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A view of the progress of society in Europe, from the subversion of the Roman Empire to the beginning of the sixteenth century

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V I E W
OF THE
PROGRESS OF SOCIETY
I N
E U R O P E,
FROM THE
SUBVERSION OF THE ROMAN EMPIRE,
TO THE
BEGINNING OF THE SIXTEENTH CENTURY.

SECTION I.

*View of the Progress of Society in Europe, with respect
to interior Government, Laws, and Manners.*

Two great revolutions have happened in the political state, and in the manners of the European nations. The first was occasioned by the progress of the Roman power; the second by the subversion of the Roman empire. When the spirit of conquest led the armies of Rome beyond the Alps, they found all the countries which they invaded, inhabited by people whom they denominated

SECT. I.
The effects
of the Ro-
man power
on the state
of Europe.

SECT. I. barbarians, but who were nevertheless brave and independent. These defended their ancient possessions with obstinate valour. It was by the superiority of their discipline, rather than of their courage, that the Romans gained any advantage over them. A single battle did not, as among the effeminate inhabitants of Asia, decide the fate of a state. The vanquished people resumed their arms with fresh spirit, and their undisciplined valour, animated by the love of liberty, supplied the want of conduct as well as of union. During those long and fierce struggles for dominion or independence, the countries of Europe were successively laid waste, a great part of their inhabitants perished in the field, many were carried into slavery, and a feeble remnant, incapable of further resistance, submitted to the Roman power.

The desolation which it occasioned.

The improvements which it introduced.

THE Romans having thus desolated Europe, set themselves to civilize it. The form of government which they established in the conquered provinces, though severe, was regular, and preserved public tranquillity. As a consolation for the loss of liberty, they communicated their arts, sciences, language, and manners, to their new subjects. Europe began to breathe, and to recover strength after the calamities which it had undergone; agriculture was encouraged; population increased; the ruined cities were rebuilt; new towns were founded; an appearance of prosperity succeeded, and repaired, in some degree, the havock of war.

THIS state, however, was far from being happy, or favourable to the improvement of the human mind. The vanquished nations were disarmed by their conquerors, and overawed by foldiers kept in pay to restrain them. They were given up as a prey to rapacious governors, who plundered them with impunity; and were drained of their wealth by exorbitant taxes, imposed with so little attention to the situation of the provinces, that the impositions were often increased in proportion to their inability to support them. They were deprived of their most enterprizing citizens, who resorted to a distant capital in quest of preferment, or of riches; and were accustomed in all their actions to look up to a superior, and tamely to receive his commands. Under so many depressing circumstances, it was impossible that they could retain vigour or generosity of mind. The martial and independent spirit, which had distinguished their ancestors, became extinct among all the people subjected to the Roman yoke; they lost not only the habit but even the capacity of deciding for themselves, or of acting from the impulse of their own minds; and the dominion of the Romans, like that of all great empires, degraded and debased the human species (A).

SECT. I.

The bad consequences of their dominion.

A SOCIETY in this state could not subsist long. There were defects in the Roman government, even in its most perfect form, which threatened its dissolution. Time ripened these original seeds of

The irruption of the barbarous nations,

(A) NOTE I.

B 2

SECT. I. corruption, and gave birth to many new disorders. A constitution, unsound, and worn out, must have fallen in pieces of itself, without any external shock. The violent irruption of the Goths, Vandals, Huns, and other barbarians hastened this event, and precipitated the downfall of the Empire. New nations seemed to arise, and to rush from unknown regions, in order to take vengeance on the Romans for the calamities which they had inflicted on mankind. These fierce tribes either inhabited the various provinces in Germany which had never been subdued by the Romans, or were scattered over the vast countries in the north of Europe, and north-west of Asia, which are now occupied by the Danes, the Swedes, the Poles, the subjects of the Russian Empire, and the Tartars. Their condition, and transactions, previous to their invasion of the Empire, are but little known. All our information with respect to these is derived from the Romans; and as they did not penetrate far into countries which were at that time uncultivated and uninviting, the accounts of their original state given by them are extremely imperfect. The rude inhabitants themselves, destitute of science, and of records, without leisure, or curiosity to enquire into remote events, retained, perhaps, some indistinct memory of recent occurrences, but beyond these, all was buried in oblivion, or involved in darkness, and in fable (B).

State of the
countries
from which
they issued.

THE prodigious swarms which poured in upon the Empire from the beginning of the fourth cen-

(B) NOTE II.

tury to the final extinction of the Roman power, SECT. I.
 have given rise to an opinion that the countries
 whence they issued were crowded with inhabitants;
 and various theories have been formed to account
 for such an extraordinary degree of population as
 hath procured these countries the appellation of
 The Storehouse of Nations. But if we consider,
 that the countries possessed by the people who in-
 vaded the Empire were of vast extent; that a great
 part of these was covered with woods and marshes;
 that some of the most considerable of the barba-
 rous nations subsisted entirely by hunting or pas-
 ture, in both which states of society large tracts
 of land are acquired for maintaining a few inha-
 bitants; and that all of them were strangers to the
 arts and industry, without which population can-
 not increase to any great degree, it is evident, that
 these countries could no be so populous in ancient
 times as they are at present, when they still con-
 tinue to be less peopled than any other part of
 Europe or of Asia.

BUT if these circumstances prevented the bar-
 barous nations from becoming populous, they con-
 tributed to inspire, or to strengthen the martial
 spirit by which they were distinguished. Inured
 by the rigour of their climate, or the poverty of
 their soil, to hardships, which rendered their bodies
 firm, and their minds vigorous; accustomed to a
 course of life which was a continual preparation
 for action; and disdaining every occupation but
 that of war; they undertook, and prosecuted their

The people
 fit for dar-
 ing enter-
 prizes.

SECT. I. military enterprizes with an ardour and impetuosity, of which men softened by the refinements of more polished times can scarcely form any idea (C).

The motives
of their first
excursions.

THEIR first inroads into the Empire proceeded rather from the love of plunder, than from the desire of new settlements. Roused to arms by some enterprising or popular leader, they sallied out of their forests; broke in upon the frontier provinces with irresistible violence; put all who opposed them to the sword; carried off the most valuable effects of the inhabitants; dragged along multitudes of captives in chains; wasted all before them with fire or sword; and returned in triumph to their wilds and fastnesses. Their success, together with the accounts which they gave of the unknown conveniencies and luxuries that abounded in countries better cultivated, or blessed with a milder climate than their own, excited new adventurers, and exposed the frontier to new devastations.

Their reasons for settling in the countries which they conquered.

