exemption was granted to the church of St. Julian and the quarter of the town where the ambassadors resided; some distant streets were saved by the shifting of the wind; and the walls still subsisted to protect, and soon to betray, their new inhabitants. Fanaticism had defaced the ornaments of Daphne, but Chosroes breathed a purer air amidst her groves and fountains; and some idolaters in his train might sacrifice with impunity to the nymphs of that elegant retreat. Eighteen miles below Antioch, the river Orontes falls into the Mediterranean. The haughty Persian visited the term of his conquests; and, after bathing alone in the sea, he offered a solemn sacrifice of thanksgiving to the sun, or rather to the creator of the sun, whom the Magi adored. If this act of superstition offended the prejudices of the Syrians, they were pleased by the courteous and even eager attention with which he assisted at the games of the circus; and, as Chosroes had heard that the *blue* faction was espoused by the emperor, his peremptory command secured the victory of the *green* charioteer. From the discipline of his camp the people derived more solid consolation; and they interceded in vain for the life of a soldier who had too faithfully copied the rapine of the just Nushirvan. At length, fatigued, though unsatiated, with the spoil of Syria, he slowly moved to the

Euphrates, formed a temporary bridge in the neighbourhood of Barbalissus, and defined the space of three days for the entire passage of his numerous host. After his return, he founded, at the distance of one day's journey from the palace of Ctesiphon, a new city, which perpetuated the joint names of Chosroes and of Antioch.<sup>71</sup> The Syrian captives recognised the form and situation of their native abodes; baths and a stately circus were constructed for their use; and a colony of musicians and charioteers revived in Assyria the pleasures of a Greek capital. By the munificence of the royal founder, a liberal allowance was assigned to these fortunate exiles; and they enjoyed the singular privilege of bestowing freedom on the slaves whom they acknowledged as their kinsmen. Palestine and the holy wealth of Jerusalem were the next objects that attracted the ambition, or rather the avarice, of Chosroes. Constantinople and the palace of the Cæsars no longer appeared impregnable or remote; and his aspiring fancy already covered Asia Minor with the troops, and the Black Sea with the navies, of Persia.

These hopes might have been realised, if the conqueror of Italy had not been seasonably recalled to the defence of the East.<sup>72</sup> While Chosroes pursued his ambitious designs on the coast of the Euxine, Belisarius, at the head of an army without pay or discipline, encamped beyond the Euphrates within six miles of Nisibis. He meditated, by a skilful operation, to draw the Persians from their impregnable citadel, and, improving his advantage in the field, either to intercept their

<sup>71</sup> [The foundation of this city is described by Tabari, p. 165 and p. 239 (ed. Nöldeke), who calls it Rūmiya. Its official name was something like Weh-Antioch-Chosrau, as Nöldeke suggests. For we meet it in the Armenian history of Sebaeos (Russ. transl. by Patkanian, p. 29), in the form Wech-Andzhatok-Chosrov. Procopius gives Ἀντιόχεια Χοσρόου; in Theophylactus and John of Ephesus the town is called simply Antioch.]

<sup>72</sup> In the public history of Procopius (Persic. l. ii. c. 16, 18, 19, 20, 21, 24, 25, 26, 27, 28); and, with some slight exceptions, we may reasonably shut our ears against the malevolent whisper of the Anecdotes (c. 2, 3, with the Notes, as usual, of Alemannus).

retreat or perhaps to enter the gates with the flying Barbarians. He advanced one day's journey on the territories of Persia, reduced the fortress of Sisaurane, and sent the governor, with eight hundred chosen horsemen, to serve the emperor in his Italian wars. He detached Arethas and his Arabs, supported by twelve hundred Romans, to pass the Tigris, and to ravage the harvests of Assyria, a fruitful province, long exempt from the calamities of war. But the plans of Belisarius were disconcerted by the untractable spirit of Arethas, who neither returned to the camp nor sent any intelligence of his motions. The Roman general was fixed in anxious expectation to the same spot; the time of action elapsed; the ardent sun of Mesopotamia inflamed with fevers the blood of his European soldiers; and the stationary troops and officers of Syria affected to tremble for the safety of their defenceless cities. Yet this diversion had already succeeded in forcing Chosroes to return with loss and precipitation; and, if the skill of Belisarius had been seconded by discipline and valour, his success might have satisfied the sanguine wishes of the public, who required at his hands the conquest of Ctesiphon and the deliverance of the captives of Antioch. At the end of the campaign, he was recalled to Constantinople by an ungrateful court, but the dangers of the ensuing spring restored his confidence and command; and the hero, almost alone, was despatched, with the speed of post-horses, to repel, by his name and presence, the invasion of Syria. He found the Roman generals, among whom was a nephew of Justinian, imprisoned by their fears in the fortifications of Hierapolis. But instead of listening to their timid counsels, Belisarius commanded them to follow him to Europus, where he had resolved to collect his forces, and to execute whatever God should inspire him to achieve against the enemy. His firm attitude on the banks of the Euphrates restrained Chosroes from advancing towards Palestine; and he received with art and dignity the ambassadors, or rather spies, of the Persian monarch. The plain between Hierapolis and the river

was covered with the squadrons of cavalry, six thousand hunters, tall and robust, who pursued their game without the apprehension of an enemy. On the opposite bank the ambassadors descried a thousand Armenian horse, who appeared to guard the passage of the Euphrates. The tent of Belisarius was of the coarsest linen, the simple equipage of a warrior who disdained the luxury of the East. Around his tent, the nations who marched under his standard were arranged with skilful confusion. The Thracians and Illyrians were posted in the front, the Heruli and Goths in the centre; the prospect was closed by the Moors and Vandals, and their loose array seemed to multiply their numbers. Their dress was light and active; one soldier carried a whip, another a sword, a third a bow, a fourth perhaps a battle-axe; and the whole picture exhibited the intrepidity of the troops and the vigilance of the general. Chosroes was deluded by the address, and awed by the genius, of the lieutenant of Justinian. Conscious of the merit, and ignorant of the force, of his antagonist, he dreaded a decisive battle in a distant country, from whence not a Persian might return to relate the melancholy tale. The great king hastened to repass the Euphrates; and Belisarius pressed his retreat, by affecting to oppose a measure so salutary to the empire and which could scarcely have been prevented by an army of an hundred thousand men. Envy might suggest to ignorance and pride that the public enemy had been suffered to escape; but the African and Gothic triumphs are less glorious than this safe and bloodless victory, in which neither fortune nor the valour of the soldiers can subtract any part of the general's renown. The second removal of Belisarius from the Persian to the Italian war revealed the extent of his personal merit, which had corrected or supplied the want of discipline and courage. Fifteen generals, without concert or skill, led through the mountains of Armenia an army of thirty thousand Romans, inattentive to their signals, their ranks, and their ensigns. Four thousand Persians, entrenched in the camp

of Dubis, vanquished, almost without a combat, this disorderly multitude; their useless arms were scattered along the road, and their horses sunk under the fatigue of their rapid flight. But the Arabs of the Roman party prevailed over their brethren; the Armenians returned to their allegiance; the cities of Dara and Edessa resisted a sudden assault and a regular siege; and the calamities of war were suspended by those of pestilence. A tacit or formal agreement between the two sovereigns protected the tranquillity of the eastern frontier; and the arms of Chosroes were confined to the Colchian or Lazic war, which has been too minutely described by the historians of the times.<sup>73</sup>

The extreme length of the Euxine sea,<sup>74</sup> from Constanti- nople to the mouth of the Phasis, may be computed as a voyage of nine days and a measure of seven hundred miles. From the Iberian Caucasus, the most lofty and craggy mountains of Asia, that river descends with such oblique vehemence that in a short space it is traversed by one hundred and twenty bridges. Nor does the stream become placid and navigable till it reaches the town of Sarapana, five days'

<sup>73</sup> The Lazic war, the contest of Rome and Persia on the Phasis, is tediously spun through many a page of Procopius (Persic. l. ii. c. 15, 17, 28, 29, 30. Gothic. l. iv. c. 7-16), and Agathias (l. ii. iii. and iv. p. 55-132, 141). [For a full account in English see Bury's Later Roman Empire, i. p. 427-430, and 441 sqq.]

<sup>74</sup> The *Periplus*, or circumnavigation of the Euxine sea, was described in Latin by Sallust, and in Greek by Arrian: 1. The former work, which no longer exists, has been restored by the *singular* diligence of M. de Brosses, first president of the parliament of Dijon (Hist. de la République Romaine, tom. ii. l. iii. p. 199-298), who ventures to assume the character of the Roman historian. His description of the Euxine is ingeniously formed of *all* the fragments of the original, and of *all* the Greeks and Latins whom Sallust might copy, or by whom he might be copied; and the merit of the execution atones for the whimsical design. 2. The Periplus of Arrian is addressed to the emperor Hadrian (in Geograph. Minor. Hudson, tom. i.), and contains whatever the governor of Pontus had seen [A.D. 131-2], from Trebizond to Dioscurias; whatever he had heard, from Dioscurias to the Danube; and whatever he knew, from the Danube to Trebizond. [It is included in Müller's Geog. Græc. Min. i. p. 257 sqq. For Arrian see Mr. Pelham's article in Eng. Hist. Review, Oct. 1896.]

journey from the Cyrus, which flows from the same hills, but in a contrary direction, to the Caspian lake. The proximity of these rivers has suggested the practice, or at least the idea, of wafting the precious merchandise of India down the Oxus, over the Caspian, up the Cyrus, and with the current of the Phasis into the Euxine and Mediterranean seas. As it successively collects the streams of the plain of Colchos, the Phasis moves with diminished speed, though accumulated weight. At the mouth it is sixty fathom deep and half a league broad, but a small woody island is interposed in the midst of the channel: the water, so soon as it has deposited an earthy or metallic sediment, floats on the surface of the waves and is no longer susceptible of corruption. In a course of one hundred miles, forty of which are navigable for large vessels, the Phasis divides the celebrated region of Colchos,<sup>75</sup> or Mingrelia,<sup>76</sup> which, on three sides, is fortified by the Iberian and Armenian mountains, and whose maritime coast extends about two hundred miles, from the neighbourhood of Trebizond to Dioscurias, and the confines of Circassia. Both the soil and climate are relaxed by excessive moisture: twenty-eight rivers, besides the Phasis and his dependent streams, convey their waters to the sea; and the hollowness of the ground appears to indicate the subterraneous channels between the Euxine and the Caspian. In the fields where

<sup>75</sup> Besides the many occasional hints from the poets, historians, &c. of antiquity, we may consult the geographical descriptions of Colchos, by Strabo (l. xi. p. 760-765 [2, § 14-19]), and Pliny (Hist. Natur. vi. 5, 19, &c.).

<sup>76</sup> I shall quote, and have used, three modern descriptions of Mingrelia and the adjacent countries. 1. Of the Père Archangeli Lamberti (*Relations de Thévenot*, part i. p. 31-52, with a map), who has all the knowledge and prejudices of a missionary. 2. Of Chardin (*Voyages en Perse*, tom. i. p. 54, 68-168): his observations are judicious; and his own adventures in the country are still more instructive than his observations. 3. Of Peyssonnel (*Observations sur les Peuples Barbares*, p. 49, 50, 51, 58, 62, 64, 65, 71, &c. and a more recent treatise, *Sur le Commerce de la Mer Noire*, tom. ii. p. 1-53): he had long resided at Caffa, as consul of France; and his erudition is less valuable than his experience. [The best description of the Lazic country in connection with these wars is that of Brosset, *Hist. de la Géorgie*, t. i. Additions, iv. p. 81 *sqq.*]

wheat or barley is sown, the earth is too soft to sustain the action of the plough; but the *gom*, a small grain not unlike the millet or coriander seed, supplies the ordinary food of the people; and the use of bread is confined to the prince and his nobles. Yet the vintage is more plentiful than the harvest; and the bulk of the stems, as well as the quality of the wine, display the unassisted powers of nature. The same powers continually tend to overshadow the face of the country with thick forests; the timber of the hills and the flax of the plains contribute to the abundance of naval stores; the wild and tame animals, the horse, the ox, and the hog, are remarkably prolific, and the name of the pheasant is expressive of his native habitation on the banks of the Phasis. The gold mines to the south of Trebizond, which are still worked with sufficient profit, were a subject of national dispute between Justinian and Chosroes; and it is not unreasonable to believe that a vein of precious metal may be equally diffused through the circle of the hills, although these secret treasures are neglected by the laziness, or concealed by the prudence, of the Mingrelians. The waters, impregnated with particles of gold, are carefully strained through sheep-skins or fleeces; but this expedient, the groundwork perhaps of a marvellous fable, affords a faint image of the wealth extracted from a virgin earth by the power and industry of ancient kings. Their silver palaces and golden chambers surpass our belief; but the fame of their riches is said to have excited the enterprising avarice of the Argonauts.<sup>77</sup> Tradition has affirmed, with some colour of reason, that Egypt planted on the Phasis a learned and polite colony,<sup>78</sup> which manufactured linen,

<sup>77</sup> Pliny, *Hist. Natur.* l. xxxiii. 15. The gold and silver mines of Colchos attracted the Argonauts (*Strab.* l. i. p. 77). The sagacious Chardin could find no gold in mines, rivers, or elsewhere. Yet a Mingrelian lost his hand and foot for shewing some specimens at Constantinople of native gold.

<sup>78</sup> Herodot. l. ii. c. 104, 105, p. 150, 151. Diodor. *Sicul.* l. i. p. 33, edit. Wesseling. *Dionys. Perieget.* 689, and *Eustath. ad loc. Scholiast. ad Apollonium Argonaut.* l. iv. 282-291.

built navies, and invented geographical maps. The ingenuity of the moderns has peopled, with flourishing cities and nations, the isthmus between the Euxine and the Caspian;<sup>79</sup> and a lively writer, observing the resemblance of climate, and, in his apprehension, of trade, has not hesitated to pronounce Colchos the Holland of antiquity.<sup>80</sup>

But the riches of Colchos shine only through the darkness of conjecture or tradition; and its genuine history presents an uniform scene of rudeness and poverty. If one hundred and thirty languages were spoken in the market of Dioscurias,<sup>81</sup> they were the imperfect idioms of so many savage tribes or families, sequestered from each other in the valleys of Mount Caucasus;<sup>82</sup> and their separation, which diminished the importance, must have multiplied the number, of their rustic capitals. In the present state of Mingrelia, a village is an assemblage of huts within a wooden fence; the fortresses are seated in the depth of forests; the princely town of Cyta, or Cotatis, consists of two hundred houses, and a stone edifice appertains only to the magnificence of kings. Twelve ships from Constantinople and about sixty barks, laden with the fruits of industry, annually cast anchor on the coast; and the list of Colchian exports is much increased, since the natives had only slaves and hides to offer in exchange for the corn and salt which they purchased from the subjects of Justinian. Not a vestige can be found of the art, the knowledge, or the navigation of the ancient Colchians; few Greeks desired or dared to pursue the footsteps of the Argonauts; and even

<sup>79</sup> Montesquieu, *Esprit des Loix*, l. *xxi.* c. 6, L'Isthme . . . couvert de villes et nations qui ne sont plus.

<sup>80</sup> Bougainville, *Mémoires de l'Académie des Inscriptions*, tom. *xvii.* p. 33, on the African voyage of Hanno and the commerce of antiquity.

<sup>81</sup> A Greek historian, Timosthenes, had affirmed, in *eam ccc nationes dissimilibus linguis descendere*; and the modest Pliny is content to add, *et a postea a nostris cxxx interpretibus negotia ibi gesta* (vi. 5); but the word *nunc deserta* covers a multitude of past fictions.

<sup>82</sup> [On the Caucasian languages, see a paper by R. N. Cust, *Journal Royal Asiatic Society*, *xvii.* (1885).]

the marks of an Egyptian colony are lost on a nearer approach. The rite of circumcision is practised only by the Mahometans of the Euxine; and the curled hair and swarthy complexion of Africa no longer disfigure the most perfect of the human race. It is in the adjacent climates of Georgia, Mingrelia, and Circassia that nature has placed, at least to our eyes, the model of beauty in the shape of the limbs, the colour of the skin, the symmetry of the features, and the expression of the countenance.<sup>83</sup> According to the destination of the two sexes, the men seem formed for action, the women for love; and the perpetual supply of females from Mount Caucasus has purified the blood, and improved the breed, of the southern nations of Asia. The proper district of Mingrelia, a portion only of the ancient Colchos, has long sustained an exportation of twelve thousand slaves. The number of prisoners or criminals would be inadequate to the annual demand; but the common people are in a state of servitude to their lords; the exercise of fraud or rapine is unpunished in a lawless community; and the market is continually replenished by the abuse of civil and paternal authority. Such a trade,<sup>84</sup> which reduces the human species to the level of cattle, may tend to encourage marriage and population; since the multitude of children enriches their sordid and inhuman parent. But this source of impure wealth must inevitably poison the national manners, obliterate the sense of honour and virtue, and almost extinguish the instincts of nature: the *Christians* of Georgia and Mingrelia are the most dissolute of mankind; and their children, who, in a tender age, are sold into foreign

<sup>83</sup> Buffon (*Hist. Nat.* tom. iii. p. 433-437) collects the unanimous suffrage of naturalists and travellers. If, in the time of Herodotus, they were in truth *μελάγχροες* and *οδύτριχες* (and he had observed them with care), this precious fact is an example of the influence of climate on a foreign colony.

<sup>84</sup> The Mingrelian ambassador arrived at Constantinople with two hundred persons; but he ate (*sold*) them day by day, till his retinue was diminished to a secretary and two valets (*Tavernier*, tom. i. p. 365). To purchase his mistress, a Mingrelian gentleman sold twelve priests and his wife to the Turks (*Chardin*, tom. i. p. 66).

slavery, have already learnt to imitate the rapine of the father and the prostitution of the mother. Yet amidst the rudest ignorance, the untaught natives discover a singular dexterity both of mind and hand; and, although the want of union and discipline exposes them to their more powerful neighbours, a bold and intrepid spirit has animated the Colchians of every age. In the host of Xerxes, they served on foot; and their arms were a dagger or a javelin, a wooden casque, and a buckler of raw hides. But in their own country the use of cavalry has more generally prevailed; the meanest of the peasants disdain to walk; the martial nobles are possessed, perhaps, of two hundred horses; and above five thousand are numbered in the train of the prince of Mingrelia. The Colchian government has been always a pure and hereditary kingdom; and the authority of the sovereign is only restrained by the turbulence of his subjects. Whenever they were obedient, he could lead a numerous army into the field; but some faith is requisite to believe that the single tribe of the Suanians was composed of two hundred thousand soldiers, or that the population of Mingrelia now amounts to four millions of inhabitants.<sup>85</sup>

It was the boast of the Colchians, that their ancestors had checked the victories of Sesostris; and the defeat of the Egyptian is less incredible than his successful progress as far as the foot of Mount Caucasus. They sunk, without any memorable effort, under the arms of Cyrus; followed in distant wars the standard of the great king; and presented him every fifth year with one hundred boys and as many virgins, the fairest produce of the land.<sup>86</sup> Yet he accepted this *gift* like the gold and ebony of India, the frankincense of the Arabs, or the negroes and ivory of Æthiopia; the Colchians

<sup>85</sup> Strabo, l. xi. p. 765 [2, § 19]. Lamberti, Relation de la Mingrésie. Yet we must avoid the contrary extreme of Chardin, who allows no more than 20,000 inhabitants to supply an annual exportation of 12,000 slaves: an absurdity unworthy of that judicious traveller.

<sup>86</sup> Herodot. l. iii. c. 97. See, in l. vii. c. 79, their arms and service in the expedition of Xerxes against Greece.

were not subject to the dominion of a satrap, and they continued to enjoy the name as well as substance of national independence.<sup>87</sup> After the fall of the Persian empire, Mithridates, king of Pontus, added Colchos to the wide circle of his dominions on the Euxine; and, when the natives presumed to request that his son might reign over them, he bound the ambitious youth in chains of gold, and delegated a servant in his place. In the pursuit of Mithridates, the Romans advanced to the banks of the Phasis, and their galleys ascended the river till they reached the camp of Pompey and his legions.<sup>88</sup> But the senate, and afterwards the emperors, disdained to reduce that distant and useless conquest into the form of a province. The family of a Greek rhetorician was permitted to reign in Colchos and the adjacent kingdoms from the time of Mark Antony to that of Nero; and after the race of Polemo<sup>89</sup> was extinct, the eastern Pontus, which preserved his name, extended no farther than the neighbourhood of Trebizond. Beyond these limits the fortifications of Hyssus, of Apsarus, of the Phasis, of Dioscurias or Sebastopolis, and of Pityus were guarded by sufficient detachments of horse and foot; and six princes of Colchos received their diadems from the lieutenants of Cæsar. One of these lieutenants, the eloquent and philosophic Arrian, surveyed, and has described, the Euxine coast, under the reign of Hadrian.

<sup>87</sup> Xenophon, who had encountered the Colchians in his retreat (*Anabasis*, l. iv. p. 320, 343, 348, edit. Hutchinson; and Fosters's Dissertation, p. 53-58, in Spelman's English version, vol. ii.), styles them *αὐτόβρομοι*. Before the conquest of Mithridates, they are named by Appian *ἔθνος ἀρελμαρες* (de Bell. Mithridatico, c. 15, tom. i. p. 661, of the last and best edition, by John Schweighæuser, Lipsiæ, 1785, 3 vols. large octavo).

<sup>88</sup> The conquest of Colchos by Mithridates and Pompey is marked by Appian (de Bell. Mithridat.) and Plutarch (in Vit. Pomp.).

<sup>89</sup> We may trace the rise and fall of the family of Polemo, in Strabo (l. xi. p. 755 [2, § 3]; l. xii. p. 867 [3, § 29]), Dion Cassius or Xiphilin (p. 588, 593, 601, 719, 754, 915, 946, edit. Reimar [49, c. 25, 33, 44; 53, c. 25; 54, c. 24; 59, c. 12; 60, c. 8]), Suetonius (in Neron. c. 18, in Vespasian. c. 8), Eutropius (vii. 14), Josephus (*Antiq. Judaic.* l. xx. c. 7, p. 970, edit. Havercamp), and Eusebius (*Chron.*, with Scaliger, *Animadvers.* p. 196).

The garrison which he reviewed at the mouth of the Phasis consisted of four hundred chosen legionaries; the brick walls and towers, the double ditch, and the military engines on the rampart rendered this palace inaccessible to the Barbarians; but the new suburbs, which had been built by the merchants and veterans, required, in the opinion of Arrian, some external defence.<sup>90</sup> As the strength of the empire was gradually impaired, the Romans stationed on the Phasis were either withdrawn or expelled; and the tribe of the Lazi,<sup>91</sup> whose posterity speak a foreign dialect and inhabit the sea-coast of Trebizond, imposed their name and dominion on the ancient kingdom of Colchos. Their independence was soon invaded by a formidable neighbour, who had acquired, by arms and treaties, the sovereignty of Iberia. The dependent king of Lazica received his sceptre at the hands of the Persian monarch, and the successors of Constantine acquiesced in this injurious claim, which was proudly urged as a right of immemorable prescription. In the beginning of the sixth century, their influence was restored by the introduction of Christianity, which the Mingrelians still profess with becoming zeal, without understanding the doctrines, or observing the precepts, of their religion. After the decease of his father, Zathus was exalted to the regal dignity by the favour of the great king; but the pious youth abhorred the ceremonies of the Magi, and sought, in the palace of Constantinople, an orthodox baptism, a noble wife, and the alliance of the emperor Justin. The king of Lazica was

<sup>90</sup> In the time of Procopius, there were no Roman forts on the Phasis. Pityus and Sebastopolis were evacuated on the rumour of the Persian (Goth. l. iv. c. 4); but the latter was afterwards restored by Justinian (*de Ædific.* l. iv. c. 7).

<sup>91</sup> In the time of Pliny, Arrian, and Ptolemy, the Lazi were a particular tribe on the northern skirts of Colchos (*Cellarius, Geograph. Antiq. tom. ii. p. 222*). In the age of Justinian, they spread, or at least reigned, over the whole country. At present, they have migrated along the coast towards Trebizond, and compose a rude sea-faring people, with a peculiar language (*Chardin, p. 149. Peyssonel, p. 64*).

solemnly invested with the diadem, and his cloak and tunic of white silk, with a gold border, displayed, in rich embroidery, the figure of his new patron; who soothed the jealousy of the Persian court, and excused the revolt of Colchos, by the venerable names of hospitality and religion. The common interest of both empires imposed on the Colchians the duty of guarding the passes of Mount Caucasus, where a wall of sixty miles is now defended by the monthly service of the musqueteers of Mingrelia.<sup>92</sup>

But this honourable connection was soon corrupted by the avarice and ambition of the Romans. Degraded from the rank of the allies, the Lazi were incessantly reminded, by words and actions, of their dependent state. At the distance of a day's journey beyond the Apsarus, they beheld the rising fortress of Petra,<sup>93</sup> which commanded the maritime country to the south of the Phasis. Instead of being protected by the valour, Colchos was insulted by the licentiousness, of foreign mercenaries; the benefits of commerce were converted into base and vexatious monopoly; and Gubazes, the native prince, was reduced to a pageant of royalty by the superior influence of the officers of Justinian. Disappointed in their expectations of Christian virtue, the indignant Lazi reposed some confidence in the justice of an unbeliever. After a private assurance that their ambassador should not be delivered to the Romans, they publicly solicited the friendship and aid

<sup>92</sup> John Malala, Chron. tom. ii. p. 134-137. Theophanes, p. 144. Hist. Miscell. l. xv. p. 103. The fact is authentic, but the date seems too recent. In speaking of their Persian alliance, the Lazi contemporaries of Justinian employ the most obsolete words, *ἐν γράμμασι μνημεία, πρόγονοι*, &c. Could they belong to a connection which had not been dissolved above twenty years?

<sup>93</sup> The sole vestige of Petra subsists in the writings of Procopius and Agathias. Most of the towns and castles of Lazica may be found by comparing their names and position with the map of Mingrelia, in Lamberti. [Brosset, *op. cit.*, p. 103, places Petra on l. bank of the Choruk (Boas), which flows into Black Sea south of Batum. He shows that the Greek writers had vague ideas of the geography and confused two rivers, the Choruk and Rion, under the name Phasis.]

of Chosroes. The sagacious monarch instantly discerned the use and importance of Colchos, and meditated a plan of conquest, which was renewed at the end of a thousand years by Shah Abbas, the wisest and most powerful of his successors.\* His ambition was fired by the hope of launching a Persian navy from the Phasis, of commanding the trade and navigation of the Euxine sea, of desolating the coast of Pontus and Bithynia, of distressing, perhaps of attacking, Constantinople, and of persuading the Barbarians of Europe to second his arms and counsels against the common enemy of mankind. Under the pretence of a Scythian war, he silently led his troops to the frontiers of Iberia; the Colchian guides were prepared to conduct them through the woods and along the precipices of Mount Caucasus; and a narrow path was laboriously formed into a safe and spacious highway, for the march of cavalry, and even of elephants. Gubazes laid his person and diadem at the feet of the king of Persia; his Colchians imitated the submission of their prince; and, after the walls of Petra had been shaken, the Roman garrison prevented, by a capitulation, the impending fury of the last assault. But the Lazi soon discovered that their impatience had urged them to choose an evil more intolerable than the calamities which they strove to escape. The monopoly of salt and corn was effectually removed by the loss of those valuable commodities. The authority of a Roman legislator was succeeded by the pride of an Oriental despot, who beheld, with equal disdain, the slaves whom he had exalted and the kings whom he had humbled before the footstool of his throne. The adoration of fire was introduced into Colchos by the zeal of the Magi; their intolerant spirit provoked the fervour of a Christian people; and the prejudice of nature or education was wounded

\* See the amusing letters of Pietro della Valle, the Roman traveller (*Viaggi*, tom. ii. 207, 209, 213, 215, 266, 286, 300; tom. iii. p. 54, 127). In the years 1618, 1619, and 1620, he conversed with Shah Abbas, and strongly encouraged a design which might have united Persia and Europe against their common enemy the Turk.

by the impious practice of exposing the dead bodies of their parents, on the summit of a lofty tower, to the crows and vultures of the air.<sup>95</sup> Conscious of the increasing hatred, which retarded the execution of his great designs, the just Nushirvan had secretly given orders to assassinate the king of the Lazi, to transplant the people into some distant land, and to fix a faithful and warlike colony on the banks of the Phasis. The watchful jealousy of the Colchians foresaw and averted the approaching ruin. Their repentance was accepted at Constantinople by the prudence, rather than the clemency, of Justinian; and he commanded Dagisteus, with seven thousand Romans, and one thousand of the Zani, to expel the Persians from the coast of the Euxine.

The siege of Petra, which the Roman general, with the aid of the Lazi, immediately undertook, is one of the most remarkable actions of the age. The city was seated on a craggy rock, which hung over the sea, and communicated by a steep and narrow path with the land. Since the approach was difficult, the attack might be deemed impossible; the Persian conqueror had strengthened the fortifications of Justinian; and the places least inaccessible were covered by additional bulwarks. In this important fortress, the vigilance of Chosroes had deposited a magazine of offensive and defensive arms, sufficient for five times the number, not only of the garrison, but of the besiegers themselves. The stock of flour and salt provisions was adequate to the consumption of five years; the want of wine was supplied by vinegar, and [of] grain from whence a strong liquor was extracted; and a triple aqueduct eluded the diligence, and even the suspicions, of the enemy.

<sup>95</sup> See Herodotus (l. i. c. 140, p. 69), who speaks with diffidence, Larcher (tom. i. p. 399-401. Notes sur Herodote), Procopius (Persic. l. i. c. 11), and Agathias (l. ii. p. 61, 62). This practice, agreeable to the Zendavesta (Hyde, de Relig. Pers. c. 34, p. 414-421), demonstrates that the burial of the Persian kings (Xenophon, Cyropæd. l. viii. p. 658 [c. 7]), *τί γὰρ τούτου μακαριώτερον τοῦ τῷ γῆ μυχθῆναι*; is a Greek fiction, and that their tombs could be no more than cenotaphs.

But the firmest defence of Petra was placed in the valour of fifteen hundred Persians, who resisted the assaults of the Romans, whilst, in a softer vein of earth, a mine was secretly perforated. The wall, supported by slender and temporary props, hung tottering in the air; but Dagisteus delayed the attack till he had secured a specific recompense; and the town was relieved before the return of his messenger from Constantinople. The Persian garrison was reduced to four hundred men, of whom no more than fifty were exempt from sickness or wounds; yet such had been their inflexible perseverance, that they concealed their losses from the enemy, by enduring, without a murmur, the sight and putrefying stench of the dead bodies of their eleven hundred companions. After their deliverance, the breaches were hastily stopped with sand-bags; the mine was replenished with earth; a new wall was erected on a frame of substantial timber; and a fresh garrison of three thousand men was stationed at Petra to sustain the labours of a second siege. The operations, both of the attack and defence, were conducted with skilful obstinacy; and each party derived useful lessons from the experience of their past faults. A battering-ram was invented, of light construction and powerful effect; it was transported and worked by the hands of forty soldiers; and, as the stones were loosened by its repeated strokes, they were torn with long iron hooks from the wall. From those walls, a shower of darts was incessantly poured on the heads of the assailants, but they were most dangerously annoyed by a fiery composition of sulphur and bitumen, which in Colchos might with some propriety be named the oil of Medea. Of six thousand Romans who mounted the scaling-ladders, their general, Bessas, was the first, a gallant veteran of seventy years of age; the courage of their leader, his fall, and extreme danger animated the irresistible effort of his troops; and their prevailing numbers oppressed the strength, without subduing the spirit, of the Persian garrison. The fate of these valiant men deserves to be more distinctly noticed. Seven hundred had per-

ished in the siege, two thousand three hundred survived to defend the breach. One thousand and seventy were destroyed with fire and sword in the last assault: and, if seven hundred and thirty were made prisoners, only eighteen among them were found without the marks of honourable wounds. The remaining five hundred escaped into the citadel, which they maintained without any hopes of relief, rejecting the fairest terms of capitulation and service, till they were lost in the flames. They died in obedience to the commands of their prince; and such examples of loyalty and valour might excite their countrymen to deeds of equal despair and more prosperous event. The instant demolition of the works of Petra confessed the astonishment and apprehension of the conqueror.

A Spartan would have praised and pitied the virtue of these heroic slaves; but the tedious warfare and alternate success of the Roman and Persian arms cannot detain the attention of posterity at the foot of Mount Caucasus. The advantages obtained by the troops of Justinian were more frequent and splendid; but the forces of the great king were continually supplied, till they amounted to eight elephants and seventy thousand men, including twelve thousand Scythian allies, and above three thousand Dilemites, who descended by their free choice from the hills of Hyrcania, and were equally formidable in close or in distant combat. The siege of Archæopolis, a name imposed or corrupted by the Greeks, was raised with some loss and precipitation; but the Persians occupied the passes of Iberia; Colchos was enslaved by their forts and garrisons; they devoured the scanty sustenance of the people; and the prince of the Lazi fled into the mountains. In the Roman camp, faith and discipline were unknown; and the independent leaders, who were invested with equal power, disputed with each other the pre-eminence of vice and corruption. The Persians followed, without a murmur, the commands of a single chief, who implicitly obeyed the instructions of their

supreme lord. Their general was distinguished among the heroes of the East by his wisdom in council and his valour in the field. The advanced age of Mermeroes, and the lameness of both his feet, could not diminish the activity of his mind or even of his body; and, whilst he was carried in a litter in the front of battle, he inspired terror to the enemy, and a just confidence to the troops, who under his banners were always successful. After his death, the command devolved to Nacoragan, a proud satrap, who, in a conference with the Imperial chiefs, had presumed to declare that he disposed of victory as absolutely as of the ring on his finger. Such presumption was the natural cause and forerunner of a shameful defeat. The Romans had been gradually repulsed to the edge of the sea-shore; and their last camp, on the ruins of the Grecian colony of Phasis, was defended on all sides by strong intrenchments, the river, the Euxine, and a fleet of galleys. Despair united their counsels and invigorated their arms; they withstood the assault of the Persians; and the flight of Nacoragan preceded or followed the slaughter of ten thousand of his bravest soldiers. He escaped from the Romans to fall into the hands of an unforgiving master, who severely chastised the error of his own choice; the unfortunate general was flayed alive, and his skin, stuffed into the human form, was exposed on a mountain: a dreadful warning to those who might hereafter be entrusted with the fame and fortune of Persia.<sup>98</sup> Yet the prudence of Chosroes insensibly relinquished the prosecution of the Colchian war, in the just persuasion that it is impossible to reduce or, at least, to hold a distant country against the wishes and efforts of its inhabitants. The fidelity of Gubazes sustained the most rigorous trials. He patiently endured the hardships of a savage life, and rejected, with disdain, the specious temptations of the Persian court. The king

<sup>98</sup> The punishment of flaying alive could not be introduced into Persia by Sapor (Brisson, de Regn. Pers. l. ii. p. 578), nor could it be copied from the foolish tale of Marsyas the Phrygian piper, most foolishly quoted as a precedent by Agathias (l. iv. p. 132, 133).

of the Lazi had been educated in the Christian religion; his mother was the daughter of a senator; during his youth, he had served ten years a silentiary of the Byzantine palace,<sup>97</sup> and the arrears of an unpaid salary were a motive of attachment as well as of complaint. But the long continuance of his sufferings extorted from him a naked representation of the truth; and truth was an unpardonable libel on the lieutenants of Justinian, who, amidst the delays of a ruinous war, had spared his enemies and trampled on his allies. Their malicious information persuaded the emperor that his faithless vassal already meditated a second defection; an order was issued to send him prisoner to Constantinople; a treacherous clause was inserted, that he might be lawfully killed in case of resistance; and Gubazes, without arms or suspicion of danger, was stabbed in the security of a friendly interview. In the first moments of rage and despair the Colchians would have sacrificed their country and religion to the gratification of revenge. But the authority and eloquence of the wiser few obtained a salutary pause; the victory of the Phasis restored the terror of the Roman arms; and the emperor was solicitous to absolve his own name from the imputation of so foul a murder. A judge of senatorial rank was commissioned to inquire into the conduct and death of the king of the Lazi. He ascended a stately tribunal, encompassed by the ministers of justice and punishment; in the presence of both nations, this extraordinary cause was pleaded according to the forms of civil jurisprudence; and some satisfaction was granted to an injured people, by the sentence and execution of the meaner criminals.<sup>98</sup>

<sup>97</sup> In the palace of Constantinople there were thirty silentiaries, who are styled *hastati ante fores cubiculi*, τῆς σιγῆς, ἐπιστάται, an honourable title, which conferred the rank, without imposing the duties, of a senator (Cod. Theodos. l. vi. tit. 23. Gothofred. Comment. tom. ii. p. 129).

<sup>98</sup> On these judicial [rather, deliberative (as Milman observes)] orations Agathias (l. iii. p. 81-89; l. iv. p. 108-119) lavishes eighteen or twenty pages of false and florid rhetoric. His ignorance or carelessness overlooks the strongest argument against the king of Lazica — his former revolt.

In peace, the king of Persia continually sought the pretences of a rupture; but no sooner had he taken up arms than he expressed his desire of a safe and honourable treaty. During the fiercest hostilities, the two monarchs entertained a deceitful negotiation; and such was the superiority of Chosroes that, whilst he treated the Roman ministers with insolence and contempt, he obtained the most unprecedented honours for his own ambassadors at the Imperial court. The successor of Cyrus assumed the majesty of the Eastern sun, and graciously permitted his younger brother Justinian to reign over the West, with the pale and reflected splendour of the moon. This gigantic style was supported by the pomp and eloquence of Isdigune, one of the royal chamberlains. His wife and daughters, with a train of eunuchs and camels, attended the march of the ambassador; two satraps with golden diadems were numbered among his followers; he was guarded by five hundred horse, the most valiant of the Persians; and the Roman governor of Dara wisely refused to admit more than twenty of this martial and hostile caravan. When Isdigune had saluted the emperor and delivered his presents, he passed ten months at Constantinople without discussing any serious affairs. Instead of being confined to his palace and receiving food and water from the hands of his keepers, the Persian ambassador, without spies or guards, was allowed to visit the capital; and the freedom of conversation and trade enjoyed by his domestics offended the prejudices of an age which rigorously practised the law of nations without confidence or courtesy.<sup>99</sup> By an unexampled indulgence, his interpreter, a servant below the notice of a Roman magistrate, was seated, at the table of Justinian, by the side of his master; and one thousand pounds of gold might be assigned for the expense of

<sup>99</sup> Procopius represents the practice of the Gothic court of Ravenna (Goth. l. i. c. 7); and foreign ambassadors have been treated with the same jealousy and rigour in Turkey (Busbequius, Epist. iii. p. 149, 242, &c.), Russia (Voyage d'Olearius), and China (Narrative of M. de Lange, in Bell's Travels, vol. ii. p. 189-311).

his journey and entertainment. Yet the repeated labours of Isdigune could procure only a partial and imperfect truce, which was always purchased with the treasures, and renewed at the solicitation, of the Byzantine court. Many years of fruitless desolation elapsed before Justinian and Chosroes were compelled by mutual lassitude to consult the repose of their declining age. At a conference held on the frontier, each party, without expecting to gain credit, displayed the power, the justice, and the pacific intentions of their respective sovereigns; but necessity and interest dictated the treaty of peace, which was concluded for a term of fifty years, diligently composed in the Greek and Persian language, and attested by the seals of twelve interpreters. The liberty of commerce and religion was fixed and defined; the allies of the emperor and the great king were included in the same benefits and obligations; and the most scrupulous precautions were provided to prevent or determine the accidental disputes that might arise on the confines of two hostile nations. After twenty years of destructive though feeble war, the limits still remained without alteration; and Chosroes was persuaded to renounce his dangerous claim to the possession or sovereignty of Colchos and its dependent states. Rich in the accumulated treasures of the East, he extorted from the Romans an annual payment of thirty thousand pieces of gold; and the smallness of the sum revealed the disgrace of a tribute in its naked deformity. In a previous debate, the chariot of Sesostris and the wheel of fortune were applied by one of the ministers of Justinian, who observed that the reduction of Antioch and some Syrian cities had elevated beyond measure the vain and ambitious spirit of the Barbarian. "You are mistaken," replied the modest Persian: "the king of kings, the lord of mankind, looks down with contempt on such petty acquisitions; and of the ten nations, vanquished by his invincible arms, he esteems the Romans as the least formidable."<sup>100</sup>

<sup>100</sup> The negotiations and treaties between Justinian and Chosroes are

According to the Orientals the empire of Nushirvan extended from Ferganah in Transoxiana to Yemen or Arabia Felix. He subdued the rebels of Hyrcania, reduced the provinces of Cabul and Zablestan on the banks of the Indus, broke the power of the Euthalites, terminated by an honourable treaty the Turkish war, and admitted the daughter of the great khan into the number of his lawful wives. Victorious and respected among the princes of Asia, he gave audience, in his palace of Madain, or Ctesiphon, to the ambassadors of the world. Their gifts or tributes, arms, rich garments, gems, slaves, or aromatics, were humbly presented at the foot of his throne; and he condescended to accept from the king of India ten quintals of the wood of aloes, a maid seven cubits in height, and a carpet softer than silk, the skin, as it was reported, of an extraordinary serpent.<sup>101</sup>

Justinian had been reproached for his alliance with the Æthiopians, as if he attempted to introduce a people of savage negroes into the system of civilised society. But the friends of the Roman empire, the Axumites, or Abyssinians, may be always distinguished from the original natives of Africa.<sup>102</sup> The hand of nature has flattened the noses of the negroes, covered their heads with shaggy wool, and tinged their skin with inherent and indelible blackness. But the olive complexion of the Abyssinians, their hair, shape, and features, distinctly mark them as a colony of Arabs; and this descent is confirmed by the resemblance of language and manners, the report of an ancient emigration, and the narrow interval

copiously explained by Procopius (*Persic.* l. ii. c. 10, 13, 26, 27, 28. *Gothic.* l. ii. c. 11, 15), Agathias (*l. iv.* p. 141, 142), and Menander (in excerpt. *Legat.* p. 132-147). Consult Barbeyrac, *Hist. des Anciens Traités*, tom. ii. p. 154, 181-184, 193-200.

<sup>101</sup> D'Herbelot, *Bibliot. Orient.* p. 680, 681, 294, 295.

<sup>102</sup> See Buffon, *Hist. Naturelle*, tom. iii. p. 449. This Arab cast of features and complexion, which has continued 3400 years (Ludolph. *Hist. et Comment. Æthiopic.* l. i. c. 4) in the colony of Abyssinia, will justify the suspicion that race, as well as climate, must have contributed to form the negroes of the adjacent and similar regions.

between the shores of the Red Sea. Christianity had raised that nation above the level of African barbarism; <sup>103</sup> their intercourse with Egypt, and the successors of Constantine, <sup>104</sup> had communicated the rudiments of the arts and sciences; their vessels traded to the isle of Ceylon, <sup>105</sup> and seven kingdoms obeyed the Negus or supreme prince of Abyssinia. The independence of the Homerites, who reigned in the rich and happy Arabia, was first violated by an Æthiopian conqueror; he drew his hereditary claim from the queen of Sheba, <sup>106</sup> and his ambition was sanctified by religious zeal. The Jews, powerful and active in exile, had seduced the mind of Dunaan, prince of the Homerites. <sup>107</sup> They urged him to retaliate the persecution inflicted by the Imperial laws on their unfortunate brethren: some Roman merchants were injuriously treated; and several Christians of Negra <sup>108</sup> were honoured

<sup>103</sup> The Portuguese missionaries, Alvarez (Ramusio, tom. i. fol. 204, rect. 274, vers.), Bermudes (Purchas's Pilgrims, vol. ii. l. v. c. 7, p. 1149-1188), Lobo (Relation, &c. par M. le Grand, with xv. Dissertations, Paris, 1728), and Tellez (Relations de Thévenot, part iv.), could only relate of modern Abyssinia what they had seen or invented. The erudition of Ludolphus (Hist. Æthiopica, Francofurt, 1681, Commentarius, 1691, Appendix, 1694), in twenty-five languages, could add little concerning its ancient history. Yet the fame of Caled, or Ellisthæus, the conqueror of Yemen, is celebrated in national songs and legends. [For a coin of this Chaleb, see Schlumberger, Revue Numism., 1886. The legend is ΚΑΛΗΒ ΒΑΣΙΛΕΥΣ ΤΙΟΣ ΘΕΖΕΝΑ. It is noteworthy that these kings used the title *basileus*.]

<sup>104</sup> The negotiations of Justinian with the Axumites, or Æthiopians, are recorded by Procopius (Persic. l. i. c. 19, 20) and John Malala (tom. ii. p. 163-165, 193-196 [433-4, 457-8, ed. Bonn]). The historian of Antioch quotes the original narrative of the ambassador Nonnosus, of which Photius (Bibliot. cod. iii.) has preserved a curious extract [ap. Müller, F.H.G. iv. p. 179].

<sup>105</sup> The trade of the Axumites to the coast of India and Africa and the isle of Ceylon is curiously represented by Cosmas Indicopleustes (Topograph. Christian. l. ii. p. 132, 138, 139, 140; l. xi. p. 338, 339). [They had most of the carrying trade between the Empire and India.]

<sup>106</sup> Ludolph, Hist. et Comment. Æthiop. l. ii. c. 3.

<sup>107</sup> [The author has mistaken the accusative Dunaan (Δουναάν) for the nominative. Dhū Nuvās is the name. Cp. Appendix 9.]

<sup>108</sup> The city of Negra, or Nag'ran, in Yemen, is surrounded with palm trees, and stands in the high-road between Saana the capital and Mecca,

with the crown of martyrdom.<sup>109</sup> The churches of Arabia implored the protection of the Abyssinian monarch. The Negus passed the Red Sea with a fleet and army, deprived the Jewish proselyte of his kingdom and life, and extinguished a race of princes, who had ruled above two thousand years the sequestered region of myrrh and frankincense. The conqueror immediately announced the victory of the gospel, requested an orthodox patriarch, and so warmly professed his friendship to the Roman empire that Justinian was flattered by the hope of diverting the silk trade through the channel of Abyssinia, and of exciting the forces of Arabia against the Persian king. Nonnosus, descended from a family of ambassadors, was named by the emperor to execute this important commission. He wisely declined the shorter, but more dangerous, road through the sandy deserts of Nubia; ascended the Nile, embarked on the Red Sea, and safely landed at the African port of Adulis. From Adulis to the royal city of Axume is no more than fifty leagues, in a direct line; but the winding passes of the mountains detained the ambassador fifteen days; and, as he traversed the forests, he saw, and vaguely computed, about five thousand wild elephants. The capital, according to his report, was large and populous; and the *village* of Axume is still conspicuous by the regal coronations, by the ruins of a Christian temple, and by sixteen or seventeen obelisks inscribed with Grecian characters.<sup>110</sup> But the Negus gave audience in the open field,

from the former ten, from the latter twenty, days' journey of a caravan of camels (Abulfeda, *Descript. Arabiæ*, p. 52).

<sup>109</sup> The martyrdom of St. Arethas prince of Negra, and his three hundred and forty companions, is embellished in the legends of Metaphrastes and Nicephorus Callistus, copied by Baronius (A.D. 522, No. 22-66; A.D. 523, No. 16-29), and refuted, with obscure diligence, by Basnage (*Hist. des Juifs*, tom. xii. l. viii. c. ii. p. 333-348), who investigates the state of the Jews in Arabia and Æthiopia. [Cp. *Acta Sanct.*, Oct. x. p. 721 *sqq.*; Theophanes, *Chron.*, *sub* A.M. 6015.]

<sup>110</sup> Alvarez (in Ramusio, tom. i. fol. 219 vers. 221 vers.) saw the flourishing state of Axume in the year 1520 — luogo molto buono e grande. It was

seated on a lofty chariot, which was drawn by four elephants superbly caparisoned, and surrounded by his nobles and musicians. He was clad in a linen garment and cap, holding in his hand two javelins and a light shield; and, although his nakedness was imperfectly covered, he displayed the Barbaric pomp of gold chains, collars, and bracelets, richly adorned with pearls and precious stones. The ambassador of Justinian knelt; the Negus raised him from the ground, embraced Nonnosus, kissed the seal, perused the letter, accepted the Roman alliance, and, brandishing his weapons, denounced implacable war against the worshippers of fire. But the proposal of the silk trade was eluded; and notwithstanding the assurances, and perhaps the wishes, of the Abyssinians, these hostile menaces evaporated without effect. The Homerites were unwilling to abandon their aromatic groves, to explore a sandy desert, and to encounter, after all their fatigues, a formidable nation from whom they had never received any personal injuries. Instead of enlarging his conquests, the king of Æthiopia was incapable of defending his possessions. Abrahah, the slave of a Roman merchant of Adulis, assumed the sceptre of the Homerites; the troops of Africa were seduced by the luxury of the climate; and Justinian solicited the friendship of the usurper, who honoured, with a slight tribute, the supremacy of his prince. After a long series of prosperity, the power of Abrahah was overthrown before the gates of Mecca; his children were despoiled by the Persian conqueror; and the Æthiopians were finally expelled from the continent of Asia. This narrative of obscure and remote events is not foreign to the decline and fall of the Roman empire. If a Christian power had been maintained in Arabia, Mahomet must have been crushed in his cradle, and Abyssinia would have prevented a revolution

ruined in the same century by the Turkish invasion. No more than one hundred houses remain; but the memory of its past greatness is preserved by the regal coronation (Ludolph, *Hist. et Comment.* l. ii. c. 11).

which has changed the civil and religious state of the world.<sup>111</sup>

<sup>111</sup> The revolutions of Yemen in the sixth century must be collected from Procopius (*Persic.* l. i. c. 19, 20), Theophanes Byzant. (apud Phot. cod. lxxiii. p. 80), St. Theophanes (in *Chronograph.* p. 144, 145, 188, 189, 206, 207, who is full of strange blunders [A.M. 6015, 6035, 6064]), Pocock (*Specimen Hist. Arab.* p. 62, 65), d'Herbelot (*Bibliot. Orientale*, p. 12, 477), and Sale's *Preliminary Discourse and Koran* (c. 105). The revolt of Abrahah is mentioned by Procopius; and his fall, though clouded with miracles, is an historical fact. [See further Appendix 9.]

## CHAPTER XLIII

*Rebellions of Africa — Restoration of the Gothic Kingdom by Totila — Loss and Recovery of Rome — Final Conquest of Italy by Narses — Extinction of the Ostrogoths — Defeat of the Franks and Alemanni — Last Victory, Disgrace, and Death of Belisarius — Death and Character of Justinian — Comet, Earthquakes, and Plague*

THE review of the nations from the Danube to the Nile has exposed on every side the weakness of the Romans; and our wonder is reasonably excited that they should presume to enlarge an empire whose ancient limits they were incapable of defending. But the wars, the conquests, and the triumphs of Justinian are the feeble and pernicious efforts of old age, which exhaust the remains of strength, and accelerate the decay of the powers of life. He exulted in the glorious act of restoring Africa and Italy to the republic; but the calamities which followed the departure of Belisarius betrayed the impotence of the conqueror and accomplished the ruin of those unfortunate countries.

From his new acquisitions, Justinian expected that his avarice as well as pride should be richly gratified. A rapacious minister of the finances closely pursued the footsteps of Belisarius; and, as the old registers of tribute had been burnt by the Vandals, he indulged his fancy in a liberal calculation and arbitrary assessment of the wealth of Africa.<sup>1</sup> The increase

<sup>1</sup> For the troubles of Africa, I neither have nor desire another guide than Procopius, whose eye contemplated the image, and whose ear collected the reports, of the memorable events of his own times. In the second book of the Vandalic war he relates the revolt of Stoza (c. 14-24), the return of Belisarius (c. 15), the victory of Germanus (c. 16, 17, 18), the second administration of Solomon (c. 19, 20, 21), the government of Sergius (c. 22, 23),

of taxes which were drawn away by a distant sovereign, and a general resumption of the patrimony or crown lands, soon dispelled the intoxication of the public joy; but the emperor was insensible to the modest complaints of the people, till he was awakened and alarmed by the clamours of military discontent. Many of the Roman soldiers had married the widows and daughters of the Vandals. As their own, by the double right of conquest and inheritance, they claimed the estates which Genseric had assigned to his victorious troops. They heard with disdain the cold and selfish representation of their officers, that the liberality of Justinian had raised them from a savage or servile condition; that they were already enriched by the spoils of Africa, the treasure, the slaves, and the moveables of the vanquished Barbarians; and that the ancient and lawful patrimony of the emperors would be applied only to the support of that government on which their own safety and reward must ultimately depend. The mutiny was secretly inflamed by a thousand soldiers, for the most part Heruli, who had imbibed the doctrines, and were instigated by the clergy, of the Arian sect; and the cause of perjury and rebellion was sanctified by the dispensing powers of fanaticism. The Arians deplored the ruin of their church, triumphant above a century in Africa; and they were justly provoked by the laws of the conqueror, which interdicted the baptism of their children and the exercise of all religious worship. Of the Vandals chosen by Belisarius, the far greater part, in the honours of the Eastern service, forgot their country and religion. But a generous band of four hundred obliged the mariners, when they were in sight of the isle of Lesbos, to alter their course: they touched on Peloponnesus, ran ashore on a desert coast of Africa, and boldly erected on Mount Aurasius the standard of independence and revolt. While

of Areobindus (c. 24), the tyranny and death of Gontharis (c. 25, 26, 27, 28); nor can I discern any symptoms of flattery or malevolence in his various portraits. [But we have now the *Johannis* of Corippus; see vol. vi. Appendix 2, and Appendix 10 of the present volume.]

the troops of the province disclaimed the command of their superiors, a conspiracy was formed at Carthage against the life of Solomon, who filled with honour the place of Belisarius; and the Arians had piously resolved to sacrifice the tyrant at the foot of the altar, during the awful mysteries of the festival of Easter. Fear or remorse restrained the daggers of the assassins, but the patience of Solomon emboldened their discontent; and at the end of ten days a furious sedition was kindled in the Circus, which desolated Africa about ten years. The pillage of the city and the indiscriminate slaughter of its inhabitants were suspended only by darkness, sleep, and intoxication; the governor, with seven companions, among whom was the historian Procopius, escaped to Sicily; two thirds of the army were involved in the guilt of treason; and eight thousand insurgents, assembling in the field of Bulla, elected Stozza<sup>2</sup> for their chief, a private soldier, who possessed in a superior degree the virtues of a rebel. Under the mask of freedom, his eloquence could lead, or at least impel, the passions of his equals. He raised himself to a level with Belisarius and the nephew of the emperor, by daring to encounter them in the field; and the victorious generals were compelled to acknowledge that Stozza deserved a purer cause and a more legitimate command. Vanquished in battle<sup>3</sup> he dexterously employed the arts of negotiation; a Roman army was seduced

<sup>2</sup> [The name appears as Stutias in Corippus, Stuzza in Victor Tonn.]