WHEN nothing was left to plunder in the adjacent provinces, ravaged by frequent incursions, they marched farther from home, and finding it difficult, or dangerous to return, they began to settle in the countries which they had subdued. The sudden and short excursions in quest of booty, which had alarmed and disquieted the Empire, ceased; a more dreadful calamity impended. Great bodies of armed men, with their wives and

(C) NOTE III.

children, and slaves and flocks, issued forth, like regular colonies, in quest of new settlements. People who had no cities, and seldom any fixed habitation, were so little attached to their native soil, that they migrated without reluctance from one place to another. New adventurers followed them. The lands which they deserted were occupied by more remote tribes of barbarians. These, in their turn, pushed forward into more fertile countries, and, like a torrent continually increasing, rolled on, and swept every thing before them. In less than two centuries from their first irruption, barbarians of various names and lineage, plundered and took possession of Thrace, Pannonia, Gaul, Spain, Africa, and at last of Italy, and Rome itself. The vast fabrick of the Roman power, which it had been the work of ages to perfect, was in that short period overturned from the foundation.

SECT. I.

The extent
of their
settlements.

MANY concurring causes prepared the way for this great revolution, and ensured success to the nations which invaded the Empire. The Roman commonwealth had conquered the world by the wisdom of its civil maxims, and the rigour of its military discipline. But, under the Emperors, the former were forgotten or despised, and the latter was gradually relaxed. The armies of the Empire in the fourth and fifth centuries bore scarcely any resemblance to those invincible legions which had been victorious wherever they marched. Instead of freemen, who voluntarily took arms from the

The circumstances which occasioned the downfall of the Roman Empire.

SECT. I. love of glory, or of their country, provincials and barbarians were bribed or forced into service. They were too feeble, or too proud to submit to the fatigue of military duty. They even complained of the weight of their defensive armour, as intolerable, and laid it aside. Infantry, from which the armies of ancient Rome derived their vigour and stability, fell into contempt; the effeminate and undisciplined foldiers of later times could hardly be brought to venture into the field but on horseback. These wretched troops, however, were the only guardians of the Empire. The jealousy of despotism had deprived the people of the use of arms; and subjects oppressed and rendered incapable of defending themselves, had neither spirit nor inclination to resist their invaders, from whom they had little to fear, because their condition could hardly be rendered more unhappy. As the martial spirit became extinct, the revenues of the Empire gradually diminished. The taste for the luxuries of the East increased to such a pitch in the Imperial court, that great sums were carried into India, from which money never returns. By the vast subsidies paid to the barbarous nations, a still greater quantity of species was withdrawn from circulation. The frontier provinces wasted by frequent incursions became unable to pay the customary tribute; and the wealth of the world, which had long centered in the capital of the Empire, ceased to flow thither in the same abundance, or was diverted into other channels. The limits of the Empire continued to be as extensive as ever,

while the spirit requisite for its defence declined, and its resources were exhausted. A vast body, languid, and almost unanimated, became incapable of any effort to save itself, and was easily overpowered. The Emperors, who had the absolute direction of this disordered system, sunk in the softness of eastern luxury, shut up within the walls of a palace, ignorant of war, unacquainted with affairs, and governed entirely by women and eunuchs, or by ministers equally effeminate, trembled at the approach of danger, and under circumstances which called for the utmost vigour in counsel as well as in action discovered all the impotent irresolution of fear, and of folly.

SECT. I.

In every respect, the condition of the barbarous nations was the reverse of that of the Romans. Among them, the martial spirit was in full vigour; their leaders were hardy and enterprising; the arts which had enervated the Romans were unknown among them; and such was the nature of their military institutions, that they brought forces into the field without any trouble, and supported them at little expence. The mercenary and effeminate troops stationed on the frontier, astonished at their fierceness, either fled at their approach, or were routed in the first onset. The feeble expedient to which the Emperors had recourse, of taking large bodies of the barbarians into pay, and of employing them to repel new invaders, instead of retarding, hastened the destruction of the Empire. They soon turned their arms against their masters,

The circumstances which contributed to the success of the barbarous nations.

SECT. I, and with greater advantage than ever: for, by serving in the Roman armies, they had acquired all the discipline, or skill in war, which the Romans still retained; and, upon adding these to their native ferocity, they became altogether irresistible.

The spirit
with which
they carried
on war.

BUT though from these, and many other causes, the progress and conquests of the nations which over-ran the Empire, became so extremely rapid, they were accompanied with horrible devastations, and an incredible destruction of the human species. Civilized nations which take arms upon cool reflection, from motives of policy or prudence, with a view to guard against some distant danger, or to prevent some remote contingency, carry on their hostilities with so little rancour, or animosity, that war among them is disarmed of half its terrors. Barbarians are strangers to such refinements. They rush into war with impetuosity, and prosecute it with violence. Their sole object is to make their enemies feel the weight of their vengeance, nor does their rage subside until it be fatiated with inflicting on them every possible calamity. It is with such a spirit that the savage tribes in America carry on their petty wars. It was with the same spirit that the more powerful and no less fierce barbarians in the north of Europe, and of Asia fell upon the Roman Empire.

The desolation
which
they brought
upon Europe.

WHEREVER they marched, their route was marked with blood. They ravaged or destroyed all around them. They made no distinction between what

was sacred, and what was profane. They respected no age, or sex, or rank. What escaped the fury of the first inundation, perished in those which followed it. The most fertile and populous provinces were converted into deserts, in which were scattered the ruins of villages and cities, that afforded shelter to a few miserable inhabitants whom chance had preserved, or the sword of the enemy, wearied with destroying, had spared. The conquerors who first settled in the countries which they had wasted, were expelled or exterminated by new invaders, who coming from regions farther removed from the civilized parts of the world, were still more fierce and rapacious. This brought new calamities upon mankind, which did not cease until the north, by pouring forth successive swarms, was drained of people, and could no longer furnish instruments of destruction. Famine and pestilence, which always march in the train of war, when it ravages with such inconsiderate cruelty, raged in every part of Europe, and completed its sufferings. If a man were called to fix upon the period in the history of the world, during which the condition of the human race was most calamitous and afflicted, he would, without hesitation, name that which elapsed from the death of Theodosius the Great, to the establishment of the Lombards in Italy¹. The contemporary authors who beheld that scene of desolation, labour and are at a

SECT. I.

¹ Theodosius died A. D. 395, the reign of Alboinus in Lombardy began A. D. 571; so that this period was 176 years.

SECT. I. lofs for expreffions to describe the horror of it. *The scourge of God*, *The destroyer of nations*, are the dreadful epithets by which they distinguish the most noted of the barbarous leaders; and they compare the ruin which they had brought on the world, to the havock occasioned by earthquakes, conflagrations, or deluges, the most formidable and fatal calamities which the imagination of man can conceive.

The universal change which they occasioned in the state of Europe.