<sup>3</sup> [Stutias was defeated first by Belisarius, A.D. 536, at Membressa (Medjez el Bab), on the Bagradas, 50 miles from Carthage, cp. Procop. Vand. 2, 14, with Corippus, Joh. 3, 311:—

hunc Membressa suis vidit concurrere campis, &c.

Then by Germanus, A.D. 537, at Cellas Vatari (Καλλισβάρωνας Procop.; cp. the village *Vatari* in Tab. Peut. iii. F. The idea that this name represents a Latin form *Scalae Veteres* must be wrong). There was a third battle in which Germanus was again victor at Autenti in Byzacium. See Corippus, *ib.* 316:—

similique viros virtute necabas

Germano spargente ferum victumque tyrannum.

te Cellas Vatari miro spectabat amore,

te Autenti saevos mactantem viderat hostes.]

from their allegiance, and the chiefs who had trusted to his faithless promise were murdered by his order in a church of Numidia. When every resource either of force or perfidy was exhausted, Stoza, with some desperate Vandals, retired to the wilds of Mauritania, obtained the daughter of a Barbarian prince, and eluded the pursuit of his enemies by the report of his death. The personal weight of Belisarius, the rank, the spirit, and the temper of Germanus, the emperor's nephew, and the vigour and success of the second administration of the eunuch Solomon restored the modesty of the camp, and maintained for a while the tranquillity of Africa. But the vices of the Byzantine court were felt in that distant province; the troops complained that they were neither paid nor relieved, and, as soon as the public disorders were sufficiently mature, Stoza was again alive, in arms, and at the gates of Carthage. He fell in a single combat, but he smiled in the agonies of death, when he was informed that his own javelin had reached the heart of his antagonist.<sup>4</sup> The example of Stoza, and the assurance that a fortunate soldier had been the first king, encouraged the ambition of Gontharis, and he promised, by a private treaty, to divide Africa with the Moors, if, with their dangerous aid, he should ascend the throne of Carthage. The feeble Areobindus, unskilled in the affairs of peace and war, was raised, by his marriage with the niece of Justinian, to the office of Exarch.<sup>5</sup> He was suddenly oppressed by a sedition

<sup>4</sup> [The battle in which Stutias fell took place in A.D. 545, towards the end of the year, while Areobindus was Mag. Mil. The Romans were led by John son of Sisinniolus. The battle consisted of two engagements, in the first of which the Romans had the worst of it, and in the second were distinctly defeated. Stutias was killed by an arrow from the hand of the Roman general, but John himself was also slain. See Corippus, Joh. 4, 103 sqq. and Partsch, Proœmium, p. xxii. The scene of the battles was Thacea (near the modern village of Bordjmassudi), about 26 Roman miles from Sicca Veneria (el Kef). See Victor Tonn. ap. Mommsen, Chron. Min. ii. p. 201.]

<sup>5</sup> [Magister militum. The title *exarch* is not used yet (cp. Appendix 11). The order in which Gibbon relates the events in Africa renders the succession of governors a little confusing. Solomon (A.D. 534-6) was succeeded by Germanus (A.D. 537-9), whom he again succeeded (A.D. 539-544; for date of his

of the guards, and his abject supplications, which provoked the contempt, could not move the pity, of the inexorable tyrant. After a reign of thirty days, Gontharis himself was stabbed at a banquet by the hand of Artaban; and it is singular enough that an Armenian prince, of the royal family of Arsaces, should re-establish at Carthage the authority of the Roman empire.<sup>6</sup> In the conspiracy which unsheathed the dagger of Brutus against the life of Cæsar, every circumstance is curious and important to the eyes of posterity; but the guilt or merit of these loyal or rebellious assassins could interest only the contemporaries of Procopius, who, by their hopes and fears, their friendship or resentment, were personally engaged in the revolutions of Africa.<sup>7</sup>

That country was rapidly sinking into the state of barbarism, from whence it had been raised by the Phœnician colonies

death see below, n. 9). Solomon's nephew Sergius (who had previously been governor of the Tripolitane province) took his place (A.D. 544), but Areobindus was sent out (*utinam non ille Penates Poenorum vidisset iners!* — cries Corippus, 4, 85) and divided the command with him (A.D. 545); Sergius defending Numidia, and Areobindus Byzacena. On the defeat of Thacea, for which he was blamed, Sergius was recalled, and Areobindus remained sole governor (A.D. 546, January?). Artaban succeeded him, but was superseded by John, the hero of the poem of Corippus, before the end of the same year. See Partsch, *Proœmium* to Corippus, p. xxiv.]

<sup>6</sup> [Procopius gives the whole praise to Artaban, and probably with justice. But Corippus, *Joh. 4, 232 sqq.*, represents him as merely the tool of Athanasius, an old man who had been appointed to the Præt. Prefecture of Africa: —

Nam pater ille bonus summis Athanasius Afros  
consiliis media rapuit de caede maligni.  
hic potuit Libyam Romanis reddere fastis  
solus et infestum leto damnare tyrannum.  
Armenius tanti fuerat tunc ille minister  
consilii.

The success of Artaban in crushing Guntarith further depended on the temporary goodwill of the great chief of the Moors of Byzacium — Antala. See Corippus, *ib.* 368.]

<sup>7</sup> Yet I must not refuse him the merit of painting, in lively colours, the murder of Gontharis. One of the assassins uttered a sentiment not unworthy of a Roman patriot: "If I fail," said Artasires, "in the first stroke, kill me on the spot lest the rack should extort a discovery of my accomplices."

and Roman laws; and every step of intestine discord was marked by some deplorable victory of savage man over civilised society. The Moors,<sup>8</sup> though ignorant of justice, were impatient of oppression; their vagrant life and boundless wilderness disappointed the arms, and eluded the chains, of a conqueror; and experience had shewn that neither oaths nor obligations could secure the fidelity of their attachment. The victory of Mount Auras had awed them into momentary submission; but, if they respected the character of Solomon, they hated and despised the pride and luxury of his two nephews, Cyrus and Sergius, on whom their uncle had imprudently bestowed the provincial governments of Tripoli and Pentapolis. A Moorish tribe encamped under the walls of Leptis, to renew their alliance and receive from the governor the customary gifts. Fourscore of their deputies were introduced as friends into the city; but, on the dark suspicion of a conspiracy, they were massacred at the table of Sergius; and the clamour of arms and revenge was re-echoed through the valleys of Mount Atlas, from both the Syrtes to the Atlantic ocean. A personal injury, the unjust execution or murder of his brother, rendered Antalas the enemy of the Romans.<sup>9</sup> The defeat of the Vandals had formerly signalised his valour; the rudiments of justice and prudence were still more conspicuous in a Moor; and, while he laid Adrumetum in ashes, he calmly admonished the emperor that the peace of Africa might be secured by the recall of Solomon and his unworthy nephews. The exarch led forth his troops from Carthage; but, at the distance of six days' journey, in the neighbourhood

<sup>8</sup> The Moorish wars are occasionally introduced into the narrative of Procopius (*Vandal.* l. ii. c. 19-23, 25, 27, 28; *Gothic.* l. iv. c. 17); and Theophanes adds some prosperous and adverse events in the last years of Justinian.

<sup>9</sup> [After the defeat of A.D. 534, Antala remained quiet for ten years (*plenosque decem perfecerat annos*, Corippus, *Joh.* 2, 35). He took up arms again in A.D. 544 (not 543, as Victor Tonn. states). This has been proved by Partsch, *Procem.* p. xvi. xvii. The plague was raging in the Roman provinces of Africa in 543, and the Moors were not likely to attack them then

of Tebeste,<sup>10</sup> he was astonished by the superior numbers and fierce aspect of the Barbarians. He proposed a treaty, solicited a reconciliation, and offered to bind himself by the most solemn oaths. "By what oaths can he bind himself?" interrupted the indignant Moors. "Will he swear by the gospels, the divine books of the Christians? It was on those books that the faith of his nephew Sergius was pledged to eighty of our innocent and unfortunate brethren. Before we trust them a second time, let us try their efficacy in the chastisement of perjury and the vindication of their own honour." Their honour was vindicated in the field of Tebeste,<sup>11</sup> by the

(see below, p. 297). The Moorish tribe whose deputies were murdered were the Laguantan (this is one of the numerous forms of the name used by Corippus) = *Λεβάθαι* of Procopius.]

<sup>10</sup> Now Tibesh, in the kingdom of Algiers. It is watered by a river, the Sujerass, which falls into the Mejerda (*Bagradas*). Tibesh is still remarkable for its walls of large stones (like the Coliseum of Rome), a fountain, and a grove of walnut-trees: the country is fruitful, and the neighbouring Berberes are warlike. It appears from an inscription that, under the reign of Hadrian, the road from Carthage to Tebeste was constructed by the third legion (Marmol, *Description de l'Afrique*, tom. ii. p. 442, 443. Shaw's *Travels*, p. 64, 65, 66). [The road was constructed in A.D. 123. See C.I.L. 8, p. 865, and inscr. No. 10,048 *sqq.* Theveste (the name suggested Thebes, and hence the town was known as Hecatompyles; cf. Diodorus 4, 18) was rebuilt by Justinian after the Moorish victories of Solomon, as the following inscription records (C.I.L. 8, 1863):—

Nutu divino feliciss. temporib. piissimor. dominor. Iustiniani et Theodoræ Augg. post abscisos ex Africa Vandalos extinctamque per Solomonem gloriosiss. et excell. magistro militum ex consul. præfect. Libyæ ac patricio universam Maurusiam gentem provi(dentia ejus) dem æminētissimi viri Theveste (civitas) a (f)undament. ædificata est.]

<sup>11</sup> [The battle was fought near Cillium, or Colonia Cillitana (now Kasrin), s.e. of Theveste, and a little north of Thelepte. See Victor Tonn. in the improved text of Mommsen (*Chron. Min.* 2, p. 201): Stuzas tyrannus gentium multitudine adunata Solomoni magistro militiæ ac patricio Africa ceterisque Romanæ militiæ ducibus Cillio occurrit. ubi congressione facta peccantis Africæ Romanæ reipublicæ militia superatur, Solomon utriusque potestatis vir strenuus proelio moritur. (For Cillium cp. C.I.L. 8, 210.) Solomon was assisted not only by his two nephews but by Cūsina, chief of a Moorish tribe which, driven out of Byzacium by Solomon in 535 (Procop. B. V. 2, 10), was now established in the neighbourhood of Lambaesis. Cp. Corippus, *Joh.* 3405 *sqq.* For a full account see Pertsch, *Procem.* p. xviii.-xx.]

death of Solomon and the total loss of his army. The arrival of fresh troops and more skilful commanders soon checked the insolence of the Moors; seventeen of their princes were slain in the same battle; and the doubtful and transient submission of their tribes was celebrated with lavish applause by the people of Constantinople. Successive inroads had reduced the province of Africa to one third of the measure of Italy; yet the Roman emperors continued to reign above a century over Carthage and the fruitful coast of the Mediterranean. But the victories and the losses of Justinian were alike pernicious to mankind; and such was the desolation of Africa that in many parts a stranger might wander whole days without meeting the face either of a friend or an enemy. The nation of the Vandals had disappeared; they once amounted to an hundred and sixty thousand warriors, without including the children, the women, or the slaves. Their numbers were infinitely surpassed by the number of the Moorish families extirpated in a relentless war; and the same destruction was retaliated on the Romans and their allies, who perished by the climate, their mutual quarrels, and the rage of the Barbarians. When Procopius first landed, he admired the populousness of the cities and country, strenuously exercised in the labours of commerce and agriculture. In less than twenty years, that busy scene was converted into a silent solitude; the wealthy citizens escaped to Sicily and Constantinople; and the secret historian has confidently affirmed that five millions of Africans were consumed by the wars and government of the emperor Justinian.<sup>12</sup>

The jealousy of the Byzantine court had not permitted Belisarius to achieve the conquest of Italy; and his abrupt departure revived the courage of the Goths,<sup>13</sup> who respected

<sup>12</sup> Procopius, *Anecdot.* c. 18. The series of the African history attests this melancholy truth.

<sup>13</sup> In the second (c. 30) and third books (c. 1-40), Procopius continues the history of the Gothic war from the fifth to the fifteenth year of Justinian [*leg.* year of the war]. As the events are less interesting than in the former

his genius, his virtue, and even the laudable motive which had urged the servant of Justinian to deceive and reject them. They had lost their king (an inconsiderable loss), their capital, their treasures, the provinces from Sicily to the Alps, and the military force of two hundred thousand Barbarians, magnificently equipped with horses and arms. Yet all was not lost, as long as Pavia was defended by one thousand Goths, inspired by a sense of honour, the love of freedom, and the memory of their past greatness. The supreme command was unanimously offered to the brave Uraias; and it was in his eyes alone that the disgrace of his uncle Vitiges could appear as a reason of exclusion. His voice inclined the election in favour of Hildibald, whose personal merit was recommended by the vain hope that his kinsman Theudes, the Spanish monarch, would support the common interest of the Gothic nation. The success of his arms in Liguria and Venetia seemed to justify their choice; but he soon declared to the world that he was incapable of forgiving or commanding his benefactor. The consort of Hildibald was deeply wounded by the beauty, the riches, and the pride of the wife of Uraias; and the death of that virtuous patriot excited the indignation of a free people. A bold assassin executed their sentence, by striking off the head of Hildibald in the midst of a banquet; the Rugians, a foreign tribe, assumed the privilege of election; and Totila,<sup>14</sup> the nephew of the late king, was tempted, by revenge, to deliver himself and the garrison of Treviso into the hands of the Romans. But the gallant and accomplished youth was easily persuaded to prefer the Gothic throne before

period, he allots only half the space to double the time. Jornandes, and the Chronicle of Marcellinus, afford some collateral hints. Sigonius, Pagi, Muratori, Mascou, and De Buat are useful, and have been used. [The space allotted by Procopius to the various events depends on his presence at, or absence from, the scene of war. Cp. Haury, *Procopiana*, i. p. 8.]

<sup>14</sup> [His proper name was Baduila, which appears invariably on coins and is mentioned by Jordanes. He was probably elected towards end of A.D. 541; Eraric the Rugian reigned, after Ildibad's death during the summer of that year.]

the service of Justinian; and, as soon as the palace of Pavia had been purified from the Rugian usurper, he reviewed the national force of five thousand soldiers, and generously undertook the restoration of the kingdom of Italy.

The successors of Belisarius, eleven generals of equal rank,<sup>15</sup> neglected to crush the feeble and disunited Goths, till they were roused to action by the progress of Totila and the reproaches of Justinian. The gates of Verona were secretly opened to Artabazus, at the head of one hundred Persians in the service of the empire.<sup>16</sup> The Goths fled from the city. At the distance of sixty furlongs the Roman generals halted to regulate the division of the spoil. While they disputed, the enemy discovered the real number of the victors; the Persians were instantly overpowered, and it was by leaping from the wall that Artabazus preserved a life which he lost in a few days by the lance of a Barbarian, who had defied him to single combat. Twenty thousand Romans encountered the forces of Totila, near Faenza, and on the hills of Mugello of the Florentine territory. The ardour of freedmen who fought to regain their country was opposed to the languid temper of mercenary troops, who were even destitute of the merits of strong and well-disciplined servitude. On the first attack they abandoned their ensigns, threw down their arms, and dispersed on all sides with an active speed, which abated the loss, whilst it aggravated the shame, of their defeat.<sup>17</sup> The king of the Goths, who blushed

<sup>15</sup> [Hardly of equal rank; for Procopius says that Constantian and Alexander were "first among them" (B.G. iii. 3). Others were Vitalius, Bessas, and John son of Vitalian.]

<sup>16</sup> [Not 100 Persians, but 100 men selected from the whole army. Procop., *ib.* On ordinary occasions Artabazes commanded a Persian band.]

<sup>17</sup> [The events are so compressed in the text that they are hardly intelligible. The Roman army, numbering (not 20,000 as the author states, but) 12,000 (*δισχιλλοὺς τε καὶ μυρῖους*), advanced within five miles of Verona, and on the failure of the attempt of Artabazes retreated beyond the Po to Faventia, which is about twenty miles south-west of Ravenna. Totila then, taking the offensive, follows them from Venetia, crosses the Po, and the battle of Faenza is fought, in which the Imperialists are routed and Artabazes slain in single combat

for the baseness of his enemies, pursued with rapid steps the path of honour and victory. Totila passed the Po, traversed the Apennine, suspended the important conquest of Ravenna, Florence, and Rome, and marched through the heart of Italy to form the siege, or rather blockade, of Naples. The Roman chiefs, imprisoned in their respective cities and accusing each other of the common disgrace, did not presume to disturb his enterprise. But the emperor, alarmed by the distress and danger of his Italian conquests, despatched to the relief of Naples a fleet of galleys and a body of Thracian and Armenian soldiers. They landed in Sicily, which yielded its copious stores of provisions; but the delays of the new commander, an unwarlike magistrate, protracted the sufferings of the besieged; and the succours, which he dropt with a timid and tardy hand, were successively intercepted by the armed vessels stationed by Totila in the bay of Naples. The principal officer of the Romans was dragged with a rope round his neck to the foot of the wall, from whence, with a trembling voice, he exhorted the citizens to implore, like himself, the mercy of the conqueror. They requested a truce, with a promise of surrendering the city if no effectual relief should appear at the end of thirty days. Instead of *one* month, the audacious Barbarian granted them *three*, in the just confidence that famine would anticipate the term of their capitulation. After the reduction of Naples and Cumæ, the provinces of Lucania, Apulia, and Calabria submitted to the king of the Goths. Totila led his army to the gates of Rome, pitched his camp at Tibur, or Tivoli, within twenty miles of the capital, and calmly exhorted the senate and people to compare the tyranny of the Greeks with the blessings of the Gothic reign.

with Viliaris. The Romans, having suffered a severe loss, retreat to Ravenna, and Totila advances into Tuscany, besieges Florence (which is held by Justin), and defeats, in the valley of Mugello (a day's journey from Florence), the army of relief which has come from Ravenna under John and Bessas. The Battle of Mugello gave central and southern Italy to the Goths. It was fought towards end of 542. Procopius, B.G. iii. 3-5.]

The rapid success of Totila may be partly ascribed to the revolution which three years' experience had produced in the sentiments of the Italians. At the command, or at least in the name, of a Catholic emperor, the pope,<sup>18</sup> their spiritual father, had been torn from the Roman church, and either starved or murdered on a desolate island.<sup>19</sup> The virtues of Belisarius were replaced by the various or uniform vices of eleven chiefs, at Rome, Ravenna, Florence, Perugia, Spoleto, &c., who abused their authority for the indulgence of lust or avarice. The improvement of the revenue was committed to Alexander, a subtle scribe, long practised in the fraud and oppression of the Byzantine schools; and whose name of *Psalliction*, the *scissors*,<sup>20</sup> was drawn from the dexterous artifice with which he reduced the size, without defacing the figure, of the gold coin. Instead of expecting the restoration of peace and industry, he imposed an heavy assessment on the fortunes of the Italians. Yet his present or future demands were less odious than a prosecution of arbitrary rigour against the persons and property of all those who, under the Gothic kings, had been concerned in the receipt and expenditure of the public money. The subjects of Justinian who escaped these partial vexations were oppressed

<sup>18</sup> Sylverius, bishop of Rome, was first transported to Patara, in Lycia, and at length starved (*sub eorum custodiâ inediâ confectus*) in the isle of Palmaria, A.D. 538, June 20 [probably May 21; cp. Clinton, F.R. ad ann.] (*Liberat. in Breviar. c. 22. Anastasius, in Sylverio. Baronius, A.D. 540, No. 2, 3. Pagi, in Vit. Pont. tom. i. p. 285, 286*). Procopius (*Anecd. c. 1*) accuses only the empress and Antonina. [*Liberatus and the Liber Pont. ("= Anastasius") attribute to Vigilius the removal of Silverius to Palmaria. Procopius (Anecd.) states that this wickedness was wrought by a servant of Antonina.*]

<sup>19</sup> Palmaria, a small island, opposite to Tarracina and the coast of the Volsci (*Cluver. Ital. Antiq. l. iii. c. 7, p. 1014*).

<sup>20</sup> As the Logothete Alexander and most of his civil and military colleagues were either disgraced or despised, the ink of the *Anecdotes* (c. 4, 5, 18) is scarcely blacker than that of the *Gothic History* (l. iii. c. 1, 3, 4, 9, 20, 21, &c.). [Alexander received for himself a commission of one-twelfth on his extortions. The office of logothete is fully discussed by Panchenko, *Vis. Vrem.* 3, p. 468 *sqq.*]

by the irregular maintenance of the soldiers, whom Alexander defrauded and despised; and their hasty sallies in quest of wealth, or subsistence, provoked the inhabitants of the country to await or implore their deliverance from the virtues of a Barbarian. Totila<sup>21</sup> was chaste and temperate; and none were deceived, either friends or enemies, who depended on his faith or his clemency. To the husbandmen of Italy the Gothic king issued a welcome proclamation, enjoining them to pursue their important labours and to rest assured that, on the payment of the ordinary taxes, they should be defended by his valour and discipline from the injuries of war. The strong towns he successively attacked; and, as soon as they had yielded to his arms, he demolished the fortifications, to save the people from the calamities of a future siege, to deprive the Romans of the arts of defence, and to decide the tedious quarrel of the two nations by an equal and honourable conflict in the field of battle. The Roman captives and deserters were tempted to enlist in the service of a liberal and courteous adversary; the slaves were attracted by the firm and faithful promise that they should never be delivered to their masters; and, from the thousand warriors of Pavia, a new people, under the same appellation of Goths, was insensibly formed in the camp of Totila. He sincerely accomplished the articles of capitulation, without seeking or accepting any sinister advantage from ambiguous expressions or unforeseen events: the garrison of Naples had stipulated, that they should be transported by sea; the obstinacy of the winds prevented their voyage, but they were generously supplied with horses, provisions, and a safe-conduct to the gates of Rome. The wives of the senators, who had been surprised in the villas of Campania, were restored, without a ransom, to their husbands; the violation

<sup>21</sup> Procopius (l. iii. c. 2, 8, &c.) does ample and willing justice to the merit of Totila. The Roman historians, from Sallust and Tacitus, were happy to forget the vices of their countrymen in the contemplation of Barbaric virtue.

of female chastity was inexorably chastised with death; and, in the salutary regulation of the diet of the famished Neapolitans, the conqueror assumed the office of an humane and attentive physician. The virtues of Totila are equally laudable, whether they proceeded from true policy, religious principle, or the instinct of humanity: he often harangued his troops; and it was his constant theme that national vice and ruin are inseparably connected; that victory is the fruit of moral as well as military virtue; and that the prince, and even the people, are responsible for the crimes which they neglect to punish.

The return of Belisarius, to save the country which he had subdued, was pressed with equal vehemence by his friends and enemies; and the Gothic war was imposed as a trust or an exile on the veteran commander. An hero on the banks of the Euphrates, a slave in the palace of Constantinople, he accepted, with reluctance, the painful task of supporting his own reputation and retrieving the faults of his successors. The sea was open to the Romans; the ships and soldiers were assembled at Salona, near the palace of Diocletian; he refreshed and reviewed his troops at Pola in Istria, coasted round the head of the Hadriatic, entered the port of Ravenna, and despatched orders rather than supplies to the subordinate cities. His first public oration was addressed to the Goths and Romans, in the name of the emperor, who had suspended for a while the conquest of Persia and listened to the prayers of his Italian subjects. He gently touched on the causes and the authors of the recent disasters; striving to remove the fear of punishment for the past and the hope of impunity for the future, and labouring, with more zeal than success, to unite all the members of his government in a firm league of affection and obedience. Justinian, his gracious master, was inclined to pardon and reward; and it was their interest, as well as duty, to reclaim their deluded brethren, who had been seduced by the arts of the usurper. Not a man was

tempted to desert the standard of the Gothic king. Belisarius soon discovered that he was sent to remain the idle and impotent spectator of the glory of a young Barbarian; and his own epistle exhibits a genuine and lively picture of the distress of a noble mind. "Most excellent prince, we are arrived in Italy, destitute of all the necessary implements of war, — men, horses, arms, and money. In our late circuit through the villages of Thrace and Illyricum, we have collected, with extreme difficulty, about four thousand recruits, naked and unskilled in the use of weapons and the exercises of the camp. The soldiers already stationed in the province are discontented, fearful, and dismayed; at the sound of an enemy, they dismiss their horses, and cast their arms on the ground. No taxes can be raised, since Italy is in the hands of the Barbarians: the failure of payment has deprived us of the right of command, or even of admonition. Be assured, dread sir, that the greater part of your troops have already deserted to the Goths. If the war could be achieved by the presence of Belisarius alone, your wishes are satisfied; Belisarius is in the midst of Italy. But, if you desire to conquer, far other preparations are requisite: without a military force, the title of general is an empty name. It would be expedient to restore to my service my own veterans and domestic guards.<sup>22</sup> Before I can take the field, I must receive an adequate supply of light and heavy armed troops; and it is only with ready money that you can procure the indispensable aid of a powerful body of the cavalry of the Huns."<sup>23</sup> An officer in whom Belisarius confided was sent from Ravenna to hasten and conduct the succours; but the message was neglected, and the messenger was detained at

<sup>22</sup> [δορυφόρους τε καὶ ὑπασπίστους (B.G. 3, 12), who had been disbanded at the time of his disgrace, as is mentioned in the Anecdota (c. 4), where the same expression is used. (See above, c. 41, p. 172.)]

<sup>23</sup> Procopius, l. iii. c. 12. The soul of an hero is deeply impressed on the letter; nor can we confound such genuine and original acts with the elaborate and often empty speeches of the Byzantine historians.

Constantinople by an advantageous marriage.<sup>24</sup> After his patience had been exhausted by delay and disappointment, the Roman general repassed the Hadriatic, and expected at Dyrrachium the arrival of the troops, which were slowly assembled among the subjects and allies of the empire. His powers were still inadequate to the deliverance of Rome, which was closely besieged by the Gothic king. The Appian way, a march of forty days, was covered by the Barbarians; and, as the prudence of Belisarius declined a battle, he preferred the safe and speedy navigation of five days from the coast of Epirus to the mouth of the Tiber.

After reducing, by force or treaty, the towns of inferior note in the midland provinces of Italy, Totila proceeded, not to assault, but to encompass and starve, the ancient capital.<sup>25</sup> Rome was afflicted by the avarice, and guarded by the valour, of Bessas, a veteran chief of Gothic extraction, who filled, with a garrison of three thousand soldiers, the spacious circle of her venerable walls. From the distress of the people he extracted a profitable trade, and secretly rejoiced in the continuance of the siege. It was for his use that the granaries had been replenished; the charity of Pope Vigilius had purchased and embarked an ample supply of Sicilian corn;<sup>26</sup> but the vessels which escaped the Barbarians<sup>27</sup> were seized by a rapacious governor, who imparted a scanty sustenance to the soldiers and sold the remainder to the wealthy Romans. The medimnus, or fifth part of the quarter of wheat, was exchanged for seven pieces of gold; fifty pieces were given for an ox, a rare and accidental prize; the progress of famine enhanced this exorbitant value, and the mercenaries were

<sup>24</sup> [John, son of Vitalian. He married the daughter of Germanus, nephew of Justinian.]

<sup>25</sup> [The siege probably began in last months of A.D. 545.]

<sup>26</sup> [Vigilius was then in Sicily.]

<sup>27</sup> [None of the ships sent by Vigilius escaped the Goths. See Proc., B.G. 3, 15, ad fin. The corn from Sicily which Bessas "seized" must be distinguished both from that sent by Vigilius and that mentioned in c. 13.]

tempted to deprive themselves of the allowance which was scarcely sufficient for the support of life. A tasteless and unwholesome mixture, in which the bran thrice exceeded the quantity of flour, appeased the hunger of the poor; they were gradually reduced to feed on dead horses, dogs, cats, and mice, and eagerly to snatch the grass and even the nettles which grew among the ruins of the city. A crowd of spectres, pale and emaciated, their bodies oppressed with disease and their minds with despair, surrounded the palace of the governor, urged, with unavailing truth, that it was the duty of a master to maintain his slaves, and humbly requested that he would provide for their subsistence, permit their flight, or command their immediate execution. Bessas replied, with unfeeling tranquillity, that it was impossible to feed, unsafe to dismiss, and unlawful to kill the subjects of the emperor. Yet the example of a private citizen might have shewn his countrymen that a tyrant cannot withhold the privilege of death. Pierced by the cries of five children, who vainly called on their father for bread, he ordered them to follow his steps, advanced with calm and silent despair to one of the bridges of the Tiber, and, covering his face, threw himself headlong into the stream, in the presence of his family and the Roman people. To the rich and pusillanimous, Bessas<sup>28</sup> sold the permission of departure; but the greatest part of the fugitives expired on the public highways, or were intercepted by the flying parties of Barbarians. In the meanwhile, the artful governor soothed the discontent, and revived the hopes, of the Romans, by the vague reports of the fleets and armies which were hastening to their relief from the extremities of the East. They derived more rational comfort from the

<sup>28</sup> The avarice of Bessas is not dissembled by Procopius (l. iii. c. 17, 20). He expiated the loss of Rome by the glorious conquest of *Petræa* (Goth. l. iv. c. 12); but the same vices followed him from the Tiber to the *Phasis* (c. 13); and the historian is equally true to the merits and defects of his character. The chastisement which the author of the romance of *Bélisaire* has inflicted on the oppressor of Rome is more agreeable to justice than to history.

assurance that Belisarius had landed at the *port*; and, without numbering his forces, they firmly relied on the humanity, the courage, and the skill of their great deliverer.

The foresight of Totila had raised obstacles worthy of such an antagonist.<sup>29</sup> Ninety furlongs below the city, in the narrowest part of the river, he joined the two banks by strong and solid timbers in the form of a bridge; on which he erected two lofty towers, manned by the bravest of his Goths, and profusely stored with missile weapons and engines of offence. The approach of the bridge and towers was covered by a strong and massy chain of iron; and the chain, at either end, on the opposite sides of the Tiber, was defended by a numerous and chosen detachment of archers. But the enterprise of forcing these barriers and relieving the capital displays a shining example of the boldness and conduct of Belisarius. His cavalry advanced from the port along the public road, to awe the motions, and distract the attention, of the enemy. His infantry and provisions were distributed in two hundred large boats; and each boat was shielded by an high rampart of thick planks, pierced with many small holes for the discharge of missile weapons. In the front, two large vessels were linked together to sustain a floating castle, which commanded the towers of the bridge, and contained a magazine of fire, sulphur, and bitumen.<sup>30</sup> The whole fleet, which the general led in person, was laboriously moved against the current of the river. The chain yielded to their weight, and the enemies who guarded the banks were either slain or scattered.<sup>31</sup> As soon as they touched the principal barrier,

<sup>29</sup> [In the following episode it is to be remembered that the Romans now held Portus, on the right bank, while the Goths held Ostia, on the left. In the siege of 537, the Goths had held Portus, the Romans Ostia.]

<sup>30</sup> [A boat (*λέμβος*) containing these substances was suspended at the top of the tower; and probably worked by a crane; for it was cast into the bridge-tower of Totila which stood on the northern bank.]

<sup>31</sup> [The words of Procopius seem rather to imply that the enemies were first destroyed or scattered, and that then the chain was removed, presumably by

the fire-ship was instantly grappled to the bridge; one of the towers, with two hundred Goths, was consumed by the flames; the assailants shouted victory; and Rome was saved, if the wisdom of Belisarius had not been defeated by the misconduct of his officers. He had previously sent orders to Bessas to second his operations by a timely sally from the town; and he had fixed his lieutenant, Isaac, by a peremptory command, to the station of the port. But avarice rendered Bessas immoveable; while the youthful ardour of Isaac delivered him into the hands of a superior enemy. The exaggerated rumour of his defeat was hastily carried to the ears of Belisarius: he paused; betrayed in that single moment of his life some emotions of surprise and perplexity; and reluctantly sounded a retreat to save his wife Antonina, his treasures, and the only harbour which he possessed on the Tuscan coast. The vexation of his mind produced an ardent and almost mortal fever; and Rome was left without protection to the mercy or indignation of Totila. The continuance of hostilities had embittered the national hatred; the Arian clergy was ignominiously driven from Rome; Pelagius, the archdeacon, returned without success from an embassy to the Gothic camp; and a Sicilian bishop, the envoy or nuncio of the pope, was deprived of both of his hands, for daring to utter falsehoods in the service of the church and state.<sup>32</sup>

Famine had relaxed the strength and discipline of the garrison of Rome. They could derive no effectual service from a dying people; and the inhuman avarice of the merchant at length absorbed the vigilance of the governor. Four Isaurian sentinels, while their companions slept and their

being unfastened at the banks (*τῆν ἀλυσιν ἀνελόμενοι*). There seems no reason to suspect, with Mr. Hodgkin, that divers were at work.]

<sup>32</sup> [This sentence, referring to previous events, might mislead the reader. The expulsion of the Arian clergy took place in A.D. 544, the fruitless mission of Pelagius near the beginning of the siege; and the bishop who was mutilated had come with the corn-ships sent by Vigilius.]

officers were absent, descended by a rope from the wall, and secretly proposed to the Gothic king to introduce his troops into the city. The offer was entertained with coldness and suspicion; they returned in safety; they twice repeated their visit; the place was twice examined; the conspiracy was known and disregarded; and no sooner had Totila consented to the attempt, than they unbarred the Asinarian gate and gave admittance to the Goths. Till the dawn of day they halted in order of battle, apprehensive of treachery or ambush; but the troops of Bessas, with their leader, had already escaped; and, when the king was pressed to disturb their retreat, he prudently replied that no sight could be more grateful than that of a flying enemy. The patricians who were still possessed of horses, Decius, Basilus,<sup>33</sup> &c., accompanied the governor; their brethren, among whom Olybrius, Orestes, and Maximus are named by the historian, took refuge in the church of St. Peter; but the assertion that only five hundred persons remained in the capital inspires some doubt of the fidelity either of his narrative or of his text. As soon as daylight had displayed the entire victory of the Goths, their monarch devoutly visited the tomb of the prince of the apostles; but, while he prayed at the altar, twenty-five soldiers and sixty citizens were put to the sword in the vestibule of the temple. The archdeacon Pelagius<sup>34</sup> stood before him with the gospels in his hand. "O Lord, be merciful to your servant." "Pelagius," said Totila with an insulting smile, "your pride now condescends to become a suppliant." "I *am* a suppliant," replied the prudent archdeacon; "God has now made us your subjects, and, as your subjects, we are

<sup>33</sup> [Perhaps the same as the Basil who was the last Roman consul.]

<sup>34</sup> During the long exile, and after the death, of Vigilius, the Roman church was governed, at first by the archdeacon, and at length (A.D. 555) by the pope, Pelagius, who was not thought guiltless of the sufferings of his predecessor. See the original lives of the popes under the name of Anastasius (Muratori, *Script. Rer. Italicarum*, tom. iii. P. i. p. 130, 131), who relates several curious incidents of the sieges of Rome and the wars of Italy.

entitled to your clemency." At his humble prayer, the lives of the Romans were spared; and the chastity of the maids and matrons was preserved inviolate from the passions of the hungry soldiers. But they were rewarded by the freedom of pillage, after the most precious spoils had been reserved for the royal treasury. The houses of the senators were plentifully stored with gold and silver; and the avarice of Bessas had laboured with so much guilt and shame for the benefit of the conqueror. In this revolution the sons and daughters of Roman consuls tasted the misery which they had spurned or relieved, wandered in tattered garments through the streets of the city, and begged their bread, perhaps without success, before the gates of their hereditary mansions. The riches of Rusticiana, the daughter of Symmachus and widow of Boethius, had been generously devoted to alleviate the calamities of famine. But the Barbarians were exasperated by the report that she had prompted the people to overthrow the statues of the great Theodoric; and the life of that venerable matron would have been sacrificed to his memory, if Totila had not respected her birth, her virtues, and even the pious motive of her revenge. The next day he pronounced two orations, to congratulate and admonish his victorious Goths, and to reproach the senate, as the vilest of slaves, with their perjury, folly, and ingratitude; sternly declaring that their estates and honours were justly forfeited to the companions of his arms. Yet he consented to forgive their revolt, and the senators repaid his clemency by despatching circular letters to their tenants and vassals in the provinces of Italy, strictly to enjoin them to desert the standard of the Greeks, to cultivate their lands in peace, and to learn from their masters the duty of obedience to a Gothic sovereign. Against the city which had so long delayed the course of his victories he appeared inexorable: one third of the walls, in different parts, were demolished by his command; fire and engines prepared to consume or subvert the most stately works of antiquity; and the world was astonished by the fatal decree,

that Rome should be changed into a pasture for cattle. The firm and temperate remonstrance of Belisarius suspended the execution; he warned the Barbarian not to sully his fame by the destruction of those monuments which were the glory of the dead and the delight of the living; and Totila was persuaded by the advice of an enemy to preserve Rome as the ornament of his kingdom or the fairest pledge of peace and reconciliation. When he had signified to the ambassadors of Belisarius his intention of sparing the city, he stationed an army at the distance of one hundred and twenty furlongs, to observe the motions of the Roman general. With the remainder of his forces, he marched into Lucania and Apulia, and occupied on the summit of Mount Garganus<sup>85</sup> one of the camps of Hannibal.<sup>86</sup> The senators were dragged in his train, and afterwards confined in the fortresses of Campania; the citizens, with their wives and children, were dispersed in exile; and during forty days Rome was abandoned to desolate and dreary solitude.<sup>87</sup>

The loss of Rome was speedily retrieved by an action to which, according to the event, the public opinion would apply the names of rashness or heroism. After the departure of Totila, the Roman general sallied from the port at the head of a thousand horse, cut in pieces the enemy who opposed his progress, and visited with pity and reverence the vacant

<sup>85</sup> Mount Garganus (now Monte St. Angelo), in the kingdom of Naples, runs three hundred stadia into the Hadriatic Sea (Strab. l. vi. p. 436 [3, § 9]), and in the darker ages was illustrated by the apparition, miracles, and church of St. Michael the archangel. Horace, a native of Apulia or Lucania, had seen the elms and oaks of Garganus labouring and bellowing with the north wind that blew on that lofty coast (Carm. ii. 9; Epist. ii. i. 201 [*leg.* 202]).

<sup>86</sup> I cannot ascertain this particular camp of Hannibal; but the Punic quarters were long and often in the neighbourhood of Arpi (T. Liv. xxii. 9, 12; xxiv. 3, &c.).

<sup>87</sup> Totila . . . Romam ingreditur . . . ac evertit muros domos aliquantas igni comburens, ac omnes Romanorum res in prædam accepit, hos ipsos Romanos in Campaniam captivos abduxit. Post quam devastationem, xl. aut amplius dies, Roma fuit ita desolata, ut nemo ibi hominum, nisi (*nul-lae ?*) bestię morarentur (Marcellin. in Chron. p. 54).

space of the *eternal* city. Resolved to maintain a station so conspicuous in the eyes of mankind, he summoned the greatest part of his troops to the standard which he erected on the Capitol; the old inhabitants were recalled by the love of their country and the hopes of food; and the keys of Rome were sent a second time to the emperor Justinian. The walls, as far as they had been demolished by the Goths, were repaired with rude and dissimilar materials; the ditch was restored; iron spikes<sup>38</sup> were profusely scattered on the highways to annoy the feet of the horses; and, as new gates could not suddenly be procured, the entrance was guarded by a Spartan rampart of his bravest soldiers. At the expiration of twenty-five days, Totila returned by hasty marches from Apulia, to avenge the injury and disgrace. Belisarius expected his approach. The Goths were thrice repulsed in three general assaults; they lost the flower of their troops; the royal standard had almost fallen into the hands of the enemy; and the fame of Totila sunk, as it had risen, with the fortune of his arms. Whatever skill and courage could achieve had been performed by the Roman general; it remained only that Justinian should terminate, by a strong and seasonable effort, the war which he had ambitiously undertaken. The indolence, perhaps the impotence, of a prince who despised his enemies and envied his servants protracted the calamities of Italy. After a long silence, Belisarius was commanded to leave a sufficient garrison at Rome, and to transport himself into the province of Lucania, whose inhabitants, inflamed by Catholic zeal, had cast away the yoke of their Arian conquerors. In this ignoble warfare,

<sup>38</sup> The *tribuli* are small engines with four spikes, one fixed in the ground, the three others erect or adverse (Procopius, Gothic. l. iii. c. 24; Just. Lipsius, Poliorcet. *ov*, l. v. c. 3). [Rather the opposite; three fixed in the ground, one always erect, however thrown. The description of Procopius is quite clear.] The metaphor was borrowed from the *tribuli* (*land-caltrops*), an herb with a prickly fruit common in Italy (Martin, ad Virgil. Georgic. i. 153, vol. ii. p. 33).

the hero, invincible against the power of the Barbarians, was basely vanquished by the delay, the disobedience, and the cowardice of his own officers. He reposed in his winter-quarters of Crotona, in the full assurance that the two passes of the Lucanian hills were guarded by his cavalry. They were betrayed by treachery or weakness; and the rapid march of the Goths scarcely allowed time for the escape of Belisarius to the coast of Sicily. At length a fleet and army were assembled for the relief of Ruscianum, or Rossano,<sup>39</sup> a fortress, sixty furlongs from the ruins of Sybaris, where the nobles of Lucania had taken refuge. In the first attempt the Roman forces were dissipated by a storm. In the second they approached the shore; but they saw the hills covered with archers, the landing-place defended by a line of spears, and the king of the Goths impatient for battle. The conqueror of Italy retired with a sigh, and continued to languish, inglorious and inactive, till Antonina, who had been sent to Constantinople to solicit succours, obtained, after the death of the empress, the permission of his return.

The five last campaigns of Belisarius might abate the envy of his competitors, whose eyes had been dazzled and wounded by the blaze of his former glory. Instead of delivering Italy from the Goths, he had wandered like a fugitive along the coast, without daring to march into the country or to accept the bold and repeated challenge of Totila. Yet, in the judgment of the few who could discriminate counsels from events and compare the instruments with the execution, he appeared a more consummate master of the art of war, than in the season of his prosperity, when he presented two captive kings before the throne of Justinian. The valour of Belisarius was not chilled by age; his prudence was matured

<sup>39</sup> Ruscia, the *navale Thuriorum*, was transferred to the distance of sixty stadia to Ruscianum, Rossano, an archbishopric without suffragans. The republic of Sybaris is now the estate of the duke of Corigliano (Riedesel, Travels into Magna Græcia and Sicily, p. 166-171).

by experience; but the moral virtues of humanity and justice seem to have yielded to the hard necessity of the times. The parsimony or poverty of the emperor compelled him to deviate from the rule of conduct which had deserved the love and confidence of the Italians. The war was maintained by the oppression of Ravenna, Sicily, and all the faithful subjects of the empire; and the rigorous prosecution of Herodian provoked that injured or guilty officer to deliver Spoleto into the hands of the enemy.<sup>40</sup> The avarice of Antonina, which had been sometimes diverted by love, now reigned without a rival in her breast. Belisarius himself had always understood that riches, in a corrupt age, are the support and ornament of personal merit. And it cannot be presumed that he should stain his honour for the public service, without applying a part of the spoil to his private emolument. The hero had escaped the sword of the Barbarians, but the dagger of conspiracy<sup>41</sup> awaited his return. In the midst of wealth and honours, Artaban, who had chastised the African tyrant, complained of the ingratitude of courts. He aspired to Præjecta, the emperor's niece,<sup>42</sup> who wished to reward her deliverer; but the impediment of his previous marriage was asserted by the piety of Theodora. The pride of royal descent was irritated by flattery; and the service in which he gloried had proved him capable of bold and sanguinary deeds. The death of Justinian was resolved, but the conspirators delayed the execution till they could surprise Belisarius, disarmed and naked, in the palace of Constantinople. Not a hope could be entertained of shaking his long-tryed fidelity; and they justly dreaded the revenge, or rather justice, of the veteran general, who might speedily assemble an army in

<sup>40</sup> [A.D. 545. It was recovered A.D. 547; lost again; and recovered once more A.D. 552.]

<sup>41</sup> This conspiracy is related by Procopius (Gothic. l. iii. c. 31, 32) with such freedom and candour that the liberty of the Anecdotes gives him nothing to add.

<sup>42</sup> [Widow of Areobindus.]

Thrace, to punish the assassins, and perhaps to enjoy the fruits of their crime. Delay afforded time for rash communications and honest confessions; Artaban and his accomplices were condemned by the senate; but the extreme clemency of Justinian detained them in the gentle confinement of the palace, till he pardoned their flagitious attempt against his throne and life. If the emperor forgave his enemies, he must cordially embrace a friend whose victories were alone remembered, and who was endeared to his prince by the recent circumstance of their common danger. Belisarius reposed from his toils, in the high station of general of the East and count of the domestics; and the older consuls and patricians respectfully yielded the precedency of rank to the peerless merit of the first of the Romans.<sup>43</sup> The first of the Romans still submitted to be the slave of his wife; but the servitude of habit and affection became less disgraceful when the death of Theodora had removed the baser influence of fear. Joannina their daughter, and the sole heiress of their fortunes, was betrothed to Anastasius the grandson, or rather the nephew, of the empress,<sup>44</sup> whose kind interposition forwarded the consummation of their youthful loves. But the power of Theodora expired, the parents of Joannina returned, and her honour, perhaps her happiness, were sacrificed to the revenge of an unfeeling mother, who dissolved the imperfect

<sup>43</sup> The honours of Belisarius are gladly commemorated by his secretary (Procop. Goth. l. iii. c. 35; l. iv. c. 21). The title of *στρατηγός* is ill translated, at least in this instance, by *præfectus prætorio*; and to a military character *magister militum* is more proper and applicable (Ducange, Gloss. Græc. p. 1458, 1459).

<sup>44</sup> Alemannus (ad Hist. Arcanam, p. 68), Ducange (*Familiæ Byzant.* p. 98), and Heineccius (*Hist. Juris Civilis*, p. 434), all three represent Anastasius as the son of the daughter of Theodora; and their opinion firmly reposes on the unambiguous testimony of Procopius (*Anecdot.* c. 4, 5. — *θυγατριδῶ*, twice repeated). And yet I will remark, 1. That in the year 547, Theodora could scarcely have a grandson of the age of puberty; 2. That we are totally ignorant of this daughter and her husband; and, 3. That Theodora concealed her bastards, and that her grandson by Justinian would have been heir apparent of the empire.

nuptials before they had been ratified by the ceremonies of the church.<sup>45</sup>

Before the departure of Belisarius, Perugia was besieged, and few cities were impregnable to the Gothic arms. Ravenna, Ancona, and Crotona still resisted the Barbarians; and, when Totila asked in marriage one of the daughters of France,<sup>46</sup> he was stung by the just reproach that the king of Italy was unworthy of his title till it was acknowledged by the Roman people. Three thousand of the bravest soldiers had been left to defend the capital. On the suspicion of a monopoly, they massacred the governor, and announced to Justinian, by a deputation of the clergy, that, unless their offence was pardoned and their arrears were satisfied, they should instantly accept the tempting offers of Totila. But the officer who succeeded to the command (his name was Diogenes) deserved their esteem and confidence; and the Goths, instead of finding an easy conquest, encountered a vigorous resistance from the soldiers and people, who patiently endured the loss of the port and of all the maritime supplies. The siege of Rome would perhaps have been raised, if the liberality of Totila to the Isaurians had not encouraged some of their venal countrymen to copy the example of treason. In a dark night, while the Gothic trumpets sounded on another side, they silently opened the gate of St. Paul; the Barbarians rushed into the city; and the flying garrison was intercepted before they could reach the harbour of Centumcellæ. A soldier trained in the school of Belisarius, Paul of Cilicia, retired with four hundred men to the mole of Hadrian. They repelled the Goths; but they felt the approach of

<sup>45</sup> The ἀμαρτήματα, or sins, of the hero, in Italy and after his return, are manifested ἀπαρακαλύπτως, and most probably swelled, by the author of the Anecdotes (c. 4, 5). The designs of Antonina were favoured by the fluctuating jurisprudence of Justinian. On the law of marriage and divorce the emperor was trocho versatiliior (Heineccius, Element. Juris Civil. ad Ordinem Pandect. P. iv. No. 233).

<sup>46</sup> [Probably of Theudibert of Metz.]

famine; and their aversion to the taste of horse-flesh confirmed their resolution to risk the event of a desperate and decisive sally. But their spirit insensibly stooped to the offers of capitulation; they retrieved their arrears of pay, and preserved their arms and horses, by enlisting in the service of Totila; their chiefs, who pleaded a laudable attachment to their wives and children in the East, were dismissed with honour; and above four hundred enemies, who had taken refuge in the sanctuaries, were saved by the clemency of the victor. He no longer entertained a wish of destroying the edifices of Rome,<sup>47</sup> which he now respected as the seat of the Gothic kingdom; the senate and people were restored to their country; the means of subsistence were liberally provided; and Totila, in the robe of peace, exhibited the equestrian games of the circus. Whilst he amused the eyes of the multitude, four hundred vessels were prepared for the embarkation of his troops. The cities of Rhegium and Tarentum were reduced; he passed into Sicily, the object of his implacable resentment; and the island was stripped of its gold and silver, of the fruits of the earth, and of an infinite number of horses, sheep, and oxen. Sardinia and Corsica obeyed the fortune of Italy; and the sea-coast of Greece was visited by a fleet of three hundred galleys.<sup>48</sup> The Goths were landed in Corcyra and the ancient continent of Epirus; they advanced as far as Nicopolis, the trophy of Augustus, and Dodona,<sup>49</sup> once famous by the oracle of Jove. In every

<sup>47</sup> The Romans were still attached to the monuments of their ancestors, and, according to Procopius (Goth. l. iv. c. 22), the galley of Æneas, of a single rank of oars, 25 feet in breadth, 120 in length, was preserved entire in the *navalia*, near Monte Testaceo, at the foot of the Aventine (Nardini, Roma Antica, l. vii. c. 9, p. 466. Donatus, Roma Antiqua, l. iv. c. 13, p. 334). But all antiquity is ignorant of this relic.

<sup>48</sup> In these seas, Procopius searched without success for the isle of Calypso. He was shewn, at Phæacia or Corcyra, the petrified ship of Ulysses (Odys. xiii. 163); but he found it a recent fabric of many stones, dedicated by a merchant to Jupiter Casius (l. iv. c. 22). Eustathius had supposed it to be the fanciful likeness of a rock.

<sup>49</sup> M. d'Anville (Mémoires de l'Acad. tom. xxxii. p. 513-528) illustrates

step of his victories, the wise Barbarian repeated to Justinian his desire of peace, applauded the concord of their predecessors, and offered to employ the Gothic arms in the service of the empire.

Justinian was deaf to the voice of peace; but he neglected the prosecution of war; and the indolence of his temper disappointed, in some degree, the obstinacy of his passions. From this salutary slumber the emperor was awakened by the pope Vigilius and the patrician Cethegus, who appeared before his throne, and adjured him in the name of God and the people to resume the conquest and deliverance of Italy. In the choice of the generals, caprice, as well as judgment, was shewn. A fleet and army sailed for the relief of Sicily, under the conduct of Liberius; but his want of youth and experience were afterwards discovered, and, before he touched the shores of the island, he was overtaken by his successor. In the place of Liberius the conspirator Artaban was raised from a prison to military honours; in the pious presumption that gratitude would animate his valour and fortify his allegiance. Belisarius reposed in the shade of his laurels, but the command of the principal army was reserved for Germanus,<sup>50</sup> the emperor's nephew, whose rank and merit had been long depressed by the jealousy of the court. Theodora had injured him in the rights of a private citizen, the marriage of his children, and the testament of his brother; and, although his conduct was pure and blameless, Justinian was displeased that he should be thought worthy of the confidence of the malecontents. The life of Germanus was a lesson of implicit obedience; he nobly refused to prostitute

the gulf of Ambracia; but he cannot ascertain the situation of Dodona. A country in sight of Italy is less known than the wilds of America.