BUT no expreffions can convey so perfect an idea of the destructive progress of the barbarians as that which must strike an attentive observer, when he contemplates the total change, which he will discover in the state of Europe after it began to recover some degree of tranquillity towards the close of the sixth century. The Saxons were by that time masters of the southern, and more fertile provinces of Britain; the Franks of Gaul; the Huns of Pannonia; the Goths of Spain; the Goths and Lombards of Italy and the adjacent provinces. Scarce any vestige of the Roman policy, jurisprudence, arts, or literature, remained. New forms of government, new laws, new manners, new dresses, new languages, and new names of men and countries, were every where introduced. To make a great or sudden alteration with respect to any of these, unless where the ancient inhabitants of a country have been almost totally exterminated, has proved an undertaking beyond the power of the greatest conquerors (D). The total change which the settlement of the barbarous nations occasioned

(D) NOTE IV.

in the state of Europe, may, therefore, be considered as a more decisive proof, than even the testimony of contemporary historians, of the destructive violence with which these invaders carried on their conquests, and of the havock which they had made from one extremity of this quarter of the globe to the other (E).

SECT. I.

IN the obscurity of the chaos occasioned by this general wreck of nations, we must search for the seeds of order, and endeavour to discover the first rudiments of the policy and laws now established in Europe. To this source, the historians of its different kingdoms have attempted, though with less attention and industry than the importance of the enquiry merits, to trace back the institutions and customs peculiar to their countrymen. It is not my province to give a minute detail of the progress of government and manners in each particular nation, whose transactions are the object of the following history. But, in order to exhibit a just view of the state of Europe at the opening of the sixteenth century, it is necessary to look back, and to contemplate the condition of the northern nations upon their first settlement in those countries which they occupied. It is necessary to mark the great steps by which they advanced from barbarism to refinement, and to point out those general principles and events which, by their uniform as well as extensive operation, conducted all of them

From this state of disorder the laws of government now established must be traced.

(E) NOTE V.

SECT. I. to that degree of improvement in policy and in manners which they had attained at the period when Charles V. began his reign.

The principles on which the northern nations made their settlements in Europe.

WHEN nations subject to despotic government make conquests, these serve only to extend the dominion and the power of their master. But armies composed of freemen conquer for themselves, not for their leaders. The people who overturned the Roman Empire, and settled in its various provinces, were of the latter class. Not only the different nations that issued from the north of Europe, which has always been considered as the seat of liberty, but the Huns and Alans who inhabited part of those countries which have been marked out as the peculiar region of servitude², enjoyed freedom and independence in such a high degree as seems to be scarcely compatible with a state of social union, or with the subordination necessary to maintain it. They followed the chieftain who led them forth in quest of new settlements, not by constraint, but from choice; not as soldiers whom he could order to march, but as volunteers who offered to accompany him (F). They considered their conquests as a common property, in which all had a title to share, as all had contributed to acquire them (G). In what manner, or by what principles, they divided among them the lands which they seized, we cannot now determine with any

² De l'esprit des loix liv. 17. ch. 3.

(F) NOTE VI.

(G) NOTE VII.

certainty. There is no nation in Europe whose records reach back to this remote period; and there is little information to be got from the uninformative and meagre chronicles, compiled by writers ignorant of the true end, and unacquainted with the proper objects, of history.

SECT. I.

THIS new division of property, however, together with the maxims and manners to which it gave rise gradually introduced a species of government formerly unknown. This singular institution is now distinguished by the name of the *Feudal system*; and though the barbarous nations which framed it, settled in their new territories at different times, came from different countries, spoke various languages, and were under the command of separate leaders the Feudal policy and laws were established, with little variation, in every kingdom of Europe. This amazing uniformity hath induced some authors³ to believe that all these nations, notwithstanding so many apparent circumstances of distinction, were originally the same people. But it may be ascribed with greater probability to the similar state of society and of manners to which they were accustomed in their native countries, and to the similar situation in which they found themselves on taking possession of their new domains.

The feudal government gradually established among them.

As the conquerors of Europe had their acquisitions to maintain, not only against such of the

³ Procop. de Bello Vandal. ap. Script. Byz. edit. Ven. vol. i. pag. 345.

SECT. I.
National
defence the
great object
of feudal
policy.

ancient inhabitants as they had spared, but against the more formidable inroads of new invaders, self-defence was their chief care, and seems to have been the sole object of their first institutions and policy. Instead of those loose associations, which, though they scarcely diminished their personal independence, had been sufficient for their security while they remained in their original countries, they saw the necessity of confederating more closely together, and of relinquishing some of their private rights in order to attain publick safety. Every freeman, upon receiving a portion of the lands which were divided, bound himself to appear in arms against the enemies of the community. This military service was the condition upon which he received and held his lands, and as they were exempted from every other burden, that tenure, among a warlike people, was deemed both easy and honourable. The King or general, who led them to conquest, continuing still to be the head of the colony, had, of course, the largest portion allotted to him. Having thus acquired the means of rewarding past services, as well as of gaining new adherents, he parcelled out his lands with this view, binding those on whom they were bestowed, to follow his standard with a number of men in proportion to the extent of the territory which they received, and to bear arms in his defence. His chief officers imitated the example of the sovereign, and in distributing portions of their lands among their dependents, annexed the same condition

tion to the grant. Thus a feudal kingdom resembled a military establishment, rather than a civil institution. The victorious army, cantoned out in the country which it had seized, continued ranged under its proper officers, and subordinate to military command. The names of a soldier and of a freeman were synonymous *. Every proprietor of land, girt with a sword, was ready to march at the summons of his superior, and to take the field against the common enemy.

SECT. I.

BUT though the Feudal policy seems to be so admirably calculated for defence against the assaults of any foreign power, its provisions for the interior order and tranquillity of society were extremely defective. The principles of disorder and corruption are discernible in that constitution under its best and most perfect form. They soon unfolded themselves, and spreading with rapidity through every part of the system, produced the most fatal effects. The bond of political union was extremely feeble; the sources of anarchy were innumerable. The monarchical and aristocratical parts of the constitution, having no intermediate power to balance them, were perpetually at variance, and jostling with each other. The powerful vassals of the crown soon extorted a confirmation for life of those grants of land, which being at first purely gratuitous, had been bestowed only during plea-

The feudal government defective in its provisions for interior order in society.

* Du Cange Glossar. voc. *Miles*.