<sup>50</sup> See the acts of Germanus in the public (Vandal. l. ii. c. 16, 17, 18; Goth. l. iii. c. 31, 32) and private history (Anecdot. c. 5), and those of his son Justin, in Agathias (l. iv. p. 130, 131 [c. 21]). Notwithstanding an ambiguous expression of Jornandes, *fratri suo*, Alemannus has proved that he was the son of the emperor's brother.

his name and character in the factions of the circus; the gravity of his manners was tempered by innocent cheerfulness; and his riches were lent without interest to indigent or deserving friends. His valour had formerly triumphed over the Sclavonians of the Danube and the rebels of Africa; the first report of his promotion revived the hopes of the Italians; and he was privately assured that a crowd of Roman deserters would abandon, on his approach, the standard of Totila. His second marriage with Malasontha, the grand-daughter of Theodoric, endeared Germanus to the Goths themselves; and they marched with reluctance against the father of a royal infant, the last offspring of the line of Amali.<sup>61</sup> A splendid allowance was assigned by the emperor; the general contributed his private fortune; his two sons were popular and active; and he surpassed, in the promptitude and success of his levies, the expectation of mankind. He was permitted to select some squadrons of Thracian cavalry; the veterans, as well as the youth of Constantinople and Europe, engaged their voluntary service; and as far as the heart of Germany<sup>62</sup> his fame and liberality attracted the aid of the Barbarians. The Romans advanced to Sardica; an army of Sclavonians fled before their march; but within two days of their final departure, the designs of Germanus were terminated by his malady and death. Yet the impulse which he had given to the Italian war still continued to act with energy and effect. The maritime towns, Ancona, Crotona, Centumcellæ, resisted the assaults of Totila. Sicily was reduced by the zeal of Artaban, and the Gothic navy was defeated near the coast of the Hadriatic. The two fleets were almost equal, forty-seven to fifty galleys: the victory was decided by the knowledge and dexterity of the Greeks; but the ships were so closely grappled that only twelve of the

<sup>61</sup> *Conjuncta Aniciorum gens cum Amalâ stirpe spem adhuc utriusque generis promittit*, Jornandes, c. 60, p. 703. He wrote at Ravenna before the death of Totila.

<sup>62</sup> [Procopius says nothing of troops from the heart of Germany.]

Goths escaped from this unfortunate conflict. They affected to depreciate an element in which they were unskilled, but their own experience confirmed the truth of a maxim, that the master of the sea will always acquire the dominion of the land.<sup>53</sup>

After the loss of Germanus, the nations were provoked to smile by the strange intelligence that the command of the Roman armies was given to an eunuch. But the eunuch Narses<sup>54</sup> is ranked among the few who have rescued that unhappy name from the contempt and hatred of mankind. A feeble diminutive body concealed the soul of a statesman and a warrior. His youth had been employed in the management of the loom and distaff, in the cares of the household, and the service of female luxury; but, while his hands were busy, he secretly exercised the faculties of a vigorous and discerning mind. A stranger to the schools and the camp, he studied in the palace to dissemble, to flatter, and to persuade; and, as soon as he approached the person of the emperor, Justinian listened with surprise and pleasure to the manly counsels of his chamberlain and private treasurer.<sup>55</sup> The talents of Narses were tried and improved in frequent embassies; he led an army into Italy, acquired a practical

<sup>53</sup> The third book of Procopius is terminated by the death of Germanus (Add. l. iv. c. 23, 24, 25, 26).

<sup>54</sup> Procopius relates the whole series of this second Gothic war and the victory of Narses (l. iv. c. 21, 26-35). A splendid scene! Among the six subjects of epic poetry which Tasso revolved in his mind, he hesitated between the conquests of Italy by Belisarius and by Narses (Hayley's Works, vol. iv. p. 70).

<sup>55</sup> The country of Narses is unknown, since he must not be confounded with the Persarmenian. Procopius styles him (Goth. l. ii. c. 13) βασιλικῶν χρημάτων ταμίης; Paul Warnefrid (l. ii. c. 3, p. 776), Chartularius: Marcellinus adds the name of Cubicularius. In an inscription on the Salarian bridge he is entitled Ex-consul, Ex-præpositus, Cubiculi Patricius (Mascou, Hist. of the Germans, l. xiii. c. 25) [see C.I.L., vi. 1199]. The law of Theodosius against eunuchs was obsolete or abolished (Annotation xx.); but the foolish prophecy of the Romans subsisted in full vigour (Procop. l. iv. c. 21). [Narses ὁ βασιλικῶν ταμίης was a Persarmenian; Proc., B.P. i. 15, p. 79, ed. Bonn.]

knowledge of the war and the country, and presumed to strive with the genius of Belisarius. Twelve years after his return, the eunuch was chosen to achieve the conquest which had been left imperfect by the first of the Roman generals. Instead of being dazzled by vanity or emulation, he seriously declared that, unless he were armed with an adequate force, he would never consent to risk his own glory and that of his sovereign. Justinian granted to the favourite what he might have denied to the hero: the Gothic war was rekindled from its ashes, and the preparations were not unworthy of the ancient majesty of the empire. The key of the public treasure was put into his hand, to collect magazines, to levy soldiers, to purchase arms and horses, to discharge the arrears of pay, and to tempt the fidelity of the fugitives and deserters. The troops of Germanus were still in arms; they halted at Salona in the expectation of a new leader; and legions of subjects and allies were created by the well-known liberality of the eunuch Narses. The king of the Lombards<sup>56</sup> satisfied or surpassed the obligations of a treaty, by lending two thousand two hundred<sup>57</sup> of his bravest warriors, who were followed by three thousand of their martial attendants. Three thousand Heruli fought on horseback under Philemuth, their native chief; and the noble Aratus, who adopted the manners and discipline of Rome, conducted a band of veterans of the same nation. Dagistheus was released from prison to command the Huns; and Kobad, the grandson and nephew of the Great King, was conspicuous by the regal tiara at the head of his faithful Persians, who had devoted themselves to the fortunes of their prince.<sup>58</sup>

<sup>56</sup> Paul Warnefrid, the Lombard, records with complacency the succour, service, and honourable dismissal of his countrymen — *reipublicæ Romanæ [Rom. rei p.] adversus æmulos adjutores fuerant [fuerunt]* (l. ii. c. 1, p. 774, edit. Grot.). I am surprised that Alboin, their martial king, did not lead his subjects in person. [Audoin, father of Alboin, was king at this time; Procop., B.G. iv. 26.]

<sup>57</sup> [Read, two thousand *five* hundred.]

<sup>58</sup> He was, if not an impostor, the son of the blind Zames, saved by com-

Absolute in the exercise of his authority, more absolute in the affection of his troops, Narses led a numerous and gallant army from Philippopolis to Salona, from whence he coasted the eastern side of the Hadriatic as far as the confines of Italy. His progress was checked. The East could not supply vessels capable of transporting such multitudes of men and horses. The Franks, who in the general confusion had usurped the greater part of the Venetian province, refused a free passage to the friends of the Lombards. The station of Verona was occupied by Teias, with the flower of the Gothic forces; and that skilful commander had overspread the adjacent country with the fall of woods and the inundation of waters.<sup>59</sup> In this perplexity, an officer of experience proposed a measure, secure by the appearance of rashness: that the Roman army should cautiously advance along the sea-shore, while the fleet preceded their march, and successively cast a bridge of boats over the mouths of the rivers, the Timavus, the Brenta, Adige, and the Po, that fall into the Hadriatic to the north of Ravenna. Nine days he reposed in the city, collected the fragments of the Italian army, and marched towards Rimini to meet the defiance of an insulting enemy.

The prudence of Narses impelled him to speedy and decisive action. His powers were the last effort of the state: the cost of each day accumulated the enormous account; and the nations, untrained to discipline or fatigue, might be rashly provoked to turn their arms against each other, or against their benefactor. The same considerations might have tempered the ardour of Totila. But he was conscious,

passion, and educated in the Byzantine court by the various motives of policy, pride, and generosity (Procop. *Persic.* l. i. c. 23).

<sup>59</sup> In the time of Augustus, and in the middle ages, the whole waste from Aquileia to Ravenna was covered with woods, lakes, and morasses. Man has subdued nature, and the land has been cultivated, since the waters are confined and embanked. See the learned researches of Muratori (*Antiquitat. Italiæ mediæ Ævi*, tom. i. dissert. xxi. p. 253, 254), from Vitruvius, Strabo, Herodian, old charters, and local knowledge.

that the clergy and people of Italy aspired to a second revolution: he felt or suspected the rapid progress of treason, and he resolved to risk the Gothic kingdom on the chance of a day, in which the valiant would be animated by instant danger and the disaffected might be awed by mutual ignorance. In his march from Ravenna, the Roman general chastised the garrison of Rimini, traversed in a direct line the hills of Urbino, and re-entered the Flaminian way, nine miles beyond the perforated rock, an obstacle of art and nature which might have stopped or retarded his progress.<sup>60</sup> The Goths were assembled in the neighbourhood of Rome, they advanced without delay to seek a superior enemy, and the two armies approached each other at the distance of one hundred furlongs, between Tagina<sup>61</sup> and the sepulchres of

<sup>60</sup> The Flaminian way, as it is corrected from the Itineraries, and the best modern maps, by d'Anville (*Analyse de l'Italie*, p. 147-162), may be thus stated: ROME to Narni, 51 Roman miles; Terni, 57; Spoleto, 75; Foligno, 88; Nocera, 103; Cagli, 142; Intercisa [Petra Pertusa], 157; Fossombrone, 160; Fano, 176; Pesaro, 184; RIMINI, 208 — about 189 English miles. He takes no notice of the death of Totila; but Wesseling (*Itinerar.* p. 614) exchanges for the field of *Taginas* the unknown appellation of *Ptanias*, eight miles from Nocera.

<sup>61</sup> Taginæ, or rather Tadinæ, is mentioned by Pliny; but the bishopric of that obscure town, a mile from Gualdo, in the plain, was united, in the year 1007, with that of Nocera. The signs of antiquity are preserved in the local appellations, *Fossato*, the camp; *Capraia*, Caprea; *Bastia*, Busta Gallorum. See Cluverius (*Italia Antiqua*, l. ii. c. 6, p. 615, 616, 617), Lucas Holstenius (*Annotat. ad Cluver.* p. 85, 86), Guazzesi (*Dissertat.* p. 177-217, a professed inquiry), and the maps of the ecclesiastical state and the march of Ancona, by Le Maire and Magini. [See a memoir on the site of the battle by Mr. Hodgkin in the "Atti e memorie della R. Deputazione di Storia Patria per le provincie di Romagna," 1884 (p. 35 *sqq.*), and Italy and her Invaders, iv. p. 710 *sqq.* The site has not been determined with certainty. (1) The mention of the Busta Gallorum (see next note) has been used as an argument for Sassoferrato near Sentinum. Procopius is mistaken in naming Camillus, who fought no battles in Umbria; but it is supposed that he may have been thinking of the Battle of Sentinum (B.C. 295). Sassoferrato is east of the Flaminian road, and is separated from Tadinum by a high pass. (2) Mr. Hodgkin argues for Ad Ensem, or Scheggia, where the Flaminian road reaches the top of the pass. His view is that Narses, having turned the fortress of Petra Pertusa by taking a southern route, reached the Flaminian way at Callis and

the Gauls.<sup>62</sup> The haughty message of Narses was an offer, not of peace, but of pardon. The answer of the Gothic king declared his resolution to die or conquer. "What day," said the messenger, "will you fix for the combat?" "The eighth day," replied Totila: but early the next morning he attempted to surprise a foe, suspicious of deceit and prepared for battle. Ten thousand Heruli and Lombards, of approved valour and doubtful faith, were placed in the centre. Each of the wings was composed of eight thousand Romans; the right was guarded by the cavalry of the Huns, the left was covered by fifteen hundred chosen horse,<sup>63</sup> destined, according to the emergencies of action, to sustain the retreat of their friends or to encompass the flank of the enemy. From his proper station at the head of the right wing,<sup>64</sup> the eunuch rode along the line, expressing by his voice and countenance the assurance of victory; exciting the soldiers of the emperor to punish the guilt and madness of a band of robbers; and exposing to their view gold chains, collars, and bracelets, the rewards of military virtue. From the event of a single combat they drew an omen of success; and they beheld with pleasure the courage of fifty archers, who maintained a small eminence against three successive attacks of the Gothic cavalry.<sup>65</sup> At the distance only of two bow-

marched up to Ad Ensem. This site suits the words of Procopius, ἐν χωρίῳ ὀμαλῷ, "at a level place," but it has been objected that there is hardly room for a battle on such a scale. Procopius states that the distance between the camps of Narses and Totila was at first 100 stadia, and the distance between Scheggia and Tadino, 15 miles, nearly corresponds.]

<sup>62</sup> The battle [of Sentinum] was fought in the year of Rome 458 [B.C. 295]; and the consul Decius, by devoting his own life, assured the triumph of his country and his colleague Fabius (T. Liv. x. 28, 29). Procopius ascribes to Camillus the victory of the *Busta Gallorum*; and his error was branded by Cluverius with the national reproach of Græcorum nugamenta.

<sup>63</sup> [They were drawn up at an angle to the left wing and in front of the eminence which is mentioned below; 500 were to sustain the retreat, if necessary; 1000 to attack the enemy in the rear.]

<sup>64</sup> [Narses, with John, commanded not the right, but the left wing. Proc., B.G. 4, 31 ad init.]

<sup>65</sup> [The author does not bring out sufficiently the importance of this hill,

shots, the armies spent the morning in dreadful suspense, and the Romans tasted some necessary food, without unloosening the cuirass from their breast, or the bridle from their horses. Narses awaited the charge; and it was delayed by Totila till he had received his last succours of two thousand Goths. While he consumed the hours in fruitless treaty, the king exhibited in a narrow space the strength and agility of a warrior. His armour was enchased with gold; his purple banner floated with the wind: he cast his lance into the air; caught it with the right hand; shifted it to the left; threw himself backwards; recovered his seat; and managed a fiery steed in all the paces and evolutions of the equestrian school. As soon as the succours had arrived, he retired to his tent, assumed the dress and arms of a private soldier, and gave the signal of battle. The first line of cavalry advanced with more courage than discretion, and left behind them the infantry of the second line. They were soon engaged between the horns of a crescent, into which the adverse wings had been insensibly curved, and were saluted from either side by the volleys of four thousand archers. Their ardour, and even their distress, drove them forwards to a close and unequal conflict, in which they could only use their lances against an enemy equally skilled in all the instruments of war. A generous emulation inspired the Romans and their Barbarian allies; and Narses, who calmly viewed and directed their efforts, doubted to whom he should adjudge the prize of superior bravery. The Gothic cavalry was astonished and disordered, pressed and broken; and the line of infantry, instead of presenting their spears or opening their intervals, were trampled under the feet of the flying horse. Six thousand of the Goths were slaughtered, without mercy, in the field of Tagina. Their prince, with five attend-

which was in fact the key to the position. It commanded a path by which the Imperialists could have been taken in the rear, if Narses had not anticipated Totila in seizing it.]

ants, was overtaken by Asbad, of the race of the Gepidæ; "Spare the king of Italy," cried a loyal voice, and Asbad struck his lance through the body of Totila. The blow was instantly revenged by the faithful Goths; they transported their dying monarch seven miles<sup>86</sup> beyond the scene of his disgrace; and his last moments were not embittered by the presence of an enemy. Compassion afforded him the shelter of an obscure tomb; but the Romans were not satisfied of their victory, till they beheld the corpse of the Gothic king. His hat, enriched with gems, and his bloody robe were presented to Justinian by the messengers of triumph.<sup>87</sup>

As soon as Narses had paid his devotions to the Author of victory, and the blessed Virgin, his peculiar patroness,<sup>88</sup> he praised, rewarded, and dismissed the Lombards. The villages had been reduced to ashes by these valiant savages; they ravished matrons and virgins on the altar; their retreat was diligently watched by a strong detachment of regular forces, who prevented a repetition of the like disorders. The victorious eunuch pursued his march through Tuscany, accepted the submission of the Goths, heard the acclamations and often the complaints of the Italians, and encompassed the walls of Rome with the remainder of his formidable host. Round the wide circumference, Narses assigned to himself, and to each of his lieutenants, a real or a feigned attack, while he silently marked the place of easy and unguarded entrance. Neither the fortifications of Hadrian's mole, nor of the port, could long delay the progress of the conqueror; and Justinian once more received the keys of Rome, which, under his reign, had been *five* times taken and recovered.<sup>89</sup>

<sup>86</sup> [Eleven or twelve miles: 84 stadia (Procop., *ib.* 32).]

<sup>87</sup> Theophanes, Chron. p. 193 [A.M. 6044, John Malalas, 18, p. 486, ed. Bonn, is the source of Theophanes; and the notice is important as giving the date of the arrival of the robe — August, and so rendering it probable that the battle was fought in July]. Hist. Miscell. l. xvi. p. 208.

<sup>88</sup> Evagrius, l. iv. c. 24. The inspiration of the Virgin revealed to Narses the day, and the word, of battle (Paul Diacon. l. ii. c. 3, p. 776).

<sup>89</sup> Ἐπι τούτου βασιλεύοντος τὸ πέμπτον ἔάλω. In the year 536 by Belisarius,

But the deliverance of Rome was the last calamity of the Roman people. The Barbarian allies of Narses too frequently confounded the privileges of peace and war; the despair of the flying Goths found some consolation in sanguinary revenge; and three hundred youths of the noblest families, who had been sent as hostages beyond the Po, were inhumanly slain by the successor of Totila. The fate of the senate suggests an awful lesson of the vicissitude of human affairs. Of the senators whom Totila had banished from their country, some were rescued by an officer of Belisarius and transported from Campania to Sicily; while others were too guilty to confide in the clemency of Justinian, or too poor to provide horses for their escape to the seashore. Their brethren languished five years in a state of indigence and exile; the victory of Narses revived their hopes; but their premature return to the metropolis was prevented by the furious Goths, and all the fortresses of Campania were stained with patrician<sup>70</sup> blood. After a period of thirteen centuries, the institution of Romulus expired; and, if the nobles of Rome still assumed the title of senators, few subsequent traces can be discovered of a public council or constitutional order. Ascend six hundred years, and contemplate the kings of the earth soliciting an audience as the slaves or freedmen of the Roman senate!<sup>71</sup>

The Gothic war was yet alive. The bravest of the nation retired beyond the Po; and Teias was unanimously chosen to succeed and revenge their departed hero. The new king

in 546 by Totila, in 547 by Belisarius, in 549 by Totila, and in 552 by Narses. Maltretus had inadvertently translated *sexturn*; a mistake which he afterwards retracts: but the mischief was done; and Cousin, with a train of French and Latin readers, have fallen into the snare.

<sup>70</sup> Compare two passages of Procopius (l. iii. c. 26; l. iv. c. 24), which, with some collateral hints from Marcellinus and Jornandes, illustrate the state of the expiring senate.

<sup>71</sup> See, in the example of Prusias, as it is delivered in the fragments of Polybius (Excerpt. Legat. xcvi. p. 927, 928 [Bk. xxx. 16]), a curious picture of a royal slave.

immediately sent ambassadors to implore, or rather to purchase, the aid of the Franks, and nobly lavished for the public safety the riches which had been deposited in the palace of Pavia. The residue of the royal treasure was guarded by his brother Aligern at Cumæ in Campania; but the strong castle which Totila had fortified was closely besieged by the arms of Narses. From the Alps to the foot of Mount Vesuvius, the Gothic king, by rapid and secret marches, advanced to the relief of his brother, eluded the vigilance of the Roman chiefs, and pitched his camp on the banks of the Sarnus or *Draco*,<sup>72</sup> which flows from Nuceria into the bay of Naples. The river separated the two armies; sixty days were consumed in distant and fruitless combats, and Teias maintained this important post, till he was deserted by his fleet and the hope of subsistence. With reluctant steps he ascended the *Lactarian* mount, where the physicians of Rome, since the time of Galen, had sent their patients for the benefit of the air and the milk.<sup>73</sup> But the Goths soon embraced a more generous resolution: to descend the hill, to dismiss their horses, and to die in arms and in the possession of freedom. The king marched at their head, bearing in his right hand a lance, and an ample buckler in his left: with the one he struck dead the foremost of the assailants; with the other he received the weapons which every hand was ambitious to aim against his life. After a combat of many hours, his left arm was fatigued by the weight of twelve javelins which hung from his shield. Without moving from his ground or sus-

<sup>72</sup> The *Δράκων* of Procopius (Goth. l. iv. c. 35) is evidently the Sarnus. The text is accused or altered by the rash violence of Cluverius (l. iv. c. 3, p. 1156); but Camillo Pellegrini of Naples (*Discorsi sopra la Campania Felice*, p. 330, 331) has proved from old records, that as early as the year 822 that river was called the Dracontio, or Draconcello.

<sup>73</sup> Galen (*de Method. Medendi*, l. v. apud Cluver. l. iv. c. 3, p. 1159, 1160) describes the lofty site, pure air, and rich milk of Mount Lactarius, whose medicinal benefits were equally known and sought in the time of Symmachus (l. vi. epist. 1817, ed. Seeck) and Cassiodorus (Var. xi. 10). Nothing is now left except the name of the town *Lettere*.

pending his blows, the hero called aloud on his attendants for a fresh buckler, but in the moment while his side was uncovered it was pierced by a mortal dart. He fell; and his head, exalted on a spear, proclaimed to the nations that the Gothic kingdom was no more. But the example of his death served only to animate the companions who had sworn to perish with their leader. They fought till darkness descended on the earth. They reposed on their arms. The combat was renewed with the return of light, and maintained with unabated vigour till the evening of the second day. The repose of a second night, the want of water, and the loss of their bravest champions determined the surviving Goths to accept the fair capitulation which the prudence of Narses was inclined to propose. They embraced the alternative of residing in Italy as the subjects and soldiers of Justinian, or departing with a portion of their private wealth, in search of some independent country.<sup>74</sup> Yet the oath of fidelity or exile was alike rejected by one thousand Goths, who broke away before the treaty was signed, and boldly effected their retreat to the walls of Pavia. The spirit as well as the situation of Aligern prompted him to imitate rather than to bewail his brother: a strong and dexterous archer, he transpierced with a single arrow the armour and breast of his antagonist; and his military conduct defended Cumæ<sup>75</sup> above a year against the forces of the Romans. Their industry had scooped the Sibyll's cave<sup>76</sup> into a pro-

<sup>74</sup> *Buat* (tom. xi. p. 2, &c.) conveys to his favourite Bavaria this remnant of Goths, who by others are buried in the mountains of Uri, or restored to their native isle of Gothland (*Mascou*, Annot. xxi.).

<sup>75</sup> I leave *Saliger* (*Animadvers.* in *Euseb.* p. 59) and *Salmasius* (*Exercitat.* *Pliman.* p. 51, 52) to quarrel about the origin of Cumæ, the oldest of the Greek colonies in Italy (*Strab.* l. v. p. 372 [4, § 4]. *Velleius Paterculus*, l. i. c. 4), already vacant in *Juvenal's* time (*Satir.* iii.), and now in ruins.

<sup>76</sup> *Agathias* (l. i. c. [*leg.* p.] 21 [c. 10]) settles the Sibyll's cave under the wall of Cumæ; he agrees with *Servius* (ad l. vi. *Æneid.*); nor can I perceive why their opinion should be rejected by *Heyne*, the excellent editor of *Virgil* (tom. ii. p. 650, 651). *In urbe mediâ secreta religio!* But Cumæ was not yet built; and the lines (l. vi. 96, 97) would become ridiculous, if *Æneas*

digious mine; combustible materials were introduced to consume the temporary props; the wall and the gate of Cumæ sunk into the cavern, but the ruins formed a deep and inaccessible precipice. On the fragment of a rock Aligern stood alone and unshaken, till he calmly surveyed the hopeless condition of his country, and judged it more honourable to be the friend of Narses than the slave of the Franks.<sup>77</sup> After the death of Teias, the Roman general separated his troops to reduce the cities of Italy; Lucca sustained a long and vigorous siege; and such was the humanity or the prudence of Narses that the repeated perfidy of the inhabitants could not provoke him to exact the forfeit lives of their hostages. These hostages were dismissed in safety; and their grateful zeal at length subdued the obstinacy of their countrymen.<sup>78</sup>

Before Lucca had surrendered, Italy was overwhelmed by a new deluge of Barbarians. A feeble youth, the grandson of Clovis, reigned over the Austrasians or oriental Franks.<sup>79</sup> The guardians of Theodebald entertained with coldness and reluctance the magnificent promises of the Gothic ambassadors. But the spirit of a martial people outstripped the timid counsels of the court: two brothers, Lothaire and Buccelin,<sup>80</sup> the dukes of the Alemanni, stood forth as the leaders of the Italian war; and seventy-five thousand Germans descended

were actually in a Greek city. [Cp. Beloch, *Campanien*, p. 160. There is no reason to suppose that the cave which is now shown as the Sibyl's grotto, south of L. Avernus, had any ancient tradition associated with it.]

<sup>77</sup> [The surrender of Cumæ was subsequent to that of Lucca.]

<sup>78</sup> There is some difficulty in connecting the 35th chapter of the ivth book of the Gothic war of Procopius with the first book of the history of Agathias. We must now relinquish a statesman and soldier, to attend the footsteps of a poet and rhetorician (l. i. p. 11; l. ii. p. 51, edit. Louvre). [Procopius ends in March, and Agathias begins in April with the 27th year of Justinian.]

<sup>79</sup> [Theudebald had succeeded Theudebert in A.D. 548.]

<sup>80</sup> Among the fabulous exploits of Buccelin, he discomfited and slew Belisarius, subdued Italy and *Sicily*, &c. See in the *Historians of France*, Gregory of Tours (tom. ii. l. iii. c. 32, p. 203), and Aimoin (tom. iii. l. ii. de Gestis Francorum, c. 23, p. 59).

in the autumn from the Rhætian Alps into the plain of Milan. The vanguard of the Roman army was stationed near the Po, under the conduct of Fulcaris, a bold Herulian, who rashly conceived that personal bravery was the sole duty and merit of a commander. As he marched without order or precaution along the Æmilian way, an ambuscade of Franks suddenly rose from the amphitheatre of Parma; his troops were surprised and routed; but their leader refused to fly, declaring to the last moment that death was less terrible than the angry countenance of Narses.<sup>81</sup> The death of Fulcaris, and the retreat of the surviving chiefs, decided the fluctuating and rebellious temper of the Goths; they flew to the standard of their deliverers, and admitted them into the cities which still resisted the arms of the Roman general. The conqueror of Italy opened a free passage to the irresistible torrent of Barbarians. They passed under the walls of Cesena, and answered by threats and reproaches the advice of Aligern<sup>82</sup> that the Gothic treasures could no longer repay the labour of an invasion. Two thousand Franks were destroyed by the skill and valour of Narses himself, who sallied from Rimini at the head of three hundred horse, to chastise the licentious rapine of their march. On the confines of Samnium the two brothers divided their forces. With the right wing, Buccelin assumed the spoil of Campania, Lucania, and Bruttium; with the left, Lothaire accepted the plunder of Apulia and Calabria. They followed the coast of the Mediterranean and the Hadriatic, as far as Rhegium and Otranto, and the extreme lands of Italy were the term of their destructive progress. The Franks, who were Christians and Catholics, contented themselves with simple pillage and occasional murder. But the churches, which their piety had spared, were stripped by the sacrilegious hands of the Alemanni, who sacrificed horses' heads to their native deities of

<sup>81</sup> [Agathias says, the speech of Narses.]

<sup>82</sup> [Who after the capitulation of Cumæ was appointed governor of Cesena.]

the woods and rivers;<sup>83</sup> they melted or profaned the consecrated vessels, and the ruins of shrines and altars were stained with the blood of the faithful. Buccelin was actuated by ambition, and Lothaire by avarice. The former aspired to restore the Gothic kingdom; the latter, after a promise to his brother of speedy succours, returned by the same road to deposit his treasure beyond the Alps. The strength of their armies was already wasted by the change of climate and contagion of disease; the Germans revelled in the vintage of Italy; and their own intemperance avenged in some degree the miseries of a defenceless people.

At the entrance of the spring, the Imperial troops, who had guarded the cities, assembled to the number of eighteen thousand men, in the neighbourhood of Rome. Their winter hours had not been consumed in idleness. By the command, and after the example, of Narses they repeated each day their military exercise on foot and on horseback, accustomed their ear to obey the sound of the trumpet, and practised the steps and evolutions of the Pyrrhic dance. From the straits of Sicily, Buccelin, with thirty thousand Franks and Alemanni, slowly moved towards Capua, occupied with a wooden tower the bridge of Casilinum,<sup>84</sup> covered his right by the stream of the Vulturnus, and secured the rest of his encampment by a rampart of sharp stakes and a circle of waggons, whose wheels were buried in the earth. He impatiently expected the return of Lothaire; ignorant, alas! that his brother could never return, and that the chief and his army had been swept away by a strange disease<sup>85</sup> on the banks of the lake

<sup>83</sup> Agathias notices their superstition in a philosophic tone (l. i. p. 18 [c. F.]). At Zug, in Switzerland, idolatry still prevailed in the year 613: St. Columban and St. Gall were the Apostles of that rude country; and the latter founded an hermitage, which has swelled into an ecclesiastical principality and a populous city, the seat of freedom and commerce.

<sup>84</sup> [Casilinum, on the Vulturnus, is the modern Capua; the ancient Capua, about 3 miles distant, is now S. Maria di Capua Vetere.]

<sup>85</sup> See the death of Lothaire in Agathias (l. ii. p. 38 [c. 3]), and Paul Warnefrid, surnamed Diaconus (l. ii. c. 3 [leg. 2], 775). The Greek makes

Benacus, between Trent and Verona. The banners of Narses soon approached the Vulturnus, and the eyes of Italy were anxiously fixed on the event of this final contest. Perhaps the talents of the Roman general were most conspicuous in the calm operations which precede the tumult of a battle. His skilful movements intercepted the subsistence of the Barbarian, deprived him of the advantage of the bridge and river, and, in the choice of the ground and moment of action, reduced him to comply with the inclination of his enemy. On the morning of the important day, when the ranks were already formed, a servant, for some trivial fault, was killed by his master, one of the leaders of the Heruli. The justice or passion of Narses was awakened: he summoned the offender to his presence, and, without listening to his excuses, gave the signal to the minister of death. If the cruel master had not infringed the laws of his nation, this arbitrary execution was not less unjust than it appears to have been imprudent. The Heruli felt the indignity; they halted; but the Roman general, without soothing their rage or expecting their resolution, called aloud, as the trumpets sounded, that, unless they hastened to occupy their place, they would lose the honour of the victory. His troops were disposed <sup>86</sup> in a long front, the cavalry on the wings; in the centre, the heavy-armed foot; the archers and slingers in the rear. The Germans advanced in a sharp-pointed column, of the form of a triangle or solid wedge. They pierced the feeble centre of Narses, who received them with a smile into the fatal snare and directed his wings of cavalry insensibly to wheel on their flanks and encompass their rear. The host of the Franks and Alemanni consisted of infantry: a sword

him rave and tear his flesh. He had plundered churches. [Leuthar's troops had previously been surprised and defeated near Fano.]

<sup>86</sup> Père Daniel (*Hist. de la Milice Française*, tom. i. p. 17-21) has exhibited a fanciful representation of this battle, somewhat in the manner of the Chevalier Folard, the once famous editor of Polybius, who fashioned to his own habits and opinions all the military operations of antiquity.

and buckler hung by their side, and they used as their weapons of offence a weighty hatchet and a hooked javelin, which were only formidable in close combat or at a short distance. The flower of the Roman archers on horseback, and in complete armour, skirmished without peril round this immoveable phalanx; supplied by active speed the deficiency of number; and aimed their arrows against a crowd of Barbarians, who, instead of a cuirass and helmet, were covered by a loose garment of fur or linen. They paused, they trembled, their ranks were confounded, and in the decisive moment the Heruli, preferring glory to revenge, charged with rapid violence the head of the column. Their leader, Sindbal, and Aligern, the Gothic prince, deserved the prize of superior valour; and their example incited the victorious troops to achieve with swords and spears the destruction of the enemy. Buccelin and the greatest part of his army perished on the field of battle, in the waters of the Vulturnus, or by the hands of the enraged peasants; but it may seem incredible that a victory,<sup>87</sup> which no more than five of the Alemanni survived, could be purchased with the loss of fourscore Romans. Seven thousand Goths, the relics of the war, defended the fortress of Campsa till the ensuing spring; and every messenger of Narses announced the reduction of the Italian cities, whose names were corrupted by the ignorance or vanity of the Greeks.<sup>88</sup> After the battle of Casilinum, Narses entered the capital; the arms and treasures of the Goths, the Franks, and the Alemanni were displayed; his soldiers, with garlands in their hands, chanted the praises of

<sup>87</sup> Agathias (l. ii. p. 47 [c. 10]) has produced a Greek epigram of six lines on this victory of Narses, which is favourably compared to the battles of Marathon and Plataea. The chief difference is indeed in their consequences — so trivial in the former instance — so permanent and glorious in the latter.

<sup>88</sup> The Beroia and Brincas of Theophanes or his transcriber (p. 201) must be read or understood Verona and Brixia. [This notice of Theophanes is taken from Malalas, p. 492, ed. Bonn. The news reached Constantinople in November, A.D. 562.]

the conqueror; and Rome, for the last time, beheld the semblance of a triumph.

After a reign of sixty years, the throne of the Gothic kings was filled by the Exarchs of Ravenna, the representatives in peace and war of the emperor of the Romans. Their jurisdiction was soon reduced to the limits of a narrow province; but Narses himself, the first and most powerful of the Exarchs,<sup>80</sup> administered above fifteen years the entire kingdom of Italy. Like Belisarius, he had deserved the honours of envy, calumny, and disgrace; but the favourite eunuch still enjoyed the confidence of Justinian, or the leader of a victorious army awed and repressed the ingratitude of a timid court. Yet it was not by weak and mischievous indulgence that Narses secured the attachment of his troops. Forgetful of the past and regardless of the future, they abused the present hour of prosperity and peace. The cities of Italy resounded with the noise of drinking and dancing; the spoils of victory were wasted in sensual pleasures; and nothing (says Agathias) remained, unless to exchange their shields and helmets for the soft lute and the capacious hoghead.<sup>80</sup> In a manly oration not unworthy of a Roman censor, the eunuch reproved these disorderly vices, which sullied their fame and endangered their safety. The soldiers blushed and obeyed; discipline was confirmed, the fortifications were restored; a *duke* was stationed for the defence and military command of each of the principal cities;<sup>81</sup> and the eye of

<sup>80</sup> [The title of Narses was merely Patricius. Smaragdus was (so far as our evidence shows) the first governor who bore the name exarch. See below, Appendix 11.]

<sup>80</sup> Ἐλείπετο γὰρ οἶμαι, αὐτοῖς ὑπὸ ἀβελτερίας τὰς ἀσπίδας τυχόν και τὰ κράνη ἀμφορέως οἴνου ἢ καὶ βαρβιτου ἀποδόσθαι (Agathias, l. ii. p. 48 [c. 11]). In the first scene of Richard III. our English poet has beautifully enlarged on this idea, for which, however, he was not indebted to the Byzantine historian.

<sup>81</sup> Maffei has proved (Verona Illustrata, P. i. l. x. p. 257, 289), against the common opinion, that the dukes of Italy were instituted before the conquest of the Lombards by Narses himself. In the Pragmatic Sanction (No. 23), Justinian restrains the *judices militares*. [For the *duces* or *magistri militum* in Italy, see below, vol. viii. Appendix.]

Narses pervaded the ample prospect from Calabria to the Alps. The remains of the Gothic nation evacuated the country or mingled with the people; the Franks, instead of revenging the death of Buccelin, abandoned, without a struggle, their Italian conquests; and the rebellious Sindbal, chief of the Heruli, was subdued, taken, and hung on a lofty gallows by the inflexible justice of the Exarch.<sup>82</sup> The civil state of Italy, after the agitation of a long tempest, was fixed by a pragmatic sanction, which the emperor promulgated at the request of the pope. Justinian introduced his own jurisprudence into the schools and tribunals of the West; he ratified the acts of Theodoric and his immediate successors; but every deed was rescinded and abolished, which force had extorted, or fear had subscribed, under the usurpation of Totila. A moderate theory was framed to reconcile the rights of property with the safety of prescription, the claims of the state with the poverty of the people, and the pardon of offences with the interest of virtue and order of society. Under the Exarchs of Ravenna, Rome was degraded to the second rank. Yet the senators were gratified by the permission of visiting their estates in Italy, and of approaching without obstacle the throne of Constantinople; the regulation of weights and measures was delegated to the pope and senate; and the salaries of lawyers and physicians, of orators and grammarians, were destined to preserve or rekindle the light of science in the ancient capital. Justinian might dictate benevolent edicts,<sup>83</sup> and Narses might second his wishes by

<sup>82</sup> See Paulus Diaconus, l. iii. c. 2, p. 776. [See Marius Aventicensis, in Chron. Min. 2, p. 238, A.D. 566.] Menander (in Excerpt. Legat. p. 133 [fr. 8, ed. Müller]) mentions some risings in Italy by the Franks, and Theophanes (p. 201) hints at some Gothic rebellions.

<sup>83</sup> The Pragmatic Sanction of Justinian, which restores and regulates the civil state of Italy, consists of xxvii. articles: it is dated August 15, A.D. 554; is addressed to Narses, V. J. Præpositus Sacri Cubiculi, and to Antiochus, Præfectus Prætorio Italiæ; and has been preserved by Julian Antecessor, and in the Corpus Juris Civilis, after the novels and edicts of Justinian, Justin, and Tiberius. [Novel 164, ed. Zachariæ.]

the restoration of cities and more especially of churches. But the power of kings is most effectual to destroy; and the twenty years of the Gothic war had consummated the distress and depopulation of Italy. As early as the fourth campaign, under the discipline of Belisarius himself, fifty thousand labourers died of hunger<sup>94</sup> in the narrow region of Picenum;<sup>95</sup> and a strict interpretation of the evidence of Procopius would swell the loss of Italy above the total sum of her present inhabitants.<sup>96</sup>

I desire to believe, but I dare not affirm, that Belisarius sincerely rejoiced in the triumph of Narses. Yet the consciousness of his own exploits might teach him to esteem without jealousy the merit of a rival; and the repose of the aged<sup>97</sup> warrior was crowned by a last victory which saved the emperor and the capital. The Barbarians who annually visited the provinces of Europe were less discouraged by some accidental defeats than they were excited by the double hope of spoil and of subsidy. In the thirty-second winter of Justinian's reign, the Danube was deeply frozen: Zabergan led the cavalry of the Bulgarians,<sup>98</sup> and his standard was followed by a promiscuous multitude of Slavonians. The savage chief passed, without opposition, the river and the mountains, spread his troops over Macedonia and Thrace,

<sup>94</sup> A still greater number was consumed by famine in the southern provinces *ἐκτὸς* the Ionian gulf. Acorns were used in the place of bread. Procopius had seen a deserted orphan suckled by a she-goat. Seventeen passengers were lodged, murdered, and eaten by two women, who were detected and slain by the eighteenth, &c.

<sup>95</sup> Quinta regio Piceni est; quondam uberrimæ multitudinis, cccx. millia Picentium in fidem P. R. venire (Plin. Hist. Natur. iii. 18). In the time of Vespasian, this ancient population was already diminished.

<sup>96</sup> Perhaps fifteen or sixteen millions. Procopius (Anecdot. c. 18) computes that Africa lost five millions, that Italy was thrice as extensive, and that the depopulation was in a larger proportion. But his reckoning is inflamed by passion, and clouded with uncertainty.

<sup>97</sup> [His age can hardly have exceeded 55 years, in A.D. 559; for he was *ὄνηρήτης* in A.D. 526.]

<sup>98</sup> [The Cotrigurs, see Appendix 7.]

and advanced with no more than seven thousand horse to the long walls which should have defended the territory of Constantinople. But the works of man are impotent against the assaults of nature: a recent earthquake had shaken the foundations of the wall; and the forces of the empire were employed on the distant frontiers of Italy, Africa, and Persia. The seven *schools*,<sup>99</sup> or companies, of the guards or domestic troops had been augmented to the number of five thousand five hundred men, whose ordinary station was in the peaceful cities of Asia. But the places of the brave Armenians were insensibly supplied by lazy citizens, who purchased an exemption from the duties of civil life, without being exposed to the dangers of military service. Of such soldiers, few could be tempted to sally from the gates; and none could be persuaded to remain in the field, unless they wanted strength and speed to escape from the Bulgarians. The report of the fugitives exaggerated the numbers and fierceness of an enemy who had polluted holy virgins and abandoned newborn infants to the dogs and vultures; a crowd of rustics, imploring food and protection, increased the consternation of the city; and the tents of Zabergan were pitched at the distance of twenty miles,<sup>100</sup> on the banks of a small river, which encircles Melanthias, and afterwards falls into the Propontis.<sup>101</sup> Justinian trembled; and those who had only

<sup>99</sup> In the decay of these military schools, the satire of Procopius (*Anecd. c. 24*. Aleman. p. 102, 103) is confirmed and illustrated by Agathias (*l. v. p. 159* [c. 15]), who cannot be rejected as an hostile witness.

<sup>100</sup> The distance from Constantinople to Melanthias, *Villa Cæsariana* (*Ammian. Marcellin. xxx. [leg. xxxi.] 11*), is variously fixed at 102 or 140 stadia (*Suidas, tom. ii. p. 522, 523*; *Agathias, l. v. p. 158* [c. 14]), or xviii. or xix. miles (*Itineraria, p. 138, 230, 323, 332*, and *Wesseling's Observations*). The first xii. miles, as far as Rhegium, were paved by Justinian, who built a bridge over a morass or gullet between a lake and the sea (*Procop. de Ædific. l. iv. c. 8*). [*Melanthias* (*Buyuk Tschekmadge*, "Great Bridge") is 18 miles from Constantinople on the road to Hadrianople.]

<sup>101</sup> The *Atyras* (*Pompon. Mela, l. ii. c. 2, p. 169, edit. Voss.*). At the river's mouth, a town or castle of the same name was fortified by Justinian (*Procop. de Ædific. l. iv. c. 2*; *Itinerar. p. 570*, and *Wesseling*).

seen the emperor in his old age were pleased to suppose that he had *lost* the alacrity and vigour of his youth. By his command the vessels of gold and silver were removed from the churches in the neighbourhood, and even the suburbs, of Constantinople; the ramparts were lined with trembling spectators; the golden gate was crowded with useless generals and tribunes, and the senate shared the fatigues and the apprehensions of the populace.

But the eyes of the prince and people were directed to a feeble veteran, who was compelled by the public danger to resume the armour in which he had entered Carthage and defended Rome. The horses of the royal stables, of private citizens, and even of the circus were hastily collected; the emulation of the old and young was roused by the name of Belisarius, and his first encampment was in the presence of a victorious enemy. His prudence, and the labour of the friendly peasants, secured, with a ditch and rampart, the repose of the night; innumerable fires and clouds of dust were artfully contrived to magnify the opinion of his strength; his soldiers suddenly passed from despondency to presumption; and, while ten thousand voices demanded the battle, Belisarius dissembled his knowledge that in the hour of trial he must depend on the firmness of three hundred veterans. The next morning the Bulgarian cavalry advanced to the charge. But they heard the shouts of multitudes, they beheld the arms and discipline of the front; they were assaulted on the flanks by two ambuscades which rose from the woods; their foremost warriors fell by the hand of the aged hero and his guards; and the swiftness of their evolutions was rendered useless by the close attack and rapid pursuit of the Romans. In this action (so speedy was their flight) the Bulgarians lost only four hundred horse; but Constantinople was saved; and Zabergan, who felt the hand of a master, withdrew to a respectful distance. But his friends were numerous in the council of the emperor, and Belisarius obeyed with reluctance the commands of envy and Justinian,

which forbade him to achieve the deliverance of his country. On his return to the city, the people, still conscious of their danger, accompanied his triumph with acclamations of joy and gratitude, which were imputed as a crime to the victorious general. But, when he entered the palace, the courtiers were silent, and the emperor, after a cold and thankless embrace, dismissed him to mingle with the train of slaves. Yet so deep was the impression of his glory on the minds of men that Justinian, in the seventy-seventh year of his age, was encouraged to advance near forty miles from the capital, and to inspect in person the restoration of the long wall. The Bulgarians wasted the summer in the plains of Thrace; but they were inclined to peace by the failure of their rash attempts on Greece and the Chersonesus. A menace of killing their prisoners quickened the payment of heavy ransoms; and the departure of Zabergan was hastened by the report that double-prowed vessels were built on the Danube to intercept his passage. The danger was soon forgotten; and a vain question, whether their sovereign had shewn more wisdom or weakness, amused the idleness of the city.<sup>102</sup>

About two years after the last victory of Belisarius, the emperor returned from a Thracian journey of health, or business, or devotion. Justinian was afflicted by a pain in his head; and his private entry countenanced the rumour of his death. Before the third hour of the day, the bakers' shops were plundered of their bread, the houses were shut, and every citizen, with hope or terror, prepared for the impending tumult. The senators themselves, fearful and suspicious, were convened at the ninth hour; and the prefect received their commands to visit every quarter of the city, and proclaim a general illumination for the recovery of the emperor's health. The ferment subsided; but every accident betrayed

<sup>102</sup> The Bulgarian war and the last victory of Belisarius are imperfectly represented in the prolix declamation of Agathias (l. v. p. 154-174 [c. 11-25]) and the dry Chronicle of Theophanes (p. 197, 198 [A.M. 6051]).

the impotence of the government and the factious temper of the people; the guards were disposed to mutiny as often as their quarters were changed or their pay was withheld; the frequent calamities of fires and earthquakes afforded the opportunities of disorder; the disputes of the blues and greens, of the orthodox and heretics, degenerated into bloody battles; and in the presence of the Persian ambassador Justinian blushed for himself and for his subjects. Capricious pardon and arbitrary punishment embittered the irksomeness and discontent of a long reign; a conspiracy was formed in the palace; and, unless we are deceived by the names of Marcellus and Sergius,<sup>103</sup> the most virtuous and the most profligate of the courtiers were associated in the same designs. They had fixed the time of the execution; their rank gave them access to the royal banquet; and their black slaves<sup>104</sup> were stationed in the vestibule and porticos, to announce the death of the tyrant and to excite a sedition in the capital. But the indiscretion of an accomplice saved the poor remnant of the days of Justinian. The conspirators were detected and seized, with daggers hidden under their garments: Marcellus died by his own hand, and Sergius was dragged from the sanctuary.<sup>105</sup> Pressed by remorse or tempted by the hopes of safety, he accused two officers of the household of Belisarius; and torture forced them to declare that they had acted according to the secret instructions of their patron.<sup>106</sup> Posterity will

<sup>103</sup> [This Sergius must be distinguished from the magister militum whom the Cotrigurs captured.]

<sup>104</sup> *Ἰνδοὺς*. They could scarcely be real Indians; and the Æthiopians, sometimes known by that name, were never used by the ancients as guards or followers: they were the trifling, though costly, objects of female and royal luxury (Terent. Eunuch. act i. scene ii. Sueton. in August. c. 83, with a good note of Casaubon, in Caligulâ, c. 57).

<sup>105</sup> The [*? leg.* this] Sergius (Vandal. l. ii. c. 21, 22; Anecd. c. 5) and Marcellus (Goth. l. iii. c. 32) are mentioned by Procopius. See Theophanes, p. 197, 201 [A.M. 6051, 6055].

<sup>106</sup> Alemannus (p. 3) quotes an old Byzantine MS. which has been printed in the Imperium Orientale of Banduri.

not hastily believe that an hero, who, in the vigour of life, had disdained the fairest offers of ambition and revenge, should stoop to the murder of his prince, whom he could not long expect to survive. His followers were impatient to fly; but flight must have been supported by rebellion, and he had lived enough for nature and for glory. Belisarius appeared before the council with less fear than indignation; after forty years' service, the emperor had prejudged his guilt; and injustice was sanctified by the presence and authority of the patriarch. The life of Belisarius was graciously spared; but his fortunes were sequestered, and from December to July he was guarded as a prisoner in his own palace. At length his innocence was acknowledged; his freedom and honours were restored; and death, which might be hastened by resentment and grief, removed him from the world about eight months after his deliverance. The name of Belisarius can never die; but, instead of a funeral, the monuments, the statues, so justly due to his memory, I only read that his treasures, the spoils of the Goths and Vandals, were immediately confiscated by the emperor. Some decent portion was reserved, however, for the use of his widow; and, as Antonina had much to repent, she devoted the last remains of her life and fortune to the foundation of a convent.<sup>107</sup> Such is the simple and genuine narrative of the fall of Belisarius and the ingratitude of Justinian.<sup>108</sup> That he was deprived of his eyes, and reduced by envy to beg his bread, "Give a penny to Belisarius the general!" is a fiction of later times,<sup>109</sup> which has obtained credit,

<sup>107</sup> [For the last days of Antonina, the source is the anonymous *Antiq. Const.*, in Banduri, *Imp. Or.* i. p. 37.]

<sup>108</sup> Of the disgrace and restoration of Belisarius, the genuine original record is preserved in the fragment of John Malala (tom. ii. p. 234-[*leg.* 239]243 [493-5]) and the exact Chronicle of Theophanes (p. 194-204 [A.M. 6055]). Cedrenus (*Compend.* p. 387, 388) and Zonaras (tom. ii. l. xiv. p. 69 [c. 9]) seem to hesitate between the obsolete truth and the growing falsehood. [The statement of Zonaras shows no sign of the growing falsehood.]

<sup>109</sup> The source of this idle fable may be derived from a miscellaneous work of the xiii<sup>th</sup> century, the *Chiliads* of John Tzetzes, a monk (Basil, 1546, ad

or rather favour, as a strange example of the vicissitudes of fortune.<sup>110</sup>

If the emperor could rejoice in the death of Belisarius, he enjoyed the base satisfaction only eight months, the last period of a reign of thirty-eight and a life of eighty-three years. It would be difficult to trace the character of a prince who is not the most conspicuous object of his own times; but the confessions of an enemy may be received as the safest evidence

calcem Lycophront, Colon. Allobrog. 1614 in Corp. Poet. Græc.). [Tzetzes was not a monk.] He relates the blindness and beggary of Belisarius in ten vulgar or political verses (Chiliad iii. No. 88, 339-348, in Corp. Poet. Græc. tom. ii. p. 311).

Ἐκπωμα ξύλινον κρατῶν ἔβδα τῷ μιλίῳ  
 βελισαρίῳ ὀβολὸν δότε τῷ στρατηλάτῃ  
 \*Ὁν τύχη μὲν ἐδέξασεν, ἀποτυφλοῖ δ' ὁ φθόσος.

This moral or romantic tale was imported into Italy with the language and manuscripts of Greece; repeated before the end of the xvth century by Crinitus, Pontanus, and Volaterranus; attacked by Alciat, for the honour of the law; and defended by Baronius (A.D. 561, No. 2, &c.) for the honour of the church. Yet Tzetzes himself had read in *other* chronicles that Belisarius did not lose his sight and that he recovered his fame and fortunes. [The myth appears earlier than Tzetzes in the Πάτρια τῆς πόλεως, which goes under the name of Codinus (ed. Bonn, p. 29) and was compiled in the time of Basil II. It was wrought into a political romance in the 14th or 15th century, and we possess it in three forms, of which the oldest is published by Wagner in his Mediæval Greek Texts (in unrhymed political verses); the second, by the Rhodian poet Georgillas (printed by A. Giles at Oxford, 1643), breaks into rhyme near the end (Georgillas represents the transition from rhymeless to rhymed verses); the third in rhyme (printed at Venice in 1548). See Krumbacher, Gesch. der byz. Litteratur, ed. 2, p. 825-7. It should be noted that John of Cappadocia ended his days in beggary (Procopius, B.P. i. 23). But more important for the origin of the Belisarius legend (as Finlay pointed out) is the story of Symbatios, in the ninth century. Blinded of one eye, he was placed in front of the palace of Lausus, with a plate on his knees, as a beggar, and in this plight displayed to the public for three days. See George Mon., p. 834 (ed. Bonn); Finlay, Hist. of Greece, vol. i. App. 2, and vol. ii. p. 194.]

<sup>110</sup> The statue in the Villa Borghese at Rome, in a sitting posture, with an open hand, which is vulgarly given to Belisarius, may be ascribed with more dignity to Augustus in the act of propitiating Nemesis (Winckelman, Hist. de l'Art, tom. iii. p. 266). Ex nocturno visu etiam stipem, quotannis, die certo, emendicabat a populo, cavam manum asses porrigentibus præbens

of his virtues. The resemblance of Justinian to the bust of Domitian is maliciously urged; <sup>111</sup> with the acknowledgment, however, of a well-proportioned figure, a ruddy complexion, and a pleasing countenance. The emperor was easy of access, patient of hearing, courteous and affable in discourse, and a master of the angry passions, which rage with such destructive violence in the breast of a despot. Procopius praises his temper, to reproach him with calm and deliberate cruelty; but, in the conspiracies which attacked his authority and person, a more candid judge will approve the justice or admire the clemency of Justinian. He excelled in the private virtues of chastity and temperance; but the impartial love of beauty would have been less mischievous than his conjugal tenderness for Theodora; and his abstemious diet was regulated, not by the prudence of a philosopher, but the superstition of a monk. His repasts were short and frugal: on solemn fasts, he contented himself with water and vegetables; and such was his strength, as well as fervour, that he frequently passed two days and as many nights without tasting any food. The measure of his sleep was not less rigorous: after the repose of a single hour, the body was awakened by the soul, and, to the astonishment of his chamberlains, Justinian walked or studied till the morning light. Such restless application prolonged his time for the acquisition of knowledge <sup>112</sup> and the despatch of business; and he might seriously deserve the reproach of confounding, by minute and preposterous

(Sueton. in August. c. 91, with an excellent note of Casaubon). [The statue is now in the Louvre.]

<sup>111</sup> The *rubor* of Domitian is stigmatised, quaintly enough, by the pen of Tacitus (in Vit. Agric. c. 45); and has been likewise noticed by the younger Pliny (Panegy. c. 48), and Suetonius (in Domitian. c. 18, and Casaubon ad locum). Procopius (Anecd. c. 8) foolishly believes that only *one* bust of Domitian had reached the sixth century.

<sup>112</sup> The studies and science of Justinian are attested by the confession (Anecd. c. 8, 13), still more than by the praises (Gothic. l. iii. c. 31, de Ædific. l. i. Proem. c. 7) of Procopius. Consult the copious index of Ale-mannus, and read the Life of Justinian by Ludewig (p. 135-142).

diligence, the general order of his administration. The emperor professed himself a musician and architect, a poet and philosopher, a lawyer and theologian; and, if he failed in the enterprise of reconciling the Christian sects, the review of the Roman jurisprudence is a noble monument of his spirit and industry. In the government of the empire, he was less wise or less successful; the age was unfortunate; the people was oppressed and discontented; Theodora abused her power; a succession of bad ministers disgraced his judgment; and Justinian was neither beloved in his life nor regretted at his death. The love of fame was deeply implanted in his breast, but he condescended to the poor ambition of titles, honours, and contemporary praise; and, while he laboured to fix the admiration, he forfeited the esteem and affection, of the Romans. The design of the African and Italian wars was boldly conceived and executed; and his penetration discovered the talents of Belisarius in the camp, of Narses in the palace. But the name of the emperor is eclipsed by the names of his victorious generals; and Belisarius still lives, to upbraid the envy and ingratitude of his sovereign. The partial favour of mankind applauds the genius of a conqueror, who leads and directs his subjects in the exercise of arms. The characters of Philip the Second and of Justinian are distinguished by the cold ambition which delights in war and declines the dangers of the field. Yet a colossal statue of bronze represented the emperor on horseback, preparing to march against the Persians in the habit and armour of Achilles. In the great square before the church of St. Sophia, this monument was raised on a brass column and a stone pedestal of seven steps; and the pillar of Theodosius, which weighed seven thousand four hundred pounds of silver, was removed from the same place by the avarice and vanity of Justinian. Future princes were more just or indulgent to *his* memory; the elder Andronicus, in the beginning of the fourteenth century, repaired and beautified his equestrian statue; since the fall of



the empire, it has been melted into cannon by the victorious Turks.<sup>113</sup>

I shall conclude this chapter with the comets, the earthquakes, and the plague, which astonished or afflicted the age of Justinian.

I. In the fifth year of his reign, and in the month of September, a comet <sup>114</sup> was seen during twenty days in the western quarter of the heavens, and which shot its rays into the north. Eight years afterwards, while the sun was in Capricorn, another comet appeared to follow in the Sagittary: the size was gradually increasing; the head was in the east, the tail in the west, and it remained visible above forty days. The nations who gazed with astonishment, expected wars and calamities from the baleful influence; and these expectations were abundantly fulfilled. The astronomers dissembled their ignorance of the nature of these blazing stars, which they affected to represent as the floating meteors of the air; and few among them embraced the simple notion of Seneca and the Chaldæans, that they are only planets of a longer period and more eccentric motion.<sup>115</sup> Time and science have justified the conjectures and predictions of the Roman sage; the telescope has opened new worlds to the eyes of astronomers;<sup>116</sup> and,

<sup>113</sup> See in the C. P. Christiana of Ducange (l. i. c. 24, No. 1) a chain of original testimonies, from Procopius in the viith, to Gyllius in the xvith, century. [For a drawing of the statue, made in A.D. 1340, in a MS. in the library of the Seraglio, see Mordtmann, *Constantinople*, p. 65; and for an inscription which may belong to it, *ib.* p. 55.]

<sup>114</sup> The first comet is mentioned by John Malala (tom. ii. p. 190, 219 [454, 477, ed. Bonn]) and Theophanes (p. 154 [A.M. 6023]); the second by Procopius (Persic. l. ii. c. 4). Yet I strongly suspect their identity. The paleness of the sun (Vandal. l. c. ii. 14) is applied by Theophanes (p. 158) to a different year [A.M. 6024=A.D. 531-2].

<sup>115</sup> Seneca's viith book of Natural Questions displays, in the theory of comets, a philosophic mind. Yet should we not too candidly confound a vague prediction, a *veniet tempus*, &c. with the merit of real discoveries.

<sup>116</sup> Astronomers may study Newton and Halley. I draw my humble science from the article COMETE, in the French Encyclopédie, by M. d'Alembert. [See Appendix 12.]

in the narrow space of history and fable, one and the same comet is already found to have revisited the earth in *seven* equal revolutions of five hundred and seventy-five years. The *first*,<sup>117</sup> which ascends beyond the Christian era one thousand seven hundred and sixty-seven years, is coeval with Ogyges the father of Grecian antiquity. And this appearance explains the tradition which Varro has preserved, that under his reign the planet Venus changed her colour, size, figure, and course: a prodigy without example either in past or succeeding ages.<sup>118</sup> The *second* visit, in the year eleven hundred and ninety-three, is darkly implied in the fable of Electra the seventh of the Pleiads, who have been reduced to six since the time of the Trojan war. That nymph, the wife of Dardanus, was unable to support the ruin of her country; she abandoned the dances of her sister orbs, fled from the zodiac to the north pole, and obtained, from her dishevelled locks, the name of the *comet*. The *third* period expires in the year six hundred and eighteen, a date that exactly agrees with the tremendous comet of the Sibyll, and perhaps of Pliny, which arose in the west two generations before the reign of Cyrus. The *fourth* apparition, forty-four years before the birth of Christ, is of all others the most splendid and important. After the death of Cæsar, a long-haired star was conspicuous to Rome and to the nations, during the games which were exhibited by young Octavian in honour of Venus and his uncle. The vulgar opinion, that it conveyed to heaven the divine soul of the dictator, was cherished and consecrated by the piety of a statesman; while his secret superstition referred the comet

<sup>117</sup> Whiston, the honest, pious, visionary Whiston, had fancied, for the era of Noah's flood (2242 years before Christ), a prior apparition of the same comet which drowned the earth with its tail.

<sup>118</sup> A Dissertation of Fréret (Mémoires de l'Académie des Inscriptions, tom. x. p. 357-377) affords an happy union of philosophy and erudition. The phenomenon in the time of Ogyges was preserved by Varro (apud Augustin. de Civitate Dei, xxi. 8), who quotes Castor, Dion of Naples, and Adrastus of Cyzicus — nobiles mathematici. The two subsequent periods are preserved by the Greek mythologists and the spurious books of Sibylline verses.

to the glory of his own times.<sup>119</sup> The *fifth* visit has been already ascribed to the fifth year of Justinian, which coincides with the five hundred and thirty-first of the Christian era. And it may deserve notice that in this, as in the preceding, instance the comet was followed, though at a longer interval, by a remarkable paleness of the sun. The *sixth* return, in the year eleven hundred and six, is recorded by the chronicles of Europe and China; and in the first fervour of the Crusades, the Christians and the Mahometans might surmise, with equal reason, that it portended the destruction of the Infidels. The *seventh* phenomenon of one thousand six hundred and eighty was presented to the eyes of an enlightened age.<sup>120</sup> The philosophy of Bayle dispelled a prejudice which Milton's muse had so recently adorned, that the comet "from its horrid hair shakes pestilence and war."<sup>121</sup> Its road in the heavens was observed with exquisite skill by Flamstead and Cassini; and the mathematical science of Bernoulli, Newton, and Halley investigated the laws of its revolutions. At the *eighth* period, in the year two thousand two hundred and fifty-five, their calculations may perhaps be verified by the astronomers of some future capital in the Siberian or American wilderness.

II. The near approach of a comet may injure or destroy the globe which we inhabit; but the changes on its surface have been hitherto produced by the action of volcanoes and

<sup>119</sup> Pliny (Hist. Nat. ii. 23) has transcribed the original memorial of Augustus. Mairan, in his most ingenious letters to the P. Parennin, missionary in China, removes the games and the comet of September, from the year 44 to the year 43, before the Christian era; but I am not totally subdued by the criticism of the astronomer (Opuscules, p. 275-351).

<sup>120</sup> This last comet was visible in the month of December, 1680. Bayle, who began his *Pensées sur le Comète* in January 1681 (Oeuvres, tom. iii.), was forced to argue that a *supernatural* comet would have confirmed the ancients in their idolatry. Bernoulli (see his *Eloge*, in Fontenelle, tom. v. p. 99) was forced to allow that the tail, though not the head, was a *sign* of the wrath of God.

<sup>121</sup> *Paradise Lost* was published in the year 1667; and the famous lines (l. ii. 708, &c.), which startled the licenser, may allude to the recent comet of 1664, observed by Cassini at Rome in the presence of Queen Christina (Fontenelle in his *Eloge*, tom. v. p. 338). Had Charles II. betrayed any symptoms of curiosity or fear?

earthquakes.<sup>122</sup> The nature of the soil may indicate the countries most exposed to these formidable concussions, since they are caused by subterraneous fires, and such fires are kindled by the union and fermentation of iron and sulphur. But their times and effects appear to lie beyond the reach of human curiosity, and the philosopher will discreetly abstain from the prediction of earthquakes, till he has counted the drops of water that silently filtrate on the inflammable mineral, and measured the caverns which increase by resistance the explosion of the imprisoned air. Without assigning the cause, history will distinguish the periods in which these calamitous events have been rare or frequent, and will observe that this fever of the earth raged with uncommon violence during the reign of Justinian.<sup>123</sup> Each year is marked by the repetition of earthquakes, of such duration that Constantinople has been shaken above forty days; of such extent that the shock has been communicated to the whole surface of the globe, or at least of the Roman empire. An impulsive or vibratory motion was felt, enormous chasms were opened, huge and heavy bodies were discharged into the air, the sea alternately advanced and retreated beyond its ordinary bounds, and a mountain was torn from Libanus,<sup>124</sup> and cast into the waves, where it protected, as a mole, the new harbour

<sup>122</sup> For the cause of earthquakes, see Buffon (tom. i. p. 502-536. Supplément à l'Hist. Naturelle, tom. v. p. 382-390, edition in 4to), Valmont de Bomare (Dictionnaire d'Histoire Naturelle, *Tremblemens de Terre, Pyrites*), Watson (Chemical Essays, tom. i. p. 181-209). [R. Mallet, *The First Principles of Observational Seismology*, 1862.]

<sup>123</sup> The earthquakes that shook the Roman world in the reign of Justinian are described or mentioned by Procopius (Goth. l. iv. c. 25, Anecd. c. 18), Agathias (l. ii. p. 52, 53, 54 [c. 15, 16]; l. v. p. 145-152 [c. 3 sqq.]), John Malala (Chron. tom. ii. p. 140-146, 176, 177, 183, 193, 220, 229, 231, 233, 234 [417 sqq., 442-3, 448, 456, 478, 485, 487, 488-9]), and Theophanes (p. 151, 183, 189, 191-196 [A.M. 6021, 6028, 6036, 6040, 6043, 6046, 6047, 6050]).

<sup>124</sup> An abrupt height, a perpendicular cape between Aradus and Botrys, named by the Greeks *θεῶν* [*θεοῦ*] *πρόσωπον* and *εὐπρόσωπον* or *λιθοπρόσωπον* by the scrupulous Christians (Polyb. l. v. p. 411 [c. 68]; Pompon. Mela, l. i. c. 12, p. 87, cum Isaac. Voss. *Observat.*; Maundrell, *Journey*, p. 32, 33; Pocock's *Description*, vol. ii. p. 99).

of Botrys<sup>125</sup> in Phœnicia. The stroke that agitates an ant-hill may crush the insect myriads in the dust; yet truth must extort a confession that man has industriously laboured for his own destruction. The institution of great cities, which include a nation within the limits of a wall, almost realises the wish of Caligula that the Roman people had but one neck. Two hundred and fifty thousand persons are said to have perished in the earthquake of Antioch, whose domestic multitudes were swelled by the conflux of strangers to the festival of the Ascension. The loss of Berytus<sup>126</sup> was of smaller account, but of much greater value. That city, on the coast of Phœnicia, was illustrated by the study of the civil law, which opened the surest road to wealth and dignity; the schools of Berytus were filled with the rising spirits of the age; and many a youth was lost in the earthquake, who might have lived to be the scourge or the guardian of his country. In these disasters, the architect becomes the enemy of mankind. The hut of a savage or the tent of an Arab may be thrown down without injury to the inhabitant; and the Peruvians had reason to deride the folly of their Spanish conquerors, who with so much cost and labour erected their own sepulchres. The rich marbles of a patrician are dashed on his own head; a whole people is buried under the ruins of public and private edifices; and the conflagration is kindled and propagated by the innumerable fires which are necessary for the subsistence and manufactures of a great city. Instead of the mutual sympathy which might comfort and assist the distressed, they dreadfully experience the vices and passions which are released from the fear of punishment: the tottering houses are

<sup>125</sup> Botrys was founded (ann. ante Christ. 935-903) by Ithobal, king of Tyre (Marsham, Canon. Chron. p. 387, 388). Its poor representative, the village of Patrone, is now destitute of an harbour.

<sup>126</sup> The university, splendour, and ruin of Berytus are celebrated by Heineccius (p. 351-356) as an essential part of the history of the Roman law. It was overthrown in the xxvth year of Justinian, A.D. 551, July 9 (Theophanes, p. 192 [A.M. 6043]); but Agathias (l. ii. p. 51, 52 [c. 15]) suspends the earthquake till he has achieved the Italian war.

pillaged by intrepid avarice; revenge embraces the moment, and selects the victim; and the earth often swallows the assassin, or the ravisher, in the consummation of their crimes. Superstition involves the present danger with invisible terrors; and, if the image of death may sometimes be subservient to the virtue or repentance of individuals, an affrighted people is more forcibly moved to expect the end of the world or to deprecate with servile homage the wrath of an avenging Deity.

III. Æthiopia and Egypt have been stigmatised in every age as the original source and seminary of the plague.<sup>127</sup> In a damp, hot, stagnating air, this African fever is generated from the putrefaction of animal substances, and especially from the swarms of locusts, not less destructive to mankind in their death than in their lives. The fatal disease which depopulated the earth in the time of Justinian and his successors<sup>128</sup> first appeared in the neighbourhood of Pelusium, between the Serbonian bog and the eastern channel of the

<sup>127</sup> I have read with pleasure Mead's short but elegant treatise, concerning Pestilential Disorders, the viiith edition, London, 1722.

<sup>128</sup> The great plague which raged in 542 and the following years (Pagi, Critica, tom. ii. p. 518), must be traced in Procopius (Persic. l. ii. c. 22, 23), Agathias (l. v. p. 153, 154 [c. 10]), Evagrius (l. iv. c. 29), Paul Diaconus (l. ii. c. 4, p. 776, 777), Gregory of Tours (tom. ii. l. iv. c. 5, p. 205) who styles it *Lues Inguinaria*, and the Chronicles of Victor Tunnunensis (p. 9 in Thesaur. Temporum), of Marcellinus (p. 54), and of Theophanes (p. 153 [*leg.* 188; A.M. 6034]). [The plague seems to have appeared in Egypt in A.D. 541, for we must obviously read "the 15th year of Justinian" instead of "the 5th" (*ε* for *ϵ*) in Agathias, v. 10. Before the end of the year, the infection was probably carried to Constantinople, for Theophanes says that it broke out in October, A.D. 541. But it did not begin to rage until the following year, A.D. 542 — the year of the 3rd invasion of Chosroes, Procop., B.P. 2, 20; Evagrius, 4, 29; Victor Tonn. ad ann. John Malal. (ed. Bonn, p. 482) *seems* to put it in the 5th Indict. = A.D. 541-2, his notice comes between a mention of the 5th Ind. and a mention of the 7th, he does not mention the 6th. See V. Seibel, Die grosse Pest zur Zeit Justinians, 1857. The statement in the text that it penetrated into the west "along the coast of Africa" can hardly be correct. It must have reached Africa from Constantinople. The desert west of the Cyrenaica was an effectual barrier against the affection, and Corippus expressly states that the Moors escaped (Joh. 2, 388, *gentes non laesit amaras Martis amica lues*). The malady spread in Africa in A.D. 543. See Pertsch, Procem. ad Corippum, p. xvi. xvii.]

Nile. From thence, tracing as it were a double path, it spread to the East, over Syria, Persia, and the Indies, and penetrated to the West, along the coast of Africa, and over the continent of Europe. In the spring of the second year, Constantinople, during three or four months, was visited by the pestilence; and Procopius, who observed its progress and symptoms with the eyes of a physician,<sup>129</sup> has emulated the skill and diligence of Thucydides in the description of the plague of Athens.<sup>130</sup> The infection was sometimes announced by the visions of a distempered fancy, and the victim despaired as soon as he had heard the menace and felt the stroke of an invisible spectre. But the greater number, in their beds, in the streets, in their usual occupation, were surprised by a slight fever; so slight, indeed, that neither the pulse nor the colour of the patient gave any signs of the approaching danger. The same, the next, or the succeeding day, it was declared by the swelling of the glands, particularly those of the groin, of the arm-pits, and under the ear; and, when these buboes or tumours were opened, they were found to contain a *coal*, or black substance, of the size of a lentil. If they came to a just swelling and suppuration, the patient was saved by this kind and natural discharge of the morbid humour. But, if they continued hard and dry, a mortification quickly ensued, and the fifth day was commonly the term of his life. The fever was often accompanied with lethargy or delirium; the bodies of the sick were covered with black pustules or carbuncles, the symptoms of

<sup>129</sup> Dr. Freind (*Hist. Medicin. in Opp.* p. 416-420, Lond. 1733) is satisfied that Procopius must have studied physic, from his knowledge and use of the technical words. Yet many words that are now scientific were common and popular in the Greek idiom.

<sup>130</sup> See Thucydides, l. ii. c. 47-54, p. 127-133, edit. Duker, and the poetical description of the same plague by Lucretius (l. vi. 1136-1284). I was indebted to Dr. Hunter for an elaborate commentary on this part of Thucydides, a quarto of 600 pages (Venet. 1603, apud Juntas), which was pronounced in St. Mark's library, by Fabius Paullinus Utinensis, a physician and philosopher. [Cp. the Appendix to Jowett's *Notes on Thucydides*, Bk. ii. (vol. ii. p. 141 *sqq.*), where this account of Gibbon and Boccaccio's narrative of the plague in 1348 are set beside the description of Thucydides.]

immediate death; and, in the constitutions too feeble to produce an eruption, the vomiting of blood was followed by a mortification of the bowels. To pregnant women the plague was generally mortal; yet one infant was drawn alive from his dead mother, and three mothers survived the loss of their infected foetus. Youth was the most perilous season, and the female sex was less susceptible than the male; but every rank and profession was attacked with indiscriminate rage, and many of those who escaped were deprived of the use of their speech, without being secure from a return of the disorder.<sup>131</sup> The physicians of Constantinople were zealous and skilful, but their art was baffled by the various symptoms and pertinacious vehemence of the disease; the same remedies were productive of contrary effects, and the event capriciously disappointed their prognostics of death or recovery. The order of funerals and the right of sepulchres were confounded; those who were left without friends or servants lay unburied in the streets or in their desolate houses; and a magistrate was authorised to collect the promiscuous heaps of dead bodies, to transport them by land or water, and to inter them in deep pits beyond the precincts of the city. Their own danger and the prospect of public distress awakened some remorse in the minds of the most vicious of mankind; the confidence of health again revived their passions and habits; but philosophy must disdain the observation of Procopius that the lives of such men were guarded by the peculiar favour of fortune or providence. He forgot, or perhaps he secretly recollected, that the plague had touched the person of Justinian himself; but the abstemious diet of the emperor may suggest, as in the case of Socrates, a more rational and honourable cause for his

<sup>131</sup> Thucydides (c. 51) affirms that the infection could only be once taken; but Evagrius, who had family experience of the plague, observes that some persons who had escaped the first, sunk under the second, attack; and this repetition is confirmed by Fabius Paullinus (p. 588). I observe that on this head physicians are divided; and the nature and operation of the disease may not always be similar.

recovery.<sup>132</sup> During his sickness, the public consternation was expressed in the habits of the citizens; and their idleness and despondence occasioned a general scarcity in the capital of the East.

Contagion is the inseparable symptom of the plague; which, by mutual respiration, is transfused from the infected persons to the lungs and stomach of those who approach them. While philosophers believe and tremble, it is singular that the existence of a real danger should have been denied by a people most prone to vain and imaginary terrors.<sup>133</sup> Yet the fellow-citizens of Procopius were satisfied, by some short and partial experience, that the infection could not be gained by the closest conversation;<sup>134</sup> and this persuasion might support the assiduity of friends or physicians in the care of the sick, whom inhuman prudence would have condemned to solitude and despair. But the fatal security, like the predestination of the Turks, must have aided the progress of the contagion, and those salutary precautions to which Europe is indebted for her safety were unknown to the government of Justinian. No restraints were imposed on the free and frequent intercourse of the Roman provinces; from Persia to France, the nations were mingled and infected by wars and emigrations; and the pestilential odour which lurks for years in a bale of cotton was imported, by the abuse of trade, into the most distant regions.

<sup>132</sup> It was thus that Socrates had been saved by his temperance, in the plague of Athens (Aul. Gellius, Noct. Attic. ii. 1). Dr. Mead accounts for the peculiar salubrity of religious houses, by the two advantages of seclusion and abstinence (p. 18, 19).

<sup>133</sup> Mead proves that the plague is contagious, from Thucydides, Lucretius, Aristotle, Galen, and common experience (p. 10-20); and he refutes (Preface, p. ii.-xiii.) the contrary opinion of the French physicians who visited Marseilles in the year 1720. Yet these were the recent and enlightened spectators of a plague which, in a few months, swept away 50,000 inhabitants (sur la Peste de Marseille, Paris, 1786) of a city that, in the present hour of prosperity and trade, contains no more than 90,000 souls (Necker, sur les Finances, tom. i. p. 231).

<sup>134</sup> The strong assertions of Procopius — *οὔτε γὰρ λατρῶ οὔτε ἰδιώτη* — are overthrown by the subsequent experience of Evagrius.

The mode of its propagation is explained by the remark of Procopius himself, that it always spread from the sea-coast to the inland country; the most sequestered islands and mountains were successively visited; the places which had escaped the fury of its first passage were alone exposed to the contagion of the ensuing year. The winds might diffuse that subtle venom; but, unless the atmosphere be previously disposed for its reception, the plague would soon expire in the cold or temperate climates of the earth. Such was the universal corruption of the air that the pestilence which burst forth in the fifteenth year of Justinian was not checked or alleviated by any difference of the seasons. In time, its first malignity was abated and dispersed; the disease alternately languished and revived; but it was not till the end of a calamitous period of fifty-two years that mankind recovered their health or the air resumed its pure and salubrious quality. No facts have been preserved to sustain an account, or even a conjecture, of the numbers that perished in this extraordinary mortality. I only find that, during three months, five, and at length ten, thousand persons died each day at Constantinople; that many cities of the East were left vacant; and that in several districts of Italy the harvest and the vintage withered on the ground. The triple scourge of war, pestilence, and famine afflicted the subjects of Justinian, and his reign is disgraced by a visible decrease of the human species, which has never been repaired in some of the fairest countries of the globe.<sup>125</sup>

<sup>125</sup> After some figures of rhetoric, the sands of the sea, &c. Procopius (Anecd. c. 18) attempts a more definite account: that *μυριάδας μυριάδων μυριάς* had been exterminated under the reign of the Imperial demon. The expression is obscure in grammar and arithmetic, and a literal interpretation would produce several millions of millions. Alemannus (p. 80) and Cousin (tom. iii. p. 178) translate this passage, "two hundred millions"; but I am ignorant of their motives. If we drop the *μυριάδας* the remaining *μυριάδων μυριάς*, a myriad of myriads, would furnish one hundred millions, a number not wholly inadmissible. [The number in Procopius is purely imaginary. Cp. Panchenko in *Visant. Vrem.* iii. p. 311.]

## CHAPTER XLIV

*Idea of the Roman Jurisprudence — The Laws of the Kings — The Twelve Tables of the Decemvirs — The Laws of the People — The Decrees of the Senate — The Edicts of the Magistrates and Emperors — Authority of the Civilians — Code, Pandects, Novels, and Institutes of Justinian: — I. Rights of Persons—II. Rights of Things—III. Private Injuries and Actions — IV. Crimes and Punishments*

THE vain titles of the victories of Justinian are crumbled into dust; but the name of the legislator is inscribed on a fair and everlasting monument. Under his reign, and by his care, the civil jurisprudence was digested in the immortal works of the CODE, the PANDECTS, and the INSTITUTES;<sup>1</sup> the public reason of the Romans has been silently or studiously transfused into the domestic institutions of Europe;<sup>2</sup> and the laws of Justinian still command the respect or obedience of inde-

<sup>1</sup> The civilians of the darker ages have established an absurd and incomprehensible mode of quotation, which is supported by authority and custom. In their references to the Code, the Pandects, and the Institutes, they mention the number, not of the *book*, but only of the *law*; and content themselves with reciting the first words of the *title* to which it belongs; and of these titles there are more than a thousand. Ludewig (*Vit. Justiniani*, p. 268) wishes to shake off this pedantic yoke; and I have dared to adopt the simple and rational method of numbering the book, the title, and the law. [The standard text of the *Corpus Juris Civilis* is now that of Mommsen and Krüger.]

<sup>2</sup> Germany, Bohemia, Hungary, Poland, and Scotland have received them as common law or reason; in France, Italy, &c. they possess a direct or indirect influence; and they were respected in England from Stephen to Edward I., our national Justinian (*Duck de Usu et Auctoritate Juris Civilis*, l. ii. c. 1, 8-15. Heineccius, *Hist. Juris Germanici*, c. 3, 4, No. 55-124, and the legal historians of each country).

pendent nations. Wise or fortunate is the prince who connects his own reputation with the honour and interest of a perpetual order of men. The defence of their founder is the first cause which in every age has exercised the zeal and industry of the civilians. They piously commemorate his virtues; dissemble or deny his failings; and fiercely chastise the guilt or folly of the rebels who presume to sully the majesty of the purple. The idolatry of love has provoked, as it usually happens, the rancour of opposition; the character of Justinian has been exposed to the blind vehemence of flattery and invective; and the injustice of a sect (the *Anti-Tribonians*) has refused all praise and merit to the prince, his ministers, and his laws.<sup>3</sup> Attached to no party, interested only for the truth and candour of history, and directed by the most temperate and skilful guides,<sup>4</sup> I enter with just diffidence on the subject of civil law, which has exhausted so many learned lives and clothed the walls of such spacious libraries. In a single, if possible in a short, chapter, I shall trace the Roman jurisprudence from Romulus to Justinian,<sup>5</sup> appreciate the labours

<sup>3</sup> Francis Hottoman, a learned and acute lawyer of the xvth century, wished to mortify Cujacius and to please the Chancellor de l'Hôpital. His *Anti-Tribonianus* (which I have never been able to procure) was published in French in 1609; and his sect was propagated in Germany (Heineccius, *Opp. tom. iii. sylloge iii. p. 171-183*).

<sup>4</sup> At the head of these guides I shall respectfully place the learned and perspicuous Heineccius, a German professor, who died at Halle in the year 1741 (see his *Eloge* in the *Nouvelle Bibliothèque Germanique*, tom. ii. p. 51-64). His ample works have been collected in eight volumes in 4to, Geneva, 1743-1748. The treatises which I have separately used are, 1. *Historia Juris Romani et Germanici*, Lugd. Batav. 1740, in 8°. 2. *Syntagma Antiquitatum Romanam Jurisprudentiam Illustrantium*, 2 vols. in 8°, Traject. ad Rhenum. 3. *Elementa Juris Civilis secundum Ordinem Institutionum*, Lugd. Bat. 1751, in 8°. 4. *Elementa J. C. secundum Ordinem Pandectarum*, Traject. 1772, in 8°, 2 vols. [Among the numerous works on Roman Law which have appeared since the classical histories of Savigny (*Gesch. des röm. Rechts im Mittelalter*) and Walther (*Gesch. des röm. Rechts*), the excellent *Précis de Droit romain* of Accarias (in 2 vols., 4th ed. 1886) may be specially mentioned.]

<sup>5</sup> Our original text is a fragment de Origine Juris (Pandect. l. i. tit. ii.) of Pomponius, a Roman lawyer, who lived under the Antonines (Heinecc. tom.

of that emperor, and pause to contemplate the principles of a science so important to the peace and happiness of society. The laws of a nation form the most instructive portion of its history; and, although I have devoted myself to write the annals of a declining monarchy, I shall embrace the occasion to breathe the pure and invigorating air of the republic.

The primitive government of Rome<sup>6</sup> was composed, with some political skill, of an elective king, a council of nobles, and a general assembly of the people. War and religion were administered by the supreme magistrate; and he alone proposed the laws, which were debated in the senate and finally ratified or rejected by a majority of votes in the thirty *curiæ* or parishes of the city. Romulus, Numa, and Servius Tullius are celebrated as the most ancient legislators; and each of them claims his peculiar part in the threefold division of Jurisprudence.<sup>7</sup> The laws of marriage, the education of children, and the authority of parents, which may seem to draw their origin from *nature* itself, are ascribed to the untutored wisdom of Romulus. The law of *nations* and of religious worship, which Numa introduced, was derived from his nocturnal converse with the nymph Egeria. The *civil* law is attributed to the experience of Servius; he balanced the rights and fortunes of the seven classes of citizens, and guarded, by fifty new regulations, the observance of contracts and the punishment of crimes. The state, which he had inclined towards a democracy, was changed by the last Tarquin into lawless despotism; and, when the kingly office was abolished,

iii. syll. iii. p. 66-126). It has been abridged, and probably corrupted, by Tribonian, and since restored by Bynkershoek (Opp. tom. i. p. 279-304).

<sup>6</sup> The constitutional history of the kings of Rome may be studied in the first book of Livy, and more copiously in Dionysius Halicarnassensis (l. ii. p. 80-96, 119-130 [c. 4 *sqq.*, 57 *sqq.*], l. iv. p. 198-220 [c. 15 *sqq.*]), who sometimes betrays the character of a rhetorician and a Greek.

<sup>7</sup> This threefold division of the law was applied to the three Roman kings by Justus Lipsius (Opp. tom. iv. p. 279); is adopted by Gravina (*Origines Juris Civilis*, p. 28, edit. Lips. 1737); and is reluctantly admitted by Mascou, his German editor.

the patricians engrossed the benefits of freedom. The royal laws became odious or obsolete; the mysterious deposit was silently preserved by the priests and nobles; and, at the end of sixty years, the citizens of Rome still complained that they were ruled by the arbitrary sentence of the magistrates. Yet the positive institutions of the kings had blended themselves with the public and private manners of the city; some fragments of that venerable jurisprudence<sup>8</sup> were compiled by the diligence of antiquarians;<sup>9</sup> and above twenty texts still speak the rudeness of the Pelasgic idiom of the Latins.<sup>10</sup>

<sup>8</sup> The most ancient Code or Digest was styled *Jus Papirianum*, from the first compiler, Papirius, who flourished somewhat before or after the *Regifugium* (Pandect. l. i. tit. ii.). The best judicial critics, even Bynkershoek (tom. i. p. 284, 285), and Heineccius (Hist. J. C. R. l. i. c. 16, 17, and Opp. tom. iii. sylloge iv. p. 1-8), give credit to this tale of Pomponius, without sufficiently adverting to the value and rarity of such a monument of the third century of the *illiterate* city. I much suspect that the Caius Papirius, the Pontifex Maximus, who revived the laws of Numa (Dionys. Hal. l. iii. p. 171 [c. 26]), left only an oral tradition; and that the *Jus Papirianum* of Granius Flaccus (Pandect. l. i. tit. xvi. leg. 144) was not a commentary, but an original work, compiled in the time of Cæsar (Censorin. de Die Natali, l. iii. p. 13. Duker de Latinitate J. C. p. 157). [The inference from the passage in Dionysius seems to be that the *Jus Papirianum* was compiled under Tarquinius Superbus. The *leges regiae* were abolished by a lex tribunicia. Yet some of them were in force in B.C. 367. Cp. Livy, 6, 1.]

<sup>9</sup> A pompous, though feeble, attempt to restore the original is made in the *Histoire de la jurisprudence Romaine* of Terrasson, p. 22-72, Paris, 1750, in folio: a work of more promise than performance.

<sup>10</sup> In the year 1444, seven or eight tables of brass were dug up between Cortona and Gubbio. A part of these, for the rest is Etruscan, represents the primitive state of the Pelasgic letters and language, which are ascribed by Herodotus to that district of Italy (l. i. c. 56, 57, 58); though this difficult passage may be explained of a Crestona in Thrace (Notes de Larcher, tom. i. p. 256-261). The savage dialect of the Eugubine tables has exercised, and may still elude, the divination of criticism; but the root is undoubtedly Latin, of the same age and character as the *Saliare Carmen*, which, in the time of Horace, none could understand. The Roman idiom, by an infusion of Doric and Æolic Greek, was gradually ripened into the style of the xii. tables, of the Duillian column, of Ennius, of Terence, and of Cicero (Gruter Inscript. tom. i. p. cxlii. Scipion Maffei, *Istoria Diplomatica*, p. 241-258. *Bibliothèque Italique*, tom. iii. p. 30-41, 174-205, tom. xiv. p. 1-52). [The language of the Eugubine Tables is neither Etruscan nor Pelasgic, nor both, but Umbrian.]

I shall not repeat the well-known story of the Decemvirs,<sup>11</sup> who sullied by their actions the honour of inscribing on brass, or wood, or ivory the TWELVE TABLES of the Roman laws.<sup>12</sup> They were dictated by the rigid and jealous spirit of an aristocracy, which had yielded with reluctance to the just demands of the people. But the substance of the Twelve Tables was adapted to the state of the city; and the Romans had emerged from barbarism, since they were capable of studying and embracing the institutions of their more enlightened neighbours. A wise Ephesian was driven by envy from his native country; before he could reach the shores of Latium, he had observed the various forms of human nature and civil society; he imparted his knowledge to the legislators of Rome; and a statue was erected in the forum to the perpetual memory of Hermodorus.<sup>13</sup> The names and the divisions of the copper-money, the sole coin of the infant state, were of Dorian origin;<sup>14</sup> the harvests of Campania and Sicily relieved the wants of a people whose agriculture was often interrupted by war and faction; and, since the trade was established,<sup>15</sup> the deputies who sailed from the Tiber might return from the same harbours with a more precious cargo of political

<sup>11</sup> Compare Livy (l. iii. c. 31-59) with Dionysius Halicarnassensis (l. x. p. 644 [c. 55], xi. p. 691 [c. 1]). How concise and animated is the Roman — how prolix and lifeless is the Greek! Yet he has admirably judged the masters, and defined the rules, of historical composition.

<sup>12</sup> From the historians, Heineccius (Hist. J. R. l. i. No. 26) maintains that the twelve tables were of brass — *aereas*: in the text of Pomponius we [rightly] read *eboreas*; for which Scaliger has substituted *roboreas* (Bynkershoek, p. 286). Wood, brass, and ivory might be successively employed.

<sup>13</sup> His exile is mentioned by Cicero (Tusculan. Quæstion, v. 36); his statue [in the comitium] by Pliny (Hist. Nat. xxxiv. 11). The letter, dream, and prophecy of Heraclitus are alike spurious (Epistolæ Græc. Divers. p. 337). [Cp. also Strabo, 14, 25, and John Lydus, de Mag. 1, 34.]

<sup>14</sup> This intricate subject of the Sicilian and Roman money is ably discussed by Dr. Bentley (Dissertation on the Epistles of Phalaris, p. 427-479), whose powers in this controversy were called forth by honour and resentment.

<sup>15</sup> The Romans, or their allies, sailed as far as the fair promontory of Africa (Polyb. l. iii. p. 177, edit. Casaubon, in folio). Their voyages to Cumæ, &c. are noticed by Livy and Dionysius.

wisdom. The colonies of Great Greece had transported and improved the arts of their mother-country. Cumæ and Rhegium, Crotona and Tarentum, Agrigentum and Syracuse, were in the rank of the most flourishing cities. The disciples of Pythagoras applied philosophy to the use of government; the unwritten laws of Charondas accepted the aid of poetry and music;<sup>16</sup> and Zaleucus framed the republic of the Locrians, which stood without alteration above two hundred years.<sup>17</sup> From a similar motive of national pride, both Livy and Dionysius are willing to believe that the deputies of Rome visited Athens under the wise and splendid administration of Pericles; and the laws of Solon were transfused into the Twelve Tables. If such an embassy had indeed been received from the Barbarians of Hesperia, the Roman name would have been familiar to the Greeks before the reign of Alexander;<sup>18</sup> and the faintest evidence would have been ex-

<sup>16</sup> This circumstance would alone prove the antiquity of Charondas, the legislator of Rhegium and Catana, who, by a strange error of Diodorus Siculus (tom. i. l. xii. p. 485-492 [c. 11]), is celebrated long afterwards as the author of the policy of Thurium.

<sup>17</sup> Zaleucus, whose existence has been rashly attacked, had the merit and glory of converting a band of outlaws (the Locrians) into the most virtuous and orderly of the Greek republics (see two Mémoires of the Baron de St. Croix, sur la Législation de la Grande Grèce; Mém. de l'Académie, tom. xlii. p. 276-333). But the laws of Zaleucus and Charondas, which imposed on Diodorus and Stobæus, are the spurious composition of a Pythagorean sophist, whose fraud has been detected by the critical sagacity of Bentley (p. 335-377).

<sup>18</sup> I seize the opportunity of tracing the progress of this national intercourse: 1. Herodotus and Thucydides (A.U.C. 300-350) appear ignorant of the name and existence of Rome (Joseph. contra Apion. tom. ii. l. i. c. 12, p. 444, edit. Havercamp). 2. Theopompus (A.U.C. 400, Plin. iii. 9) mentions the invasion of the Gauls, which is noticed in looser terms by Heraclides Ponticus (Plutarch in Camillo, p. 292, edit. H. Stephan. [c. 16]). 3. The real or fabulous embassy of the Romans to Alexander (A.U.C. 430) is attested by Clitarchus (Plin. iii. 9), by Aristus and Asclepiades (Arrian, l. vii. p. 294, 295 [c. 15]), and by Memnon of Heraclea (apud Photium, cod. ccxxiv. p. 725); though tacitly denied by Livy. 4. Theophrastus (A.U.C. 440) primus externorum aliqua de Romanis diligentius scripsit (Plin. iii. 9). 5. Lycophron (A.U.C. 480-500) scattered the first seed of a Trojan colony and the fable of the Æneid (Cassandra, 1226-1280):—

plored and celebrated by the curiosity of succeeding times. But the Athenian monuments are silent; nor will it seem credible that the patricians should undertake a long and perilous navigation to copy the purest model of a democracy. In the comparison of the tables of Solon with those of the Decemvirs, some casual resemblance may be found; some rules which nature and reason have revealed to every society; some proofs of a common descent from Egypt or Phœnicia.<sup>19</sup> But in all the great lines of public and private jurisprudence, the legislators of Rome and Athens appear to be strangers or adverse to each other.

Whatever might be the origin or the merit of the twelve tables,<sup>20</sup> they obtained among the Romans that blind and partial reverence which the lawyers of every country delight to bestow on their municipal institutions. The study is recommended by Cicero<sup>21</sup> as equally pleasant and instructive. "They amuse the mind by the remembrance of old words and the portrait of ancient manners; they inculcate the soundest principles of government and morals; and I am not afraid to affirm that the brief composition of the Decemvirs surpasses in genuine value the libraries of Grecian philosophy. How admirable," says Tully, with honest or affected prejudice, "is the wisdom of our ancestors! We alone are the masters of

Γῆς καὶ θαλάσσης σκῆπτρα καὶ μοναρχίαν  
 λαβόντες.

A bold prediction before the end of the first Punic war.

<sup>19</sup> The tenth table, *de modo sepulturæ*, was borrowed from Solon (Cicero *de Legibus*, ii. 23-26): the *furtum per lancem et licium conceptum* is derived by Heineccius from the manners of Athens (*Antiquitat. Rom.* tom. ii. p. 167-175). The right of killing a nocturnal thief was declared by Moses, Solon, and the Decemvirs (*Exodus*, xxii. 3. *Demosthenes contra Timocratem*, tom. i. p. 736, edit. Reiske, *Macrob. Saturnalia*, l. i. c. 4. *Collatio Legum Mosai-carum et Romanarum*, tit. vii. No. 1, p. 218, edit. Cannegieter).

<sup>20</sup> *Βραχέως καὶ ἀπερίττως* is the praise of Diodorus (tom. i. l. xii. p. 494 [c. 26]), which may be fairly translated by the eleganti atque absolutâ brevitate verborum of Aulus Gellius (*Noct. Attic.* xxi. 1).

<sup>21</sup> Listen to Cicero (*de Legibus*, ii. 23) and his representative Crassus (*de Oratore*, i. 43, 44).

civil prudence, and our superiority is the more conspicuous, if we deign to cast our eyes on the rude and almost ridiculous jurisprudence of Dracon, of Solon, and of Lycurgus." The Twelve Tables were committed to the memory of the young and the meditation of the old; they were transcribed and illustrated with learned diligence; they had escaped the flames of the Gauls, they subsisted in the age of Justinian, and their subsequent loss has been imperfectly restored by the labours of modern critics.<sup>22</sup> But, although these venerable monuments were considered as the rule of right and the fountain of justice,<sup>23</sup> they were overwhelmed by the weight and variety of new laws, which, at the end of five centuries, became a grievance more intolerable than the vices of the city.<sup>24</sup> Three thousand brass plates, the acts of the senate and people, were deposited in the Capitol;<sup>25</sup> and some of the acts, as the Julian law against extortion, surpassed the number of an hundred chapters.<sup>26</sup> The Decemvirs had neglected to import the sanction of Zaleucus, which so long maintained the integrity of his republic. A Locrian who proposed any new law stood forth in the assembly of the people with a cord round his neck, and, if the law was rejected, the innovator was instantly strangled.

The Decemvirs had been named, and their tables were approved, by an assembly of the *centuries*, in which riches pre-

<sup>22</sup> See Heineccius (Hist. J. R. No. 29-33). I have followed the restoration of the xii. tables by Gravina (Origines J. C. p. 280-307) and Terrasson (Hist. de la Jurisprudence Romaine, p. 94-205). [There is a convenient text of the fragments of the xii. tables in Gneist's *Institutionum et Regularum juris Romani Syntagma*.]

<sup>23</sup> *Finis æqui juris* (Tacit. *Annal.* iii. 27). *Fons omnis publici et privati juris* (T. Liv. iii. 34).

<sup>24</sup> *De principiis juris et quibus modis ad hanc multitudinem infinitam ac varietatem legum perventum sit altius disseram* (Tacit. *Annal.* iii. 25). This deep disquisition fills only two pages, but they are the pages of Tacitus. With equal sense, but with less energy, Livy (iii. 34) had complained in *hoc immenso aliarum super alias acervatarum legum cumulo, &c.*

<sup>25</sup> Suetonius in *Vespasiano*, c. 8.

<sup>26</sup> Cicero ad *Familiares*, viii. 8.

ponderated against numbers. To the first class of Romans, the proprietors of one hundred thousand pounds of copper,<sup>27</sup> ninety-eight votes were assigned, and only ninety-five were left for the six inferior classes, distributed according to their substance by the artful policy of Servius. But the tribunes soon established a more specious and popular maxim, that every citizen has an equal right to enact the laws which he is bound to obey. Instead of the *centuries*, they convened the *tribes*; and the patricians, after an impotent struggle, submitted to the decrees of an assembly in which their votes were confounded with those of the meanest plebeians. Yet, as long as the tribes successively passed over narrow *bridges*,<sup>28</sup> and gave their voices aloud, the conduct of each citizen was exposed to the eyes and ears of his friends and countrymen. The insolvent debtor consulted the wishes of his creditor; the client would have blushed to oppose the views of his patron; the general was followed by his veterans; and the aspect of a grave magistrate was a living lesson to the multitude. A new method of secret ballot abolished the influence of fear and shame, of honour and interest, and the abuse of freedom

<sup>27</sup> Dionysius, with Arbuthnot and most of the moderns (except Eisen-schmidt de Ponderibus, &c. p. 137-140), represent the 100,000 *asses* by 10,000 Attic drachmæ, or somewhat more than 300 pounds sterling. But their calculation can apply only to the later times, when the *as* was diminished to  $\frac{1}{4}$ th of its ancient weight, nor can I believe that in the first ages, however destitute of the precious metals, a single ounce of silver could have been exchanged for seventy pounds of copper or brass. A more simple and rational method is to value the copper itself according to the present rate, and, after comparing the mint and the market price, the Roman and avoirdupois weight, the primitive *as* or Roman pound of copper may be appreciated at one English shilling, and the 100,000 *asses* of the first class amounted to 5000 pounds sterling. It will appear, from the same reckoning, that an ox was sold at Rome for five pounds, a sheep for ten shillings, and a quarter of wheat for one pound ten shillings (Festus, p. 330, edit. Dacier. Plin. Hist. Natur. xviii. 4): nor do I see any reason to reject these consequences, which moderate our ideas of the poverty of the first Romans.

<sup>28</sup> Consult the common writers on the Roman Comitia, especially Sigonius and Beaufort. Spanheim (de Præstantiâ et Usu Numismatum, tom. ii. dissert. x. p. 192, 193) shews, on a curious medal, the Cista, Pontes, Septa, Diribitor, &c.

accelerated the progress of anarchy and despotism.<sup>29</sup> The Romans had aspired to be equal; they were levelled by the equality of servitude; and the dictates of Augustus were patiently ratified by the formal consent of the tribes or centuries. Once, and once only, he experienced a sincere and strenuous opposition. His subjects had resigned all political liberty; they defended the freedom of domestic life. A law which enforced the obligation, and strengthened the bonds, of marriage was clamorously rejected; Propertius, in the arms of Delia, applauded the victory of licentious love; and the project of reform was suspended till a new and more tractable generation had arisen in the world.<sup>30</sup> Such an example was not necessary to instruct a prudent usurper of the mischief of popular assemblies; and their abolition, which Augustus had silently prepared, was accomplished without resistance, and almost without notice, on the accession of his successor.<sup>31</sup> Sixty thousand plebeian legislators, whom numbers made formidable and poverty secure, were supplanted by six hundred senators, who held their honours, their fortunes, and their lives by the clemency of the emperor. The loss of executive power was alleviated by the gift of legislative authority; and Ulpian might assert, after the practice of two hundred years, that the decrees of the senate obtained the force and validity of laws. In the times of freedom, the resolves of the people had often been dictated by the passion or error of the moment; the Cornelian, Pompeian, and Julian laws were adapted by a single hand to the prevailing disorders; but the senate, under the reign of the Cæsars, was composed of magistrates and lawyers, and in questions of private juris-

<sup>29</sup> Cicero (*de Legibus*, iii. 16, 17, 18) debates this constitutional question and assigns to his brother Quintus the most unpopular side.

<sup>30</sup> *Præ tumultu recusantium perferre non potuit* (Sueton. in *August.* c. 34). See Propertius, l. ii. eleg. 6. Heineccius in a separate history has exhausted the whole subject of the Julian and Papiian-Poppæan laws (*Oppom.* vii. P. i. p. 1-479).

<sup>31</sup> Tacit. *Annal.* i. 15. Lipsius, *Excursus E. in Tacitum.*

prudence the integrity of their judgment was seldom perverted by fear or interest.<sup>32</sup>

The silence or ambiguity of the laws was supplied by the occasional EDICTS of those magistrates who were invested with the *honours* of the state.<sup>33</sup> This ancient prerogative of the Roman kings was transferred, in the respective offices, to the consuls and dictators, the censors and prætors; and a similar right was assumed by the tribunes of the people, the ædiles, and the proconsuls. At Rome and in the provinces, the duties of the subject and the intentions of the governor were proclaimed; and the civil jurisprudence was reformed by the annual edicts of the supreme judge, the prætor of the city. As soon as he ascended his tribunal, he announced by the voice of the crier, and afterwards inscribed on a white wall, the rules which he proposed to follow in the decision of doubtful cases, and the relief which his equity would afford from the precise rigour of ancient statutes. A principle of discretion more congenial to monarchy was introduced into the republic; the art of respecting the name, and eluding the efficacy, of the laws was improved by successive prætors; subtleties and fictions were invented to defeat the plainest meaning of the Decemvirs; and, where the end was salutary, the means were frequently absurd. The secret or probable wish of the dead was suffered to prevail over the order of succession and the forms of testaments; and the claimant, who was excluded from the character of heir, accepted with equal pleasure from an indulgent prætor the possession of the goods of his late kinsman or benefactor. In the redress of private wrongs, compensa-

<sup>32</sup> Non ambigitur senatum jus facere posse, is the decision of Ulpian (l. xvi. ad Edict. in Pandect. l. i. tit. iii. leg. 9). Pomponius taxes the *comitia* of the people as a *turba hominum* (Pandect. l. i. tit. ii. leg. 9).

<sup>33</sup> The *jus honorarium* of the prætors and other magistrates is strictly defined in the Latin text of the Institutes (l. i. tit. ii. No. 7), and more loosely explained in the Greek paraphrase of Theophilus (p. 33-38, edit. Reitz), who drops the important word *honorarium*. [The prætorian *ius* as a source of equity is treated in a very interesting manner by Sir Henry Maine, *Ancient Law*, c. 3.]

tions and fines were substituted to the obsolete rigour of the Twelve Tables; time and space were annihilated by fanciful suppositions; and the plea of youth, or fraud, or violence annulled the obligation, or excused the performance, of an inconvenient contract. A jurisdiction thus vague and arbitrary was exposed to the most dangerous abuse: the substance, as well as the form, of justice were often sacrificed to the prejudices of virtue, the bias of laudable affection, and the grosser seductions of interest or resentment. But the errors or vices of each prætor expired with his annual office; such maxims alone as had been approved by reason and practice were copied by succeeding judges; the rule of proceeding was defined by the solution of new cases; and the temptations of injustice were removed by the Cornelian law, which compelled the prætor of the year to adhere to the letter and spirit of his first proclamation.<sup>54</sup> It was reserved for the curiosity and learning of Hadrian to accomplish the design which had been conceived by the genius of Cæsar; and the prætorship of Salvius Julian, an eminent lawyer, was immortalised by the composition of the PERPETUAL EDICT. This well-digested code was ratified by the emperor and the senate; the long divorce of law and equity was at length reconciled; and, instead of the Twelve Tables, the Perpetual Edict was fixed as the invariable standard of civil jurisprudence.<sup>55</sup>

From Augustus to Trajan, the modest Cæsars were content

<sup>54</sup> Dion Cassius (tom. i. l. xxxvi. p. 100 [c. 23]) fixes the perpetual edicts in the year of Rome 686. Their institution, however, is ascribed to the year 585 in the *Acta Diurna*, which have been published from the papers of Ludovicus Vives. Their authenticity is supported or allowed by Pighius (*Annal. Roman.* tom. ii. p. 377, 378). Grævius (ad Sueton. p. 778), Dodwell (*Prælection.* Cambden, p. 665), and Heineccius; but a single word, *scutum Cimbricum*, detects the forgery (*Moyle's Works*, vol. i. p. 303).

<sup>55</sup> The history of edicts is composed, and the text of the perpetual edict is restored, by the master hand of Heineccius (*Opp.* tom. vii. P. ii. p. 1-564); in whose researches I might safely acquiesce. In the Academy of Inscriptions, M. Bouchaud has given a series of memoirs to this interesting subject of law and literature.

to promulgate their edicts in the various characters of a Roman magistrate; and, in the decrees of the senate, the *epistles* and *orations* of the prince were respectfully inserted. Hadrian<sup>86</sup> appears to have been the first who assumed, without disguise, the plenitude of legislative power. And this innovation, so agreeable to his active mind, was countenanced by the patience of the times and his long absence from the seat of government. The same policy was embraced by succeeding monarchs, and, according to the harsh metaphor of Tertullian, "the gloomy and intricate forest of ancient laws was cleared away by the axe of royal mandates and *constitutions*."<sup>87</sup> During four centuries, from Hadrian to Justinian, the public and private jurisprudence was moulded by the will of the sovereign; and few institutions, either human or divine, were permitted to stand on their former basis. The origin of Imperial legislation was concealed by the darkness of ages and the terrors of armed despotism; and a double fiction was propagated by the servility, or perhaps the ignorance, of the civilians who basked in the sunshine of the Roman and Byzantine courts. 1. To the prayer of the ancient Cæsars, the people or the senate had sometimes granted a personal exemption from the obligation and penalty of particular statutes; and each indulgence was an act of jurisdiction exercised by the republic over the first of her citizens. His humble privilege was at length transformed into the prerogative of a tyrant; and the Latin expression of "released from the laws,"<sup>88</sup> was supposed to exalt the emperor above

<sup>86</sup> His laws are the first in the Code. See Dodwell (*Prælect. Cambden*, p. 319-340), who wanders from the subject in confused reading and feeble paradox.