SECT. I. sure. Not satisfied with this, they prevailed to have them converted into hereditary possessions. One step more completed their usurpations, and rendered them unalienable (H). With an ambition no less enterprising, and more preposterous they appropriated to themselves titles of honour, as well as offices of power or trust. These personal marks of distinction, which the publick admiration bestows on illustrious merit, or which the publick confidence confers on extraordinary abilities, were annexed to certain families, and transmitted like fiefs, from father to son, by hereditary right. The crown vassals having thus secured the possession of their lands and dignities, the nature of the feudal institutions, which, though founded on subordination, verged to independence, led them to new, and still more dangerous encroachments on the prerogatives of the sovereign. They obtained the power of supreme jurisdiction both civil and criminal within their own territories; the right of coining money; together with the privilege of carrying on war against their private enemies in their own name, and by their own authority. The ideas of political subjection were almost entirely lost, and frequently scarce any appearance of feudal subordination remained. Nobles who had acquired such enormous power, scorned to consider themselves as subjects. They aspired openly at being independent; the bonds which connected the principal members of the constitution with the crown, were dissolved. A kingdom, considerable

(H) NOTE VIII.

in name and in extent, was broken into as many SECT. I.
 separate principalities as it contained powerful barons. A thousand causes of jealousy and discord subsisted among them, and gave rise to as many wars. Every country in Europe, wasted or kept in continual alarm during these endless contests, was filled with castles and places of strength, erected for the security of the inhabitants, not against foreign force, but against internal hostilities. An universal anarchy, destructive, in a great measure, of all the advantages which men expect to derive from society, prevailed. The people, the most numerous as well as the most useful part of the community, were either reduced to a state of actual servitude, or treated with the same insolence and rigour as if they had been degraded into that wretched condition (I). The King, stripped of almost every prerogative, and without authority to enact or to execute salutary laws, could neither protect the innocent, nor punish the guilty. The nobles, superior to all restraint, harassed each other with perpetual wars, oppressed their fellow-subjects, and humbled or insulted their sovereign. To crown all, time gradually fixed, and rendered venerable this pernicious system, which violence had established.

SUCH was the state of Europe with respect to the interior administration of government from the seventh to the eleventh century. All the external operations of its various states during this period, were, of course, extremely feeble. A kingdom

prevented nations likewise from acting with vigour in their external operations.

(I) NOTE IX.

SECT. I. dismembered, and torn with dissension, without any common interest to rouse, or any common head to conduct its force, was incapable of acting with vigour. Almost all the wars in Europe, during the ages which I have mentioned, were trifling, indecisive, and productive of no considerable event. They resembled the short incursions of pirates or banditti, rather than the steady operations of a regular army. Every baron, at the head of his vassals, carried on some petty enterprize, to which he was prompted by his own ambition, or revenge. The state itself, destitute of union, either remained altogether inactive, or if it attempted to make any effort, that served only to discover its impotence. The superior genius of Charlemagne, it is true, united all these disjointed and discordant members, and forming them again into one body, restored to government that degree of activity which distinguishes his reign, and renders the transactions of it; objects not only of attention but of admiration to more enlightened times. But this state of union and vigour, not being natural to the feudal government, was of short duration. Immediately upon his death, the spirit which animated and sustained the vast system which he had established, being withdrawn, it broke into pieces. All the calamities which flow from anarchy and discord, returning with additional force, afflicted the different kingdoms into which his empire was split. From that time to the eleventh century, a succession of uninteresting events, a series of wars, the

motives as well as the consequences of which were SECT. I.
 equally unimportant, fill and deform the annals of
 all the nations in Europe.

To these pernicious effects of the feudal anarchy, The fatal effects of this state of society on sciences and arts;
 may be added its fatal influence on the character
 and improvement of the human mind. If men do
 not enjoy the protection of regular government,
 together with the certainty of personal security,
 which naturally flows from it, they never attempt
 to make progress in science, nor aim at attaining
 refinement in taste, or in manners. That period
 of turbulence, oppression, and rapine, which I have
 described, was ill suited to favour improvement in
 any of these. In less than a century after the bar-
 barous nations settled in their new conquests, al-
 most all the effects of the knowledge and civility
 which the Romans had spread through Europe dis-
 appeared. Not only the arts of elegance which
 minister to luxury, and are supported by it, but
 many of the useful arts, without which life can
 scarcely be considered as comfortable, were ne-
 glected or lost. Literature, science, taste, were
 words hardly in use during the ages we are con-
 templating; or if they occur at any time, emi-
 nence in them is ascribed to persons and produc-
 tions so contemptible, that it appears their true im-
 port was little understood. Persons of the highest
 rank, and in the most eminent stations, could not
 read or write. Many of the clergy did not under-
 stand the breviary which they were obliged daily

SECT. I. to recite; some of them could scarcely read it (K). All memory of past transactions was lost, or preserved in annals filled with trifling events, or legendary tales. Even the codes of laws published by the several nations which established themselves in the different countries of Europe, fell into disuse, while, in their place, customs, vague and capricious, were substituted. The human mind neglected, uncultivated, and depressed, sunk into the most profound ignorance. Europe did not produce, during four centuries, one author who merits to be read, either on account of the elegance of his composition, or the justness and novelty of his sentiments. There is hardly one invention useful or ornamental to society of which that long period can boast.

upon re-
ligion;

EVEN the Christian religion, though its precepts are delivered, and its institutions are fixed in scripture with a precision which should have exempted them from being misinterpreted or corrupted, degenerated during those ages of darkness into an illiberal superstition. The barbarous nations when converted to Christianity changed the object, not the spirit of their religious worship. They endeavoured to conciliate the favour of the true God by means not unlike to those which they had employed in order to appease their false deities. Instead of aspiring to sanctity and virtue, which alone can render men acceptable to the great author of

(K) NOTE X.

order and of excellence, they imagined that they SECT. I
 satisfied every obligation of duty by a scrupulous
 observance of external ceremonies (L). Religion,
 according to their conception of it, comprehended
 nothing else; and the rites, by which they per-
 suaded themselves that they should gain the favour
 of heaven, were of such a nature as might have
 been expected from the rude ideas of the ages
 which devised and introduced them. They were
 either so unmeaning as to be altogether unworthy
 of the Being to whose honour they were conse-
 crated; or so absurd as to be a disgrace to reason
 and humanity (M). Charlemagne in France, and
 Alfred the Great in England, endeavoured to dis-
 pel this darkness, and gave their subjects a short
 glimpse of light and knowledge. But the igno-
 rance of the age was too powerful for their efforts
 and institutions. The darkness returned, and set-
 tled over Europe more thick and heavy than
 formerly.

As the inhabitants of Europe during these cen-
 turies were strangers to the arts which embellish
 a polished age, they were destitute of the virtues
 which abound among people who continue in a
 simple state. Force of mind, a sense of personal
 dignity, gallantry in enterprize, invincible perse-
 verance in execution, contempt of danger and of
 death, are the characteristic virtues of uncivilized
 nations. But these are all the offspring of equa-

(L) NOTE XI. (M) NOTE XII.