<sup>87</sup> *Totam illam veterem et squalentem sylvam legum novis principalium rescriptorum et edictorum securibus truncatis et cæditis* (*Apologet.* c. 4. p. 50, edit. Havercamp). He proceeds to praise the recent firmness of Severus, who repealed the useless or pernicious laws without any regard to their age or authority.

<sup>88</sup> The constitutional style of *Legibus solutus* is misinterpreted by the art or ignorance of Dion Cassius (tom. i. l. liii. p. 713 [c. 18]). On this occasion

*all* human restraints, and to leave his conscience and reason as the sacred measure of his conduct. 2. A similar dependence was implied in the decrees of the senate, which, in every reign, defined the titles and powers of an elective magistrate. But it was not before the ideas, and even the language, of the Romans had been corrupted, that a *royal law*,<sup>39</sup> and an irrevocable gift of the people, were created by the fancy of Ulpian, or more probably of Tribonian himself;<sup>40</sup> and the origin of Imperial power, though false in fact and slavish in its consequence, was supported on a principle of freedom and justice. "The pleasure of the emperor has the vigour and effect of law, since the Roman people by the royal law have transferred to their prince the full extent of their own power and sovereignty."<sup>41</sup> The will of a single man, of a child perhaps, was allowed to prevail over the wisdom of ages and the inclinations of millions; and the degenerate Greeks were proud to declare that in his hands alone the arbitrary exercise of legislation could be safely deposited. "What interest or passion," exclaims Theophilus in the court of Justinian, "can reach the calm and sublime elevation of the monarch?"

his editor, Reimar, joins the universal censure which freedom and criticism have pronounced against that slavish historian.

<sup>39</sup> The word (*Lex Regia*) was still more recent than the *thing*. The slaves of Commodus or Caracalla would have started at the name of royalty. [It was the *Lex de Imperio*; see above, vol. i. p. 84. — *Lex regia* is an incorrect and late phrase. It ought to mean a law proposed by a *rex*, not pertaining to a *rex*; and the words *rex*, *regius*, were never associated officially with the Emperor. The phrase occurs in the text of Ulpian, but is probably an interpolation — if not, as Mommsen suggests, a Syrian provincialism. See Mommsen, *Staatsrecht*, 2, 869.]

<sup>40</sup> See Gravina (*Opp.* p. 501-512) and Beaufort (*République Romaine*, tom. i. p. 255-274). He has made a proper use of two dissertations by John Frederick Gronovius and Noodt, both translated with valuable notes, by Barbeyrac, 2 vols. in 12mo, 1731.

<sup>41</sup> *Institut.* l. i. tit. ii. No. 6; *Pandect.* l. i. tit. iv. leg. i.; *Cod. Justinian.* l. i. tit. xvii. leg. i. No. 7. In his antiquities and elements, Heineccius has amply treated *de constitutionibus principum*, which are illustrated by Godefroy (*Comment. ad Cod. Theodos.* l. i. tit. i. ii. iii.) and Gravina (p. 87-90).

he is already master of the lives and fortunes of his subjects; and those who have incurred his displeasure are already numbered with the dead.”<sup>42</sup> Disdaining the language of flattery, the historian may confess that, in questions of private jurisprudence, the absolute sovereign of a great empire can seldom be influenced by any personal considerations. Virtue, or even reason, will suggest to his impartial mind that he is the guardian of peace and equity, and that the interest of society is inseparably connected with his own. Under the weakest and most vicious reign, the seat of justice was filled by the wisdom and integrity of Papinian and Ulpian;<sup>43</sup> and the purest materials of the Code and Pandects are inscribed with the names of Caracalla and his ministers.<sup>44</sup> The tyrant of Rome was sometimes the benefactor of the provinces. A dagger terminated the crimes of Domitian; but the prudence of Nerva confirmed his acts, which, in the joy of their deliverance, had been rescinded by an indignant senate.<sup>45</sup> Yet in the *rescripts*,<sup>46</sup> replies to the consultations of the magistrates, the wisest of princes might be deceived by a partial exposition of the case. And this abuse, which placed their hasty decisions on the same level with mature and deliberate acts of legislation, was ineffectually condemned by the sense and example of Trajan. The *rescripts* of the emperor, his

<sup>42</sup> Theophilus, in Paraphras. Græc. Institut. p. 33, 34, edit. Reitz. For his person, time, writings, see the Theophilus of J. H. Mylius, Excurs. iii. p. 1034-1073.

<sup>43</sup> There is more envy than reason in the complaint of Macrinus (Jul. Capitolin. c. 13): *Nefas esse leges videri Commodi et Caracallæ et hominum imperitorum voluntates.* Commodus was made a Divus by Severus (Dodwell, Prælect. viii. p. 324, 325). Yet he occurs only twice in the Pandects.

<sup>44</sup> Of Antoninus Caracalla alone 200 constitutions are extant in the Code, and with his father 160. These two princes are quoted fifty times in the Pandects and eight in the Institutes (Terrasson, p. 265).

<sup>45</sup> Plin. Secund. Epistol. x. 66. Sueton. in Domitian. c. 23.

<sup>46</sup> It was a maxim of Constantine, *contra jus rescripta non valeant* (Cod. Theodos. l. i. tit. ii. leg. 1). The emperors reluctantly allow some scrutiny into the law and the fact, some delay, petition, &c.; but these insufficient remedies are too much in the discretion and at the peril of the judge.

*grants* and *decrees*, his *edicts* and *pragmatic sanctions*, were subscribed in purple ink,<sup>47</sup> and transmitted to the provinces as general or special laws, which the magistrates were bound to execute, and the people to obey. But, as their number continually multiplied, the rule of obedience became each day more doubtful and obscure, till the will of the sovereign was fixed and ascertained in the Gregorian, the Hermogenian, and the Theodosian codes. The two first, of which some fragments have escaped, were framed by two private lawyers, to preserve the constitutions of the Pagan emperors from Hadrian to Constantine. The third, which is still extant, was digested in sixteen books by the order of the younger Theodosius, to consecrate the laws of the Christian princes from Constantine to his own reign. But the three codes obtained an equal authority in the tribunals; and any act which was not included in the sacred deposit might be disregarded by the judge as spurious or obsolete.<sup>48</sup>

Among savage nations, the want of letters is imperfectly supplied by the use of visible signs, which awaken attention, and perpetuate the remembrance of any public or private transaction. The jurisprudence of the first Romans exhibited the scenes of a pantomime; the words were adapted to the gestures, and the slightest error or neglect in the *forms* of proceeding was sufficient to annul the *substance* of the fairest claim. The communion of the marriage-life was denoted by

<sup>47</sup> A compound of vermilion and cinnabar, which marks the Imperial diplomas from Leo I. (A.D. 470) to the fall of the Greek empire (Bibliothèque Raisonnée de la Diplomatie, tom. i. p. 509-514. Lami, de Eruditione Apostolorum, tom. ii. p. 720-726).

<sup>48</sup> Schulting, Jurisprudentia Ante-Justiniana, p. 681-718. Cujacius assigned to Gregory the reigns from Hadrian to Gallienus, and the continuation to his fellow-labourer Hermogenes. This general division may be just; but they often trespassed on each other's ground. [These two codes were non-official. That of Gregory was probably composed at the beginning of Constantine's reign; that of Hermogenes, which continued it, towards the end of the 4th century. The fragments of both are published by Haenel in his edition of the Codex Theodosianus.]

the necessary elements of fire and water;<sup>49</sup> and the divorced wife resigned the bunch of keys, by the delivery of which she had been invested with the government of the family. The manumission of a son, or a slave, was performed by turning him round with a gentle blow on the cheek; a work was prohibited by the casting of a stone; prescription was interrupted by the breaking of a branch; the clenched fist was the symbol of a pledge or deposit; the right hand was the gift of faith and confidence. The indenture of covenants was a broken straw; weights and scales were introduced into every payment; and the heir who accepted a testament was sometimes obliged to snap his fingers, to cast away his garments, and to leap and dance with real or affected transport.<sup>50</sup> If a citizen pursued any stolen goods into a neighbour's house, he concealed his nakedness with a linen towel, and hid his face with a mask or bason, lest he should encounter the eyes of a virgin or a matron.<sup>51</sup> In a civil action, the plaintiff touched the ear of the witness, seized his reluctant adversary by the neck, and implored, in solemn lamentation, the aid of his fellow-citizens. The two competitors grasped each other's hand as if they stood prepared for combat before the tribunal of the prætor; he commanded them to produce the object of the dispute; they went, they returned with measured steps, and a clod of earth was cast at his feet to represent the field for

<sup>49</sup> Scævola, most probably Q. Cervidius Scævola the master of Papinian, considers this acceptance of fire and water as the essence of marriage. (Pandect. l. xxiv. tit. i. leg. 66. See Heineccius, Hist. J. R. No. 317.)

<sup>50</sup> Cicero (de Officiis, iii. 19) may state an ideal case, but St. Ambrose (de Officiis, iii. 2) appeals to the practice of his own times, which he understood as a lawyer and a magistrate (Schulting ad Ulpian. Fragment. tit. xxii. No. 28, p. 643, 644). [This interpretation of the passage of Cicero is obviously false. There is no evidence that such forms for accepting an inheritance were ever in use.]

<sup>51</sup> The *furtum lance licioque* conceptum was no longer understood in the time of the Antonines (Aulus Gellius, xvi. 10). The Attic derivation of Heineccius (Antiquitat. Rom. l. iv. tit. i. No. 13-21) is supported by the evidence of Aristophanes, his scholiast, and Pollux. [See Gaius, § 189. The meaning of the *lanx* is quite uncertain.]

which they contended. This occult science of the words and actions of law was the inheritance of the pontiffs and patriicians. Like the Chaldean astrologers, they announced to their clients the day of business and repose; these important trifles were interwoven with the religion of Numa; and, after the publication of the Twelve Tables, the Roman people was still enslaved by the ignorance of judicial proceedings. The treachery of some plebeian officers at length revealed the profitable mystery; in a more enlightened age, the legal actions were derided and observed; and the same antiquity which sanctified the practice, obliterated the use and meaning, of this primitive language.<sup>52</sup>

A more liberal art was cultivated, however, by the sages of Rome, who, in a stricter sense, may be considered as the authors of the civil law. The alteration of the idiom and manners of the Romans rendered the style of the Twelve Tables less familiar to each rising generation, and the doubtful passages were imperfectly explained by the study of legal antiquarians. To define the ambiguities, to circumscribe the latitude, to apply the principles, to extend the consequences, to reconcile the real or apparent contradictions, was a much nobler and more important task; and the province of legislation was silently invaded by the expounders of ancient statutes. Their subtle interpretations concurred with the equity of the prætor to reform the tyranny of the darker ages: however strange or intricate the means, it was the aim of artificial jurisprudence to restore the simple dictates of nature and reason, and the skill of private citizens was usefully employed to undermine the public institutions of their country. The revolution of almost one thousand years, from the Twelve Tables to the reign of Justinian, may be divided into three periods almost equal in

<sup>52</sup> In his oration for Murena (c. 9-13) Cicero turns into ridicule the forms and mysteries of the civilians, which are represented with more candour by Aulus Gellius (*Noct. Attic.* xx. 10), Gravina (*Opp.* p. 265, 266, 267), and Heineccius (*Antiquitat.* l. iv. tit. vi.).

duration,<sup>53</sup> and distinguished from each other by the mode of instruction and the character of the civilians.<sup>54</sup> Pride and ignorance contributed, during the first period, to confine within narrow limits the science of the Roman law. On the public days of market or assembly, the masters of the art were seen walking in the forum, ready to impart the needful advice to the meanest of their fellow-citizens, from whose votes, on a future occasion, they might solicit a grateful return. As their years and honours increased, they seated themselves at home on a chair or throne, to expect with patient gravity the visits of their clients, who at the dawn of day, from the town and country, began to thunder at their door. The duties of social life and the incidents of judicial proceeding were the ordinary subject of these consultations, and the verbal or written opinion of the *jurisconsults* was framed according to the rules of prudence and law. The youths of their own order and family were permitted to listen; their children enjoyed the benefit of more private lessons; and the Mucian race was long renowned for the hereditary knowledge of the civil law. The second period, the learned and splendid age of jurisprudence, may be extended from the birth of Cicero to the reign of Severus Alexander. A system was formed, schools were

<sup>53</sup> [Another triple division is adopted by Accarias: (1) to Augustus, A.U.C. 724; (2) to Constantine, A.D. 306; (3) to Justinian. But this is from a more general point of view than the "succession of the lawyers."]

<sup>54</sup> The series of the civil lawyers is deduced by Pomponius (*de Origine Juris Pandect. l. i. tit. ii.*). The moderns have discussed, with learning and criticism, this branch of literary history; and among these I have chiefly been guided by Gravina (p. 41-79) and Heineccius (*Hist. J. R. No. 113-351*). Cicero, more especially in his books *de Oratore*, *de Claris Oratoribus*, *de Legibus*, and the *Clavis Ciceroniana* of Ernesti (under the names of *Mucius*, &c.) afford much genuine and pleasing information. Horace often alludes to the morning labours of the civilians (*Serm. I. i. 10. Epist. II. i. 103, &c.*).

Agricolam laudat juris legumque peritus  
Sub galli cantum, consultor ubi ostia pulsat.

Romæ dulce diu fuit et solemne reclusâ  
Mane domo vigilare, clienti promere jura.

instituted, books were composed, and both the living and the dead became subservient to the instruction of the student. The *tripartite* of Ælius Pætus, surnamed Catus, or the Cunning, was preserved as the oldest work of jurisprudence. Cato the censor derived some additional fame from his legal studies, and those of his son; the kindred appellation of Mucius Scævola was illustrated by three sages of the law; but the perfection of the science was ascribed to Servius Sulpicius their disciple, and the friend of Tully; and the long succession, which shone with equal lustre under the republic and under the Cæsars, is finally closed by the respectable characters of Papinian, of Paul, and of Ulpian. Their names, and the various titles of their productions, have been minutely preserved, and the example of Labeo may suggest some idea of their diligence and fecundity. That eminent lawyer of the Augustan age divided the year between the city and country, between business and composition; and four hundred books are enumerated as the fruit of his retirement. Of the collections of his rival Capito, the two hundred and fifty-ninth book is expressly quoted; and few teachers could deliver their opinions in less than a century of volumes. In the third period, between the reigns of Alexander and Justinian, the oracles of jurisprudence were almost mute. The measure of curiosity had been filled; the throne was occupied by tyrants and Barbarians; the active spirits were diverted by religious disputes; and the professors of Rome, Constantinople, and Berytus were humbly content to repeat the lessons of their more enlightened predecessors. From the slow advances and rapid decay of these legal studies, it may be inferred that they require a state of peace and refinement. From the multitude of voluminous civilians who fill the intermediate space, it is evident that such studies may be pursued, and such works may be performed, with a common share of judgment, experience, and industry. The genius of Cicero and Virgil was more sensibly felt, as each revolving

age had been found incapable of producing a similar or a second; but the most eminent teachers of the law were assured of leaving disciples equal or superior to themselves in merit and reputation.

The jurisprudence which had been grossly adapted to the wants of the first Romans was polished and improved in the seventh century of the city by the alliance of Grecian philosophy. The Scævolas had been taught by use and experience; but Servius Sulpicius was the first civilian who established his art on a certain and general theory.<sup>55</sup> For the discernment of truth and falsehood, he applied, as an infallible rule, the logic of Aristotle and the stoics, reduced particular cases to general principles, and diffused over the shapeless mass the light of order and eloquence. Cicero, his contemporary and friend, declined the reputation of a professed lawyer; but the jurisprudence of his country was adorned by his incomparable genius, which converts into gold every object that it touches. After the example of Plato, he composed a republic; and, for the use of his republic, a treatise of laws, in which he labours to deduce from a celestial origin the wisdom and justice of the Roman constitution. The whole universe, according to his sublime hypothesis, forms one immense commonwealth; gods and men, who participate of the same essence, are members of the same community; reason prescribes the law of nature and nations; and all positive institutions, however modified by accident or custom, are drawn from the rule of right, which the Deity has inscribed on every virtuous mind. From these philosophical mysteries, he mildly excludes the sceptics who refuse to believe, and the epicureans who are unwilling to act. The latter disdain the care of the republic: he advises them to slumber in their

<sup>55</sup> Crassus, or rather Cicero himself, proposes (*de Oratore*, i. 41, 42) an idea of the art or science of jurisprudence, which the eloquent but illiterate Antonius (i. 58) affects to deride. It was partly executed by Servius Sulpicius (in *Bruto*, c. 41), whose praises are elegantly varied in the classic Latinity of the Roman Gravina (p. 60).

shady gardens. But he humbly entreats that the new Academy would be silent, since her bold objections would too soon destroy the fair and well-ordered structure of his lofty system.<sup>56</sup> Plato, Aristotle, and Zeno he represents as the only teachers who arm and instruct a citizen for the duties of social life. Of these, the armour of the stoics<sup>57</sup> was found to be of the firmest temper; and it was chiefly worn, both for use and ornament, in the schools of jurisprudence. From the Portico, the Roman civilians learned to live, to reason, and to die; but they imbibed in some degree the prejudices of the sect; the love of paradox, the pertinacious habits of dispute, and a minute attachment to words and verbal distinctions. The superiority of *form* to *matter* was introduced to ascertain the right of property; and the equality of crimes is countenanced by an opinion of Trebatius,<sup>58</sup> that he who touches the ear touches the whole body; and that he who steals from an heap of corn or an hogshead of wine is guilty of the entire theft.<sup>59</sup>

Arms, eloquence, and the study of the civil law promoted a citizen to the honours of the Roman state; and the three professions were sometimes more conspicuous by their union

<sup>56</sup> *Perturbatricem autem omnium harum rerum academiam, hanc ab Arcesila et Carneade recentem, exoremus ut sileat, nam si invaserit in hæc, quæ satis scite instructa et composita videantur, nimis edet ruinas, quam quidem ego placare cupio, submovere non audeo* (de Legibus, i. 13). From this passage alone Bentley (Remarks on Free-thinking, p. 250) might have learned how firmly Cicero believed in the specious doctrines which he has adorned.

<sup>57</sup> The stoic philosophy was first taught at Rome by Panætius, the friend of the younger Scipio (see his life in the *Mém. de l'Académie des Inscriptions*, tom. x. p. 75-89).

<sup>58</sup> As he is quoted by Ulpian (leg. 40, ad Sabinum in Pandect. l. xlviij. tit. ii. leg. 21). Yet Trebatius, after he was a leading civilian, *qui familiam duxit* [(*accedit etiam*) quod familiam ducit in iure civili = "he is at the top of his profession"], became an epicurean (Cicero ad Fam. vii. 5). Perhaps he was not constant or sincere in his new sect.

<sup>59</sup> See Gravina (p. 45-51) and the ineffectual cavils of Mascou. Heinecius (*Hist. J. R. No. 125*) quotes and approves a dissertation of Everard Otto, de Stoicâ Jurisconsultorum Philosophiâ.

in the same character. In the composition of the edict, a learned prætor gave a sanction and preference to his private sentiments; the opinion of a censor or a consul was entertained with respect; and a doubtful interpretation of the laws might be supported by the virtues or triumphs of the civilian. The patrician arts were long protected by the veil of mystery; and in more enlightened times, the freedom of inquiry established the general principles of jurisprudence. Subtle and intricate cases were elucidated by the disputes of the forum; rules, axioms, and definitions<sup>60</sup> were admitted as the genuine dictates of reason; and the consent of the legal professors was interwoven into the practice of the tribunals. But these interpreters could neither enact nor execute the laws of the republic; and the judges might disregard the authority of the Scævolas themselves, which was often overthrown by the eloquence or sophistry of an ingenious pleader.<sup>61</sup> Augustus and Tiberius were the first to adopt, as an useful engine, the science of the civilians; and their servile labours accommodated the old system to the spirit and views of despotism. Under the fair pretence of securing the dignity of the art, the privilege of subscribing legal and valid opinions was confined to the sages of senatorian or equestrian rank, who had been previously approved by the judgment of the prince; and this monopoly prevailed, till Hadrian restored the freedom of the profession to every citizen conscious of his abilities and knowledge. The discretion of the prætor was now governed by the lessons of his teachers; the judges were enjoined to obey the comment as well as the text of the law; and the use of codicils was a memorable innovation, which Augustus ratified by the advice of the civilians.<sup>62</sup>

<sup>60</sup> We have heard of the Catonian rule, the Aquilian stipulation, and the Manilian forms, of 211 maxims, and of 247 definitions (Pandect. l. l. tit. xvi. xvii.).

<sup>61</sup> Read Cicero, l. i. de Oratore, Topica, pro Murenâ.

<sup>62</sup> See Pomponius (de Origine Juris Pandect. l. i. tit. ii. leg. 2, No. 47), Heineccius (ad Institut. l. i. tit. ii. No. 8, l. ii. tit. xxv. in Element et Anti-

The most absolute mandate could only require that the judges should agree with the civilians, if the civilians agreed among themselves. But positive institutions are often the result of custom and prejudice; laws and language are ambiguous and arbitrary; where reason is incapable of pronouncing, the love of argument is inflamed by the envy of rivals, the vanity of masters, the blind attachment of their disciples; and the Roman jurisprudence was divided by the once famous sects of the *Proculians* and *Sabinians*.<sup>63</sup> Two sages of the law, Ateius Capito and Antistius Labeo,<sup>64</sup> adorned the peace of the Augustan age: the former distinguished by the favour of his sovereign; the latter more illustrious by his contempt of that favour, and his stern though harmless opposition to the tyrant of Rome. Their legal studies were influenced by the various colours of their temper and principles. Labeo was attached to the form of the old republic; his rival embraced the more profitable substance of the rising monarchy. But the disposition of a courtier is tame and submissive; and Capito seldom presumed to deviate from the sentiments, or at least from the words, of his predecessors; while the bold republican pursued his independent ideas without fear of paradox or innovations. The freedom of Labeo was enslaved, however, by the rigour of his own conclusions, and he decided according to the letter of the law the same questions which his indulgent competitor

quitat.), and Gravina (p. 41-45). Yet the monopoly of Augustus, an harsh measure, would appear with some softening in the contemporary evidence; and it was probably veiled by a decree of the senate.

<sup>63</sup> I have perused the Diatribe of Gotfridus Mascovius, the learned Mascou, de Sectis Jurisconsultorum (Lipsiæ 1728, in 12mo, p. 276), a learned treatise on a narrow and barren ground.

<sup>64</sup> See the character of Antistius Labeo in Tacitus (*Annal.* iii. 75) and in an epistle of Ateius Capito (*Aul. Gellius*, xiii. 12), who accuses his rival of *libertas nimia et vecors*. Yet Horace would not have lashed a virtuous and respectable senator; and I must adopt the emendation of Bentley, who reads *Labieno insanior* (*Serm.* l. iii. 82). See Mascou, de Sectis (c. i. p. 1-24). [Accarias observes on Horace's words, referring to the Stoic doctrines of Labeo: "the lawyer was then very young, and the poet must have afterwards regretted his injustice."]

resolved with a latitude of equity more suitable to the common sense and feelings of mankind. If a fair exchange had been substituted to the payment of money, Capito still considered the transaction as a legal sale;<sup>65</sup> and he consulted nature for the age of puberty, without confining his definition to the precise period of twelve or fourteen years.<sup>66</sup> This opposition of sentiments was propagated in the writings and lessons of the two founders; the schools of Capito and Labeo maintained their inveterate conflict from the age of Augustus to that of Hadrian;<sup>67</sup> and the two sects derived their appellations from Sabinus and Proculus, their most celebrated teachers. The names of *Cassians* and *Pegasians* were likewise applied to the same parties; but, by a strange reverse, the popular cause was in the hands of Pegasus,<sup>68</sup> a timid slave of Domitian, while the favourite of the Cæsars was represented by Cassius,<sup>69</sup> who gloried in his descent from the patriot assassin. By the perpetual edict, the controversies of the sects were in a great measure determined. For that important work, the emperor Hadrian preferred the chief of

<sup>65</sup> Justinian (Institut. l. iii. tit. xxiii. and Theophil. Vers. Græc. p. 677, 680) has commemorated this weighty dispute, and the verses of Homer that were alleged on either side as legal authorities. It was decided by Paul (leg. 33, ad Edict. in Pandect. l. xviii. tit. 1, leg. i.), since in a simple exchange the buyer could not be discriminated from the seller.

<sup>66</sup> This controversy was likewise given for the Proculians, to supersede the indecency of a search, and to comply with the aphorism of Hippocrates, who was attached to the septenary number of two weeks of years, or 700 of days (Institut. l. i. tit. xxii.). Plutarch and the stoics (de Placit. Philosoph. l. v. c. 24) assign a more natural reason. Fourteen years is the age — *περὶ ἧρ ὁ σπερματικὸς κρίνεται ὀρθός*. See the *vestigia* of the sects in Mascou, c. ix. p. 145-276.

<sup>67</sup> The series and conclusion of the sects are described by Mascou (c. ii.-vii. p. 24-120), and it would be almost ridiculous to praise his equal justice to these obsolete sects.

<sup>68</sup> At the first summons he flies to the turbot-council; yet Juvenal (Satir. iv. 75-81) styles the prefect or *bailiff* of Rome *sanctissimus legum interpres*. From his science, says the old scholiast, he was called, not a man, but a book. He derived the singular name of Pegasus from the galley which his father commanded. [There seems to be no ancient authority for the title *Pegasians*.]

<sup>69</sup> Tacit. Annal. xvi. 7. Sueton. in Nerone, c. xxxvii.

the Sabinians: the friends of monarchy prevailed; but the moderation of Salvius Julian insensibly reconciled the victors and the vanquished. Like the contemporary philosophers, the lawyers of the age of the Antonines disclaimed the authority of a master, and adopted from every system the most probable doctrines.<sup>70</sup> But their writings would have been less voluminous, had their choice been more unanimous. The conscience of the judge was perplexed by the number and weight of discordant testimonies, and every sentence that his passion or interest might pronounce was justified by the sanction of some venerable name. An indulgent edict of the younger Theodosius excused him from the labour of comparing and weighing their arguments. Five civilians, Caius, Papinian, Paul, Ulpian, and Modestinus, were established as the oracles of jurisprudence; a majority was decisive; but, if their opinions were equally divided, a casting vote was ascribed to the superior wisdom of Papinian.<sup>71</sup>

When Justinian ascended the throne, the reformation of the Roman jurisprudence was an arduous but indispensable task. In the space of ten centuries, the infinite variety of laws and legal opinions had filled many thousand volumes, which no fortune could purchase and no capacity could digest. Books could not easily be found; and the judges, poor in the midst of riches, were reduced to the exercise of their illiterate discretion. The subjects of the Greek provinces were ignorant of the language that disposed of their lives and properties; and the *barbarous* dialect of the Latins

<sup>70</sup> Mascou, de Sectis, c. viii. p. 120-144, de Herciscundis, a legal term which was applied to these eclectic lawyers: *herciscere* is synonymous to *dividere*. [In the third century the schism was obliterated under the conciliatory influence of Ulpian and Papinian. Cp. Accarias, i. p. 63.]

<sup>71</sup> See the Theodosian Code, l. i. tit. iv. with Godefroy's Commentary, tom. i. p. 30-35. This decree might give occasion to Jesuitical disputes like those in the *Lettres Provinciales*, whether a judge was obliged to follow the opinion of Papinian, or of a majority, against his judgment, against his conscience, &c. Yet a legislator might give that opinion, however false, the validity, not of truth, but of law.

was imperfectly studied in the academies of Berytus and Constantinople. As an Illyrian soldier, that idiom was familiar to the infancy of Justinian; his youth had been instructed by the lessons of jurisprudence, and his Imperial choice selected the most learned civilians of the East, to labour with their sovereign in the work of reformation.<sup>72</sup> The theory of professors was assisted by the practice of advocates and the experience of magistrates; and the whole undertaking was animated by the spirit of Tribonian.<sup>73</sup> This extraordinary man, the object of so much praise and censure, was a native of Side in Pamphylia; and his genius, like that of Bacon, embraced, as his own, all the business and knowledge of the age. Tribonian composed, both in prose and verse, on a strange diversity of curious and abstruse subjects: <sup>74</sup> a double panegyric of Justinian and the life of the philosopher Theodotus; the nature of happiness and the duties of government; Homer's catalogue and the four-and-twenty sorts of metre; the astronomical canon of Ptolemy; the changes of the months; the houses of the planets; and the harmonic system of the world. To the literature of Greece he added the use of the Latin tongue; the Roman civilians were deposited in his library and in his mind; and he most assiduously cultivated those arts which opened the

<sup>72</sup> For the legal labours of Justinian, I have studied the preface to the Institutes; the 1st, 2d, and 3d prefaces to the Pandects; the 1st and 2d Preface to the Code; and the Code itself (l. i. tit. xvii. de Veteri Jure enucleando). After these original testimonies, I have consulted, among the moderns, Heineccius (Hist. J. R. No. 383-404), Terrasson (Hist. de la Jurisprudence Romaine, p. 295-356), Gravina (Opp. p. 93-100), and Ludewig, in his Life of Justinian (p. 19-123, 318-321; for the Code and Novels, p. 209-261; for the Digest or Pandects, p. 262-317).

<sup>73</sup> For the character of Tribonian, see the testimonies of Procopius (Persic. l. i. c. 23, 24. Anecd. c. 13, 20) and Suidas (tom. iii. p. 501, edit. Kuster). Ludewig (in Vit. Justinian. p. 175-209) works hard, very hard, to white-wash — the black-a-moor.

<sup>74</sup> I apply the two passages of Suidas to the same man; every circumstance so exactly tallies. Yet the lawyers appear ignorant, and Fabricius is inclined to separate the two characters (Bibliot. Græc. tom. i. p. 341, ii. p. 518, iii. p. 418, xii. p. 346, 353, 474).

road of wealth and preferment. From the bar of the prætorian prefects, he raised himself to the honours of quæstor, of consul, and of master of the offices; the council of Justinian listened to his eloquence and wisdom; and envy was mitigated by the gentleness and affability of his manners. The reproaches of impiety and avarice have stained the virtues or the reputation of Tribonian. In a bigoted and persecuting court, the principal minister was accused of a secret aversion to the Christian faith, and was supposed to entertain the sentiments of an Atheist and a Pagan, which have been imputed, inconsistently enough, to the last philosophers of Greece. His avarice was more clearly proved and more sensibly felt. If he were swayed by gifts in the administration of justice, the example of Bacon will again occur; nor can the merit of Tribonian atone for his baseness, if he degraded the sanctity of his profession, and, if laws were every day enacted, modified, or repealed for the base consideration of his private emolument. In the sedition of Constantinople, his removal was granted to the clamours, perhaps to the just indignation, of the people; but the quæstor was speedily restored, and till the hour of his death he possessed, above twenty years, the favour and confidence of the emperor. His passive and dutiful submission has been honoured with the praise of Justinian himself, whose vanity was incapable of discerning how often that submission degenerated into the grossest adulation. Tribonian adored the virtues of his gracious master: the earth was unworthy of such a prince; and he affected a pious fear that Justinian, like Elijah or Romulus, would be snatched into the air and translated alive to the mansions of celestial glory.<sup>76</sup>

<sup>76</sup> This story is related by Hesychius (*de Viris Illustribus*), Procopius (*Anecd. c. 13*), and Suidas (*tom. iii. p. 501*). Such flattery is incredible!

— Nihil est quod credere de se

Non possit, cum laudatur Dis æqua potestas.

Fontenelle (*tom. i. p. 32-39*) has ridiculed the impudence of the modest Virgil. But the same Fontenelle places his king above the divine Augustus;

If Cæsar had achieved the reformation of the Roman law, his creative genius, enlightened by reflection and study, would have given to the world a pure and original system of jurisprudence. Whatever flattery might suggest, the emperor of the East was afraid to establish his private judgment as the standard of equity: in the possession of legislative power, he borrowed the aid of time and opinion; and his laborious compilations are guarded by the sages and legislators of past times. Instead of a statue cast in a simple mould by the hand of an artist, the works of Justinian represent a tessellated pavement of antique and costly, but too often of incoherent, fragments. In the first year of his reign, he directed the faithful Tribonian and nine learned associates to revise the ordinances of his predecessors, as they were contained, since the time of Hadrian, in the Gregorian, Hermogenian, and Theodosian codes; to purge the errors and contradictions, to retrench whatever was obsolete or superfluous, and to select the wise and salutary laws best adapted to the practice of the tribunals and the use of his subjects. The work was accomplished in fourteen months; and the twelve books or *tables*, which the new decemvirs produced, might be designed to imitate the labours of their Roman predecessors. The new CODE of Justinian was honoured with his name, and confirmed by his royal signature; authentic transcripts were multiplied by the pens of notaries and scribes; they were transmitted to the magistrates of the European, the Asiatic, and afterwards the African provinces; and the law of the empire was proclaimed on solemn festivals at the doors of churches. A more arduous operation was still behind: to extract the spirit of jurisprudence from the decisions and conjectures, the questions and disputes, of the Roman civilians. Seventeen lawyers, with Tribonian at their head, were appointed by the emperor to exercise an

and the sage Boileau has not blushed to say, "Le destin à ses yeux n'oseroit balancer." Yet neither Augustus nor Louis XIV. were fools.

absolute jurisdiction over the works of their predecessors. If they had obeyed his commands in ten years, Justinian would have been satisfied with their diligence; and the rapid composition of the DIGEST or PANDECTS,<sup>76</sup> in three years, will deserve praise or censure according to the merit of the execution. From the library of Tribonian they chose forty, the most eminent civilians of former times:<sup>77</sup> two thousand treatises were comprised in an abridgment of fifty books; and it has been carefully recorded that three millions of lines or sentences<sup>78</sup> were reduced, in this abstract, to the moderate number of one hundred and fifty thousand. The edition of this great work was delayed a month after that of the INSTITUTES; and it seemed reasonable that the elements should precede the digest of the Roman law. As soon as the emperor had approved their labours, he ratified, by his legislative power, the speculations of these private citizens; their commentaries on the Twelve Tables, the Perpetual Edict, the laws of the people, and the decrees of the senate succeeded to the authority of the text; and the text was abandoned, as an useless, though venerable, relic of antiquity. The *Code*,

<sup>76</sup> Πάνδεκται (general receivers) was a common title of the Greek miscellanies (Plin. Præfat. ad Hist. Natur.). The *Digesta* of Scævola, Marcellinus, Celsus, were already familiar to the civilians: but Justinian was in the wrong when he used the two appellations as synonymous. Is the word *Pandects* Greek or Latin — masculine or feminine? The diligent Breckman will not presume to decide these momentous controversies (Hist. Pandect. Florentin. p. 300-304).

<sup>77</sup> Angelus Politianus (l. v. Epist. ult.) reckons thirty-seven (p. 192-200) civilians quoted in the Pandects — a learned and, for his times, an extraordinary list. The Greek Index to the Pandects enumerates thirty-nine; and forty are produced by the indefatigable Fabricius (Bibliot. Græc. tom. iii. p. 488-502). Antoninus Augustus [*leg.* Antonius Augustinus] (de Nominibus propriis Pandect. apud Ludewig, p. 283) is said to have added fifty-four names; but they must be vague or second-hand references.

<sup>78</sup> The Στιχοί of the ancient MSS. may be strictly defined as sentences or periods of a complete sense, which, on the breadth of the parchment rolls or volumes, composed as many lines of unequal length. The number of Στιχοί in each book served as a check on the errors of the scribes (Ludewig, p. 211-215, and his original author Suicer. Thesaur. Ecclesiast. tom. i. p. 1021-1036).

the *Pandects*, and the *Institutes* were declared to be the legitimate system of civil jurisprudence; they alone were admitted in the tribunals, and they alone were taught in the academies of Rome, Constantinople, and Berytus. Justinian addressed to the senate and provinces his *eternal oracles*; and his pride, under the mask of piety, ascribed the consummation of this great design to the support and inspiration of the Deity.

Since the emperor declined the fame and envy of original composition, we can only require at his hands method, choice, and fidelity, the humble though indispensable virtues of a compiler. Among the various combinations of ideas, it is difficult to assign any reasonable preference; but, as the order of Justinian is different in his three works, it is possible that all may be wrong, and it is certain that two cannot be right. In the selection of ancient laws, he seems to have viewed his predecessors without jealousy and with equal regard: the series could not ascend above the reign of Hadrian, and the narrow distinction of Paganism and Christianity, introduced by the superstition of Theodosius, had been abolished by the consent of mankind. But the jurisprudence of the *Pandects* is circumscribed within a period of an hundred years, from the Perpetual Edict to the death of Severus Alexander; the civilians who lived under the first Cæsars are seldom permitted to speak, and only three names can be attributed to the age of the republic. The favourite of Justinian (it has been fiercely urged) was fearful of encountering the light of freedom and the gravity of Roman sages. Tribonian condemned to oblivion the genuine and native wisdom of Cato, the Scævolas, and Sulpicius; while he invoked spirits more congenial to his own, the Syrians, Greeks, and Africans, who flocked to the Imperial court to study Latin as a foreign tongue, and jurisprudence as a lucrative profession. But the ministers of Justinian <sup>79</sup> were

<sup>79</sup> An ingenious and learned oration of Schultingius (*Jurisprudentia AntJustiniana*, p. 883-907) justifies the choice of Tribonian, against the passionate charges of Francis Hottoman and his sectaries.

instructed to labour, not for the curiosity of antiquarians, but for the immediate benefit of his subjects. It was their duty to select the useful and practical parts of the Roman law; and the writings of the old republicans, however curious or excellent, were no longer suited to the new system of manners, religion, and government. Perhaps, if the preceptors and friends of Cicero were still alive, our candour would acknowledge that, except in purity of language,<sup>80</sup> their intrinsic merit was excelled by the school of Papinian and Ulpian. The science of the laws is the slow growth of time and experience, and the advantage both of method and materials is naturally assumed by the most recent authors. The civilians of the reign of the Antonines had studied the works of their predecessors; their philosophic spirit had mitigated the rigour of antiquity, simplified the forms of proceeding, and emerged from the jealousy and prejudice of the rival sects. The choice of the authorities that compose the Pandects depended on the judgment of Tribonian; but the power of his sovereign could not absolve him from the sacred obligations of truth and fidelity. As a legislator of the empire, Justinian might repeal the acts of the Antonines, or condemn, as seditious, the free principles which were maintained by the last of the *Roman* lawyers.<sup>81</sup> But the existence of past facts is placed beyond the reach of despotism; and the emperor was guilty

<sup>80</sup> Strip away the crust of Tribonian, and allow for the use of technical words, and the Latin of the Pandects will be found not unworthy of the *silver* age. It has been vehemently attacked by Laurentius Valla, a fastidious grammarian of the xvth century, and by his apologist Floridus Sabinus. It has been defended by Alciat and a nameless advocate (most probably James Capellus). Their various treatises are collected by Duker (*Opuscula de Latinitate veterum juris consultorum*, Lugd. Bat. 1721, in 12mo). [It has been pointed out by Warnkönig that Valla eulogised the language of Justinian's lawyers.]

<sup>81</sup> *Nomina quidem veteribus servavimus, legum autem veritatem nostram fecimus. Itaque siquid erat in illis seditiosum, multa autem talia erant ibi reposita, hoc decisum est et definitum, et in perspicuum finem deducta est quæque lex* (Cod. Justinian. l. i. tit. xvii. leg. 3, No. 10). A frank confession! [Warnkönig pointed out that *seditiosum* means *disputed*, not seditious.]

of fraud and forgery, when he corrupted the integrity of their text, inscribed with their venerable names the words and ideas of his servile reign,<sup>82</sup> and suppressed, by the hand of power, the pure and authentic copies of their sentiments. The changes and interpolations of Tribonian and his colleagues are excused by the pretence of uniformity; but their cares have been insufficient, and the *antinomies* or contradictions of the Code and Pandects still exercise the patience and subtlety of modern civilians.<sup>83</sup>

A rumour devoid of evidence has been propagated by the enemies of Justinian: that the jurisprudence of ancient Rome was reduced to ashes by the author of the Pandects, from the vain persuasion that it was now either false or superfluous. Without usurping an office so invidious, the emperor might safely commit to ignorance and time the accomplishment of this destructive wish. Before the invention of printing and paper, the labour and the materials of writing could be purchased only by the rich; and it may reasonably be computed that the price of books was an hundredfold their present value.<sup>84</sup> Copies were slowly multiplied and cautiously renewed; the hopes of profit tempted the sacrilegious scribes to erase the characters of antiquity; and Sophocles or Tacitus were obliged to resign the parchment to missals, homilies, and the golden legend.<sup>85</sup>

<sup>82</sup> The number of these *emblemata* (a polite name for forgeries) is much reduced by Bynkershoek (in the iv. last books of his Observations), who poorly maintains the right of Justinian and the duty of Tribonian.

<sup>83</sup> The *antinomies*, or opposite laws of the Code and Pandects, are sometimes the cause, and often the excuse, of the glorious uncertainty of the civil law, which so often affords what Montaigne calls "Questions pour l'Ami." See a fine passage of Franciscus Balduinus in Justinian (l. ii. p. 259, &c. apud Ludewig, p. 305, 306).

<sup>84</sup> When Fust, or Faustus, sold at Paris his first printed Bibles as manuscripts, the price of a parchment copy was reduced from four or five hundred to sixty, fifty, and forty crowns. The public was at first pleased with the cheapness, and at length provoked by the discovery of the fraud (Mataire, Annal. Typograph. tom. i. p. 12; first edition).

<sup>85</sup> This execrable practice prevailed from the viiith, and more especially

If such was the fate of the most beautiful compositions of genius, what stability could be expected for the dull and barren works of an obsolete science? The books of jurisprudence were interesting to few and entertaining to none; their value was connected with present use; and they sunk for ever as soon as that use was superseded by the innovations of fashion, superior merit, or public authority. In the age of peace and learning, between Cicero and the last of the Antonines, many losses had been already sustained, and some luminaries of the school, or forum, were known only to the curious by tradition and report. Three hundred and sixty years of disorder and decay accelerated the progress of oblivion; and it may fairly be presumed that of the writings which Justinian is accused of neglecting many were no longer to be found in the libraries of the East.<sup>86</sup> The copies of Papinian or Ulpian, which the reformer had proscribed, were deemed unworthy of future notice; the Twelve Tables and prætorian edict insensibly vanished; and the monuments of ancient Rome were neglected or destroyed by the envy and ignorance of the Greeks. Even the Pandects themselves

from the xiith, century, when it became almost universal (Montfaucon, in the *Mémoires de l'Académie*, tom. vi. p. 606, &c. *Bibliothèque Raisonnée de la Diplomatique*, tom. i. p. 176).

<sup>86</sup> Pomponius (Pandect. l. i. tit. ii. leg. 2 [*leg. 30*]) observes that of the three founders of the civil law, Mutius, Brutus, and Manilius, extant volumina, Scripta Manilii monumenta; that of some old republican lawyers, hæc versantur eorum scripta inter manus hominum. Eight of the Augustan sages were reduced to a compendium: of Cascellius, scripta non extant sed unus liber, &c.; of Trebatius, minus frequentantur; of Tubero, libri parum grati sunt. Many quotations in the Pandects are derived from books which Tribonian never saw; and, in the long period from the viith to the xiith century of Rome, the *apparent* reading of the moderns successively depends on the knowledge and veracity of their predecessors. [The chief monuments of Roman law previous to Justinian are: (1) the Fragments of Ulpian, discovered in 1544; (2) the Commentaries of Gaius, discovered at Verona in 1816; (3) the Sententiæ of Paulus, which have been preserved as part of the Visigothic Breviarium of Alaric II. All three are edited in Gneist's *Synagma* (already cited); and the Commentaries of Gaius and Institutes of Justinian are most conveniently printed here in parallel columns.]

have escaped with difficulty and danger from the common shipwreck, and criticism has pronounced that *all* the editions and manuscripts of the West are derived from *one* original.<sup>87</sup> It was transcribed at Constantinople in the beginning of the seventh century,<sup>88</sup> was successively transported by the accidents of war and commerce to Amalphi,<sup>89</sup> Pisa,<sup>90</sup> and Florence,<sup>91</sup> and is now deposited as a sacred relic<sup>92</sup> in the ancient palace of the republic.<sup>93</sup>

<sup>87</sup> *All*, in several instances, repeat the errors of the scribe and the transpositions of some leaves in the Florentine Pandects. This fact, if it be true, is decisive. Yet the Pandects are quoted by Ivo of Chartres (who died in 1117), by Theobald, archbishop of Canterbury, and by Vacarius, our first professor, in the year 1140 (Selden ad Fletam, c. 7, tom. ii. p. 1080-1085). Have our British MSS. of the Pandects been collated?

<sup>88</sup> See the description of this original in Brenckman (Hist. Pandect. Florent. l. i. c. 2, 3, p. 4-17, and l. ii.). Politian, an enthusiast, revered it as the authentic standard of Justinian himself (p. 407, 408); but this paradox is refuted by the abbreviations of the Florentine MS. (l. ii. c. 3, p. 117-130). It is composed of two quarto volumes with large margins, on a thin parchment, and the Latin characters betray the hand of a Greek scribe.

<sup>89</sup> Brenckman, at the end of his history, has inserted two dissertations, on the republic of Amalphi, and the Pisan war in the year 1135, &c.

<sup>90</sup> The discovery of the Pandects at Amalphi (A.D. 1137) is first noticed (in 1501) by Ludovicus Bologninus (Brenckman, l. i. c. 11, p. 73, 74, l. iv. c. 2, p. 417-425), on the faith of a Pisan chronicle (p. 409, 410), without a name or a date. The whole story, though unknown to the xiii century, embellished by ignorant ages and suspected by rigid criticism, is not, however, destitute of much internal probability (l. i. c. 4-8, p. 17-50). [Cp. Savigny, Gesch. des röm. Rechts, 3, 83; where the story is rejected.] The Liber Pandectarum of Pisa was undoubtedly consulted in the xivth century by the great Bartolus (p. 406, 407. See l. i. c. 9, p. 50-62).

<sup>91</sup> Pisa was taken by the Florentines in the year 1406; and in 1411 the Pandects were transported to the capital. These events are authentic and famous.

<sup>92</sup> They were new bound in purple, deposited in a rich casket, and shewn to curious travellers by the monks and magistrates bareheaded, and with lighted tapers (Brenckman, l. i. c. 10, 11, 12, p. 62-93).

<sup>93</sup> After the collations of Politian, Bologninus, and Antoninus [*leg.* Antonius] Augustinus, and the splendid edition of the Pandects by Taurellus (in 1551) [*legendum*, Taurellius (1553)], Henry Brenckman, a Dutchman, undertook a pilgrimage to Florence, where he employed several years in the study of a single manuscript. His *Historia Pandectarum Florentinorum* (Utrecht, 1722, in 4to), though a monument of industry, is a small portion of his original design.

It is the first care of a reformer to prevent any future reformation. To maintain the text of the Pandects, the Institutes, and the Code, the use of cyphers and abbreviations was rigorously proscribed; and, as Justinian recollected that the Perpetual Edict had been buried under the weight of commentators, he denounced the punishment of forgery against the rash civilians who should presume to interpret or pervert the will of their sovereign. The scholars of Accursius, of Bartolus, of Cujacius, should blush for their accumulated guilt, unless they dare to dispute his right of binding the authority of his successors and the native freedom of the mind. But the emperor was unable to fix his own inconstancy; and, while he boasted of renewing the exchange of Diomede, of transmuting brass into gold,<sup>84</sup> he discovered the necessity of purifying his gold from the mixture of baser alloy. Six years had not elapsed from the publication of the Code, before he condemned the imperfect attempt by a new and more accurate edition of the same work; which he enriched with two hundred of his own laws and fifty decisions of the darkest and most intricate points of jurisprudence. Every year, or, according to Procopius, each day, of his long reign was marked by some legal innovation. Many of his acts were rescinded by himself, many were rejected by his successors, many have been obliterated by time; but the number of sixteen EDICTS, and one hundred and sixty-eight NOVELS,<sup>85</sup> has been admitted into the authentic body of the civil jurisprudence. In the opinion of a philosopher superior to the prejudices of his profession, these incessant, and for

<sup>84</sup> *Χρόσsea χαλκείων, εκατόμβοι' ἔννεαβοίων*, apud Homerum patrem omnis virtutis (1st Præfat. ad Pandect.). A line of Milton or Tasso would surprise us in an act of Parliament. *Quæ omnia obtinere sancimus in omne ævum*. Of the first Code, he says (2d Præfat.), in æternum valiturum. Man and for ever!

<sup>85</sup> *Novellæ* is a classic adjective, but a barbarous substantive (Ludewig, p. 245). Justinian never collected them himself; the nine collations, the legal standard of modern tribunals, consist of ninety-eight Novels; but the number was increased by the diligence of Julian, Haloander, and Contius (Ludewig, p. 249, 258; Aleman. Not. in Anecd. p. 98).

the most part trifling, alterations can be only explained by the venal spirit of a prince who sold without shame his judgments and his laws.<sup>96</sup> The charge of the secret historian is indeed explicit and vehement; but the sole instance which he produces may be ascribed to the devotion as well as to the avarice of Justinian. A wealthy bigot had bequeathed his inheritance to the church of Emesa; and its value was enhanced by the dexterity of an artist, who subscribed confessions of debt and promises of payment with the names of the richest Syrians. They pleaded the established prescription of thirty or forty years; but their defence was overruled by a retrospective edict, which extended the claims of the church to the term of a century: an edict so pregnant with injustice and disorder that, after serving this occasional purpose, it was prudently abolished in the same reign.<sup>97</sup> If candour will acquit the emperor himself and transfer the corruption to his wife and favourites, the suspicion of so foul a vice must still degrade the majesty of his laws; and the advocates of Justinian may acknowledge that such levity, whatsoever be the motive, is unworthy of a legislator and a man.

Monarchs seldom condescend to become the preceptors of their subjects; and some praise is due to Justinian, by whose command an ample system was reduced to a short and elementary treatise. Among the various institutes of the Roman law,<sup>98</sup> those of Caius<sup>99</sup> were the most popular in the

<sup>96</sup> Montesquieu, *Considérations sur la Grandeur et la Décadence des Romains*, c. 20, tom. iii. p. 501, in 4to. On this occasion he throws aside the gown and cap of a President à Mortier.

<sup>97</sup> Procopius, *Anecdot.* c. 28. A similar privilege was granted to the church of Rome (*Novel. ix.*). For the general repeal of these mischievous indulgences, see *Novel. cxi.* and *Edict. v.*

<sup>98</sup> Lactantius, in his *Institutes of Christianity*, an elegant and specious work, proposes to imitate the title and method of the civilians. *Quidam prudentes et arbitri æquitatis Institutiones Civilis Juris compositas ediderunt* (*Institut. Divin. l. i. c. 1*). Such as Ulpian, Paul, Florentinus, Marcian.

<sup>99</sup> The emperor Justinian calls him *sumus*, though he died before the end of the second century. His *Institutes* are quoted by Servius, Boethius,

East and West; and their use may be considered as an evidence of their merit. They were selected by the Imperial delegates, Tribonian, Theophilus, and Dorotheus: and the freedom and purity of the Antonines was encrusted with the coarser materials of a degenerate age. The same volume which introduced the youth of Rome, Constantinople, and Berytus to the gradual study of the Code and Pandects is still precious to the historian, the philosopher, and the magistrate. The INSTITUTES of Justinian are divided into four books; they proceed, with no contemptible method, from I. *Persons* to II. *Things*, and from things to III. *Actions*; and the article IV. of *Private Wrongs* is terminated by the principles of *Criminal Law*.

I. The distinction of ranks and *persons* is the firmest basis of a mixed and limited government. In France, the remains of liberty are kept alive by the spirit, the honours, and even the prejudices of fifty thousand nobles.<sup>100</sup> Two hundred families supply, in lineal descent, the second branch of the English legislature, which maintains, between the king and commons, the balance of the constitution. A gradation of patricians and plebeians, of strangers and subjects, has supported the aristocracy of Genoa, Venice, and ancient Rome. The perfect equality of men is the point in which the extremes of democracy and despotism are confounded; since the majesty of the prince or people would be offended, if any heads were exalted above the level of their fellow-slaves or fellow-citizens. In the decline of the Roman empire, the

Priscian, &c. and the epitome by Arrian is still extant. (See the Prolegomena and Notes to the edition of Schulting, in the *Jurisprudentia Ante-Justiniana*, Lugd. Bat. 1717. Heineccius, *Hist. J. R.* No. 313. Ludewig, in *Vit. Just.* p. 199.) [See above, p. 334, n. 86.]

<sup>100</sup> See the *Annales Politiques de l'Abbé de St. Pierre*, tom. i. p. 25, who dates in the year 1735. The most ancient families claim the immemorial possession of arms and fiefs. Since the Crusades, some, the most truly respectable, have been created by the king, for merit and services. The recent and vulgar crowd is derived from the multitude of venal offices without trust or dignity, which continually ennoble the wealthy plebeians.

proud distinctions of the republic were gradually abolished, and the reason or instinct of Justinian completed the simple form of an absolute monarchy. The emperor could not eradicate the popular reverence which always waits on the possession of hereditary wealth or the memory of famous ancestors. He delighted to honour with titles and emoluments his generals, magistrates, and senators; and his precarious<sup>5</sup> indulgence communicated some rays of their glory to the persons of their wives and children. But, in the eye of the law, all Roman citizens were equal, and all subjects of the empire were citizens of Rome. That inestimable character was degraded to an obsolete and empty name. The voice of a Roman could no longer enact his laws or create the annual ministers of his power: his constitutional rights might have checked the arbitrary will of a master; and the bold adventurer from Germany or Arabia was admitted, with equal favour, to the civil and military command, which the citizen alone had been once entitled to assume over the conquests of his fathers. The first Cæsars had scrupulously guarded the distinction of *ingenuous* and *servile* birth, which was decided by the condition of the mother; and the candour of the laws was satisfied, if *her* freedom could be ascertained during a single moment between the conception and the delivery. The slaves, who were liberated by a generous master, immediately entered into the middle class of *libertines* or freedmen; but they could never be enfranchised from the duties of obedience and gratitude; whatever were the fruits of their industry, their patron and his family inherited the third part; or even the whole of their fortune, if they died without children and without a testament. Justinian respected the rights of patrons; but his indulgence removed the badge of disgrace from the two inferior orders of freedmen: whoever ceased to be a slave obtained, without reserve or delay, the station of a citizen; and at length the dignity of an ingenuous birth, which nature had refused, was created, or supposed, by the omnipotence of the emperor. Whatever

restraints of age, or forms, or numbers had been formerly introduced to check the abuse of manumissions and the too rapid increase of vile and indigent Romans, he finally abolished; and the spirit of his laws promoted the extinction of domestic servitude. Yet the Eastern provinces were filled, in the time of Justinian, with multitudes of slaves, either born or purchased for the use of their masters; and the price, from ten to seventy pieces of gold, was determined by their age, their strength, and their education.<sup>101</sup> But the hardships of this dependent state were continually diminished by the influence of government and religion; and the pride of a subject was no longer elated by his absolute dominion over the life and happiness of his bondsman.<sup>102</sup>

The law of nature instructs most animals to cherish and educate their infant progeny. The law of reason inculcates to the human species the returns of filial piety. But the exclusive, absolute, and perpetual dominion of the father over his children is peculiar to the Roman jurisprudence,<sup>103</sup> and

<sup>101</sup> If the option of a slave was bequeathed to several legatees, they drew lots, and the losers were entitled to their share of his value: ten pieces of gold for a common servant or maid under ten years; if above that age, twenty; if they knew a trade, thirty; notaries or writers, fifty; midwives or *physicians*, sixty; eunuchs under ten years, thirty pieces; above, fifty; if tradesmen, seventy (Cod. l. vi. tit. xliii. leg. 3). These legal prices are generally below those of the market.

<sup>102</sup> For the state of slaves and freedmen, see Institutes, l. i. tit. iii.-viii.; l. ii. tit. ix.; l. iii. tit. viii. ix. [vii., viii.]. Pandects or Digest, l. i. tit. v. vi.; l. xxxviii. tit. i.-iv., and the whole of the xlth book. Code, l. vi. tit. iv. v.; l. vii. tit. i.-xxiii. Be it henceforwards understood that, with the original text of the Institutes and Pandects, the correspondent articles in the Antiquities and Elements of Heineccius are implicitly quoted; and with the xxvii. first books of the Pandects, the learned and rational Commentaries of Gerard Noodt (Opera, tom. ii. p. 1-590, the end, Lugd. Bat. 1724).

<sup>103</sup> See the *patria potestas* in the Institutes (l. i. tit. ix.), the Pandects (l. i. tit. vi. vii.), and the Code (l. viii. tit. xlvii. xlviii. xlix. [= *leg.* xlvi., xlvii., xlviii. ed. Krüger]). *Jus potestatis quod in liberos habemus proprium est civium Romanorum. Nulli enim alii sunt homines, qui talem in liberos habeant potestatem qualem nos habemus.* [Gaius mentions the Galatians as having this power; i. 55; and Cæsar (B.G. 6, 19) states that it existed in Gaul.]

seems to be coeval with the foundation of the city.<sup>104</sup> The paternal power was instituted or confirmed by Romulus himself; and after the practice of three centuries it was inscribed on the fourth table of the Decemvirs. In the forum, the senate, or the camp, the adult son of a Roman citizen enjoyed the public and private rights of a *person*; in his father's house, he was a mere *thing*, confounded by the laws with the moveables, the cattle, and the slaves, whom the capricious master might alienate or destroy without being responsible to any earthly tribunal. The hand which bestowed the daily sustenance might resume the voluntary gift, and whatever was acquired by the labour or fortune of the son was immediately lost in the property of the father. His stolen goods (his oxen or his children) might be recovered by the same action of theft;<sup>105</sup> and, if either had been guilty of a trespass, it was in his own option to compensate the damage or resign to the injured party the obnoxious animal. At the call of indigence or avarice, the master of a family could dispose of his children or his slaves. But the condition of the slave was far more advantageous, since he regained by the first manumission his alienated freedom; the son was again restored to his unnatural father; he might be condemned to servitude a second and a third time, and it was not till after the third sale and deliverance<sup>106</sup> that he was enfranchised from the domestic power which had been so repeatedly abused. According to his discretion, a father might chastise

<sup>104</sup> Dionysius Hal. l. ii. p. 94, 95 [c. 26]. Gravina (Opp. p. 286) produces the words of the xii. tables. Papinian (in Collatione Legum Roman. et Mosaicarum, tit. iv. p. 204) styles this patria potestas, lex regia; Ulpian (ad Sabin. l. xxvi. in Pandect. l. i. tit. vi. leg. 8) says, jus potestatis moribus receptum; and furiosus filium in potestate habebit. How sacred — or rather, how absurd!

<sup>105</sup> Pandect. l. xlvii. tit. ii. leg. 14, No. 13; leg. 38, No. 1. Such was the decision of Ulpian and Paul.

<sup>106</sup> The trina mancipatio is most clearly defined by Ulpian (Fragment. x. p. 591, 592, edit. Schulting); and best illustrated in the Antiquities of Heineccius.

the real or imaginary faults of his children, by stripes, by imprisonment, by exile, by sending them to the country to work in chains among the meanest of his servants. The majesty of a parent was armed with the power of life and death;<sup>107</sup> and the examples of such bloody executions, which were sometimes praised and never punished, may be traced in the annals of Rome, beyond the times of Pompey and Augustus. Neither age, nor rank, nor the consular office, nor the honours of a triumph could exempt the most illustrious citizen from the bonds of filial subjection;<sup>108</sup> his own descendants were included in the family of their common ancestor; and the claims of adoption were not less sacred or less rigorous than those of nature. Without fear, though not without danger of abuse, the Roman legislators had reposed an unbounded confidence in the sentiments of paternal love; and the oppression was tempered by the assurance that each generation must succeed in its turn to the awful dignity of parent and master.

The first limitation of paternal power is ascribed to the justice and humanity of Numa; and the maid who, with *his* father's consent, had espoused a freeman was protected from the disgrace of becoming the wife of a slave. In the first ages, when the city was pressed and often famished by her Latin and Tuscan neighbours, the sale of children might be a frequent practice; but, as a Roman could not legally purchase the liberty of his fellow-citizen, the market must gradu-

<sup>107</sup> By Justinian, the old law, the *jus necis* of the Roman father (*Institut.* l. iv. tit. ix. [viii.] No. 7), is reported and reprobated. Some legal vestiges are left in the *Pandects* (l. xliiii. tit. xxix. leg. 3, No. 4) and the *Collatio Legum Romanarum et Mosaicarum* (tit. ii. No. 3, p. 189).

<sup>108</sup> Except on public occasions, and in the actual exercise of his office. *In publicis locis atque muneribus atque actionibus patrum, jura cum filiorum qui in magistratu sunt potestatibus collata interquiescere paullulum et conivere, &c.* (*Aul. Gellius, Noctes Atticæ*, ii. 2). The lessons of the philosopher *Taurus* were justified by the old and memorable example of *Fabius*; and we may contemplate the same story in the style of *Livy* (xxiv. 44) and the homely idiom of *Claudius Quadrigarius* the annalist.

ally fail, and the trade would be destroyed by the conquests of the republic. An imperfect right of property was at length communicated to sons; and the threefold distinction of *profectitious*, *adventitious*, and *professional* was ascertained by the jurisprudence of the Code and Pandects.<sup>109</sup> Of all that proceeded from the father, he imparted only the use, and reserved the absolute dominion; yet, if his goods were sold, the filial portion was excepted, by a favourable interpretation, from the demands of the creditors. In whatever accrued by marriage, gift, or collateral succession, the property was secured to the son; but the father, unless he had been specially excluded, enjoyed the usufruct during his life. As a just and prudent reward of military virtue, the spoils of the enemy were acquired, possessed, and bequeathed by the soldier alone; and the fair analogy was extended to the emoluments of any liberal profession, the salary of public service, and the sacred liberality of the emperor or the empress. The life of a citizen was less exposed than his fortune to the abuse of paternal power. Yet his life might be adverse to the interest or passions of an unworthy father; the same crimes that flowed from the corruption, were more sensibly felt by the humanity, of the Augustan age; and the cruel Erixo, who whipt his son till he expired, was saved by the emperor from the just fury of the multitude.<sup>110</sup> The Roman father, from the licence of servile dominion, was reduced to the gravity and moderation of a judge. The presence and opinion of Augustus confirmed the sentence of exile pronounced against an intentional parricide by the domestic tribunal of Arius. Hadrian transported to an island the jealous parent who, like a robber, had seized the opportunity of hunting, to assassinate a youth, the incestuous lover of his step-

<sup>109</sup> See the gradual enlargement and security of the filial *peculium* in the Institutes (l. ii. tit. ix.), the Pandects (l. xv. tit. i. l. xli. tit. i.), and the Code (l. iv. tit. xxvi. xvii.).

<sup>110</sup> The examples of Erixo and Arius are related by Seneca (de Clementiâ, i. 14, 15), the former with horror, the latter with applause.

mother.<sup>111</sup> A private jurisprudence is repugnant to the spirit of monarchy; the parent was again reduced from a judge to an accuser; and the magistrates were enjoined by Severus Alexander to hear his complaints and execute his sentence. He could no longer take the life of a son without incurring the guilt and punishment of murder; and the pains of parricide, from which he had been excepted by the Pompeian law, were finally inflicted by the justice of Constantine.<sup>112</sup> The same protection was due to every period of existence; and reason must applaud the humanity of Paulus for imputing the crime of murder to the father who strangles or starves or abandons his new-born infant, or exposes him in a public place to find the mercy which he himself had denied. But the exposition of children was the prevailing and stubborn vice of antiquity: it was sometimes prescribed, often permitted, almost always practised with impunity, by the nations who never entertained the Roman ideas of paternal power; and the dramatic poets, who appeal to the human heart, represent with indifference a popular custom which was palliated by the motives of economy and compassion.<sup>113</sup> If the father could subdue his own feelings, he might escape, though not the censure, at least the chastisement, of the laws; and the Roman empire was stained with the blood of infants, till such murders were included, by Valentinian and his colleagues, in the letter and spirit of the

<sup>111</sup> Quod latronis magis quam patris jure eum interfecit, nam patria potestas in pietate debet non in atrocitate consistere (Marcian, Institut. l. xiv. in Pandect. l. xlviii. tit. ix. leg. 5).

<sup>112</sup> The Pompeian and Cornelian laws de *sicariis* and *parricidis* are repeated, or rather abridged, with the last supplements of Alexander Severus, Constantine, and Valentinian, in the Pandects (l. xlviii. tit. viii. ix.), and Code (l. ix. tit. xvi. xvii.). See likewise the Theodosian Code (l. ix. tit. xiv. xv.), with Godefroy's Commentary (tom. iii. p. 84-113), who pours a flood of ancient and modern learning over these penal laws.

<sup>113</sup> When the Chremes of Terence reproaches his wife for not obeying his orders and exposing their infant, he speaks like a father and a master, and silences the scruples of a foolish woman. See Apuleius (*Metamorph.* l. x. p. 337, edit. Delphin.).

Cornelian law. The lessons of jurisprudence<sup>114</sup> and Christianity had been insufficient to eradicate this inhuman practice, till their gentle influence was fortified by the terrors of capital punishment.<sup>116</sup>

Experience has proved that savages are the tyrants of the female sex, and that the condition of women is usually softened by the refinements of social life. In the hope of a robust progeny, Lycurgus had delayed the season of marriage; it was fixed by Numa at the tender age of twelve years, that the Roman husband might educate to his will a pure and obedient virgin.<sup>116</sup> According to the custom of antiquity, he bought his bride of her parents, and she fulfilled the *coemptio* by purchasing, with three pieces of copper, a just introduction to his house and household deities. A sacrifice of fruits was offered by the pontiffs in the presence of ten witnesses; the contracting parties were seated on the same sheepskin; they tasted a salt cake of *far* or rice; and this *conjarreatio*,<sup>117</sup> which denoted the ancient food of Italy, served as an emblem of their mystic union of mind and body. But this union on the side of the woman was rigorous and

<sup>114</sup> The opinion of the lawyers and the discretion of the magistrates had introduced in the time of Tacitus some legal restraints, which might support his contrast of the *boni mores* of the Germans to the *bonæ leges alibi* — that is to say, at Rome (*de Moribus Germanorum*, c. 19). Tertullian (*ad Nationes*, l. i. c. 15) refutes his own charges, and those of his brethren, against the heathen jurisprudence.

<sup>116</sup> The wise and humane sentence of the civilian Paul (l. ii. *Sententiarum* in *Pandect.* l. xxv. tit. iii. leg. 4) is represented as a mere moral precept by Gerard Noodt (*Opp. tom. i. in Julius Paulus*, p. 567–588, and *Amica Responsio*, p. 591–606), who maintains the opinion of Justus Lipsius (*Opp. tom. ii. p. 409*, ad *Belgas*, cent. i. epist. 85), and as a positive binding law by Bynkershoek (*de Jure occidenti Liberos*, *Opp. tom. i. p. 318–340. Curæ Secundæ*, p. 391–427). In a learned but angry controversy the two friends deviated into the opposite extremes.

<sup>118</sup> Dionys. Hal. l. ii. p. 92, 93; Plutarch, in *Numa*, p. 140, 141. Τὸ σῶμα καὶ τὸ ἦθος καθαρὸν καὶ εὐκταὸν ἐπὶ τῷ γαμοῦντι γενέσθαι.

<sup>117</sup> Among the winter *frumenta*, the *triticum*, or bearded wheat; the *siliago*, or the unbearded; the *far*, *adoreæ*, *oryza*, whose description perfectly tallies with the rice of Spain and Italy. I adopt this identity on the credit of M. Paucton in his useful and laborious *Métrologie* (p. 517–529).

unequal; and she renounced the name and worship of her father's house to embrace a new servitude decorated only by the title of adoption. A fiction of the law, neither rational nor elegant, bestowed on the mother of a family <sup>118</sup> (her proper appellation) the strange characters of sister to her own children, and of daughter to her husband or master, who was invested with the plenitude of paternal power. By his judgment or caprice her behaviour was approved, or censured, or chastised; he exercised the jurisdiction of life and death; and it was allowed that, in the cases of adultery or drunkenness,<sup>119</sup> the sentence might be properly inflicted. She acquired and inherited for the sole profit of her lord; and so clearly was woman defined, not as a *person*, but as a *thing*, that, if the original title were deficient, she might be claimed, like other moveables, by the *use* and possession of an entire year. The inclination of the Roman husband discharged or withheld the conjugal debt, so scrupulously exacted by the Athenian and Jewish laws;<sup>120</sup> but, as polygamy was un-

<sup>118</sup> Aulus Gellius (*Noctes Atticæ*, xviii. 6) gives a ridiculous definition of Ælius Melissus: *Matrona, quæ semel, materfamilias quæ sæpius peperit, as porcetra and scropha in the sow kind.* He then adds the genuine meaning, *quæ in matrimonium vel in manum convenerat.* [When a woman was married (whether she was under her father's *potestas*, or not), she passed under the power of her husband, and this power was called *manus*; it corresponded, in its scope, to the *patria potestas*. *Manus* was not strictly a consequence of marriage; it was rather the accompaniment of marriage, and was acquired in three ways. (1) By *confarreatio*, the ceremony described in the text. This ceremony seems to have been used only by Patricians. Certain priesthoods were confined to men sprung from a marriage contracted with *confarreatio*. In the last years of the republic, it fell into disuse. (2) By *coemptio*, which in the text seems to be confounded with *confarreatio*. The woman was *manicipated* to her husband, by her father if under his *potestas*, by herself if *sui iuris*. (3) By *usus*, or cohabitation for a year. If absent for three nights, the woman did not pass under her husband's *manus*. From the end of the republic *manus* had ceased to be the usual relation between husband and wife; and the decline of this legal institution seems to be parallel to the increase in frequency of divorce.]

<sup>119</sup> It was enough to have tasted wine, or to have stolen the key of the cellar (*Plin. Hist. Nat.* xiv. 14).

<sup>120</sup> Solon requires three payments per month. By the *Misna*, a daily

known, he could never admit to his bed a fairer or more favoured partner.

After the Punic triumphs, the matrons of Rome aspired to the common benefits of a free and opulent republic: their wishes were gratified by the indulgence of fathers and lovers, and their ambition was unsuccessfully resisted by the gravity of Cato the Censor.<sup>121</sup> They declined the solemnities of the old nuptials, defeated the annual prescription by an absence of three days, and, without losing their name or independence, subscribed the liberal and definite terms of a marriage-contract. Of their private fortunes they communicated the use, and secured the property; the estates of a wife could neither be alienated nor mortgaged by a prodigal husband; their mutual gifts were prohibited by the jealousy of the laws; and the misconduct of either party might afford, under another name, a future subject for an action of theft. To this loose and voluntary compact, religious and civil rites were no longer essential; and, between persons of a similar rank, the apparent community of life was allowed as sufficient evidence of their nuptials. The dignity of marriage was restored by the Christians, who derived all spiritual grace from the prayers of the faithful and the benediction of the priest or bishop. The origin, validity, and duties of the holy institution were regulated by the tradition of the synagogue, the precepts of the gospel, and the canons of general or provincial

debt was imposed on an idle, vigorous, young husband; twice a week on a citizen; once on a peasant; once in thirty days on a camel-driver; once in six months on a seaman. But the student or doctor was free from tribute; and *no* wife, if she received a *weekly* sustenance, could sue for a divorce; for one week a vow of abstinence was allowed. Polygamy divided, without multiplying, the duties of the husband (Selden, *Uxor Ebraica*, l. iii. c. 6, in his works, vol. ii. p. 717-720).

<sup>121</sup> On the Oppian law we may hear the mitigating speech of Valerius Flaccus and the severe censorial oration of the elder Cato (Liv. xxxiv. 1-8). But we shall rather hear the polished historian of the eighth, than the rough orators of the sixth, century of Rome. The principles, and even the style, of Cato are more accurately preserved by Aulus Gellius (x. 23).

synods; <sup>122</sup> and the conscience of the Christians was awed by the decrees and censures of their ecclesiastical rulers. Yet the magistrates of Justinian were not subject to the authority of the church: the emperor consulted the unbelieving civilians of antiquity, and the choice of matrimonial laws in the Code and Pandects is directed by the earthly motives of justice, policy, and the natural freedom of both sexes. <sup>123</sup>

Besides the agreement of the parties, the essence of every rational contract, the Roman marriage required the previous approbation of the parents. A father might be forced by some recent laws to supply the wants of a mature daughter; but even his insanity was not generally allowed to supersede the necessity of his consent. The causes of the dissolution of matrimony have varied among the Romans; <sup>124</sup> but the most solemn sacrament, the confarreation itself, might always be done away by rites of a contrary tendency. In the first ages, the father of a family might sell his children, and his wife was reckoned in the number of his children; the domestic judge might pronounce the death of the offender, or his mercy might expel her from his bed and house; but the slavery of the wretched female was hopeless and perpetual, unless he asserted for his own convenience the manly prerogative of divorce. The warmest applause has been lavished

<sup>122</sup> For the system of Jewish and Catholic matrimony, see Selden (*Uxor Ebraica*, Opp. vol. ii. p. 529-860), Bingham (*Christian Antiquities*, l. xxii.), and Chardon (*Hist. des Sacremens*, tom. vi.).

<sup>123</sup> The civil laws of marriage are exposed in the Institutes (l. i. tit. x.), the Pandects (l. xxiii. xxiv. xxv.), and the Code (l. v.); but, as the title *de ritu nuptiarum* is yet imperfect, we are obliged to explore the fragments of Ulpian (tit. ix. p. 590, 591), and the *Collatio Legum Mosaicarum* (tit. xvi. p. 790, 791), with the Notes of Pithæus and Schulting. They find, in the commentary of Servius (on the 1st Georgic and the 4th Æneid), two curious passages.

<sup>124</sup> According to Plutarch (p. 57), Romulus allowed only three grounds of a divorce — drunkenness [*leg. poisoning her children; φαρμακία τέκνων*], adultery, and false keys. Otherwise, the husband who abused his supremacy forfeited half his goods to the wife, and half to the goddess Ceres, and offered a sacrifice (with the remainder?) to the terrestrial deities. This strange law was either imaginary or transient. [*Life of Romulus*, c. 22.]

on the virtue of the Romans, who abstained from the exercise of this tempting privilege above five hundred years;<sup>126</sup> but the same fact evinces the unequal terms of a connection in which the slave was unable to renounce her tyrant and the tyrant was unwilling to relinquish his slave. When the Roman matrons became the equal and voluntary companions of their lords, a new jurisprudence was introduced, that marriage, like other partnerships, might be dissolved by the abdication of one of the associates. In three centuries of prosperity and corruption, this principle was enlarged to frequent practice and pernicious abuse. Passion, interest, or caprice suggested daily motives for the dissolution of marriage; a word, a sign, a message, a letter, the mandate of a freedman, declared the separation; the most tender of human connections was degraded to a transient society of profit or pleasure. According to the various conditions of life, both sexes alternately felt the disgrace and injury: an inconstant spouse transferred her wealth to a new family, abandoning a numerous, perhaps a spurious, progeny to the paternal authority and care of her late husband; a beautiful virgin might be dismissed to the world, old, indigent, and friendless; but the reluctance of the Romans, when they were pressed to marriage by Augustus, sufficiently marks that the prevailing institutions were least favourable to the males. A specious theory is confuted by this free and perfect experiment, which demonstrates that the liberty of divorce does not contribute to happiness and virtue. The facility of separation would destroy all mutual confidence and inflame every trifling dispute; the minute difference between an husband and a stranger, which might so easily be removed, might still more easily be forgotten; and the matron,

<sup>126</sup> In the year of Rome 523, Spurius Carvilius Ruga repudiated a fair, a good, but a barren wife (Dionysius Hal. l. ii. p. 93 [c. 25], Plutarch. in Numâ, p. 141. Valerius Maximus, l. ii. c. 1. Aulus Gellius, iv. 3). He was questioned by the censors, and hated by the people; but his divorce stood unimpeached in law.

who in five years can submit to the embraces of eight husbands, must cease to reverence the chastity of her own person.<sup>126</sup>

Insufficient remedies followed with distant and tardy steps the rapid progress of the evil. The ancient worship of the Romans afforded a peculiar goddess to hear and reconcile the complaints of a married life; but her epithet of *Viriplaca*,<sup>127</sup> the appeaser of husbands, too clearly indicates on which side submission and repentance were always expected. Every act of a citizen was subject to the judgment of the *censors*; the first who used the privilege of divorce assigned, at their command, the motives of his conduct;<sup>128</sup> and a senator was expelled for dismissing his virgin spouse without the knowledge or advice of his friends. Whenever an action was instituted for the recovery of a marriage-portion, the *prætor*, as the guardian of equity, examined the cause and the characters, and gently inclined the scale in favour of the guiltless and injured party. Augustus, who united the powers of both magistrates, adopted their different modes of repressing or chastising the licence of divorce.<sup>129</sup> The presence of seven Roman witnesses was required for the validity of this solemn and deliberate act: if any adequate provocation had

<sup>126</sup> — Sic fiunt octo mariti

Quinque per autumnos.

(Juvenal, Satir. vi. 20.)

A rapid succession, which may yet be credible, as well as the non consulum numero, sed maritorum annos suos computant, of Seneca (de Beneficiis, iii. 16). Jerom saw at Rome a triumphant husband bury his twenty-first wife, who had interred twenty-two of his less sturdy predecessors (Opp. tom. i. p. 90, ad Gerontiam). But the ten husbands in a month of the poet Martial is an extravagant hyperbole (l. vi. epigram 7).

<sup>127</sup> Sacellum Viriplacæ (Valerius Maximus, l. ii. c. 1) in the Palatine region appears in the time of Theodosius, in the description of Rome by Publius Victor.

<sup>128</sup> Valerius Maximus, l. ii. c. 9. With some propriety he judges divorce more criminal than celibacy: illo namque conjugalia sacra spreta tantum, hoc etiam injuriose tractata.

<sup>129</sup> See the laws of Augustus and his successors, in Heineccius, ad Legem Papiam Poppæam, c. 19, in Opp. tom. vi. P. i. p. 323-333.

been given by the husband, instead of the delay of two years, he was compelled to refund immediately, or in the space of six months; but, if he could arraign the manners of his wife, her guilt or levity was expiated by the loss of the sixth or eighth part of her marriage-portion. The Christian princes were the first who specified the just causes of a private divorce; their institutions, from Constantine to Justinian, appear to fluctuate between the custom of the empire and the wishes of the church;<sup>130</sup> and the author of the Novels too frequently reforms the jurisprudence of the Code and Pandects. In the most rigorous laws, a wife was condemned to support a gamester, a drunkard, or a libertine, unless he were guilty of homicide, poison, or sacrilege, in which cases the marriage, as it should seem, might have been dissolved by the hand of the executioner. But the sacred right of the husband was invariably maintained to deliver his name and family from the disgrace of adultery; the list of *mortal* sins, either male or female, was curtailed and enlarged by successive regulations, and the obstacles of incurable impotence, long absence, and monastic profession were allowed to rescind the matrimonial obligation. Whoever transgressed the permission of the law was subject to various and heavy penalties. The woman was stript of her wealth and ornaments, without excepting the bodkin of her hair; if the man introduced a new bride into his bed, *her* fortune might be lawfully seized by the vengeance of his exiled wife. Forfeiture was sometimes commuted to a fine; the fine was sometimes aggravated by transportation to an island or imprisonment in a monastery; the injured party was released from the bonds of marriage; but the offender, during life or a term of years, was disabled from the repetition of nuptials. The successor of Justinian yielded to the prayers of his unhappy subjects,

<sup>130</sup> *Aliæ sunt leges Cæsarum, aliæ Christi; aliud Papinianus, aliud Paulus noster præcipit* (Jerom, tom. i. p. 198. Selden, *Uxor Ebraica*, l. iii. c. 31, p. 847-853).

and restored the liberty of divorce by mutual consent; the civilians were unanimous,<sup>181</sup> the theologians were divided,<sup>182</sup> and the ambiguous word, which contains the precept of Christ, is flexible to any interpretation that the wisdom of a legislator can demand.

The freedom of love and marriage was restrained among the Romans by natural and civil impediments. An instinct, almost innate and universal, appears to prohibit the incestuous commerce<sup>183</sup> of parents and children in the infinite series of ascending and descending generations. Concerning the oblique and collateral branches, nature is indifferent, reason mute, and custom various and arbitrary. In Egypt, the marriage of brothers and sisters was admitted without scruple or exception; a Spartan might espouse the daughter of his father, an Athenian that of his mother; and the nuptials of an uncle with his niece were applauded at Athens as a happy union of the dearest relations. The profane lawgivers of Rome were never tempted by interest or superstition to multiply the forbidden degrees; but they inflexibly con-

<sup>181</sup> The Institutes are silent, but we may consult the Codes of Theodosius (l. iii. tit. xvi. with Godefroy's Commentary, tom. i. p. 310-315) and Justinian (l. v. tit. xvii.), the Pandects (l. xxiv. tit. ii.) and the Novels (xxii. cxvii. cxxvii. cxxxiv. cxl.). Justinian fluctuated to the last between the civil and ecclesiastical law.

<sup>182</sup> In pure Greek, *porneia* is not a common word; nor can the proper meaning, fornication, be strictly applied to matrimonial sin. In a figurative sense, how far, and to what offences, may it be extended? Did Christ speak the Rabbinical or Syriac tongue? Of what original word is *porneia* the translation? How variously is that Greek word translated in the versions ancient and modern! There are two (Mark, x. 11, Luke, xvi. 18) to one (Matthew, xix. 9) that such ground of divorce was not accepted by Jesus. Some critics have presumed to think, by an evasive answer, he avoided the giving offence either to the school of Sammai or to that of Hillel (Selden, *Uxor Ebraica*, l. iii. c. 18-22, 28, 31).

<sup>183</sup> The principles of the Roman jurisprudence are exposed by Justinian (Institut. l. i. tit. x.); and the laws and manners of the different nations of antiquity concerning forbidden degrees, &c. are copiously explained by Dr. Taylor in his *Elements of Civil Law* (p. 108, 314-339), a work of amusing, though various, reading; but which cannot be praised for philosophical precision.

demned the marriage of sisters and brothers, hesitated whether first-cousins should be touched by the same interdiction, revered the paternal character of aunts and uncles, and treated affinity and adoption as a just imitation of the ties of blood. According to the proud maxims of the republic, a legal marriage could only be contracted by free citizens; an honourable, at least an ingenuous, birth was required for the spouse of a senator; but the blood of kings could never mingle in legitimate nuptials with the blood of a Roman; and the name of Stranger degraded Cleopatra and Berenice<sup>184</sup> to live the *concubines* of Mark Antony and Titus.<sup>185</sup> This appellation, indeed, so injurious to the majesty, cannot without indulgence be applied to the manners, of these Oriental queens. A concubine, in the strict sense of the civilians, was a woman of servile or plebeian extraction, the sole and faithful companion of a Roman citizen, who continued in a state of celibacy. Her modest station below the honours of a wife, above the infamy of a prostitute, was acknowledged and approved by the laws: from the age of Augustus to the tenth century, the use of this secondary marriage prevailed both in the West and East, and the humble virtues of a concubine were often preferred to the pomp and insolence of a noble matron. In this connection, the two Antonines, the best of princes and of men, enjoyed the comforts of domestic love: the example was imitated by many citizens impatient of celibacy, but regardful of their families. If at any time they desired to legitimate their natural children, the conversion was instantly performed by the celebration of their nuptials with a partner whose fruitfulness and fidelity they

<sup>184</sup> When her father Agrippa died (A.D. 44), Berenice was sixteen years of age (Joseph. tom. i. Antiquit. Judaic. l. xix. c. 9, p. 952, edit. Havercamp). She was therefore above fifty years old when Titus (A.D. 79) *invitus invitam* *invisit*. This date would not have adorned the tragedy or pastoral of the tender Racine.

<sup>185</sup> The *Ægyptia conjunx* of Virgil (*Æneid*, viii. 688) seems to be numbered among the monsters who warred with Mark Antony against Augustus, the senate, and the gods of Italy.

had already tried. By this epithet of *natural*, the offspring of the concubine were distinguished from the spurious brood of adultery, prostitution, and incest, to whom Justinian reluctantly grants the necessary aliments of life; and these natural children alone were capable of succeeding to a sixth part of the inheritance of their reputed father. According to the rigour of law, bastards were entitled only to the name and condition of their mother, from whom they might derive the character of a slave, a stranger, or a citizen. The outcasts of every family were adopted without reproach as the children of the state.<sup>186</sup>

The relation of guardian and ward, or in Roman words, of *tutor* and *pupil*, which covers so many titles of the Institutes and Pandects,<sup>187</sup> is of a very simple and uniform nature. The person and property of an orphan must always be trusted to the custody of some discreet friend. If the deceased father had not signified his choice, the *agnats*, or paternal kindred of the nearest degree, were compelled to act as the natural guardians: the Athenians were apprehensive of exposing the infant to the power of those most interested in his death; but an axiom of Roman jurisprudence has pronounced that the charge of tutelage should constantly attend the emolument of succession. If the choice of the father and the line of consanguinity afforded no efficient guardian, the failure was supplied by the nomination of the prætor of the city<sup>188</sup> or the president of the province. But the person whom they

<sup>186</sup> The humble but legal rights of concubines and natural children are stated in the Institutes (l. i. tit. x.), the Pandects (l. i. tit. vii.), the Code (l. v. tit. xv.), and the Novels (lxxiv. lxxxix.). The researches of Heineccius and Giannone (ad Legem Juliam et Papiam-Poppæam, c. iv. p. 164-175. Opere Posthume, p. 108-158) illustrate this interesting and domestic subject. [All previous studies have been superseded by Paul Meyer's treatise, *Der römische Konkubinat*, 1895.]

<sup>187</sup> See the article of guardians and wards in the Institutes (l. i. tit. xiii.-xxvi.), the Pandects (l. xxvi. xxvii.), and the Code (l. v. tit. xxviii.-lxx.).

<sup>188</sup> [Marcus Aurelius instituted a special office for this purpose, the prætor tutularis. Justinian divided the functions between him and the præfect of the city (Rome or Constantinople).]

named to this *public* office might be legally excused by insanity or blindness, by ignorance or inability, by previous enmity or adverse interest, by the number of children or guardianships with which he was already burthened, and by the immunities which were granted to the useful labours of magistrates, lawyers, physicians, and professors. Till the infant could speak and think, he was represented by the tutor, whose authority was finally determined by the age of puberty. Without his consent, no act of the pupil could bind himself to his own prejudice, though it might oblige others for his personal benefit. It is needless to observe that the tutor often gave security and always rendered an account, and that the want of diligence or integrity exposed him to a civil and almost criminal action for the violation of his sacred trust. The age of puberty had been rashly fixed by the civilians at fourteen; <sup>130</sup> but, as the faculties of the mind ripen more slowly than those of the body, a *curator* was interposed to guard the fortunes of a Roman youth from his own inexperience and headstrong passions. Such a trustee had been first instituted by the prætor, to save a family from the blind havoc of a prodigal or madman; and the minor was compelled by the laws to solicit the same protection to give validity to his acts till he accomplished the full period of twenty-five years. Women were condemned to the perpetual tutelage of parents, husbands, or guardians; <sup>140</sup> a sex created to please and to obey was never supposed to have attained the age of reason and experience. Such at least was the stern and haughty spirit of the ancient law, which had been insensibly mollified before the time of Justinian.

II. The original right of property can only be justified by the accident or merit of prior occupancy; and on this founda-

<sup>130</sup> [It was first fixed at this age (in accordance with the opinion of the Proculians) by Justinian.]

<sup>140</sup> [Here tutelage is used in a wider sense than *tutela*. Every woman *sui iuris* (*i.e.*, neither under *potestas*, nor in *manus*) was under the *tutela* of a guardian. Every freedman was under the *tutela* of his patron.]

tion it is wisely established by the philosophy of the civilians.<sup>141</sup> The savage who hollows a tree, inserts a sharp stone into a wooden handle, or applies a string to an elastic branch, becomes in a state of nature the just proprietor of the canoe, the bow, or the hatchet. The materials were common to all; the new form, the produce of his time and simple industry, belongs solely to himself. His hungry brethren cannot, without a sense of their own injustice, extort from the hunter the game of the forest overtaken or slain by his personal strength and dexterity. If his provident care preserves and multiplies the tame animals, whose nature is tractable to the arts of education, he acquires a perpetual title to the use and service of their numerous progeny, which derives its existence from him alone. If he encloses and cultivates a field for their sustenance and his own, a barren waste is converted into a fertile soil; the seed, the manure, the labour, create a new value; and the rewards of harvest are painfully earned by the fatigues of the revolving year. In the successive states of society, the hunter, the shepherd, the husbandman, may defend their possessions by two reasons which forcibly appeal to the feelings of the human mind: that whatever they enjoy is the fruit of their own industry; and that every man who envies their felicity may purchase similar acquisitions by the exercise of similar diligence. Such, in truth, may be the freedom and plenty of a small colony cast on a fruitful island. But the colony multiplies, while the space still continues the same; the common rights, the equal inheritance of mankind, are engrossed by the bold and crafty; each field and forest is circumscribed by the landmarks of a jealous master; and it is the peculiar praise of the Roman jurisprudence that it asserts the claim of the first occupant to the wild animals of the earth, the air, and

<sup>141</sup> Institut. l. ii. tit. i. ii. Compare the pure and precise reasoning of Caius and Heineccius (l. ii. tit. i. p. 69-91), with the loose prolixity of Theophilus (p. 207-265). The opinions of Ulpian are preserved in the Pandects (l. i. tit. viii., leg. 41, No. 1).

the waters. In the progress from primitive equity to final injustice, the steps are silent, the shades are almost imperceptible, and the absolute monopoly is guarded by positive laws and artificial reason. The active insatiate principle of self-love can alone supply the arts of life and the wages of industry; and, as soon as civil government and exclusive property have been introduced, they become necessary to the existence of the human race. Except in the singular institutions of Sparta, the wisest legislators have disapproved an agrarian law as a false and dangerous innovation. Among the Romans, the enormous disproportion of wealth surmounted the ideal restraints of a doubtful tradition and an obsolete statute: a tradition that the poorest follower of Romulus had been endowed with the perpetual inheritance of two *jugera*:<sup>142</sup> a statute which confined the richest citizen to the measure of five hundred *jugera*, or three hundred and twelve acres of land. The original territory of Rome consisted only of some miles of wood and meadow along the banks of the Tiber; and domestic exchange could add nothing to the national stock. But the goods of an alien or enemy were lawfully exposed to the first hostile occupier; the city was enriched by the profitable trade of war; and the blood of her sons was the only price that was paid for the Volscian sheep, the slaves of Britain, or the gems and gold of Asiatic kingdoms. In the language of ancient jurisprudence, which was corrupted and forgotten before the age of Justinian, these spoils were distinguished by the name of *manceps* or *mancipium*, taken with the hand; and, whenever they were sold or *emancipated*, the purchaser required some assurance that they had been the property of an enemy, and not of a fellow-citizen.<sup>143</sup> A citizen could only forfeit his rights by apparent

<sup>142</sup> The *heredium* of the first Romans is defined by Varro (*de Re Rusticâ*, l. i. c. ii. p. 141, c. x. p. 160, 161, edit. Gesner), and clouded by Pliny's declamation (*Hist. Natur.* xviii. 2). A just and learned comment is given in the *Administration des Terres chez les Romains* (p. 12-66).

<sup>143</sup> The *res mancipi* is explained from faint and remote lights by Ulpian

dereliction, and such dereliction of a valuable interest could not easily be presumed. Yet, according to the Twelve Tables, a prescription of one year for moveables, and of two years for immoveables, abolished the claim of the ancient master, if the actual possessor had acquired them by a fair transaction from the person whom he believed to be the lawful proprietor.<sup>144</sup> Such conscientious injustice, without any mixture of fraud or force, could seldom injure the members of a small republic; but the various periods of three, of ten, or of twenty years, determined by Justinian, are more suitable to the latitude of a great empire.<sup>145</sup> It is only in the

(Fragment. tit. xviii. p. 618, 619), and Bynkershoek (Opp. tom. i. p. 306-315). The definition is somewhat arbitrary; and, as none except myself have assigned a reason, I am diffident of my own. [The distinction of *res Mancipi* and *res nec Mancipi* does not admit of an exact definition, but can be shown only by enumeration. *Res Mancipi* were (1) immoveables situated in Italy, (2) rural servitudes in Italy, (3) oxen, mules, horses, and asses (*quæ collo dorsove domantur*), (4) slaves. All other things are *res nec Mancipi*. The legal importance of this distinction was that *res Mancipi* alone could be acquired by the process of *mancipation* (which process, applied to *res nec Mancipi*, was void) and that they could not be acquired by Delivery (*traditio*). Thus *res Mancipi* meant things that admitted of mancipation (*mancipii*). The different modes of acquiring property (apart from the original and primary mode: occupation) were six: (1) mancipation, a fictitious sale; (2) *in jure cessio*, a fictitious process before a magistrate (in which the alienator was assimilated to the defendant), and applicable to both *res Mancipi* and *res nec Mancipi*; (3) *traditio*, or simple delivery (implying, of course, certain conditions), confers full right of property (*dominium*) in case of *res nec Mancipi*; but places a *res Mancipi* not *in dominio*, but *in bonis* of the receiver, who may convert this incomplete into complete proprietorship by *usucapio*; (4) *usucapio*, the prescription mentioned in the text; (5) *adjudicatio*, a magistrate's award in the case of a partition of property; (6) *lex*; this included certain cases connected with inheritance, and also treasure-trove.]

<sup>144</sup> From this short prescription, Hume (Essays, vol. i. p. 423) infers that there could not *then* be more order and settlement in Italy than *now* amongst the Tartars. By the civilian of his adversary Wallace, he is reproached, and not without reason, for overlooking the conditions (Institut. l. ii. tit. vi.).

<sup>145</sup> [This transformed *usucapio*, or prescription, of Justinian was really a combination of the *usucapio* of the Civil Law, which only applied to Italian soil, and the *longi temporis præscriptio*, the analogous institution of prætorian law, which applied to provincial soil. The innovation of Justinian was the

term of prescription that the distinction of real and personal fortune has been remarked by the civilians, and their general idea of property is that of simple, uniform, and absolute dominion. The subordinate exceptions of *use*, of *usufruct*,<sup>146</sup> of *servitudes*,<sup>147</sup> imposed for the benefit of a neighbour on lands and houses, are abundantly explained by the professors of jurisprudence. The claims of property, as far as they are altered by the mixture, the division, or the transformation of substances, are investigated with metaphysical subtlety by the same civilians.

The personal title of the first proprietor must be determined by his death; but the possession, without any appearance of change, is peaceably continued in his children, the associates of his toil and the partners of his wealth. This natural inheritance has been protected by the legislators of every climate and age, and the father is encouraged to persevere in slow and distant improvements, by the tender hope that a long posterity will enjoy the fruits of his labour. The *principle* of hereditary succession is universal, but the *order* has been variously established by convenience or caprice, by the spirit of national institutions, or by some partial example, which was originally decided by fraud or violence. The jurisprudence of the Romans appears to have deviated from the equality of nature much less than the Jewish,<sup>148</sup> the Athe-

logical result of the obliteration of the distinction between Italian and provincial soil.]

<sup>146</sup> See the Institutes (l. i. [*leg.* ii.] tit. iv. v.), and the Pandects (l. vii.). Noodt has composed a learned and distinct treatise de *Usufructu* (Opp. tom. i. p. 387-478).

<sup>147</sup> The questions de *Servitutibus* are discussed in the Institutes (l. ii. tit. iii.), and Pandects (l. viii.). Cicero (pro Murenâ, c. 9) and Lactantius (Institut. Divin. l. i. c. i.) affect to laugh at the insignificant doctrine, de aquâ pluviâ arcendâ, &c. Yet it might be of frequent use among litigious neighbours, both in town and country.

<sup>148</sup> Among the patriarchs, the first-born enjoyed a mystic and spiritual primogeniture (Genesis, xxv. 31). In the land of Canaan he was entitled to a double portion of inheritance (Deuteronomy, xxi. 17, with Le Clerc's judicious Commentary).

nian,<sup>149</sup> or the English institutions.<sup>150</sup> On the death of a citizen, all his descendants, unless they were already freed from his paternal power, were called to the inheritance of his possessions. The insolent prerogative of primogeniture was unknown; the two sexes were placed on a just level; all the sons and daughters were entitled to an equal portion of the patrimonial estate; and, if any of the sons had been intercepted by a premature death, his person was represented, and his share was divided, by his surviving children. On the failure of the direct line, the right of succession must diverge to the collateral branches. The degrees of kindred<sup>151</sup> are numbered by the civilians, ascending from the last possessor to a common parent, and descending from the common parent to the next heir: my father stands in the first degree, my brother in the second, his children in the third, and the remainder of the series may be conceived by fancy, or pictured in a genealogical table. In this computation, a distinction was made, essential to the laws and even the constitution of Rome. The *agnats*, or persons connected by a line of males, were called, as they stood in the nearest degree, to an equal partition; but a female was incapable of transmitting any legal claims; and the *cognats* of every rank, without excepting the dear relation of a mother and a son, were disinherited by the Twelve Tables, as strangers and aliens. Among the Romans, a *gens* or lineage was united by a common *name* and domestic

<sup>149</sup> At Athens the sons were equal, but the poor daughters were endowed at the discretion of their brothers. See the *κληρικοί* pleadings of Isæus (in the viith volume of the Greek Orators), illustrated by the version and comment of Sir William Jones, a scholar, a lawyer, and a man of genius.

<sup>150</sup> In England, the eldest son alone inherits *all* the land: a law, says the orthodox judge Blackstone (Commentaries on the laws of England, vol. ii. p. 215), unjust only in the opinion of younger brothers. It may be of some political use in sharpening their industry.

<sup>151</sup> Blackstone's Tables (vol. ii. p. 202) represent and compare the degrees of the civil with those of the canon and common law. A separate tract of Julius Paulus, *de gradibus et affinibus*, is inserted or abridged in the Pandects (l. xxxviii. tit. x.). In the seventh degrees he computes (No. 18) 1024 persons.

rites; the various *cognomens* or *surnames* of Scipio or Marcellus distinguished from each other the subordinate branches or families of the Cornelian or Claudian race; the default of the *agnats* of the same surname was supplied by the larger denomination of *gentiles*; and the vigilance of the laws maintained, in the same name, the perpetual descent of religion and property. A similar principle dictated the Voconian law,<sup>152</sup> which abolished the right of female inheritance. As long as virgins were given or sold in marriage, the adoption of the wife extinguished the hopes of the daughter. But the equal succession of independent matrons supported their pride and luxury, and might transport into a foreign house the riches of their fathers. While the maxims of Cato<sup>153</sup> were revered, they tended to perpetuate in each family a just and virtuous mediocrity: till female blandishments insensibly triumphed, and every salutary restraint was lost in the dissolute greatness of the republic. The rigour of the decemvirs was tempered by the equity of the prætors. Their edicts restored emancipated and posthumous children to the rights of nature; and, upon the failure of the *agnats*, they preferred the blood of the *cognats* to the name of the *gentiles*, whose title and character were insensibly covered with oblivion. The reciprocal inheritance of mothers and sons was established in the Tertullian and Orphitian decrees by the humanity of the senate. A new and more impartial order was introduced by the novels of Justinian, who affected to revive the jurisprudence of the Twelve Tables. The lines of masculine and female kindred were confounded; the descending, ascending, and collateral series was accurately defined; and each degree,

<sup>152</sup> The Voconian law was enacted in the year of Rome 584. The younger Scipio, who was then 17 years of age (Freinshemius, Supplement. Livian. xlv. 40 [*leg.* 44]), found an occasion of exercising his generosity to his mother, sisters, &c. (Polybius, tom. ii. l. xxxi. p. 1453-1464, edit. Gronov. [B. xxxii. c. 12], a domestic witness).

<sup>153</sup> *Legem Voconiam* (Ernesti, *Clavis Ciceroniana*) *magnâ voce bonis lateribus* (at lxx. years of age) *suasissem*, says old Cato (de Senectute, c. 5). Aulus Gellius (vii. 13, xvii. 6) has saved some passages.

according to the proximity of blood and affection, succeeded to the vacant possessions of a Roman citizen.<sup>154</sup>

The order of succession is regulated by nature, or at least by the general and permanent reason of the lawgiver; but this order is frequently violated by the arbitrary and partial *wills* which prolong the dominion of the testator beyond the grave.<sup>155</sup> In the simple state of society, this last use or abuse of the right of property is seldom indulged: it was introduced at Athens by the laws of Solon; and the private testaments of the father of a family are authorised by the Twelve Tables. Before the time of the decemvirs,<sup>156</sup> a Roman citizen exposed his wishes and motives to the assembly of the thirty *curiæ* or parishes, and the general law of inheritance was suspended by an occasional act of the legislature. After the permission of the decemvirs each private lawgiver promulgated his verbal or written testament in the presence of five citizens, who represented the five classes of the Roman people; a sixth witness attested their concurrence; a seventh weighed the copper money which was paid by an imaginary purchaser; and the estate was emancipated by a fictitious sale and immediate release. This singular ceremony,<sup>157</sup>

<sup>154</sup> See the law of succession in the Institutes of Caius (l. ii. tit. viii. p. 130-144), and Justinian (l. iii. tit. i.-vi. with the Greek version of Theophilus, p. 515-575, 588-600), the Pandects (l. xxxviii. tit. vi.-xvii.), the Code (l. vi. tit. lv.-lx.), and the Novels (cxviii.). [143, ed. Zach. Accarias regards this law as Justinian's chef-d'œuvre (i. p. 1282).]

<sup>155</sup> That succession was the *rule*, testament the *exception*, is proved by Taylor (Elements of Civil Law, p. 519-527), a learned, rambling, spirited writer. In the iid and iiid books the method of the Institutes is doubtless preposterous; and the Chancellor Daguesseau (Oeuvres, tom. i. p. 275) wishes his countryman Domat in the place of Tribonian. Yet *covenants* before *successions* is not surely the *natural order of the civil laws*.

<sup>156</sup> Prior examples of testaments are perhaps fabulous. At Athens a *childless* father only could make a will (Plutarch. in Solone, tom. i. 164 [c. 21]. See Isæus and Jones).

<sup>157</sup> The testament of Augustus is specified by Suetonius (in August. c. 101, in Neron. c. 4), who may be studied as a code of Roman antiquities. Plutarch (Opuscul. tom. ii. p. 976) is surprised *θαν δὲ διαθήκας γράφωσι ἑτέρουσ μὲν ἀπολείπουσι κληρονόμους, ἕτεροι δὲ πωλοῦσι τὰς οὐσίας*. The language of

which excited the wonder of the Greeks, was still practised in the age of Severus; but the prætors had already approved a more simple testament, for which they required the seals and signatures of seven witnesses, free from all legal exception, and purposely summoned for the execution of that important act. A domestic monarch, who reigned over the lives and fortunes of his children, might distribute their respective shares according to the degrees of their merit or his affection; his arbitrary displeasure chastised an unworthy son by the loss of his inheritance and the mortifying preference of a stranger. But the experience of unnatural parents recommended some limitations of their testamentary powers. A son, or, by the laws of Justinian, even a daughter, could no longer be disinherited by their silence; they were compelled to name the criminal, and to specify the offence; and the justice of the emperor enumerated the sole causes that could justify such a violation of the first principles of nature and society.<sup>158</sup> Unless a legitimate portion, a fourth part, had been reserved for the children, they were entitled to institute an action or complaint of *inofficious* testament, to suppose that their father's understanding was impaired by sickness or age, and respectfully to appeal from his rigorous sentence to the deliberate wisdom of the magistrate. In the Roman jurisprudence, an essential distinction was admitted between the inheritance and the legacies. The heirs who succeeded to the entire unity, or to any of the twelve frac-

Ulpian (Fragment. tit. xx. p. 627, edit. Schulting) is almost too exclusive — solum in usu est.

<sup>158</sup> Justinian (Novell. cxv. [136, ed. Zachar.] No. 3, 4) enumerates only the public and private crimes, for which a son might likewise disinherit his father. [This Novel enumerates, no. 3, fourteen cases in which a parent (grandparent, &c.) might validly exclude the children, and, no. 4, nine cases in which the children might legitimately exclude their parents. Justinian had already (A.D. 536, Nov. 42) raised the *legitimate portion* from  $\frac{1}{4}$ th to  $\frac{1}{3}$ rd in case the children were four or fewer, to  $\frac{1}{2}$  in case they were more. The defect in this arrangement was that one of a family of 5 would have a larger portion than one of a family of 4. Cp. Accarias, i. p. 964.]

tions, of the substance of the testator represented his civil and religious character, asserted his rights, fulfilled his obligations, and discharged the gifts of friendship or liberality which his last will had bequeathed under the name of legacies. But, as the imprudence or prodigality of a dying man might exhaust the inheritance and leave only risk and labour to his successor, he was empowered to retain the *Falcidian* portion; to deduct, before the payment of the legacies, a clear fourth for his own emolument. A reasonable time was allowed to examine the proportion between the debts and the estate, to decide whether he should accept or refuse the testament; and, if he used the benefit of an inventory, the demands of the creditors could not exceed the valuation of the effects. The last will of a citizen might be altered during his life or rescinded after his death: the persons whom he named might die before him, or reject the inheritance, or be exposed to some legal disqualification. In the contemplation of these events, he was permitted to substitute second and third heirs, to replace each other according to the order of the testament; and the incapacity of a madman or an infant to bequeath his property might be supplied by a similar substitution.<sup>159</sup> But the power of the testator expired with the acceptance of the testament; each Roman of mature age and discretion acquired the absolute dominion of his inheritance, and the simplicity of the civil law was never clouded by the long and intricate entails which confine the happiness and freedom of unborn generations.