SECT. I. lity and independence, both which the feudal institutions had destroyed. The spirit of domination corrupted the nobles; the yoke of servitude depressed the people; the generous sentiments inspired by a sense of equality were extinguished, and nothing remained to be a check on ferocity and violence. Human society is in its most corrupted state at that period when men have lost their original independence and simplicity of manners, but have not attained that degree of refinement which introduces a sense of decorum and of propriety in conduct, as a restraint on those passions which lead to heinous crimes. Accordingly, a greater number of those atrocious actions which fill the mind of man with astonishment and horror, occur in the history of the centuries under review, than in that of any period of the same extent in the annals of Europe. If we open the history of Gregory of Tours, or of any contemporary author, we meet with a series of deeds of cruelty, perfidy, and revenge, so wild and enormous as almost to exceed belief.

From the beginning of the eleventh century government and manners begin to improve

BUT, according to the observation of an elegant and profound historian^s, there is an ultimate point of depression, as well as of exaltation, from which human affairs naturally return in a contrary progress, and beyond which they never pass either in their advancement or decline. When defects, either in the form, or in the administration

^s Hume's History of England, vol. ii. p. 441.

of government, occasion such disorders in society as are excessive and intolerable, it becomes the common interest to discover and to apply such remedies as will most effectually remove them. Slight inconveniencies may be long overlooked or endured, but when abuses grow to a certain pitch, the society must go to ruin, or must attempt to reform them. The disorders in the feudal system, together with the corruption of taste and manners consequent upon these, which had gone on increasing during a long course of years, seem to have attained their utmost point of excess towards the close of the eleventh century. From that æra, we may date the return of government and manners in a contrary direction, and can trace a succession of causes and events which contributed, some with a nearer and more powerful, others with a more remote and less perceptible influence, to abolish confusion and barbarism, and to introduce order, regularity, and refinement.

IN pointing out and explaining these causes and events, it is not necessary to observe the order of time with a chronological accuracy; it is of more importance to keep in view their mutual connection and dependence, and to show how the operation of one event, or one cause, prepared the way for another, and augmented its influence. We have hitherto been contemplating the progress of that darkness which spread over Europe from its first approach, to the period of greatest obscurity; a more pleasant exercise begins here, to ob-

SECT. I.

Necessary to
point out
the causes
and events
which contribute
towards this
improvement.

SECT. I. serve the first dawns of returning light, to mark the various accessions by which it gradually increased and advanced towards the full splendour of day.

The tendency of the Crusades to introduce a change in government and manners.

The more remote causes of these expeditions.

I. THE Crusades, or expeditions in order to rescue the Holy Land out of the hands of infidels, seem to be the first event that roused Europe from the lethargy in which it had been long sunk, and that tended to introduce any change in government, or in manners. It is natural to the human mind to view those places which have been distinguished by being the residence of any illustrious personage, or the scene of any great transaction, with some degree of delight and veneration. From this principle flowed the superstitious devotion with which Christians, from the earliest ages of the church, were accustomed to visit that country which the Almighty had selected as the inheritance of his favourite people, and in which the Son of God had accomplished the redemption of mankind. As this distant pilgrimage could not be performed without considerable expence, fatigue, and danger, it appeared the more meritorious, and came to be considered as an expiation for almost every crime. An opinion which spread with rapidity over Europe about the close of the tenth and beginning of the eleventh century, and which gained universal credit, wonderfully augmented the number of credulous pilgrims, and increased the ardour with which they undertook this useless voyage. The thousand years mentioned by

St. John⁶ were supposed to be accomplished, and the end of the world to be at hand. A general consternation seized mankind; many relinquished their possessions; and abandoning their friends and families, hurried with precipitation to the Holy Land, where they imagined that Christ would quickly appear to judge the world⁷. While Palestine continued subject to the Caliphs, they had encouraged the resort of pilgrims to Jerusalem; and considered this as a beneficial species of commerce, which brought into their dominions gold and silver, and carried nothing out of them but relicks and consecrated trinkets. But the Turks having conquered Syria about the middle of the eleventh century, pilgrims were exposed to outrages of every kind from these fierce barbarians⁸. This change happening precisely at the juncture when the panic terror which I have mentioned rendered pilgrimages most frequent, filled Europe with alarm and indignation. Every person who returned from Palestine related the dangers which he had encountered, in visiting the holy city, and described with exaggeration the cruelty and vexations of the Turks.

⁶ Revel. xx. 2, 3, 4.

⁷ Chronic. Will. Godelli ap. Bouquet Recueil des Historiens de France, tom. x. p. 262. Vita Abbonis, ibid. p. 332. Chronic. S. Pantaleonis ap. Eccard. Corp. Scrip. medii ævi. vol. i. p. 909. Annalista Saxo, ibid. 576.

⁸ Jo. Dan. Schoepflini de sacris Gallorum in orientem expeditionibus, p. 4. Argent. 1726. 4to.

SECT. I. WHEN the minds of men were thus prepared, the zeal of a fanatical monk, who conceived the idea of leading all the forces of Christendom against the infidels, and of driving them out of the Holy Land by violence, was sufficient to give a beginning to that wild enterprize. Peter the hermit, for that was the name of this martial apostle, run from province to province with a crucifix in his hand, exciting princes and people to this Holy War, and wherever he came kindled the same enthusiastic ardour for it with which he himself was animated. The council of Placentia, where upwards of thirty thousand persons were assembled, pronounced the scheme to have been suggested by the immediate inspiration of heaven. In the council of Clermont, still more numerous, as soon as the measure was proposed, all cried out with one voice, "It is the will of God." Persons of all ranks were smitten with the contagion; not only the gallant nobles of that age, with their martial followers, whom the boldness of a romantic enterprize might have been apt to allure, but men in the more humble and pacific stations of life; ecclesiastics of every order, and even women and children, engaged with emulation in an undertaking which was deemed sacred and meritorious. If we may believe the concurring testimony of contemporary authors, six millions of persons assumed the cross⁹, which was the badge that distinguished such as devoted themselves to this holy warfare. All Europe, says the

⁹ Fulcherius Carnotensis ap. Bongarsii *Gesta Dei per Francos*, vol. i. 387. edit. Han. 1611.

Princess Anna Comnena, torn up from the foundation, seemed ready to precipitate itself in one united body upon Asia¹⁰. Nor did the fumes of this enthusiastic zeal evaporate at once: the frenzy was as lasting as it was extravagant. During two centuries, Europe seems to have had no object but to recover, or keep possession of the Holy Land, and through that period vast armies continued to march thither (N)

SECT. I.

THE first efforts of valour animated by enthusiasm were irresistible; part of the lesser Asia, all Syria and Palestine were wrested from the infidels; the banner of the cross was displayed on Mount Sion; Constantinople, the capital of the Christian empire in the East, was seized by a body of those adventurers, who had taken arms against the Mahometans, and an Earl of Flanders, and his descendants, kept possession of the Imperial throne during half a century. But though the first impression of the Crusaders was so unexpected that they made their conquests with great ease, they found infinite difficulty in preserving them. Establishments so distant from Europe, surrounded by warlike nations, animated with fanatical zeal scarcely inferior to that of the Crusaders themselves, were perpetually in danger of being overturned. Before the expiration of the thirteenth century, the Christians were driven out of all their Asiatic possessions, in acquiring of which incredible numbers of men had

The success
of the Cru-
sades.