Conquest and the formalities of law established the use of *codicils*. If a Roman was surprised by death in a remote province of the empire, he addressed a short epistle to his

<sup>159</sup> The *substitutions fidei-commissaires* of the modern civil law is a feudal idea grafted on the Roman jurisprudence, and bears scarcely any resemblance to the ancient *fidei-commissa* (Institutions du Droit François, tom. i. p. 347-383; Denissart, Décisions de Jurisprudence, tom. iv. p. 577-604). They were stretched to the fourth degree by an abuse of the sixth Novel; a partial, perplexed, declamatory law.

legitimate or testamentary heir; who fulfilled with honour, or neglected with impunity, this last request, which the judges before the age of Augustus were not authorised to enforce. A codicil might be expressed in any mode, or in any language; but the subscription of five witnesses must declare that it was the genuine composition of the author. His intention, however laudable, was sometimes illegal; and the invention of *fidei-commissa*, or trusts, arose from the struggle between natural justice and positive jurisprudence. A stranger of Greece or Africa might be the friend or benefactor of a childless Roman; but none, except a fellow-citizen, could act as his heir. The Voconian law, which abolished female succession, restrained the legacy or inheritance of a woman to the sum of one hundred thousand sesterces;<sup>100</sup> and an only daughter was condemned almost as an alien in her father's house. The zeal of friendship and parental affection suggested a liberal artifice: a qualified citizen was named in the testament, with a prayer or injunction that he would restore the inheritance to the person for whom it was truly intended. Various was the conduct of the trustees in this painful situation: they had sworn to observe the laws of their country, but honour prompted them to violate their oath; and, if they preferred their interest under the mask of patriotism, they forfeited the esteem of every virtuous mind. The declaration of Augustus relieved their doubts, gave a legal sanction to confidential testaments and codicils, and gently unravelled the forms and restraints of the republican jurisprudence.<sup>101</sup> But, as the new practice of trusts degenerated into some abuse, the trustee was enabled, by the Trebellian and Pegasian decrees, to reserve one fourth of the estate, or to transfer on the head of the real heir all the debts and actions of the succession. The interpretation of testaments was strict

<sup>100</sup> Dion Cassius (tom. ii. l. lvi. p. 814 [c. 10] with Reimar's Notes) specifies in Greek money the sum of 25,000 drachms.

<sup>101</sup> The revolutions of the Roman laws of inheritance are finely, though sometimes fancifully, deduced by Montesquieu (*Esprit des Loix*, l. xxvii.).

and literal; but the language of *trusts* and codicils was delivered from the minute and technical accuracy of the civilians.<sup>162</sup>

III. The general duties of mankind are imposed by their public and private relations; but their specific *obligations* to each other can only be the effect of 1. a promise, 2. a benefit, or 3. an injury; and, when these obligations are ratified by law, the interested party may compel the performance by a judicial *action*. On this principle the civilians of every country have erected a similar jurisprudence, the fair conclusion of universal reason and justice.<sup>163</sup>

1. The goddess of *faith* (of human and social faith) was worshipped, not only in her temples, but in the lives of the Romans; and, if that nation was deficient in the more amiable qualities of benevolence and generosity, they astonished the Greeks by their sincere and simple performance of the most burthensome engagements.<sup>164</sup> Yet among the same people, according to the rigid maxims of the patricians and decemvirs, a *naked pact*, a promise, or even an oath did not create any civil obligation, unless it was confirmed by the legal form of a *stipulation*. Whatever might be the etymology of the Latin word, it conveyed the idea of a firm and irrevocable contract, which was always expressed in the mode of a question and answer. Do you promise to pay me one hundred pieces of

<sup>162</sup> Of the civil jurisprudence of successions, testaments, codicils, legacies, and trusts, the principles are ascertained in the Institutes of Caius (l. ii. tit. ii.-ix. p. 91-144), Justinian (l. ii. tit. x.-xxv.), and Theophilus (p. 328-514); and the immense detail occupies twelve books (xxviii.-xxxix.) of the Pandects.

<sup>163</sup> The Institutes of Caius (l. ii. tit. ix. x. p. 144-214), of Justinian (l. iii. tit. xiv.-xxx. l. iv. tit. i.-vi.), and of Theophilus (p. 616-837) distinguish four sorts of obligations — aut *re*, aut *verbis*, aut *litteris*, aut *consensu*; but I confess myself partial to my own division. [More accurately, obligations are the effect of either (1) contract or (2) delict, and there are four forms of contract — aut *re*, &c. The author's attempt to improve the division is not successful.]

<sup>164</sup> How much is the cool, rational evidence of Polybius (l. vi. p. 693, [c. 56] l. xxxi. p. 1459, 1460 [xxxii. 12]) superior to vague, indiscriminate applause — omnium maxime et præcipue fidem coluit (A. Gellius, xx. 1).

gold? was the solemn interrogation of Seius. I do promise — was the reply of Sempronius. The friends of Sempronius, who answered for his ability and inclination, might be separately sued at the option of Seius; and the benefit of partition, or order of reciprocal actions, insensibly deviated from the strict theory of stipulation. The most cautious and deliberate consent was justly required to sustain the validity of a gratuitous promise; and the citizen who might have obtained a legal security incurred the suspicion of fraud, and paid the forfeit of his neglect. But the ingenuity of the civilians successfully laboured to convert simple engagements into the form of solemn stipulations. The prætors, as the guardians of social faith, admitted every rational evidence of a voluntary and deliberate act, which in their tribunal produced an equitable obligation, and for which they gave an action and a remedy.<sup>165</sup>

2. The obligations of the second class, as they were contracted by the delivery of a thing, are marked by the civilians with the epithet of real.<sup>166</sup> A grateful return is due to the author of a benefit; and whoever is entrusted with the property of another has bound himself to the sacred duty of restitution. In the case of a friendly loan the merit of generosity is on the

<sup>165</sup> The *Jus Prætorium de Pactis et Transactionibus* is a separate and satisfactory treatise of Gerard Noodt (*Opp. tom. i. p. 483-564*). And I will here observe that the universities of Holland and Brandenburg, in the beginning of the present century, appear to have studied the civil law on the most just and liberal principles. [The prætorian legislation on pacts seems to have guaranteed merely pacts which tended to extinguish obligations (*de non petendo*), and not those which created obligations. It was thus an extension of certain exceptions which the Law of the Twelve Tables had already admitted to the doctrine that a nude pact creates no obligation. The most important of those exceptions was that which allowed a pact to extinguish an action *furti* or *injuriarum*. *Accarias, 2, p. 393-5.*]

<sup>166</sup> The nice and various subject of contracts by consent is spread over four books (xvii.—xx.) of the Pandects, and is one of the parts best deserving of the attention of an English student. [The difference between contracts *re* and *consensu* is not clearly enough brought out. (a) *Mutuum* and (b) *commodatum*, deposit and pledge are contracts *re*; while sales, locations, partnerships, and commissions are contracts *consensu*.]

side of the lender only, in a deposit on the side of the receiver; but in a *pledge*, and the rest of the selfish commerce of ordinary life, the benefit is compensated by an equivalent, and the obligation to restore is variously modified by the nature of the transaction. The Latin language very happily expresses the fundamental difference between the *commodatum* and the *mutuum*, which our poverty is reduced to confound under the vague and common appellation of a loan. In the former, the borrower was obliged to restore the same individual thing with which he had been *accommodated* for the temporary supply of his wants; in the latter, it was destined for his use and consumption, and he discharged this *mutual* engagement by substituting the same specific value, according to a just estimation of number, of weight, and of measure. In the contract of *sale*, the absolute dominion is transferred to the purchaser, and he repays the benefit with an adequate sum of gold or silver, the price and universal standard of all earthly possessions. The obligation of another contract, that of *location*, is of a more complicated kind. Lands or houses, labour or talents, may be hired for a definite term; at the expiration of the time, the thing itself must be restored to the owner, with an additional reward for the beneficial occupation and employment. In these lucrative contracts, to which may be added those of partnership and commissions, the civilians sometimes imagine the delivery of the object, and sometimes presume the consent of the parties. The substantial pledge has been refined into the invisible rights of a mortgage or *hypotheca*; and the agreement of sale, for a certain price, imputes, from that moment, the chances of gain or loss to the account of the purchaser. It may be fairly supposed that every man will obey the dictates of his interest; and, if he accepts the benefit, he is obliged to sustain the expense, of the transaction. In this boundless subject, the historian will observe the *location* of land and money, the rent of the one and the interest of the other, as they materially affect the prosperity of agriculture and com-

merce. The landlord was often obliged to advance the stock and instruments of husbandry, and to content himself with a partition of the fruits. If the feeble tenant was oppressed by accident, contagion, or hostile violence, he claimed a proportionable relief from the equity of the laws; five years were the customary term, and no solid or costly improvements could be expected from a farmer who, at each moment, might be ejected by the sale of the estate.<sup>167</sup> Usury,<sup>168</sup> the inveterate grievance of the city, had been discouraged by the Twelve Tables,<sup>169</sup> and abolished by the clamours of the people. It was revived by their wants and idleness, tolerated by the discretion of the prætors, and finally determined by the Code of Justinian. Persons of illustrious rank were

<sup>167</sup> The covenants of rent are defined in the Pandects (l. xix.) and the Code (l. iv. tit. lxxv.). The quinquennium, or term of five years, appears to have been a custom rather than a law; but in France all leases of land were determined in nine years. This limitation was removed only in the year 1775 (Encyclopédie Méthodique, tom. i. de la Jurisprudence, p. 668, 669); and I am sorry to observe that it yet prevails in the beautiful and happy country where I am permitted to reside.

<sup>168</sup> I might implicitly acquiesce in the sense and learning of the three books of G. Noodt, de fœnore et usuris (Opp. tom. i. p. 175-268). The interpretation of the *asses* or *centesimæ usuræ* at twelve, the *unciariæ* at one per cent. is maintained by the best critics and civilians: Noodt (l. ii. c. 2, p. 207), Gravina (Opp. p. 205, &c. 210), Heineccius (Antiquitat. ad Institut. l. iii. tit. xv.), Montesquieu (Esprit des Loix, l. xxii. c. 22, tom. ii. p. 36. Défense de l'Esprit des Loix, tom. iii. p. 478, &c.), and above all John Frederic Gronovius (de Pecuniâ Veteri, l. iii. c. 13, p. 213-227, and his three Antexegeses, p. 455-655), the founder, or at least the champion, of this probable opinion; which is however perplexed with some difficulties. [The *centesimæ usuræ* which subsisted from the later republic to Justinian was 12 per cent. (one hundredth of the capital per month). It is still a question whether the *fœnus unciarium* of the xii. Tables was the same (12 per cent.), or  $\frac{1}{12}$  of the capital.]

<sup>169</sup> *Primo xii. tabulis sanctitum est nequis unciario fœnore amplius exerceat* (Tacit. Annal. vi. 16). Pour peu (says Montesquieu, Esprit des Loix, l. xxii. c. 22) qu'on soit versé dans l'histoire de Rome, on verra qu'une pareille loi ne devoit pas être l'ouvrage des décemvirs. Was Tacitus ignorant — or stupid? But the wiser and more virtuous patricians might sacrifice their avarice to their ambition, and might attempt to check the odious practice by such interest as no lender would accept, and such penalties as no debtor would incur.

confined to the moderate profit of four *per cent.*; six was pronounced to be the ordinary and legal standard of interest; eight was allowed for the convenience of manufacturers and merchants; twelve was granted to nautical insurance, which the wiser ancients had not attempted to define; but, except in this perilous adventure, the practice of exorbitant usury was severely restrained.<sup>170</sup> The most simple interest was condemned by the clergy of the East and West;<sup>171</sup> but the sense of mutual benefit, which had triumphed over the laws of the republic, has resisted with equal firmness the decrees of the church and even the prejudices of mankind.<sup>172</sup>

3. Nature and society impose the strict obligation of repairing an injury; and the sufferer by private injustice acquires a personal right and a legitimate action. If the property of another be entrusted to our care, the requisite degree of care may rise and fall according to the benefit which we derive from such temporary possession; we are seldom made responsible for inevitable accident, but the consequences of a voluntary fault must always be imputed to the author.<sup>173</sup> A Roman pursued and recovered his stolen goods by a civil action of theft; they might pass through a succession of pure and innocent hands, but nothing less than a prescription of

<sup>170</sup> Justinian has not condescended to give usury a place in his Institutes; but the necessary rules and restrictions are inserted in the Pandects (l. xxii. tit. i. ii.), and the Code (l. iv. tit. xxxii. xxxiii.).

<sup>171</sup> The fathers are unanimous (Barbeyrac, *Morale des Pères*, p. 144, &c.): Cyprian, Lactantius, Basil, Chrysostom (see his frivolous arguments in Noodt, l. i. c. 7, p. 188), Gregory of Nyssa, Ambrose, Jerom, Augustin, and a host of councils and casuists.

<sup>172</sup> Cato, Seneca, Plutarch, have loudly condemned the practice or abuse of usury. According to the etymology of *ſænus* and *τόκος*, the principal is supposed to *generate* the interest: a breed of barren metal, exclaims Shakespeare — and the stage is the echo of the public voice. [Cp. Aristotle, *Politics*, i. 10 *ad fin.*]

<sup>173</sup> Sir William Jones has given an ingenious and rational Essay on the law of Bailment (London, 1781, p. 127, in 8vo). He is perhaps the only lawyer equally conversant with the year-books of Westminster, the commentaries of Ulpian, the Attic pleadings of Isæus, and the sentences of Arabian and Persian cadhis.

thirty years could extinguish his original claim. They were restored by the sentence of the prætor, and the injury was compensated by double, or threefold, or even quadruple damages, as the deed had been perpetrated by secret fraud or open rapine, as the robber had been surprised in the fact or detected by a subsequent research. The Aquilian law<sup>174</sup> defended the living property of a citizen, his slaves and cattle, from the stroke of malice or negligence; the highest price was allowed that could be ascribed to the domestic animal at any moment of the year preceding his death; a similar latitude of thirty days was granted on the destruction of any other valuable effects. A personal injury is blunted or sharpened by the manners of the times and the sensibility of the individual; the pain or the disgrace of a word or blow cannot easily be appreciated by a pecuniary equivalent. The rude jurisprudence of the decemvirs had confounded all hasty insults, which did not amount to the fracture of a limb, by condemning the aggressor to the common penalty of twenty-five *asses*. But the same denomination of money was reduced, in three centuries, from a pound to the weight of half an ounce; and the insolence of a wealthy Roman indulged himself in the cheap amusement of breaking and satisfying the law of the Twelve Tables. Veratius ran through the streets striking on the face the inoffensive passengers, and his attendant purse-bearer immediately silenced their clamours by the legal tender of twenty-five pieces of copper, about the value of one shilling.<sup>175</sup> The equity of the prætors examined and estimated the distinct merits of each particular complaint. In the adjudication of civil damages, the magistrate assumed a right to consider the various circumstances of time and place, of age and dignity, which may aggravate the shame and sufferings of the injured person; but, if he

<sup>174</sup> Noodt (Opp. tom. i. p. 137-172) has composed a separate treatise, ad Legem Aquilianam (Pandect. l. ix. tit. ii.).

<sup>175</sup> Aulus Gellius (Noct. Attic. xx. 1) borrowed his story from the commentaries of Q. Labeo on the xii. tables.

admitted the idea of a fine, a punishment, an example, he invaded the province, though, perhaps, he supplied the defects, of the criminal law.

The execution of the Alban dictator, who was dismembered by eight horses, is represented by Livy as the first and the last instance of Roman cruelty in the punishment of the most atrocious crimes.<sup>176</sup> But this act of justice, or revenge, was inflicted on a foreign enemy in the heat of victory, and at the command of a single man. The Twelve Tables afford a more decisive proof of the national spirit, since they were framed by the wisest of the senate and accepted by the free voices of the people; yet these laws, like the statutes of Draco,<sup>177</sup> are written in characters of blood.<sup>178</sup> They approve the inhuman and unequal principle of retaliation; and the forfeit of an eye for an eye, a tooth for a tooth, a limb for a limb, is rigorously exacted, unless the offender can redeem his pardon by a fine of three hundred pounds of copper. The decemvirs distributed with much liberality the slighter chastisements of flagellation and servitude; and nine crimes of a very different complexion are adjudged worthy of death. 1. Any act of *treason* against the state, or of correspondence with the public enemy. The mode of execution was painful and ignominious: the head of the degenerate Roman was shrouded in a veil, his hands were tied behind his back, and, after he had been scourged by the lictor, he was suspended in the midst of the forum on a cross, or inauspicious tree.

<sup>176</sup> The narrative of Livy (i. 28) is weighty and solemn. At tu dictis Albanæ maneres is an harsh reflection, unworthy of Virgil's humanity (*Æneid*, viii. 643). Heyne, with his usual good taste, observes that the subject was too horrid for the shield of *Æneas* (tom. iii. p. 229).

<sup>177</sup> The age of Draco (Olympiad xxxix. 1) is fixed by Sir John Marsham (*Canon Chronicus*, p. 593-596) and Corsini (*Fasti Attici*, tom. iii. p. 62). For his laws, see the writers on the government of Athens, Sigonius, Meursius, Potter, &c.

<sup>178</sup> The viiith, de delictis, of the xii. tables is delineated by Gravina (*Opp.* p. 292, 293, with a Commentary, p. 214-230). Aulus Gellius (xx. 1) and the *Collatio Legum Mosaicarum et Romanarum* afford much original information.

2. Nocturnal meetings in the city; whatever might be the pretence of pleasure, or religion, or the public good. 3. The murder of a citizen; for which the common feelings of mankind demand the blood of the murderer. Poison is still more odious than the sword or dagger; and we are surprised to discover, in two flagitious events, how early such subtle wickedness had infected the simplicity of the republic and the chaste virtues of the Roman matrons.<sup>179</sup> The parricide who violated the duties of nature and gratitude was cast into the river or the sea, enclosed in a sack; and a cock, a viper, a dog, and a monkey were successively added as the most suitable companions.<sup>180</sup> Italy produces no monkeys; but the want could never be felt, till the middle of the sixth century first revealed the guilt of a parricide.<sup>181</sup> 4. The malice of an *incendiary*. After the previous ceremony of whipping, he himself was delivered to the flames; and in this example alone our reason is tempted to applaud the justice of retaliation. 5. *Judicial perjury*. The corrupt or malicious witness was thrown headlong from the Tarpeian rock to expiate his falsehood, which was rendered still more fatal by the severity of the penal laws and the deficiency of written evidence.

<sup>179</sup> Livy mentions two remarkable and flagitious eras, of 3000 persons accused, and of 190 noble matrons convicted, of the crime of poisoning (xl. 43, viii. 18). Mr. Hume discriminates the ages of private and public virtue (Essays, vol. i. p. 22, 23). I would rather say that such ebullitions of mischief (as in France in the year 1680) are accidents and prodigies which leave no marks on the manners of a nation.

<sup>180</sup> The xii. Tables and Cicero (pro Roscio Amerino, c. 25, 26) are content with the sack; Seneca (Excerpt. Controvers. v. 4) adorns it with serpents: Juvenal pities the guiltless monkey (innoxia simia — Satir. xiii. 156). Hadrian (apud Dositheum Magistrum, l. iii. c. 16, p. 874-876, with Schulting's Note), Modestinus (Pandect. xlvi. tit. ix. leg. 9), Constantine (Cod. l. ix. tit. xvii.), and Justinian (Institut. l. iv. tit. xviii.) enumerate all the companions of the parricide. But this fanciful execution was simplified in practice. *Hodie tamen vivi exuruntur vel ad bestias dantur* (Paul. Sentent. Recept. l. v. tit. xxiv. p. 512, edit. Schulting).

<sup>181</sup> The first parricide at Rome was L. Ostius, after the second Punic war (Plutarch in Romulo, tom. i. p. 57). During the Cimbric, P. Malleolus was guilty of the first matricide (Liv. Epitom. l. lxxviii.).

6. The corruption of a judge who accepted bribes to pronounce an iniquitous sentence. 7. Libels and satires, whose rude strains sometimes disturbed the peace of an illiterate city. The author was beaten with clubs, a worthy chastisement, but it is not certain that he was left to expire under the blows of the executioner.<sup>182</sup> 8. The nocturnal mischief of damaging or destroying a neighbour's corn. The criminal was suspended as a grateful victim to Ceres. But the sylvan deities were less implacable, and the extirpation of a more valuable tree was compensated by the moderate fine of twenty-five pounds of copper. 9. Magical incantations; which had power, in the opinion of the Latin shepherds, to exhaust the strength of an enemy, to extinguish his life, and to remove from their seats his deep-rooted plantations. The cruelty of the Twelve Tables against insolvent debtors still remains to be told; and I shall dare to prefer the literal sense of antiquity to the specious refinements of modern criticism.<sup>183</sup> After the judicial proof or confession of the debt, thirty days of grace were allowed before a Roman was delivered into the power of his fellow-citizen. In this private prison, twelve ounces of rice were his daily food; he might be bound with a chain of fifteen pounds' weight; and his misery was thrice exposed in the market-place to solicit the compassion of his friends and countrymen. At the expiration of thirty days, the debt was discharged by the loss of liberty or life; the insolvent debtor was either put to death or sold in foreign slavery beyond the Tiber; but, if several creditors were alike obstinate and unrelenting, they

<sup>182</sup> Horace talks of the *formidine fustis* (l. ii. epist. ii. [*leg. i.*] 154); but Cicero (*de Republicâ*, l. iv. apud Augustin. *de Civitat. Dei*, ix. 6, in *Fragment. Philosoph.* tom. iii. p. 393, edit. Olivet) affirms that the *decemvirs* made libels a capital offence: *cum perpauca res capite sanxissent — perpauca!*

<sup>183</sup> Bynkershoek (*Observat. Juris Rom.* l. i. c. 1, in *Opp.* tom. i. p. 9, 10, 11) labours to prove that the creditors divided not the *body*, but the *price*, of the insolvent debtor. Yet his interpretation is one perpetual harsh metaphor; nor can he surmount the Roman authorities of Quintilian, Cæcilius, Favonius, Tertullian. See Aulus Gellius, *Noct. Attic.* xx. 1.

might legally dismember his body, and satiate their revenge by this horrid partition. The advocates for this savage law have insisted that it must strongly operate in deterring idleness and fraud from contracting debts which they were unable to discharge; but experience would dissipate this salutary terror, by proving that no creditor could be found to exact this unprofitable penalty of life or limb. As the manners of Rome were insensibly polished, the criminal code of the decemvirs was abolished by the humanity of accusers, witnesses, and judges; and impunity became the consequence of immoderate rigour. The Porcian and Valerian laws prohibited the magistrates from inflicting on a free citizen any capital, or even corporal, punishment; and the obsolete statutes of blood were artfully, and perhaps truly, ascribed to the spirit, not of patrician, but of regal, tyranny.

In the absence of penal laws and the insufficiency of civil actions, the peace and justice of the city were imperfectly maintained by the private jurisdiction of the citizens. The malefactors who replenish our gaols are the outcasts of society, and the crimes for which they suffer may be commonly ascribed to ignorance, poverty, and brutal appetite. For the perpetration of similar enormities, a vile plebeian might claim and abuse the sacred character of a member of the republic; but, on the proof or suspicion of guilt, the slave or the stranger was nailed to a cross, and this strict and summary justice might be exercised without restraint over the greatest part of the populace of Rome. Each family contained a domestic tribunal, which was not confined, like that of the prætor, to the cognisance of external actions; virtuous principles and habits were inculcated by the discipline of education; and the Roman father was accountable to the state for the manners of his children, since he disposed, without appeal, of their life, their liberty, and their inheritance. In some pressing emergencies, the citizen was authorised to avenge his private or public wrongs. The consent of the Jewish, the Athenian, and the Roman laws

approved the slaughter of the nocturnal thief; though in open daylight a robber could not be slain without some previous evidence of danger and complaint. Whoever surprised an adulterer in his nuptial bed might freely exercise his revenge;<sup>184</sup> the most bloody or wanton outrage was excused by the provocation;<sup>185</sup> nor was it before the reign of Augustus that the husband was reduced to weigh the rank of the offender, or that the parent was condemned to sacrifice his daughter with her guilty seducer. After the expulsion of the kings, the ambitious Roman who should dare to assume their title or imitate their tyranny was devoted to the infernal gods; each of his fellow-citizens was armed with a sword of justice; and the act of Brutus, however repugnant to gratitude or prudence, had been already sanctified by the judgment of his country.<sup>186</sup> The barbarous practice of wearing arms in the midst of peace,<sup>187</sup> and the bloody maxims of honour, were unknown to the Romans; and, during the two purest ages, from the establishment of equal freedom to the end of the Punic wars, the city was never disturbed by sedition, and rarely polluted with atrocious crimes. The failure of penal laws was more sensibly felt when every vice was inflamed by faction at home and dominion abroad. In the time of Cicero,

<sup>184</sup> The first speech of Lysias (Reiske, Orator. Græc. tom. v. p. 2-48) is in defence of an husband who had killed the adulterer. The right of husbands and fathers at Rome and Athens is discussed with much learning by Dr. Taylor (Lectiones Lysiacæ, c. ix. in Reiske, tom. vi. p. 301-308).

<sup>185</sup> See Casaubon ad Athenæum, l. i. c. 5, p. 19. Percurrent raphanique mugilesque (Catull. p. 41, 42, edit. Vossian. [15, 18]). Hunc mugilis intrat (Juvenal Satir. x. 317). Hunc perminxere calones (Horat. l. i. Satir. ii. 44); familiæ stuprandum dedit [leg. obiecit] . . . fraudi non fuit (Val. Maxim. l. vi. c. 1, No. 13).

<sup>186</sup> This law is noticed by Livy (ii. 8), and Plutarch (in Publicolâ, tom. i. p. 187 [c. 12]); and it fully justifies the public opinion on the death of Cæsar, which Suetonius could publish under the Imperial government. Jure cæsus existimatur (in Julio, c. 76). Read the letters that passed between Cicero and Matius a few months after the ides of March (ad Fam. xi. 27, 28).

<sup>187</sup> Πρώτοι δὲ Ἀθηναῖοι τὸν τε σιδηρὸν κατέθεντο. Thucyd. l. i. c. 6. The historian who considers this circumstance as the test of civilisation would disdain the barbarism of an European court.

each private citizen enjoyed the privilege of anarchy; each minister of the republic was exalted to the temptations of regal power; and their virtues are entitled to the warmest praise as the spontaneous fruits of nature or philosophy. After a triennial indulgence of lust, rapine, and cruelty, Verres, the tyrant of Sicily, could only be sued for the pecuniary restitution of three hundred thousand pounds sterling; and such was the temper of the laws, the judges, and perhaps the accuser himself,<sup>188</sup> that, on refunding a thirteenth part of his plunder, Verres could retire to an easy and luxurious exile.<sup>189</sup>

The first imperfect attempt to restore the proportion of crimes and punishments was made by the dictator Sylla, who, in the midst of his sanguinary triumph, aspired to restrain the licence, rather than to oppress the liberty, of the Romans. He gloried in the arbitrary proscription of four thousand seven hundred citizens.<sup>190</sup> But in the character of a legislator he respected the prejudices of the times; and, instead of pronouncing a sentence of death against the robber or assassin, the general who betrayed an army, or the magistrate who ruined a province, Sylla was content to aggravate the pecuniary damages by the penalty of exile, or, in more constitutional language, by the interdiction of fire and water. The Cornelian, and afterwards the Pompeian and Julian

<sup>188</sup> He first rated at *millies* (800,000l.) the damages of Sicily (*Divinatio in Cæcilium*, c. 5), which he afterwards reduced to *quadringsenties* (320,000l.) — (1 *Actio in Verrem*, c. 18), and was finally content with *tricies* (24,000l.). Plutarch (in *Ciceron*, tom. iii. p. 1584) has not dissembled the popular suspicion and report.

<sup>189</sup> Verres lived near thirty years after his trial, till the second triumvirate, when he was proscribed by the taste of Mark Antony for the sake of his Corinthian plate (*Plin. Hist. Natur.* xxxiv. 3).

<sup>190</sup> Such is the number assigned by Valerius Maximus (l. ix. c. 2, No. 1). Florus (iv. 21 [*leg.* iii. 21 (=ii. 9)]) distinguishes 2000 senators and knights. Appian (*de Bell. Civil.* l. i. c. 95, tom. ii. p. 133, edit. Schweighäuser) more accurately computes 40 victims of the senatorian rank, and 1600 of the equestrian census or order.

laws introduced a new system of criminal jurisprudence;<sup>191</sup> and the emperors, from Augustus to Justinian, disguised their increasing rigour under the names of the original authors. But the invention and frequent use of *extraordinary pains* proceeded from the desire to extend and conceal the progress of despotism. In the condemnation of illustrious Romans the senate was always prepared to confound, at the will of their masters, the judicial and legislative powers. It was the duty of the governors to maintain the peace of their province by the arbitrary and rigid administration of justice; the freedom of the city evaporated in the extent of empire, and the Spanish malefactor who claimed the privilege of a Roman was elevated by the command of Galba on a fairer and more lofty cross.<sup>192</sup> Occasional rescripts issued from the throne to decide the questions which, by their novelty or importance, appeared to surpass the authority and discernment of a proconsul. Transportation and beheading were reserved for honourable persons; meaner criminals were either hanged or burnt, or buried in the mines, or exposed to the wild beasts of the amphitheatre. Armed robbers were pursued and extirpated as the enemies of society; the driving away horses or cattle was made a capital offence;<sup>193</sup> but simple theft was

<sup>191</sup> For the penal laws (*leges Corneliæ, Pompeiæ, Juliæ, of Sylla, Pompey, and the Cæsars*), see the sentences of Paulus (l. iv. tit. xviii.—xxx. p. 497–528, edit. Schulting), the Gregorian Code (Fragment, l. xix. p. 705, 706, in Schulting), the *Collatio Legum Mosaicarum et Romanarum* (tit. i. xv.), the Theodosian Code (l. ix.), the Code of Justinian (l. ix.), the Pandects (xlvi.), the Institutes (l. iv. tit. xviii.), and the Greek version of Theophilus (p. 917–926).

<sup>192</sup> It was a guardian who had poisoned his ward. The crime was atrocious; yet the punishment is reckoned by Suetonius (c. 9) among the acts in which Galba shewed himself *acer vehemens, et in delictis coercendis immodicus*.

<sup>193</sup> The *abactores*, or *abigeatores*, who drove one horse, or two mares or oxen, or five hogs, or ten goats, were subject to capital punishment (Paul. Sentent. Recept. l. iv. tit. xviii. p. 497, 498). Hadrian (*ad Concil. Bæticæ*), most severe where the offence was most frequent, condemns the criminals, *ad gladium, ludi damnationem* (Ulpian, *de Officio Proconsulis*, l. viii. in *Collatione Legum Mosaic. et Rom. tit. xi. p. 235*).

uniformly considered as a mere civil and private injury. The degrees of guilt and the modes of punishment were too often determined by the discretion of the rulers, and the subject was left in ignorance of the legal danger which he might incur by every action of his life.

A sin, a vice, a crime, are the objects of theology, ethics, and jurisprudence. Whenever their judgments agree, they corroborate each other; but, as often as they differ, a prudent legislator appreciates the guilt and punishment according to the measure of social injury. On this principle, the most daring attack on the life and property of a private citizen is judged less atrocious than the crime of treason or rebellion, which invades the *majesty* of the republic; the obsequious civilians unanimously pronounced that the republic is contained in the person of its chief; and the edge of the Julian law was sharpened by the incessant diligence of the emperors. The licentious commerce of the sexes may be tolerated as an impulse of nature, or forbidden as a source of disorder and corruption; but the fame, the fortunes, the family of the husband are seriously injured by the adultery of the wife. The wisdom of Augustus, after curbing the freedom of revenge, applied to this domestic offence the animadversion of the laws; and the guilty parties, after the payment of heavy forfeitures and fines, were condemned to long or perpetual exile in two separate islands.<sup>194</sup> Religion pronounces an equal censure against the infidelity of the husband; but, as it is not accompanied by the same civil effects, the wife was never permitted to vindicate her wrongs;<sup>195</sup> and the dis-

<sup>194</sup> Till the publication of the Julius Paulus of Schulting (l. ii. tit. xxvi. p. 317-323), it was affirmed and believed that the Julian laws punished adultery with death; and the mistake arose from the fraud or error of Tribonian. Yet Lipsius had suspected the truth from the narratives of Tacitus (Annal. ii. 50, iii. 24, iv. 42), and even from the practice of Augustus, who distinguished the *treasonable* frailties of his female kindred.

<sup>195</sup> In cases of adultery, Severus confined to the husband the right of public accusation (Cod. Justinian, l. ix. tit. ix. leg. 1). Nor is this privilege unjust — so different are the effects of male or female infidelity.

tion of simple or double adultery, so familiar and so important in the canon law, is unknown to the jurisprudence of the Code and Pandects. I touch with reluctance, and despatch with impatience, a more odious vice, of which modesty rejects the name, and nature abominates the idea. The primitive Romans were infected by the example of the Etruscans<sup>196</sup> and Greeks;<sup>197</sup> in the mad abuse of prosperity and power, every pleasure that is innocent was deemed insipid; and the Scatinian law,<sup>198</sup> which had been extorted by an act of violence, was insensibly abolished by the lapse of time and the multitude of criminals. By this law, the rape, perhaps the seduction, of an ingenuous youth was compensated, as a personal injury, by the poor damages of ten thousand sesterces, or fourscore pounds; the ravisher might be slain by the resistance or revenge of chastity; and I wish to believe that at Rome, as in Athens, the voluntary and effeminate deserter of his sex was degraded from the honours and the rights of a citizen.<sup>199</sup> But the practice of vice was not discouraged by the severity of opinion; the indelible stain of manhood was confounded with the more venial transgressions of fornication and adultery; nor was the licentious lover exposed to the same dishonour which he impressed on the male or female partner of his guilt. From

<sup>196</sup> Timon [*leg.* Timæus] (l. i.) and Theopompus (l. xliii. apud Athenæum, l. xii. p. 517 [c. 14]) describe the luxury and lust of the Etruscans: *πολὸ μέτροι γε χαίρουσι συνόντες τοῖς παισὶ καὶ τοῖς μειρακίοις*. About the same period (A. U. C. 445), the Roman youth studied in Etruria (Liv. ix. 36).

<sup>197</sup> The Persians had been corrupted in the same school: *ἀπ' Ἑλλήνων μαθόντες παισὶ μισγόνται* (Herodot. l. i. c. 135). A curious dissertation might be formed on the introduction of pæderasty after the time of Homer, its progress among the Greeks of Asia and Europe, the vehemence of their passions, and the thin device of virtue and friendship which amused the philosophers of Athens. But, *scelera ostendi oportet dum puniuntur, abscondi flagitia*.

<sup>198</sup> The name, the date, and the provisions of this law are equally doubtful (Gravina, *Opp.* p. 432, 433. Heineccius, *Hist. Jur. Rom.* No. 108. Ernesti, *Clav. Ciceron.* in *Indice Legum*). But I will observe that the *nefanda* Venus of the honest German is styled *aversa* by the more polite Italian.

<sup>199</sup> See the oration of Æschines against the catamite Timarchus (in Reiske, *Orator. Græc.* tom. iii. p. 21-184).

Catullus to Juvenal,<sup>200</sup> the poets accuse and celebrate the degeneracy of the times, and the reformation of manners was feebly attempted by the reason and authority of the civilians, till the most virtuous of the Cæsars proscribed the sin against nature as a crime against society.<sup>201</sup>

A new spirit of legislation, respectable even in its error, arose in the empire with the religion of Constantine.<sup>202</sup> The laws of Moses were received as the divine original of justice, and the Christian princes adapted their penal statutes to the degrees of moral and religious turpitude. Adultery was first declared to be a capital offence; the frailty of the sexes was assimilated to poison or assassination, to sorcery or parricide; the same penalties were inflicted on the passive and active guilt of pæderasty; and all criminals of free and servile condition were either drowned or beheaded, or cast alive into the avenging flames. The adulterers were spared by the common sympathy of mankind; but the lovers of their own sex were pursued by general and pious indignation; the impure manners of Greece still prevailed in the cities of Asia, and every vice was fomented by the celibacy of the monks and clergy. Justinian relaxed the punishment at least of female infidelity; the guilty spouse was only condemned to solitude and penance, and at the end of two years she might be recalled to the arms of a forgiving husband. But the same

<sup>200</sup> A crowd of disgraceful passages will force themselves on the memory of the classic reader: I will only remind him of the cool declaration of Ovid:

Odi concubitus qui non utrumque resolvunt.

Hoc est quod puerum tangar amore *minus*.

<sup>201</sup> Ælius Lampridius, in Vit. Heliogabal., in Hist. August. p. 112 [xvii. 32, 6]. Aurelius Victor, in Philippo [*Caes.*, 28], Codex Theodos. l. ix. tit. vii. leg. 7 [leg. 6; A.D. 390], and Godefroy's Commentary, tom. iii. p. 63. Theodosius abolished the subterraneous brothels of Rome, in which the prostitution of both sexes was acted with impunity.

<sup>202</sup> See the laws of Constantine and his successors against adultery, sodomy, &c. in the Theodosian (l. ix. tit. vii. leg. 7; l. xi. tit. xxxvi. leg. 1, 4), and Justinian Codes (l. ix. tit. ix. leg. 30, 31). These princes speak the language of passion as well as of justice, and fraudulently ascribe their own severity to the first Cæsars.

emperor declared himself the implacable enemy of unmanly lust, and the cruelty of his persecution can scarcely be excused by the purity of his motives.<sup>203</sup> In defiance of every principle of justice, he stretched to past as well as future offences the operations of his edicts, with the previous allowance of a short respite for confession and pardon. A painful death was inflicted by the amputation of the sinful instrument, or the insertion of sharp reeds into the pores and tubes of most exquisite sensibility; and Justinian defended the propriety of the execution, since the criminals would have lost their hands, had they been convicted of sacrilege. In this state of disgrace and agony, two bishops, Isaiah of Rhodes and Alexander of Diospolis, were dragged through the streets of Constantinople, while their brethren were admonished, by the voice of a crier, to observe this awful lesson, and not to pollute the sanctity of their character. Perhaps these prelates were innocent. A sentence of death and infamy was often founded on the slight and suspicious evidence of a child or a servant; the guilt of the green faction, of the rich, and of the enemies of Theodora was presumed by the judges, and pæderasty became the crime of those to whom no crime could be imputed. A French philosopher<sup>204</sup> has dared to remark that whatever is secret must be doubtful, and that our natural horror of vice may be abused as an engine of tyranny. But the favourable persuasion of the same writer, that a legislator may confide in the taste and reason of mankind, is impeached by the unwelcome discovery of the antiquity and extent of the disease.<sup>205</sup>

<sup>203</sup> Justinian, *Novel. lxxvii. cxxxiv. cxli.* Procopius, in *Anecdot. c. 11, 16*, with the *Notes of Alemannus.* Theophanes, p. 151 [A.M. 6021]. Cedrenus, p. 368 [i. p. 645, ed. Bonn]. Zonaras, l. xiv. p. 64 [c. 7].

<sup>204</sup> Montesquieu, *Esprit des Loix*, l. xii. c. 6. That eloquent philosopher conciliates the rights of liberty and of nature, which should never be placed in opposition to each other.

<sup>205</sup> For the corruption of Palestine, 2000 years before the Christian era, see the history and laws of Moses. Ancient Gaul is stigmatised by Diodorus Siculus (tom. i. l. v. p. 356 [c. 32]), China by the Mahometan and Christian

The free citizens of Athens and Rome enjoyed, in all criminal cases, the invaluable privilege of being tried by their country.<sup>208</sup> 1. The administration of justice is the most ancient office of a prince: it was exercised by the Roman kings, and abused by Tarquin; who alone, without law or council, pronounced his arbitrary judgments. The first consuls succeeded to this regal prerogative; but the sacred right of appeal soon abolished the jurisdiction of the magistrates, and all public causes were decided by the supreme tribunal of the people. But a wild democracy, superior to the forms, too often disdains the essential principles, of justice: the pride of despotism was envenomed by plebeian envy, and the heroes of Athens might sometimes applaud the happiness of the Persian, whose fate depended on the caprice of a *single* tyrant. Some salutary restraints, imposed by the people on their own passions, were at once the cause and effect of the gravity and temperance of the Romans. The right of accusation was confined to the magistrates. A vote of the thirty-five tribes could inflict a fine; but the cognisance of all capital crimes was reserved by a fundamental law to the assembly of the centuries, in which the weight of influence and property was sure to preponderate. Repeated proclamations and adjournments were interposed to allow time for prejudice and resentment to subside; the whole proceeding might be annulled by a seasonable omen, or the opposition of a tribune; and such popular trials were commonly less formidable to innocence than they were favourable to guilt. But this union of the judicial and

travellers (Ancient Relations of India and China, p. 34), translated by Renaudot, and his bitter critic the Père Premare, Lettres Edifiantes (tom. xix. p. 435), and native America by the Spanish historians (Garcilasso de la Vega, l. iii. c. 13, Rycaut's translation; and Dictionnaire de Bayle, tom. iii. p. 88). I believe, and hope, that the negroes, in their own country, were exempt from this moral pestilence.

<sup>208</sup> The important subject of the public questions and judgments at Rome is explained with much learning, and in a classic style, by Charles Sigonius (l. iii. de Judiciis, in Opp. tom. iii. 679-864); and a good abridgment may

legislative powers left it doubtful whether the accused party was pardoned or acquitted; and, in the defence of an illustrious client, the orators of Rome and Athens address their arguments to the policy and benevolence, as well as to the justice, of their sovereign. 2. The task of convening the citizens for the trial of each offender became more difficult, as the citizens and the offenders continually multiplied; and the ready expedient was adopted of delegating the jurisdiction of the people to the ordinary magistrates, or to extraordinary *inquisitors*. In the first ages these questions were rare and occasional. In the beginning of the seventh century of Rome they were made perpetual: four prætors were annually empowered to sit in judgment on the state offences of treason, extortion, peculation, and bribery; and Sylla added new prætors and new questions for those crimes which more directly injure the safety of individuals. By these *inquisitors* the trial was prepared and directed; but they could only pronounce the sentence of the majority of *judges*, who, with some truth and more prejudice, have been compared to the English juries.<sup>207</sup> To discharge this important though burthensome office, an annual list of ancient and respectable citizens was formed by the prætor. After many constitutional struggles, they were chosen in equal numbers from the senate, the equestrian order, and the people; four hundred and fifty were appointed for single questions; and the various rolls or *decuries* of judges must have contained the names of some thousand Romans, who represented the judicial authority of the state. In each particular cause, a sufficient number was drawn from the urn; their integ-

be found in the République Romaine of Beaufort (tom. ii. l. v. p. 1-121). Those who wish for more abstruse law may study Noodt (de Jurisdictione et Imperio Libri duo tom. i. p. 93-134), Heineccius (ad Pandect. l. i. et ii. ad Institut. l. iv. tit. xvii. Element. ad Antiquitat.), and Gravina (Opp. 230-251).

<sup>207</sup> The office, both at Rome and in England, must be considered as an occasional duty, and not a magistracy or profession. But the obligation of an unanimous verdict is peculiar to our laws, which condemn the jurymen to undergo the torture from whence they have exempted the criminal.

rity was guarded by an oath; the mode of ballot secured their independence; the suspicion of partiality was removed by the mutual challenges of the accuser and defendant; and the judges of Milo, by the retrenchment of fifteen on each side, were reduced to fifty-one voices or tablets, of acquittal, of condemnation, or of favourable doubt.<sup>208</sup> 3. In his civil jurisdiction, the prætor of the city was truly a judge, and almost a legislator; but, as soon as he had prescribed the action of law, he often referred to a delegate the determination of the fact. With the increase of legal proceedings, the tribunal of the centumvirs, in which he presided, acquired more weight and reputation. But, whether he acted alone or with the advice of his council, the most absolute powers might be trusted to a magistrate who was annually chosen by the votes of the people. The rules and precautions of freedom have required some explanation; the order of despotism is simple and inanimate. Before the age of Justinian, or perhaps of Diocletian, the decuries of Roman judges had sunk to an empty title: the humble advice of the assessors might be accepted or despised; and in each tribunal the civil and criminal jurisdiction was administered by a single magistrate, who was raised and disgraced by the will of the emperor.

A Roman accused of any capital crime might prevent the sentence of the law by voluntary exile, or death. Till his guilt had been legally proved, his innocence was presumed, and his person was free: till the votes of the last *century* had been counted and declared, he might peaceably secede to any of the allied cities of Italy, or Greece, or Asia.<sup>209</sup> His fame and fortunes were preserved, at least to his children, by this

<sup>208</sup> We are indebted for this interesting fact to a fragment of Asconius Pedianus, who flourished under the reign of Tiberius. The loss of his Commentaries on the Orations of Cicero has deprived us of a valuable fund of historical and legal knowledge.

<sup>209</sup> Polyb. l. vi. p. 643 [c. 14]. The extension of the empire and *city* of Rome obliged the exile to seek a more distant place of retirement.

civil death; and he might still be happy in every rational and sensual enjoyment, if a mind accustomed to the ambitious tumult of Rome could support the uniformity and silence of Rhodes or Athens. A bolder effort was required to escape from the tyranny of the Cæsars; but this effort was rendered familiar by the maxims of the stoics, the example of the bravest Romans, and the legal encouragements of suicide. The bodies of condemned criminals were exposed to public ignominy, and their children, a more serious evil, were reduced to poverty by the confiscation of their fortunes. But, if the victims of Tiberius and Nero anticipated the decree of the prince or senate, their courage and despatch were recompensed by the applause of the public, the decent honours of burial, and the validity of their testaments.<sup>210</sup> The exquisite avarice and cruelty of Domitian appears to have deprived the unfortunate of this last consolation, and it was still denied even by the clemency of the Antonines. A voluntary death, which, in the case of a capital offence, intervened between the accusation and the sentence, was admitted as a confession of guilt, and the spoils of the deceased were seized by the inhuman claims of the treasury.<sup>211</sup> Yet the civilians have always respected the natural right of a citizen to dispose of his life; and the posthumous disgrace invented by Tarquin<sup>212</sup> to check the despair of his subjects was never revived or imitated by succeeding tyrants. The powers of this world have indeed lost their dominion over him who is resolved on death; and his arm can only be

<sup>210</sup> Qui de se statuebant, humabantur corpora, manebant testamenta; pretium festinandi. Tacit. Annal. vi. 25 [*leg.* 29], with the notes of Lipsius.

<sup>211</sup> Julius Paulus (Sentent. Recept. l. v. tit. xii. p. 476), the Pandects (l. xlviii. tit. xxi.), the Code (l. ix. tit. 1), Bynkershoek (tom. i. p. 59. Observat. J. C. R. iv. 4), and Montesquieu (Esprit des Loix, l. xxix. c. 9) define the civil limitations of the liberty and privileges of suicide. The criminal penalties are the production of a later and darker age.

<sup>212</sup> Plin. Hist. Natur. xxxvi. 24. When he fatigued his subjects in building the Capitol, many of the labourers were provoked to despatch themselves; he nailed their dead bodies to crosses.

restrained by the religious apprehension of a future state. Suicides are enumerated by Virgil among the unfortunate rather than the guilty;<sup>218</sup> and the poetical fables of the infernal shades could not seriously influence the faith or practice of mankind. But the precepts of the Gospel, or the church, have at length imposed a pious servitude on the minds of Christians, and condemn them to expect, without a murmur, the last stroke of disease or the executioner.

The penal statutes form a very small proportion of the sixty-two books of the Code and Pandects; and, in all judicial proceeding, the life or death of a citizen is determined with less caution and delay than the most ordinary question of covenant or inheritance. This singular distinction, though something may be allowed for the urgent necessity of defending the peace of society, is derived from the nature of criminal and civil jurisprudence. Our duties to the state are simple and uniform; the law by which he is condemned is inscribed not only on brass and marble but on the conscience of the offender, and his guilt is commonly proved by the testimony of a single fact. But our relations to each other are various and infinite: our obligations are created, annulled, and modified by injuries, benefits, and promises; and the interpretation of voluntary contracts and testaments, which are often dictated by fraud or ignorance, affords a long and laborious exercise to the sagacity of the judge. The business of life is multiplied by the extent of commerce and dominion, and the residence of the parties in the distant provinces of an empire is productive of doubt, delay, and inevitable appeals from the local to the supreme magistrate. Justinian, the Greek emperor of Constantinople and the East, was the legal successor of the Latian shepherd who had planted a colony on the banks of the Tiber.

<sup>211</sup> The sole resemblance of a violent and premature death has engaged Virgil (*Æneid*, vi. 434-439) to confound suicides with infants, lovers, and persons unjustly condemned. Heyne, the best of his editors, is at a loss to deduce the idea, or ascertain the jurisprudence, of the Roman poet.

In a period of thirteen hundred years, the laws had reluctantly followed the changes of government and manners; and the laudable desire of conciliating ancient names with recent institutions destroyed the harmony, and swelled the magnitude, of the obscure and irregular system. The laws which excuse on any occasion the ignorance of their subjects confess their own imperfections; the civil jurisprudence, as it was abridged by Justinian, still continued a mysterious science and a profitable trade, and the innate perplexity of the study was involved in tenfold darkness by the private industry of the practitioners. The expense of the pursuit sometimes exceeded the value of the prize, and the fairest rights were abandoned by the poverty or prudence of the claimants. Such costly justice might tend to abate the spirit of litigation, but the unequal pressure serves only to increase the influence of the rich and to aggravate the misery of the poor. By these dilatory and expensive proceedings, the wealthy pleader obtains a more certain advantage than he could hope from the accidental corruption of his judge. The experience of an abuse from which our own age and country are not perfectly exempt may sometimes provoke a generous indignation, and extort the hasty wish of exchanging our elaborate jurisprudence for the simple and summary decrees of a Turkish cadhi. Our calmer reflection will suggest that such forms and delay are necessary to guard the person and property of the citizen, that the discretion of the judge is the first engine of tyranny, and that the laws of a free people should foresee and determine every question that may probably arise in the exercise of power and the transactions of industry. But the government of Justinian united the evils of liberty and servitude; and the Romans were oppressed at the same time by the multiplicity of their laws and the arbitrary will of their master.

## APPENDIX

### ADDITIONAL NOTES BY THE EDITOR

#### I. JUSTINIAN'S POSITION IN JUSTIN'S REIGN — (P. 4, 5)

Procopius in his *Secret History* ascribes to Justinian supreme influence in political affairs during the whole reign of his uncle Justin, and even dates the beginning of Justinian's rule from A.D. 518, as has been shown by Haury (Procopiana, 1891). In this connection it may be pointed out that the Codex Ambrosianus, G. 14 sup. (=Cod. Pinellianus) preserves in c. 19 a notice which does not occur in the MSS. on which the text of Alemannus is based. It is given by M. Krashennikov in a paper on the MSS. of the Secret History (in *Viz. Vremenn.* ii. p. 421). After the words *διακοσία και τρισχίλια χρυσού κεντηνάρια* the original text of Procopius proceeded: *ἐν δημοσίῳ ἀπολιπεῖν ἐπὶ μέντοι Ἰουστίνου ἕτη ἑννέα τὴν αὐτοκράτορα ἀρχὴν ἔχοντος τούτου Ἰουστινιανοῦ ξήγχυσιν τε καὶ ἀκομίαν τῇ πολιτείᾳ προστριψαμένου τετρακισχίλια κεντηνάρια κ. τ. λ.*

Panchenko (*Viz. Vrem.* iii. p. 104) calls attention to the statement of Leontius of Byzantium (cp. Loofs, *Leontius*, p. 146; Migne, P.G. 86, 1229): *ἀποθανόντος δὲ Ἀναστασίου γίνεταί βασιλεὺς Ἰουστίνος ὁ πρῶτος καὶ ὡς μετὰ ἔνα ἡμῖσιν ἐνιαυτὸν εὐθέως Ἰουστινιανὸς τούτου δὲ βασιλεύοντος . . . ὁ Σεβήρος φεύγει εἰς τὴν Ἀλεξάνδρειαν.* Does the date refer to the position of Justinian after the death of Vitalian, A.D. 520?

In regard to the death of Vitalian, it has been urged for Justinian that his guilt rests on the evidence of the Secret History, Evagrius, and Victor Tonn; that Victor does not vouch himself for the charge against Justinian (his words are: *Justiniani patricii factione dicitur interfectus esse*), and that Evagrius derived his information from the Secret History; thus the statements of the Secret History would be practically unsupported. See Loofs, *Leontius von Byzanz*, p. 259. There is no proof, however, that Evagrius knew the Secret History; it is certain that Vitalian was slain *in the Palace* (John Malal., p. 412); and we may, with Panchenko (*Viz. Vrem.* iii. p. 102), ascribe some slight weight to the principle *res profuit*.

#### 2. THE DEMES OF CONSTANTINOPLE — (P. 20)

The view of Gibbon that the popular dissensions of the *demes* (δημοί) or *parties* (μέρη) which distracted Constantinople, Antioch, and other cities of the East in the sixth century had their root and origin in the exuberant licence of the hippodrome; that the acts and demonstrations of the Greens and Blues were purely wanton outbreaks of a dissolute populace; that the four *demes* had no significance except in connection with the races of the hippodrome; this view has held its ground till the other day, though it is open to serious and by no means recondite objections. The brilliance of Gibbon's

exposition has probably helped to maintain it. The French historian and politician, M. A. Rambaud, wrote a thesis to prove that the "parties" were merely factions of the hippodrome τὰ μέρη (*nihil nisi hippicas fuisse factiones, op. cit. infra*). But on this view the name δῆμοι is quite inexplicable, and the part played by the Blues and Greens (with the Reds and Whites, who were submerged in them respectively as integral subdivisions) in the Ceremonies of the Imperial Court as described by Constantine Porphyrogenetos (in the *De Cerimoniis*) points to a completely different conclusion. These considerations led Th. Uspenski to the right view of the demes as organised divisions of the population. He worked out this view in a paper in the *Vizant. Vremennik* (Partii Tsirka i dimy v Konstantinopolie), vol. i. p. 1-16. The data of Constantine's Book of Ceremonies show that the demes were divided into civil and military parts, which were called respectively *Political* and *Peratic*. The *Political* divisions were under demarchs; while the *Peratic* were subject to *democrats*. The democrat of the Blues was the Domestic of the Scholæ; the democrat of the Greens was the Domestic of the Excubiti; and this circumstance proves the original military significance of the Peratics. That the demes had an organisation for military purposes comes out repeatedly in the history of the sixth century. For example, the Emperor Maurice on one occasion "ordered the demes (τοὺς δῆμους) to guard the Long Walls."<sup>1</sup> The Emperor Justinian, when the inhabitants of the country near Constantinople fled into the city before the invasion of Zabergan, is said to have "enrolled many in the demes,"<sup>2</sup> and sent them to the Long Wall. It is highly probable that the dissatisfaction of the people of Constantinople with the Emperor Maurice (against whom *both Blues and Greens* combined, although they were divided on the question of his successor) was due to his imposing upon them increased military duties.