A. D. 1291.

¹⁰ Alexias, lib. x. ap. Byz. script. vol. xi. p. 224.

SECT. I. perished, and immense sums of money had been wasted. The only common enterprize in which the European nations ever engaged and which all undertook with equal ardour, remains a singular monument of human folly.

The beneficial effects of the Crusades on manners.

BUT from these expeditions, extravagant as they were, beneficial consequences followed, which had neither been foreseen nor expected. In their progress towards the Holy Land, the followers of the cross marched through countries better cultivated, and more civilized than their own. Their first rendezvous was commonly in Italy, in which Venice, Genoa, Pisa and other cities had begun to apply themselves to commerce, and had made some advances towards wealth as well as refinement. They embarked there, and landing in Dalmatia, pursued their route by land to Constantinople. Though the military spirit had been long extinct in the eastern Empire, and a despotism of the worst species had annihilated almost every public virtue, yet Constantinople, having never felt the destructive rage of the barbarous nations, was the greatest, as well as the most beautiful city in Europe, and the only one in which there remained any image of the ancient elegance in manners and arts. The naval power of the eastern empire was considerable. Manufactures of the most curious fabrick were carried on in its dominions. Constantinople was the only mart in Europe for the commodities of the East Indies. Although the Saracens and Turks had torn from the Empire many of its richest pro-

vinces, and had reduced it within very narrow bounds, yet great wealth flowed into the capital from these various sources, which not only cherished such a taste for magnificence, but kept alive such a relish for the sciences, as appears considerable when compared with what was known in other parts of Europe. Even in Asia, the Europeans who had assumed the cross, found the remains of the knowledge and arts which the example and encouragement of the Caliphs had diffused through their Empire. Although the attention of the historians of the Crusades was fixed on other objects than the state of society and manners among the nations which they invaded, although most of them had neither taste nor discernment enough to describe these, they relate, however, such signal acts of humanity and generosity in the conduct of Saladin, as well as some other leaders of the Mahometans, as give us a very high idea of their manners. It was not possible for the Crusaders to travel through so many countries, and to behold their various customs and institutions, without acquiring information and improvement. Their views enlarged; their prejudices wore off; new ideas crowded into their minds; and they must have been sensible on many occasions of the rusticity of their own manners when compared with those of a more polished people. These impressions were not so slight as to be effaced upon their return to their native countries. A close intercourse subsisted between the East and West during two centuries; new armies were continually marching from Eu-

SECT. I. rope to Asia, while former adventurers returned home and imported many of the customs to which they had been familiarized by a long residence abroad. Accordingly, we discover, soon after the commencement of the Crusades, greater splendour in the courts of Princes, greater pomp in publick ceremonies, a more refined taste in pleasure and amusements, together with a more romantic spirit of enterprize spreading gradually over Europe; and to these wild expeditions, the effect of superstition or folly, we owe the first gleams of light which tended to dispel barbarity and ignorance.

Their influence on the state of property.

BUT these beneficial consequences of the Crusades took place slowly; their influence upon the state of property, and consequently of power, in the different kingdoms of Europe, was more immediate as well as discernible. The nobles who assumed the cross, and bound themselves to march to the Holy Land, soon perceived that great sums were necessary towards defraying the expence of such a distant expedition, and enabling them to appear with suitable dignity at the head of their vassals. But the genius of the feudal system was averse to the imposition of extraordinary taxes; and subjects in that age were unaccustomed to pay them. No expedient remained for levying the sums requisite, but the sale of their possessions. As men were inflamed with romantic expectations of the splendid conquests which they hoped to make in Asia, and possessed with such zeal for recovering the

Holy

Holy Land as swallowed up every other passion, they relinquished their ancient inheritances without any reluctance, and for prices far below their value, that they might sally forth as adventurers in quest of new settlements in unknown countries. The Monarchs of the great kingdoms in the west, none of whom had engaged in the first Crusade, eagerly seized this opportunity of annexing considerable territories to their crowns at small expence¹¹. Besides this, several great barons who perished in the Holy War, having left no heirs, their fiefs reverted of course to their respective sovereigns; and by these accessions of property as well as power taken from the one scale and thrown into the other, the regal authority increased in proportion as that of the Aristocracy declined. The absence, too, of many potent vassals, accustomed to controul and give law to their sovereigns, afforded them an opportunity of extending their prerogative, and of acquiring a degree of weight in the constitution which they did not formerly possess. To these circumstances, we may add, that as all who assumed the cross were taken under the immediate protection of the church, and its heaviest anathemas were denounced against such as should disquiet or annoy those who had devoted themselves to this service: the private quarrels and hostilities which banished tranquillity from a feudal kingdom were suspended or extinguished; a more general and steady administration

¹¹ Willelm. Malmsbur. Guibert. Abbas ap. Bongarf. vol. i. 481.

SECT. I. of justice began to be introduced, and some advances were made towards the establishment of regular government in the several kingdoms of Europe¹² (O).

Their commercial effect.

THE commercial effects of the Crusades were not less considerable than those which I have already mentioned. The first armies under the standard of the cross, which Peter the hermit and Godfrey of Bouillon led through Germany and Hungary to Constantinople, suffered so much by the length of the march, as well as by the fierceness of the barbarous people who inhabited those countries, that it deterred others from taking the same route; so that rather than encounter so many dangers, they chose to go by sea. Venice, Genoa, and Pisa furnished the transports on which they embarked. The sum which these cities received merely for freight from such numerous armies was immense¹³. This, however, was but a small part of what they gained by the expeditions to the Holy Land; the Crusaders contracted with them for military stores and provisions; their fleets kept on the coast as the armies advanced by land; and supplying them with whatever was wanting, engrossed all the profits of that lucrative branch of commerce. The success which attended the arms of the Crusaders was productive of advantages

¹² Du Cange Glossar. voc. *Cruce signatus*. Guil. Abbas ap. Bongars. vol. i. 480. 482.

(O) NOTE XIV.

¹³ Muratori Antiquit. Italic. medii ævi, vol. ii. 905.

SECT. I.

still more permanent. There are charters yet extant, containing grants to the Venetians, Pisans, and Genoese of the most extensive immunities in the several settlements which the Christians made in Asia. All the commodities which they imported or exported are thereby exempted from every imposition; the property of entire suburbs in some of the maritime towns, and of large streets in others, is vested in them; and all questions arising among persons settled within their precincts, or who traded under their protection, are appointed to be tried by their own laws and by judges of their own appointment²⁴. When the Crusaders seized Constantinople, and placed one of their own leaders on the Imperial throne, the Italian States were likewise gainers by that event. The Venetians who had planned the enterprize, and took a considerable part in carrying it into execution, did not neglect to secure to themselves the chief advantages redounding from its success. They made themselves masters of part of the ancient Peloponnesus in Greece, together with some of the most fertile islands in the Archipelago. Many valuable branches of the commerce, which formerly centered in Constantinople, were transferred to Venice, Genoa, or Pisa. Thus a succession of events occasioned by the Holy War, opened various sources, from which wealth flowed in such

²⁴ Muratori Antiquit. Italic. medii ævi, vol. ii. 906, &c.

SECT. I. abundance in these cities²⁵, as enabled them, in concurrence with another institution which shall be immediately mentioned, to secure their own liberty and independence.

The establishment of communities favourable to government and order.

II. THE institution to which I alluded was the forming of cities into communities, corporations, or bodies politick, and granting them the privilege of municipal jurisdiction, which contributed more, perhaps, than any other cause to introduce regular government, police and arts, and to diffuse them over Europe. The feudal government had degenerated into a system of oppression. The usurpations of the nobles were become unbounded and intolerable: they had reduced the great body of the people into a state of actual servitude: the condition of those dignified with the name of freemen, was often little preferable to that of the other. Nor was such oppression the portion of those alone who dwelt in the country, and were employed in cultivating the estate of their master. Cities and villages held of some great lord, on whom they depended for protection, and were no less subject to his arbitrary jurisdiction. The inhabitants were deprived of the natural, and most unalienable rights of humanity. They could not dispose of the effects which their own industry had acquired, either by a latter will, or by any deed executed during

The ancient state of cities.

²⁵ Villehardouin hist. de Constant. sous les Empereurs François, 105, &c.

their life¹⁶. They had no right to appoint guardians for their children during their minority. They were not permitted to marry without purchasing the consent of the lord on whom they depended¹⁷. If once they had commenced a law-suit, they durst not terminate it by an accommodation, because that would have deprived the lord in whose court they pleaded, of the perquisites due to him on passing sentence¹⁸. Services of various kinds, no less disgraceful than oppressive, were exacted from them without mercy or moderation. The spirit of industry was checked in some cities by absurd regulations, and in others by unreasonable exactions: nor would the narrow and oppressive maxims of a military aristocracy have permitted it ever to rise to any degree of height or vigour¹⁹.

SECT. I.

BUT as soon as the cities of Italy began to turn their attention towards commerce, and to conceive some idea of the advantages which they might derive from it, they became impatient to shake off the yoke of their insolent lords, and to establish among themselves such a free and equal govern-

The freedom of cities first established in Italy.

¹⁶ Dacherii Spicileg. tom. xi. 374, 375. edit. in 4to. Ordonnances des Rois de France, tom. iii. 204. N°. 2. 6.

¹⁷ Ordonnances des Rois de France, tom. i. p. 22. tom. iii. 203. N°. 1. Murat. Antiq. Ital. vol. iv. p. 20. Dacher. Spicil. vol. xi. 325. 341.

¹⁸ Dacher. Spicil. vol. ix. 182.

¹⁹ M. l'Abbé Mably observat. sur l'hist. de France, tom. ii. p. 2. 96.

SECT. I. ment as would render property secure, and industry flourishing. The German Emperors, especially those of the Franconian and Suabian lines, as the seat of their government was far distant from Italy, possessed a feeble and imperfect jurisdiction in that country. Their perpetual quarrels either with the Popes or with their own turbulent vassals, diverted their attention from the interior police of Italy, and gave constant employment to their arms. These circumstances encouraged the inhabitants of some of the Italian cities, towards the beginning of the eleventh century, to assume new privileges, to unite together more closely, and to form themselves into bodies politick under the government of laws established by common consent²⁰. The rights, which many cities acquired by bold or fortunate usurpations, others purchased from the Emperors, who deemed themselves gainers when they received large sums for immunities which they were no longer able to withhold; and some cities obtained them gratuitously from the generosity or facility of the Princes on whom they depended. The great increase of wealth which the Crusades brought into Italy, occasioned a new kind of fermentation and activity in the minds of the people, and excited such a general passion for liberty and independence, that before the conclusion of the last Crusade, all the considerable cities in that country had either purchased or had extorted large immunities from the Emperors (P).

²⁰ Murat. Antiquit. Ital. vol. iv. p. 5.

THIS innovation was not long known in Italy before it made its way into France. Louis the Gros, in order to create some power that might counterbalance those potent vassals who controuled, or gave law to the crown, first adopted the plan of conferring new privileges on the towns situated within his own domain. These privileges were called *charters of community*, by which he enfranchised the inhabitants, abolished all marks of servitude, and formed them into corporations or bodies politick, to be governed by a council and magistrates of their own nomination. These magistrates had the right of administering justice within their own precincts, of levying taxes, of embodying and training to arms the militia of the town, which took the field when required by the sovereign, under the command of officers appointed by the community. The great barons imitated the example of their monarch, and granted like immunities to the towns within their territories. They had wasted such great sums in their expeditions to the Holy Land, that they were eager to lay hold on this new expedient for raising money, by the sale of those charters of liberty. Though the institution of communities was as repugnant to their maxims of policy, as it was adverse to their power, they disregarded remote consequences, in order to obtain present relief. In less than two centuries, servitude was abolished in most of the towns in France, and they became free corporations, instead of dependent villages, without jurisdiction or pri-

SECT. I.

Is introduced into France and into other countries of Europe.

A. D. 1108,

—1137.

SECT. I. *vileges* (Q). Much about the same period, the great cities in Germany began to acquire like immunities, and laid the foundation of their present liberty and independence (R). The practice spread quickly over Europe, and was adopted in Spain, England, Scotland, and all the other feudal kingdoms (S).

Its happy
effects upon
the condi-
tion of the
inhabitants;

THE good effects of this new institution were immediately felt, and its influence on government as well as manners was no less extensive than salutary. A great body of the people was released from servitude, and from all the arbitrary and grievous impositions to which that wretched condition had subjected them. Towns, upon acquiring the right of community, became so many little republics, governed by known and equal laws. Liberty was deemed such an essential and characteristic part in their constitution, that if any slave took refuge in one of them, and resided there during a year without being claimed, he was instantly declared a freeman, and admitted as a member of the community²¹.

upon the
power of
the nobility;

As one part of the people owed their liberty to the erection of communities, another was indebted to them for their security. Such had been the state of Europe during several centuries, that self-

(Q) NOTE XVI.

(R) NOTE XVII.

(S) NOTE XVIII.