The political significance of the demes is unmistakable in such a passage as Theophanes' notice of the accession of Justin (p. 165, ed. de Boor): ὁ δὲ στρατὸς καὶ οἱ δῆμοι οὐχ εἰλαγτο Θεόκριτον βασιλεῦσαι, ἀλλ' Ἰουστίνον ἀνεκήρυξαν. Here there can be no question of mere Hippodrome-factions. The true importance of the Demes has been recognised by H. Gelzer, who suggests a comparison with the Macedonian Ecclesia of Alexandria under the elder Ptolemies.<sup>3</sup> The Deme organisation represents a survival of the old Greek *polis*.

But the problem how the Demes came to be connected with the colours of the circus has still to be solved. We have no clew when or why the Reds and Whites, which were important in Old Rome, came to be lost in the Blues and Greens. In the sixth century the outbreaks of the demes represent a last struggle for municipal independence, on which it is the policy of imperial absolutism to encroach. The power of the demarchs has to give way to the control of the Prefects of the City. We are ignorant when the Peratics were organised separately and placed under the control of the Domestics of the Guards. M. Uspenski guesses that this change may have been contemporaneous with the first organisation of the Theme-system (p. 16).

[Literature: Wilcken, Ueber die Partheyen der Rennbahn, in the *Abh. of the Berlin Acad.*, 1827; Rambaud, *De Byzantino hippodromo et circensibus factionibus*, 1870; cp. Friedländer, *Sittengeschichte*, vol. 2. Uspenski, *op. cit.*]

<sup>1</sup> Theophanes, p. 254, ed. de Boor.

<sup>2</sup> δῆμότευσε πολλούς. I feel no doubt that this explanation of Uspenski (p. 14) is correct.

<sup>3</sup> In Krumbacher's *Gesch. der byz. Litteratur*, ed. 2, p. 930.

## 3. THE NIKA RIOT

Gibbon does not distinguish the days on which the various events of the Nika riot took place, and he has fallen into some errors. Thus, like most other historians, he places the celebrated dialogue between Justinian and the Greens on the Ides of January, whereas it took place two days before. The extrication of the order of events from our various sources is attended with some difficulty. The following diary is based on a study of the subject contributed by me to the *Journal of Hellenic Studies*, 1897.

Sunday, Jan. 11 ("Ἄκρα διὰ Καλαπόδιον"). The Greens complain in the Hippodrome to the Emperor of the conduct of Calapodius. Dialogue of Justinian with the Greens (described by Theophanes). The Greens leave the Hippodrome.

In the evening a number of criminals, both Blues and Greens, are executed by the Prefect of the City. This execution was doubtless a consequence of the scene in the Hippodrome, being designed to display the Emperor's impartiality to Blues and Greens alike.

A Blue and a Green are rescued and taken to the Asylum of St. Laurentius.

Monday, Jan. 12. The interval of a day gives the two factions time to concert joint action for obtaining the pardon of the two rescued criminals.

Tuesday, Jan. 13. Great celebration of horse-races in the Hippodrome (for which the races of Sunday were a sort of rehearsal). Both Demes appeal to the Emperor for mercy in vain. They then declare their union openly (as the *Prasinoveneti* or Green-Blues).

In the evening they go in a crowd to the Prefect of the City and make a new demand for a reprieve. Receiving no answer they attack the Prætorium and set it on fire; prisoners in the Prætorium prison are let out.

The rioters then march to the Augusteum to attack the Palace. There are conflagrations during the night and ensuing day, and the following buildings are destroyed: the Chalkê or portico of Palace, the Baths of Zeuxippus, the Senatehouse of the Augusteum, the Church of St. Sophia. This is the *first* conflagration.

Wednesday, Jan. 14. The riot, which had begun with a demand for a reprieve, now develops into an insurrection against the oppression of the administration. The outcry is directed especially against John the Cappadocian, Tribonian, and Eudaemon (Pref. of the City). Justinian yields to the pressure and deposes these ministers. But it is too late; the insurgents are determined to depose him, and the idea is to set in his place a member of the house of Anastasius. As Hypatius and Pompeius were in the Palace the people rush to the house of their brother Probus. But Probus is not found, and they set fire to his house.

Thursday, Jan. 15. Belisarius, at the head of a band of Heruls and Goths, issues from the Palace and attacks the mob. Fighting in the streets. It was, perhaps, on this day that the clergy intervened.

Friday, Jan. 16. A new attack is made on the Prætorium. Fighting in the streets continues, and a *second* conflagration breaks out in the quarter north of S. Irene and the Hostel of Eubulus. The fire, blown southward by a north wind, consumes this Hostel, the Baths of Alexander, the Church of St. Irene, and the Hostel of Sampson.

Saturday, Jan. 17. The fighting continues. The rioters occupy a build-

ing called the *Octagon* (near the Basilica). The soldiers set fire to it, and a *third* conflagration ensues. This fire destroys the Octagon, the Church of St. Theodore Sphoracius, the Palace of Lausus, the Porticoes of the Mesè or Middle Street, the Church of St. Aquilina, the arch across the Mesè close to the Forum of Constantine, &c.

Evening, Hypatius and Pompeius leave the Palace.

Sunday, Jan. 18. Before sunrise Justinian appears in the Hippodrome and takes an oath before the assembled people, but does not produce the desired effect. Hypatius is proclaimed; Justinian contemplates flight; a council is held in the Palace, at which Theodora's view prevails.

The revolt is then suppressed by the massacre in the Hippodrome.

Monday, Jan. 19, before daylight Hypatius and Pompeius are executed.

The final massacre is commonly placed on the Monday, but I have shown that it must have occurred on Sunday (*op. cit.*).

[Special monographs: W. A. Schmidt, *Der Aufstand in Constantinopel unter Kaiser Justinian*, 1854; P. Kalligas, *περὶ τῆς στάσεως τοῦ Νίκα* (in *Μελέται καὶ λόγοι*, p. 329, *sqq.*) 1882.]

#### 4. ROUTES AND COMMERCE BETWEEN THE EMPIRE AND CHINA — (P. 33 *sqq.*)

(Reinaud, *Relations Politiques et Commerciales de l'Empire romain avec l'Asie orientale*, 1863; Pardessus in the *Mém. de l'Acad. des Inscr.*, 1842, see above p. 31; F. von Richthofen, *China*, i. 1877; Bretschneider in *Notes and Queries on China and Japan*, vol. iv.; F. Hirth, *China and the Roman Orient*, researches into their ancient and mediæval relations, as represented in old Chinese Records, 1885; R. von Scala, *Ueber die wichtigsten Beziehungen des Orients zum Occidente*. The work of Hirth is admirably done; he gives the literal translations of the Chinese texts, and explains their date and character, so that the reader knows what he is dealing with and can test Hirth's conclusions. But Hirth seems to have no acquaintance with Cosmas Indicopleustes.)

The earliest certain mention of the Roman Empire in Chinese history<sup>1</sup> is in the *Hou-han-shu*, which, written during the fifth century, covers the period A.D. 25 to 220. Its sources were the notes made by the court chroniclers from day to day, which were carefully stored in the archives and concealed from the monarch himself, and thus supplied impartial and contemporary material to subsequent historians. We learn from this history that, in the year A.D. 97, a certain Kan-ying was sent as an ambassador to Ta-ts'in. He arrived at T'iao-chih on the coast of the great sea. But when he was going to embark the sailors said to him: "The sea is vast and great; with favourable winds it is possible to cross within three months, but if you meet slow winds, it may also take you two years. It is for this reason that those who go to sea take on board a supply of three years' provisions. There is something in the sea which is apt to make man homesick, and several have thus lost their lives." Hearing this, Kan-ying gave up the idea of visiting Ta-ts'in (Hirth's translation, *op. cit.* p. 39).

<sup>1</sup> Syria may be mentioned earlier in the *Shih-chi* (written about B.C. 91), under the name of Li-kan, which Hirth proposes to identify with Rekem=Petra (*r* is regularly represented by *l* in Chinese pronunciation, at least in certain dialects). Certainly the *Hou-han-shu* expressly identifies Li-kan with Ta-ts'in.

It has been fully shown by Hirth that Ta-ts'in does not mean the whole Roman Empire, but only the eastern part of it, especially Syria, and that the royal city of Ta-ts'in always means Antioch. In the seventh century we first meet *Fu-lin*, the mediæval name of Ta-ts'in. The appearance of this new name has been probably connected with the Nestorian mission in China (see below vol. viii. c. xlvi.); and Hirth thinks it represents *Bethlehem* — plausibly, if he is right in supposing that the old pronunciation was *bat-lim*.

The episode of Kan-ying shows that the trade route between China and the west in the first century A.D. was overland to Parthia; but thence from the city of T'iao-chih (which Hirth identifies with Hira) by river and sea round Arabia, to Aelana, the port of Petra at the head of the Red Sea, and Myos Hormos on the coast of Egypt. We also see that the carrying-trade between China and the Empire was in the hands of the Parthian merchants, whose interest it was to prevent direct communications. The kings of Ta-ts'in "always desired to send embassies to China but the An-hsi [Parthians] wished to carry on trade with them in Chinese silks, and it is for this reason that they were cut off from communication" (Hou-han-shu).

This arrangement was changed after the Parthian war of Marcus Aurelius in A.D. 166, and we now have the satisfaction of meeting the name of a Roman Emperor, in a shape that can be easily recognised, in the Chinese Chronicles. We read in the same document this important historical notice (*ib.* p. 42): —

"This [the indirect commerce] lasted till the ninth year of the Yen-hsi period during the Emperor Huan-ti's reign [*i.e.*, A.D. 166], when the king of Ta-ts'in, An-tun, sent an embassy who, from the frontier of Jih-nan [Annam], offered ivory, rhinoceros horns, and tortoise shell. From that dates the [direct] intercourse with this country."

In view of the date, the most sceptical critic can hardly refuse to recognise in Antun the name of (Marcus) Antoninus. But it is not legitimate to infer that a formal embassy was sent by the Emperor. It is more probable (as Hirth points out) that merchants went on their own account and of course used the Emperor's name. When the new direct route was established, Taprobane or Ceylon was the entrepôt, where the Chinese and Roman vessels met and the goods were transhipped.

How far the overland routes were still used is not clear. It is supposed that the road from Seleucia to Antioch is described in the Hou-han-shu (p. 43), where mention is made of a flying-bridge which has been identified by Hirth with the Euphrates-bridge at Zeugma. The road is described as safe from robbers, but dangerous from fierce tigers and lions. Nevertheless there is a difficulty in the interpretation of some Chinese words, which makes the identification of this route uncertain. But in the statement that "every ten li [in this country] are marked by a t'ing, thirty li by a chih [resting-place]" we can recognise the thirty stadia, and the three Arabian miles, which were equivalent to a parasang (Hirth, p. 223).

The chief products which went to China from the Roman orient were: precious stones, glass, the textile fabrics of Syria, including silk rewoven and dyed, storax, and other drugs. Syria was famous as a centre of traffic in precious stones. In the Hou-han-shu (p. 43) it is sceptically remarked: "the articles made of rare precious stones produced in this country are sham curiosities and mostly not genuine."

Antioch, the capital of Ta-ts'in, is described in several of these Chinese histories, and its name is given (in the Wei-shu, sixth century) as An-tu. We can recognise in this description (p. 49) the *tetrapolis*, or four cities, of Antioch, and Hirth has shown that the measurements given by the Chinese

historians may not be far from the truth. The news of the conquest of Antioch and Syria by the Saracens reached China in A.D. 643 and is recorded in another history (tenth century; p. 55).

#### 5. JUSTINIAN'S COINAGE — (P. 44)

"Anastasius introduced a new copper coinage in the year 498, in order to relieve the people from the inconvenience resulting from the great variety in the weight and value of the coins in circulation, many of which must have been much defaced by the tear and wear of time. The new coinage was composed of pieces with their value marked on the reverse by large numeral letters indicating the number of units they contained. The nummus, which was the smallest copper coin then in circulation, appears to have been taken as this unit, and its weight had already fallen to about 6 grains. The pieces in general circulation were those of 1, 5, 10, 20, and 40 nummi, marked A, E, I, K, and M.

"Justin I. followed the type and standard of Anastasius, but the barbarous fabric of his coins, even when minted at Constantinople, is remarkable. The same system and the same barbarism appear in the copper money of Justinian I. until the twelfth year of his reign, A.D. 538. He then improved the fabric and added the date, numbering the years of his reign on the reverse. Though the value of copper had been fixed by the code at a higher rate than by the law of 396, since a solidus was exacted where twenty pounds of copper were due to the fisc, Justinian nevertheless increased the size of his copper coins. Now if we suppose the coins to have corresponded with the value of the copper as indicated in the code, the normal weight of the nummus being 10 grains, the piece of 40 nummi would be equal to a Roman ounce, and 240 ought to have been current for a solidus. No piece of 40 nummi has yet been found weighing an ounce, and it has been supposed that these pieces are the coins mentioned by Procopius, who says that previous to the reform the money-changers gave 210 obols, which were called pholles, for a solidus, but that Justinian fixed the value of the solidus at 180 obols, by which he robbed the people of one sixth of the value of every solidus in circulation. It has, however, lately been conjectured that the obolus to which Procopius alludes was a silver coin, and according to the proportion between silver and gold then observed at the Roman mint, a silver coin current as  $\frac{1}{18}$  of a solidus ought to have weighed 5.6 grains, and such pieces exist. It is not probable that the copper coinage of Justinian was ever minted at its real metallic value, and it is certain that he made frequent reductions in its weight, and that specimens can be found differing in weight which were issued from the same mint in the same year. An issue of unusually deteriorated money in the twenty-sixth year of his reign caused an insurrection, which was appeased by recalling the debased pieces" (Finlay, *History of Greece*, vol. i. p. 445-7).

#### 6. ORACLES IN PROCOPIUS — (P. 131)

Two Latin oracles, quoted and translated by Procopius in *Bell. Got. Bk. i.*, have perplexed interpreters. The Latin words, copied by Greek scribes ignorant of Latin, underwent corruption. One general principle of the corruption is clear. Those Latin letters which have a different form from the corresponding Greek were assimilated to Greek letters of similar form but different sound. Thus P was taken for Rθ, C for *Sigma*, F was assimilated

to E. Thus EXPEDITA would appear as *εχρεδιτα* (as we actually find it in the Oxford MS. of John Malalas, p. 427, ed. Bonn). AFRICA CAPTA would be set down in the form *αφρισα σαφτα*.

(1) The oracle concerning Mundus, to which Gibbon refers as obscure, appears thus in the best MS. (ed. Comparetti, i. p. 47):—

*αφρικαφαρτα mudus cum natu φερισταλ*

(other MSS. give *αφρισας αφτα* and *φεριστασι* or *τφεριστασι*).

The interpretation of the first five words is clear:—

*Africa capta Mundus cum nato . . .*

but the last seven (eight?) characters can hardly represent *φεριβιλ* or *φεριβυνι*, though some part of *φερικε* (Procop. gives *απολειται*) seems to lurk in them.

(2) The Sibylline prophecy with which the besieged Romans consoled themselves in the spring of A.D. 537, that in the month of July a king would arise for the Romans and deliver them from fear of the Goths, is recorded in bk. i. c. 24 (Comparetti, p. 177), and is more difficult. The best MSS. give the Latin in peculiar characters which cannot be here reproduced (see Comparetti); the rest give a Greek transliteration:—

*ην τι υιοιμεν ζε και ιβεννω. και κατε ησι γρ σοενηπιηυ ετι σο πιαπλετα.*

The interpretation of Procopius is: *αρηνηαι γαρ τφτε βασιλεια Ρωμαιοι καταστηναι τινα εξ ου δη Γετικων ουδεν Ρωμη τφ λοιπων δελσειε.*

Comparetti gives as the original:—

*Quintili mense sub novo Romanus rege nihil Geticum iam metuet.*

But the words *sub novo Romanus rege* are not there. By a careful examination of the characters it may, I think, be shown that the oracle ran:—

*Quintili mense si regnum stat in urbe nihil Geticum iam —*

The last word reads *atmet* (possibly, by an anagrammatic mistake, *metuat*).

## 7. KOTRIGURS, UTURGURS, TETRAXITE GOTHs — (P. 180, 282)

It was natural enough for Gibbon to describe the people of Zabergan who invaded the Illyric peninsula in A.D. 559 as Bulgarians. Victor Tonnennensis *ad ann.* 560 has the notice: *Bulgares Thraciam pervadunt et usque ad Sycas Constantinopolin veniunt*; and it is clear that he refers to the same invasion which is described in detail by Agathias. Malalas, in his record of the event (p. 490; March A.D. 559), describes the invaders as *οι Οθωνοι και οι Σκλαβοι*, Huns and Slavs (and his notice is copied by Theophanes, p. 233, ed. de Boor). But Agathias does not speak of Bulgarians or Slavs; in his history Zabergan is the chief of the Kotrigur Huns, whom we already knew from Procopius. In the Gothic War, B. 4, c. 4, 5. 18, Procopius explains that the Kotrigurs dwell "on this side of the Maeotic Lake," the Uturgurs (who appear in Agathias as the Utigurs<sup>1</sup>) beyond it, on the east side of the Cimmerian Bosphorus. The Don was the boundary between their territories. And both Procopius and Agathias represent Kotrigurs and Utigurs as tribes of Huns. There can be no doubt that Kotrigurs, Utigurs, and Bulgarians belonged to the same race as the Huns of Attila and spoke tongues closely related, — were, in fact, Huns. They had all been under Attila's dominion.

The close relation of kinship, and at the same time a clearly marked political distinction, between the Kotrigurs, Uturgurs, and Bulgarians is shown by the

<sup>1</sup> Priscus has Onogurs; Theophylactus Unnugurs; Jordanes Hunugurs.

legends which represent (1) Kuturgur and Uturgur as the sons of the same father, who divided his kingdom (Proc. B.G. iv. 5), and (2) Kotragos as a son of Kuvrat, the ancestor of the Bulgarians (Nicephorus Patriarch., Brev. p. 33, ed. de Boor; Theophanes, p. 321, ed. de Boor), along with the notice (*ib.*) that the Kotragoi near Lake Mæotis are *δμόφυλοι* of the Bulgarians.

But it is highly improbable that Kotrigrig is another name for Bulgarian. It is far safer to keep tribes apart than to identify them. The Kotrigrigs (as is clear from Procopius) abode between the Don and the Dnieper; the Bulgarians, whose invasions of Thrace began in the end of the fifth century, as we know from Ennodius and Marcellinus, were probably settled nearer the Danube (in Moldavia and Bessarabia). Compare Jordanes, *Getica*, c. 37, p. 63, ed. Mommsen.

We must therefore explain the notice of Victor Tonnennensis by the natural supposition that Bulgarians joined in the Kotrigrig expedition; and that Slavs, from the regions north of the Danube, also took part in it, is stated by Malalas.

The previous dealings of Justinian with these Huns of the Dnieper and Don are recorded by Procopius (B.G. 4, 18, 19). He adopted the same principles of policy which were afterwards formulated into a system in the *De Administratione Imperii* of Constantine Porphyrogenetos. The danger to the Empire was from the Kotrigrigs who were nearest to it; and so Justinian cultivated friendly relations with the Uturgurs who were farthest from it, gave them yearly presents, and endeavoured to stir up discord between the two peoples. In A.D. 550, a band of Kotrigrigs, invoked by the Gepids against their enemies the Lombards, crossed the Danube and ravaged Imperial territory. Justinian incited Sandichl, the king of the Uturgurs, to invade the Kotrigrig territory, where he wrought great destruction (? A.D. 551). The same policy was repeated after the invasion of Zabergan in A.D. 559; and Sandichl, having captured their wives and children, met and defeated the warriors of Zabergan on their return from Thrace (see Agathias, 5, 24, 25, and Menander, fr. 3, F.H.G. iv. p. 202).

In the attack upon the Kotrigrigs in A.D. 551, the Uturgurs were assisted by 2000 Tetraxite Goths. The remnant of the Goths who had not accompanied their brethren to new homes in Spain and Italy, remained in the Crimea. The events which followed the fall of Attila's empire led to their being split up into two parts. The Avars pressed on the Sabiri and other Hunnic peoples between the Caucasus and Lake Mæotis; the consequence was that there was a western movement; the Onogurs and others sought new abodes (Priscus, frag. 30). It is generally assumed, and doubtless justly, that the Onogurs of Priscus (the Hunugurs of Jordanes, and Unnugurs of Theophylactus) are the same as the Uturgurs of Procopius.<sup>2</sup> This being so, the Uturgurs or Onogurs return to their old abode; but instead of travelling round the shores of the Mæotic Sea, they enter the Crimea, which they find occupied by Huns (the Altziagiri<sup>3</sup>) and Goths. With a portion of the Gothic race they cross over the straits of Kertsch; the Tetraxite Goths, as they were called, establishing their abode near the coast, around the city of Phanagoria (in the peninsula of Taman).

These Goths were Christians, but they do not seem to have learned their Christianity from Ulfilas, for they were not Arians. Procopius says that their religion was primitive and simple. We here touch on a problem which has not been fully cleared up. In the year 547-8 they sent an embassy to

<sup>2</sup> Uturgur, or Utigur (Agathias), is probably the correct name; Onogur, or Unnogur, are the travesties of popular etymology, suggesting *ὄνος* or *ὄννος*.

<sup>3</sup> Jordanes, *Get.* c. 37.

Constantinople. Their bishop had died and they asked Justinian to send them a new one. At the same time the ambassadors in a private audience explained the political situation in the regions of Lake Maotis and set forth the advantages which the Empire could derive from fomenting enmities among the Huns. An inscription has been recently found near Taman, on a stone which may have come from Phanagoria, and it possesses interest as being possibly connected with this negotiation. It was published by V. Latyshev (in the *Vizantiski Vremennik*, 1894, p. 657 *sqq.*), who sought to explain it by Justinian's political relations with Bosphorus in A.D. 527-8 (see below), and dated it A.D. 533. But the serious objections to this explanation have been set forth by Kulakovski (*Viz. Vrem.*, 1895, 189 *sqq.*).

We have clearly to do with a building — probably a church — built under the auspices, and at the expense (?) of Justinian, in the 11th indiction. The place where the stone was found indicates *prima facie* that it was a building at Phanagoria; for why should a stone relating to a building at Bosphorus lie in the Taman peninsula? We may admit that Kulakovski may be right in identifying "the eleventh indiction" of the inscription with the year A.D. 547-8, in which Justinian gave the Tetraxite Goths a bishop. At the same time he may have subscribed money to the erection of a new church or the restoration of an old one. But to whichever of the three eleventh indictions of Justinian's reign the inscription belongs, it is an interesting monument of his influence in Taman.<sup>4</sup>

To return to the Crimea, it appears from Procopius (B.G. 4, 5) that it came under the power of the Kotrigur Huns. His narrative implies that Kotrigurs and Uturgurs had gone together westward and returned together eastward; and, while the Uturgurs crossed the Cimmerian straits, the Kotrigurs remained in, and north of, the Crimea.<sup>5</sup> The city of Cherson alone defied the Barbarians and remained practically autonomous, though acknowledging allegiance to the Empire. No Roman governor ruled in Cherson until the ninth century.

Bosphorus, too, was independent, but in the reign of Justin we find it acknowledging the supremacy of New Rome (Procopius, B.P. i. 12). Near it was settled a small tribe of Huns (? Altziagirs). At the time of Justinian's succession their king's name was Grod (Γρῶδ, Malalas, Cod. Barocc.; Γορδᾶρ, Theophanes, who took the notice from Malalas);<sup>6</sup> and he, desiring to become a Christian, went to Constantinople and was baptised. His journey had also a political object. Justinian gave him money and he undertook to defend Bosphorus. The great importance of Bosphorus at this time lay in its being the chief emporium between the Empire and Hunland. It seems pretty clear that Bosphorus was at this time threatened by the Kotrigurs, and the journey of Grod may have been rather due to an invitation from Constantinople than spontaneous. That danger threatened at this moment is shown by the fact that Justinian also placed a garrison in Bosphorus under a tribune. But Grod's conversion was not a success. The heathen priests murdered him, and this tragedy was followed by the slaughter of the garrison of Bosphorus. We hear no more of Bosphorus until it was taken by the Turks (Khazars) in

<sup>4</sup> Since these words were written, A. Semenov has discussed the inscription (in *Byz. Ztschrift.* 6, p. 387 *sqq.*, 1897) with similar reserve.

<sup>5</sup> It is tempting to suppose that the Saragurs, mentioned along with the Onogurs by Priscus (fr. 30), is a mistake for the Kotrigurs. If so, Priscus and Procopius supplement each other beautifully. The Saragurs subjugated the Akatirs; this would represent the establishment of the Kotrigurs between Don and Dnieper.

<sup>6</sup> This name is not included in the list of Hun and Avar names in Vámbéry's *A magyarok eredete*.

A.D. 576. Kulakovski has well shown that Justinian had little interest in maintaining in it a garrison or a governor (*Viz. Vrem.* ii. 1896, 8 *sqq.*), for it was never a centre for political relations with the lands east of the Euxine. Embassies between Constantinople and the Alans, or the Abasgians, or the Turks of the Golden Mount went overland by the south coast of the Black Sea and Trebizond, and not *via* Bosphorus. After A.D. 576 Bosphorus was subject to the Khazars.

The inscription which was found in the region of Taman in 1803 and is printed in Boeckh's *Corpus Inscr. Gr.* 8740, is still mysterious. It has been recently discussed by the two Russian scholars to whom I have already referred, Latyshev (*loc. cit.*) and Kulakovski (*Viz. Vrem.*, 1896, 1 *sqq.*).<sup>7</sup> Only the three last letters of the name of "our most pious and god-protected lord" can be deciphered (KIC), and the favourite restoration is *Μαυρικός*. But this lord is certainly not the Emperor Maurice, as Kulakovski has shown, for (1) the shores of the Bosphorus after A.D. 576 were under the dominion of the Turks, and (2) an Emperor would not be described by such a title. The inscription shows that an officer named Eupaterios, who styles himself "the most glorious stratelates and duke of Cherson," restored a *kaisarion* or palace for a barbarian prince of unknown name, on the east side of the Bosphorus, in some eighth indiction in the fifth or sixth century A.D. (for to such a date the writing points). The Barbarian was clearly a Christian, and it is hard to see who he can have been but a chief of the Tetraxite Goths, who got workmen from Cherson. But it is very strange that an officer of Cherson should describe himself as the "loyal servant" of a Gothic prince.<sup>8</sup>

(The subject of the Tetraxite Goths has been treated by Vasilievski, in the *Zhurnal Min. Narod. Prosvieschenia*, 195 (1878), p. 105 *sqq.*), and by R. Loewe in *Die Reste der Germanen am schwarzen Meere*, 1896 — a book which also deals fully with the Goths of the Crimea.)

## 8. THE TURKS — (P. 185)

The question of the origin of the Turks has been recently discussed by a Chinese scholar, Mr. E. H. Parker (in the *English Historical Review*, July, 1896, p. 431 *sqq.*), on the basis of Chinese sources, with reference to the statements of Greek writers.

(1) *The Turks were Hiung-nu.* A branch of the Hiung-nu, in the central part of the modern province of Kan-suh, was crushed by the Tungusic Tartars; but Asena fled westward with 500 tents to the territory of the Geougen, and his men were employed by them as iron workers in an iron district. Nearly a hundred years after the flight of Asena, his descendant Notur (before A.D. 543) first introduced the word Turk as the name of his folk. The name Türk occurs in the Turkish inscription which was discovered in 1890 by Heikel near Lake Tsaidam in the Valley of the Upper Orchon,<sup>1</sup> and it is

<sup>7</sup> πρὸς τοῖς λοιποῖς | μεγάλοις καὶ θαυμαστοῖς | κατορθώμασι καὶ τότε τὸ | λαμπρὸν ἐν Βοσπόρῳ | καίσαριον ἀνέθεσεν | [ . . . ] | κίς ὁ εὐσεβεστάτος καὶ θεοφύλακτος ἡμῶν | δεσπότης διὰ τοῦ γνησιῶν αὐτοῦ | δούλου Εὐπατερίου τοῦ ἐνδοξοτάτου | στρατηλάτου καὶ δουκὸς χερσῶνος. Ἰνδικτιῶνος ἧ.

<sup>8</sup> The inscription of the Cæsar Tiberius Julius Diptunes of Bosphorus, published in vol. 2 of Latyshev's collection of Inscriptions (No. 39), cannot belong to Justinian's reign, as Latyshev now admits, but probably dates from the fourth or fifth century.

<sup>1</sup> This immensely interesting inscription was ingeniously deciphered by Prof. V. Thomsen of Copenhagen; but his decipherment must doubtless be accepted with great reserve. It belongs to the year A.D. 732, and was engraved on a stone set up

explained by Chinese writers to mean a helmet — referring to a mountain shaped like a casque.

(2) *Seat of the Turkish power in the sixth century; the Golden Mountains.* There seems little doubt that (as Mr. Parker has shown) the residence of the Turkish Khans, when they overthrew the power of the Geougen, was near the eastern border of the modern Chinese province of Kan-suh, somewhat north of the Kok-o-nor mountains. Here was the iron district where they worked for the Geougen.

It is always assumed that *Ektág* in Menander's account of the earlier embassy of A.D. 568 is to be identified with *Ektél* in his account of the later embassy of A.D. 576 (p. 227 and 247, ed. Müller). Of course, the two words are the same and mean "the Golden (White) Mount," as Menander explains. But do they designate the same mountain? There is considerable difficulty in supposing that they do. The first embassy visits the prince Dizabul in Ektag. The second embassy is also sent to Dizabul, but the envoys find on arriving that Dizabul has just died and that his son Turxanth has succeeded him. It is natural to suppose (as there is no indication to the contrary) that the meeting between Turxanth and the Roman envoys, and the obsequies of Dizabul, took place at Mount Ektag, the residence of Dizabul and Turxanth. After the obsequies Turxanth sent the ambassadors to Turkish potentates who lived farther east or south-east (*ἐνδοτέρω*), and especially to his relative Tardu who lived at Mount Ektel. This narrative implies that Mount Ektel is a totally different place from Mount Ektag; and the Chinese evidence as to two Golden Mountains is sufficient to remove any scruples we might feel about interpreting Menander's statements in the most reasonable way. Having identified Ektag with Altai, and distinguished Ektel from Ektag, we can hardly refuse to go further and identify Ektel with the other Kinshan — the residence of the chief khan. At this time, however, the name of the chief khan was Tapur. Tardu has been identified with plausibility, by Mr. Parker, with Tat-t'ou (son of Tumen), who according to Chinese records reigned simultaneously with Shaporo. There is no difficulty in supposing that the residence of Tardu, who was clearly a subordinate khan, was in the neighbourhood of the Southern Golden Mountain and might be described as *κατὰ τὸ Ἐκτέλ ὄρος*.

(3) *The succession of Turkish Khans.* Tumen, who threw off the yoke of the Geougen, died in A.D. 553; was succeeded by his eldest son Isiki, who appears to have reigned only for a few months; and then by his second son Mukan, who completed the annihilation of the Geougen and subdued the Ephthalites. The succession is (see Parker, *op. cit.*):—

Tumen A.D. 543  
 Isiki A.D. 553  
 Mukan A.D. 553  
 Tapur A.D. 572  
 Shaporo A.D. 581  
 Chulohou A.D. 587  
 Tulan A.D. 588  
 Durli (or Turri) A.D. 599

Under the Khan Mukan the Turkish power in its early period seems to have been at its height. He "established a system of government which was

by a Chinese emperor in honour of a Turkish prince. (Thomsen, *Inscriptions de l'Orkhon déchiffrées*, 1894; Radlov, *Arbeiten der Orkhon-expedition*, 1892; Radlov, *Die alt-türkischen Inschriften der Mongolei*, 1894-5; E. H. Parker, in the *Academy for Dec.* 21, 1895.)

practically bounded by Japan and Corea, China and Thibet, Persia and the Eastern Roman Empire." It appears from Turkish inscriptions that the Turks called the Chinese *Tavgas*; and it can hardly be questioned that this is the same word as *Taugast*, a land mentioned by Theophylactus as in the neighbourhood of India. He states that the khan was at peace with *Taugast* (in the reign of Maurice).

Dizabul (or rather Silzibul) of the Greek sources is of course distinct from Mukan; but I have shown that it is impossible to regard him as a khan subordinate to Mukan, in the face of the statements of Menander (Eng. Hist. Review, July, 1897). There was a split among the Turks, at some time previous to the first embassy described by Menander; and the result was the existence of two supreme khanates. The seat of one was the Northern Golden Mountain (Ektag, Altai); the seat of the other was the Southern Golden Mountain (Ektel, in Kan-suh). During the reign of Justin, Silzibul was chief khan of the northern Turks, Mukan of the southern Turks. (See further: *The Turks in the Sixth Century*, Eng. Hist. Rev., *loc. cit.*)

#### 9. THE AXUMITES AND HIMYARITES — (P. 230 *sqq.*)

The affairs of the kingdom of the Himyarites or Homerites of Yemen (Arabia Felix) always demanded the attention of the Roman sovereigns, as the Himyarites had in their hands most of the carrying trade between the Empire and India. This people carried their civilisation to Abyssinia, on the other side of the Red Sea. The capital of the Abyssinian state was Axum, and hence it was known as the kingdom of the Axumites. Our first notice of this state is probably to be found in the *Periplus of the Red Sea*, which was composed by a merchant in the reign of Vespasian. (Best edition of this work by Fabricius, 1880.) There a King Zoskales is mentioned, and it is almost certain that an inscription which Cosmas Indicopleustes copied at Adulis (C.I.G. 5127 B) refers to him. (See D. H. Müller, *Denkschriften of the Vienna Acad.*, xliii., 1894. In the fourth century we find that the king of Axum has reduced the Homerites under his sway; see C.I.G. 5128, βασιλεὺς Ἀξωμυτῶν καὶ Ὁμηριτῶν. This does not mean that both nations had only one king; it means that the king of the Homerites acknowledged the overlordship of his more powerful neighbour.

At the same time Christianity was beginning to make its way in these regions. Originally both Axumites and Homerites were votaries of the old Sabaeen religion. Then the Jewish diaspora had led to the settlement of Jews in Central Arabia — in the region between the Nabataean kingdom (which reached as far as Leukê Kômê) and Yemen, — and the result was that Judaism took root in the kingdom of the Homerites. The mission of Frumentius to Abyssinia about the middle of the fourth century has been mentioned by Gibbon in a former chapter; the foundations of the Ethiopian Church were laid; but the king himself did not embrace the new doctrine. The name of the king of Axum at that time (c. 346–356 A.D.) was Aizan, and he was a pagan (C.I.G. 5128). The conversion of the Homerites was also begun under the auspices of the Emperor Constantius. The missionary was Theophilius, either a Homerite or an Axumite by birth,<sup>1</sup> who had been sent as a hostage to the court of Constantine. The Homerite king, though he

<sup>1</sup> He was a native of the isle of Dibûs. Various suggestions have been made as to the identity of this island. M. Duchesne thinks it was one of the little islands off the coast of Abyssinia.

had not adopted Christianity, built three Christian churches at his own expense and permitted his subjects to be converted if they wished. It was not till much later, in the reign of Anastasius, that Christianity began to spread, and a bishopric was founded (Theodorus Lector, 2, 58). The progress of the Christian faith advanced at least equally in Axum. It has been supposed (though hardly with good reason) that it was before the end of the fifth century that the king (or "negus") of Abyssinia was converted.<sup>2</sup>

In the reign of Justin, a Homerite prince named Dhû-Novas (Gibbon's Dunaan) threw off the Axumite yoke, restored the dominance of the Jewish religion, and massacred Christians at Nejrân. The king sent an embassy to Al-Mundir, the chief of the Saracens of Hira, to announce his success against Axum and Christianity. The message happened to come at a moment when envoys of the Emperor Justin had arrived on business to Al-Mundir (Jan. 20, 524). The news of the massacre, which was soon carried to Syria, created a great sensation, and John Psaltes (abbot of a monastery near the Syrian Chalcis) wrote a hymn in honour of the martyrs. (Published by Schröter, *Ztsch. der morgenl. Gesellschaft*, 31. There is also extant a letter of one Simeon Beth-Arsam, on the massacre: Syriac text with Italian translation, by J. Guidi, in the *Memoirs of the Academia dei Lincei*, 1880-1. It is also possible, as M. Duchesne thinks, that the *Martyrium Arethae*, *Acta Sanctorum*, Oct. x., was drawn up by a contemporary.) On the intervention of Justin, the king of the Axumites, Elesbaas or Chaleb,<sup>3</sup> reconquered Yemen, overthrew Dhû-Novas, and set up Esimphaeus in his stead.<sup>4</sup> But the revolt of a Christian named Abramos soon demanded a second intervention on the part of Elesbaas. This time the negus was unlucky. One Abyssinian army deserted to the rebel, and a second was destroyed. Abramos remained in power, and after the death of Elesbaas recognised the overlordship of his successor.

The embassy of Nonnosus to Elesbaas probably took place in the year A.D. 530.<sup>5</sup> In the year A.D. 542-3 we find, according to Theophanes (p. 223, ed.

<sup>2</sup> This involves the hypothesis that the story of the victory of the Axumite king Andan (or Adad) over the Homerite king Dimnos (or Damianus) is not to be assigned to A.D. 527-8, in which year Malalas who records the story (ed. Bonn, p. 433-4) appears to place it. Theophanes, who takes the notice from Malalas, places it however still later, in A.D. 542-3 (*A.M.* 6035). Andan swore that he would become a Christian, if he were successful against the Homerites, and he kept his vow.

<sup>3</sup> *Elesbaas*, Nonnosus, Theophanes; *Elesbaas*, Oxford MS. of Malalas; *Ellisthaeus*, Procopius; *Ellatsbaao*, Cosmas. Ludolf gives the Ethiopian original as Ela Atzbeha.

<sup>4</sup> For these events the *Martyrium Arethae* and Procopius, B.P. i. 20, are the chief sources. Theophanes briefly mentions the episode under the right year, A.D. 523-4. Procopius gives the name of the new prince or viceroy Esimphaeus, and records the revolt of Abramos. At the end of the *Martyr. Arethae* Elesbaas is represented as investing Abramos with the kingship; but this part is not contained in the Armenian version of the *Martyrium*, and it is therefore safer to follow Procopius. (Cp. Duchesne, p. 326, 328.) Malalas (p. 457, ed. Bonn) gives Anganes as the name of the king of the Homerites who was set up by Elesbaas. The form *Esimphaeus* represents Ἐσιμβασαῦς, which is found on a coin (Rev. Numism. 1868, ii. 3). See further the account of Ibn Ishāq (Nöldeke, Tabari, 107 sqq.).

<sup>5</sup> We know from Nonnosus himself (ap. Phot. Bibl. Cod. 3 = Müller, iv. p. 179) that he was sent to Elesbaas; and it seems justifiable to identify this embassy with that described by Malalas (p. 457). From the previous dates in Malalas, it seems probable that the year was A.D. 530. The date A.D. 533 (given by Gibbon, Müller, &c.) is too late; for the mission must have been previous to the conclusion of the peace.

de Boor), Adad, king of the Axumites, and Damian, king of the Homerites. Damian put to death Roman merchants who entered Yemen, on the ground that they injured his Jewish subjects. This policy injured the trade between Abyssinia and the Empire, and Adad and Damian fell out. Then Adad, who was still a heathen, swore that, if he conquered the Homerites, he would become a Christian. He was victorious and kept his vow, and sent to Justinian for a bishop. A man named John was sent from Alexandria.

This notice of Theophanes was derived from John Malalas, who however apparently placed it in the first year of Justinian (A.D. 527-8). This date cannot be right, as Elesbaas was king of the Axumites in that year. M. Duchesne thinks that the episode of Adad (who in Malalas is called Andan) and Damian (*Dimnos*, in Malalas, more correctly) was anterior to the reign of Elesbaas. This may seem a hazardous conjecture. There is no reason why a successor of Elesbaas (whether his son or not) must needs have been a Christian; and it is hard to believe that Theophanes acted purely arbitrarily in placing under the year A.D. 542-3 an event which he found in Malalas under 527-8.<sup>6</sup> It must be observed that Malalas was not the only source of Theophanes. On the other hand Ibn Ishāq (apud Tabari; Nöldeke, p. 219) gives a succession of kings of Yemen which leaves no room for Damian. The succession is Abraha, Yaksūm, Masrūq (who is supposed to be the same as *Sanaturkes* in Theophanes of Byzantium; which seems doubtful; for *Sana* in this name seems to correspond to the Homerite town Sana). Ibn Ishāq assigns an impossible number of years to these kings; and I doubt whether his statements are absolutely decisive as against Theophanes.<sup>7</sup>

It is another question whether, as Gutschmid and Nöldeke have suggested, Malalas and Theophanes and John of Ephesus (who has the same story) have interchanged the names of the Axumite and Homerite kings (see Nöldeke, Tabari, p. 175). The reason is that on the obverse of some coins *Διμήαν* appears as the heathen king of the Axumites; while on the reverse *Ἀφιδας* is represented as the vassal king of the Homerites. (*Revue Numismat.* 1868, t. ii. 1, 2.) This conjecture seems highly probable. In any case the form *Dimēan* explains the Greek variants *Δίμνος* and *Δαμιαρός*.<sup>8</sup>

The Persian invasion of Yemen took place between 562 and 572 (cp. Nöldeke, p. 224), and formed one of the causes of the war between Justin and Chosroes. Arethas was at this time king of the Axumites, and Justin sent an ambassador named Julian to him, urging him to hostilities against Persia. In noticing this embassy (sub anno 571-2 — A.M. 6064) Theophanes has borrowed the account that is given by Malalas of the reception of the ambassador Nonnosus by Elesbaas; and hence he is always supposed to refer to the same embassy and to have misdated it. But the substitution of the new names (Arethas for Elesbaas, and Julianus for the ambassador whom Malalas does not name) refutes this opinion.

In this note I have derived much help from the valuable article of M. l'abbé Duchesne, *Missions chrétiennes au sud de l'empire romain*, which is included in his *Eglises Séparées*, 1896. Here will be found also an account of the conversions of the Blemmyes and the Nobadae of Upper Egypt.

<sup>6</sup> The motive of Malalas was to group it with other conversions of heathen kings.

<sup>7</sup> It is to be observed that the expedition of Abraha against Mecca, being mentioned by Procopius, B.P. i. 20 (see Nöldeke, p. 205), was earlier than A.D. 545; so that Abraha might conceivably have been dead before 542; and another ruler might have intervened between him and *Yaksūm* (Ἰαξουμί).

<sup>8</sup> This variation seems in itself to prove that Theophanes had before him another source.

10. THE WAR IN AFRICA AFTER THE DEATH OF SOLOMON  
— (P. 238 *sqq.*)

John — who is distinguished, among the numerous officers who bore the same name, as the “brother of Pappus” (Jordanes calls him *Troglita*; Rom. 385) — arrived in Africa towards the end of A.D. 546. He had served under Belisarius in the overthrow of the Vandal kingdom and had remained in Africa during the first military governorship of Solomon (Joh. i. 470). He was then commander of the army in Mesopotamia in the Persian War (Procop. B.P. 2, 14), and was engaged in the battle of Nisibis in which Nabedes was defeated in 541. Procopius (*ib.* 17) represents him as on this occasion rashly involving the army in extreme peril, which was only avoided by the skill of Belisarius; but Corippus ascribes the victory to his hero:—

expulit ut Persas, stravit quo vulnere Parthos  
confisos turbis densisque obstare sagittis  
tempore quo late manarunt Nitzibis agri  
sanguine Persarum, Parthoque a rege secundus  
congressus Nabedes, fretus virtute feroci,  
amisit socias ipso superante catervas, &c. (i. 58 *sqq.*)

John contrived to enter Theodosiopolis, when it was besieged by the host of Mermeroes, and took part in the defeat of that general at Daras (Coripp. *ib.* 70 *sqq.*). He brought with him to Africa a trusted councillor named Recinarius — *lateri Recinarius haerens* (*ib.* 2, 314), — who had been employed in the negotiations with Chosroes in A.D. 544.

It would probably have been impossible for the Roman power to hold its own in Africa, if the Moors from the Syrtis Major to Mount Atlas had been united in a solid league. It is highly important to observe that the success of the Empire depended on the discord of the Moorish chiefs, and that the forces upon which John relied in the war were more Moorish than Roman. The three most important chiefs were Antala, king of the Frexenses (Fraschisch), in Byzacium; Cūsina, whose tribe<sup>1</sup> was settled under Mount Aurasius, in the neighbourhood of Lambaesis; and Jaudas, king of the Moors of Mount Aurasius. Cusina and Antala were always on opposite sides. Antala was loyal to Rome, when Cusina rebelled in 535; Cusina was true to Solomon, when Antala took up arms in 544. John was now supported by Cusina, and by Ifisdaias, the chief of another tribe in Numidia. The first battle was fought in the interior regions of Byzacium, in the winter A.D. 546-7, and Antala was routed. John returned to Carthage, but in the following summer had to face a great coalition of the Syrtic tribes, including the Laguantan and the Marmarides, under the leadership of Carcasan. This league was not joined by Antala. The Romans suffered a complete defeat near Marta, a place about ten Roman miles from Tacape on the Lesser Syrtis (Partsch, *Procœm.* p. xxxiii.), and John was unable to resume hostilities till the following year. He retired to Laribus in Western Zeugitana, a town which Justinian had fortified:<sup>2</sup>—

urbs Laribus mediis surgit tutissima silvis  
et muris munita novis quos condidit ipse  
Iustinianus apex, orbis dominator Eoi  
occiduique potens Romani gloria regni.

<sup>1</sup> The name is not certain. The verse 3, 408,

Cusina Mastracianis secum viribus ingens—

is obviously corrupt.

<sup>2</sup> A plan of the citadel is given in Diehl, *l'Afrique byzantine*, p. 273.

Here he was close to Numidia and his Moorish confederates, the faithful Cusina and the savage Ifsdaias, and here he spent the winter A.D. 547-8. He succeeded in obtaining the help of King Jaudas, who was generally hostile to Rome; and the whole army, including the immense forces of Cusina and Ifsdaias, assembled in the plain of Arsuris, an unknown place, probably in Byzacium. The Marmaridae and Southern Moors had now been joined by Antala. His wise advice was not to venture on a battle until they had wearied the enemy out by long marches, and the Moors withdrew to the south of Byzacium. But John declined to pursue them; he fortified himself in a stronghold on the coast of that province, where he would probably have awaited their attack if the event had not been hastened by the impatience of his mutinous soldiers. With the help of his Moorish allies he repressed the sedition, but thought it wise to lead his army down into the plains. He encamped in an unknown region called the "fields of Cato," and the Moors, pressed by hunger, were soon compelled to leave their camp and take the field. The defeat of Marta was brilliantly retrieved. Carcasan fell, and the Moors were so effectually broken that Africa had rest for about fourteen years. John remained in Africa as *magister militum*, at least till A.D. 553, in which year we find him undertaking an expedition to Sardinia.<sup>3</sup>

In A.D. 562 the Moorish troubles broke out again. Cusina, the faithful adherent to the Roman cause, was treacherously killed by John Rogatinus, the *magister militum*, and his sons roused the Moors to vengeance, and devastated the provinces.<sup>4</sup>

In this account I have been assisted by the disquisition of J. Partsch, in the Proœmium to his edition of Corippus, and by the narrative of M. Ch. Diehl, in *L'Afrique byzantine*.

## II. THE EXARCHS — (P. 110, 238, 280)

The earliest mention of the name Exarch in connection with the government of Italy is in a letter of Pope Pelagius II. to the deacon Gregory (Migne, *Patr. Lat.* vol. 82, p. 707; cp. Diehl, *Etudes sur l'administration byzantine dans l'exarchat de Ravenne*, p. 173), dated Oct. 4, 484. Seven years later we meet the earliest mention of an Exarch of Africa (Gregory the Great, *Ep.* i. 59), in July, 591. Under the Emperors Justin and Tiberius (A.D. 565-582) the supreme military governor is entitled *magister militum*. It is therefore plausible to ascribe to Maurice (Diehl, *L'Afrique byzantine*, p. 478) the investiture of the military governor with extraordinary powers and a new title designating his new position. Gennadius was the first exarch of Africa.

From the first hour of the Imperial restoration in Africa military and civil governors existed side by side, and the double series of *magistri militum* (and exarchs) and Prætorian prefects can be imperfectly traced till the middle of the seventh century.<sup>1</sup> On some exceptional occasions the two offices were united in a single individual. Thus Solomon was both *magister militum* and Prætorian prefect in A.D. 535, and again in A.D. 539, &c.; and Theodorus held the same powers in A.D. 569. Throughout, the tendency was to subordinate the civil to the military governor, and the creation of the exarchate, with its large powers, decisively reduced the importance of the Prætorian prefect.

<sup>3</sup> Procop. B.G. 4, 24.

<sup>4</sup> John Malalas, p. 495, ed. Bonn. Cp. Diehl, p. 599.

<sup>1</sup> See list of Diehl, *L'Afrique byzantine*, p. 596-9.

## 12. THE COMET OF A.D. 531 — (P. 292-3)

The identity of the comet of A.D. 1680 with the comets of A.D. 1106, A.D. 531, B.C. 44, &c., is merely an ingenious speculation of Halley. See his *Synopsis of the Astronomy of Comets*, at end of Whiston's "Sir Isaac Newton's mathematick Philosophy more easily demonstrated" (1716), p. 440 *sqq.* The eccentricity of the comet of A.D. 1680 was calculated by Halley (*Philosophical Transactions*, 1705, p. 1882), and subsequently by Encke, Euler, and others, — on the basis, of course, of the observations of Flamsteed and Cassini. Newton regarded its orbit as parabolic (*Principia*, 3, Prop. 41); but it has been calculated that the eccentricity arrived at by Encke, combined with the perihelion distance, would give a period of 8813.9 years (J. C. Houzeau, *Vademecum de l'Astronome*, 1887, p. 762-3). The observations were probably not sufficiently accurate or numerous to establish whether the orbit was a parabola, or an ellipse with great eccentricity; but in any case there is nothing in the data to suggest 575 years, nor have we material for comparison with the earlier comets which Halley proposed to identify.

For the Chinese observations to which Gibbon refers, see John Williams, *Observations of Comets from Chinese Annals*, 1871: for comet of B.C. 44, p. 9, for a doubtful comet (?) of A.D. 532, p. 33, for comet of A.D. 1106, p. 60.

## 13. ROMAN LAW IN THE EAST — (C. XLIV.)

New light has been thrown on the development of Imperial legislation from Constantine to Justinian, and on the reception of Roman law in the eastern half of the empire (especially Syria and Egypt), by the investigations of L. Mitteis, in his work "Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs" (1891). The study is mainly based on Egyptian papyri and on the Syro-Roman Code of the fifth century, which was edited by Bruns and Sachau (1880).

It was only to be expected that considerable resistance should be presented to the Roman law, which became obligatory for the whole empire after the issue of the *Constitutio Antoniniana* (or Law of Caracalla), among races which had old legal systems of their own, like the Greeks, Egyptians, or Jews. The description which Socrates gives of the survival of old customs at Heliopolis, which were contrary to the law of the empire, indicates that this law was not everywhere and absolutely enforced; the case of Athenais, put off by her brothers with a small portion of the paternal property, points to the survival of the Greek law of inheritance; and the will of Gregory Nazianzen, drawn up *in Greek*, proves that the theoretical invalidity of a testament, not drawn up in Latin and containing the prescribed formulæ, was not practically applied. Theory and practice were inconsistent. It was found impossible not to modify the application of the Roman principles by national and local customs; and thus there came to be a particular law in Syria (cp. the Syro-Roman law book) and another in Egypt. The old legal systems of the East, still surviving though submitted to the influence of the Roman system, presently had their effect upon Imperial legislation, and modified the Roman law itself. The influence of Greek ideas on the legislation of Constantine the Great can be clearly traced.<sup>1</sup> It can be seen, for instance, in his law concerning the *bona materni generis*, by which, on a mother's death, her

<sup>1</sup> Cp. Mitteis, *Beilage III.*, p. 548 *sqq.* Ammian calls Constantine *novator turbatorque priscarum legum*.

property belonged to the children, their father having only the administration and usufruct of it, and no right of alienation. The same law is found in the Code of Gortyn (6, 31 *sqq.*).

The degeneration of Roman law (*adulterina doctrina*), caused by the tenacity of "Volksrechte" in the eastern provinces, was a motive of the compilation of Justinian's Digest.