²¹ Statut. Humberti Bellojoci, Dacher. Spicil. vol. ix. 182. 185. Charta Comit. Forenf. ibid. 193.

preservation obliged every man to court the patronage of some powerful baron, and in times of danger his castle was the place to which all resorted for safety. But towns surrounded with walls, whose inhabitants were regularly trained to arms, and bound by interest, as well as by the most solemn engagements, reciprocally to defend each other, afforded a more commodious and secure retreat. The nobles began to be considered as of less importance, when they ceased to be the sole guardians to whom the people could look up for protection against violence.

IF the nobility suffered some diminution of their credit and power by the privileges granted to the cities, the crown acquired an increase of both. As there were no regular troops kept on foot in any of the feudal kingdoms, the Monarch could bring no army into the field but what was composed of soldiers furnished by the crown vassals, always jealous of the regal authority; nor had he any funds for carrying on the publick service, but such as they granted him with a very sparing hand. But when the members of communities were permitted to bear arms, and were trained to the use of these, this in some degree supplied the first defect, and gave the crown the command of a body of men independent of its great vassals. The attachment of the cities to their sovereigns, whom they respected as the first authors of their liberties, and whom they were obliged to court as the

SECT. I.

upon the
power of
the crown;

SECT. I. protectors of their immunities against the domineering spirit of the nobles, contributed somewhat towards removing the second evil, as, on many occasions, it procured the crown supplies of money which added new force to government ²².

upon the
increase of
industry.

THE acquisition of liberty made such a happy change in the condition of all the members of communities, as roused them from that inaction into which they had been sunk by the wretchedness of their former state. The spirit of industry revived. Commerce became an object of attention, and began to flourish. Population increased. Independence was established; and wealth flowed into cities which had long been the seat of poverty and oppression. Wealth was accompanied by its usual attendants, ostentation and luxury; and though the former was inelegant and cumbersome, and the latter indelicate, they led gradually to greater refinement in manners, and in the habits of life. Together with this improvement in manners, a more regular species of government and police was introduced. As cities grew to be more populous, and the occasions of intercourse among men increased, statutes and regulations multiplied of course, and all became sensible that their common safety depended on observing them with exactness, and on punishing such as violated them, with promptitude and rigour. Laws and subordi-

²² Ordon. des Rois de France, tom. i. 602. 785. tom. ii. 318. 422.

nation, as well as polished manners, taking their rise in cities, diffused themselves insensibly through the rest of the society. SECT. I.

III. THE inhabitants of cities having obtained personal freedom and municipal jurisdiction, soon acquired civil liberty and political power. It was a fundamental principle in the feudal system of policy, that no freeman could be governed or taxed unless by his own consent. In consequence of this, the vassals of every baron were called to his court, in which they established, by mutual consent, such regulations as they deemed most beneficial to their small society, and granted their superior such supplies of money, as were proportional to their abilities, or to his wants. The barons themselves, conformably to the same maxim, were admitted into the supreme assembly of the nation, and concurred with the sovereign in enacting laws, or in imposing taxes. As the superior lord, according to the original plan of feudal policy, retained the direct property of those lands which he granted, in temporary possession, to his vassals, the law, even after fiefs became hereditary, still supposed this original practice to subsist, and a baron continued to be considered as the guardian of all who resided within his territories. The great council of each nation, whether distinguished by the name of a parliament, a diet, the Cortes, or the states-general, was composed entirely of such barons, and dignified ecclesiasticks, as held immediately of the crown. Towns, whether situated

The inhabitants of cities acquire political power as members of the constitution.

SECT. I. within the royal domain, or on the lands of a subject, depended for protection on the lord of whom they held. They had no legal name, no political existence, which could entitle them to be admitted into the legislative assembly, or could give them any authority there. But as soon as they were enfranchised, and formed into Bodies Corporate, they became legal and independent members of the constitution, and acquired all the rights essential to freemen. Amongst these, the most valuable, was the privilege of a decisive voice in enacting publick laws, and granting national subsidies. It was natural for cities, accustomed to a form of municipal government, according to which no regulation could be established within the community, and no money could be raised but by their own consent, to claim this privilege. The wealth, the power and consideration which they acquired on recovering their liberty, added weight to their claim; and favourable events happened, or fortunate conjunctures occurred in the different kingdoms of Europe, which facilitated or forwarded their obtaining possession of this important right. In England, one of the first countries in which the representatives of boroughs were admitted into the great council of the nation, the barons who took arms against

A. D. 1265, Henri III. summoned them to attend parliament in order to add greater popularity to their party, and to strengthen the barrier against the encroachment of regal power. In France, Philip the Fair, a Monarch no less sagacious than enterprising,

considered them as instruments which might be employed with equal advantage to extend the royal prerogative, to counterbalance the exorbitant power of the nobles, and to facilitate the imposition of new taxes. With these views, he introduced the deputies of such towns as were formed into communities into the states-general of the nation ²³. In the Empire, the wealth and immunities of the Imperial cities placed them on a level with the most considerable members of the Germanick body. Conscious of their own power and dignity, they pretended to the privilege of forming a separate bench in the diet; and made good their pretension ²⁴.

SECT. I.

A. D. 1293.

BUT in what way soever the representatives of cities first gained a place in the legislature, that event had great influence on the form and genius of government. It tempered the rigour of aristocratical oppression, with a proper mixture of popular liberty: It secured to the great body of the people, who had formerly no representatives, active and powerful guardians of their rights and privileges: It established an intermediate power between the King and nobles, to which each had recourse alternately, and which at some times opposed the usurpations of the former, on other occasions checked the encroachments of the latter. As soon

The happy
effects of
this upon
government.

²³ Pasquier Recherches sur la France, p. 81. edit. Par. 1633.

²⁴ Pfeffel Abregé de l'histoire & droit d'Allemagne, p. 408.

SECT. I. as the representatives of communities gained any degree of credit and influence in the legislature, the spirit of laws became different from what it had formerly been; it flowed from new principles; it was directed towards new objects; equality, order, the publick good, and the redress of grievances, were phrases and ideas brought into use, and which grew to be familiar in the statutes and jurisprudence of the European nations. Almost all the efforts in favour of liberty in every country of Europe, have been made by this new power in the legislature. In proportion as it rose to consideration and influence, the severity of the aristocratical spirit decreased; and the privileges of the people became gradually more extensive as the ancient and exorbitant jurisdiction of the nobles was abridged (T).

The people
acquire li-
berty by en-
franchise-
ment.

IV. THE inhabitants of towns having been declared free by the charters of communities, that part of the people which resided in the country, and was employed in agriculture, began to recover liberty by enfranchisement. During the rigour of feudal government, as hath been already observed, the great body of the lower people was reduced to servitude. They were slaves fixed to the soil which they cultivated, and together with it were transferred from one proprietor to another, by sale, or by conveyance. The spirit of feudal policy did not favour the enfranchisement of that order of men. It was an established (T.) NOTE XIX.

anaxim, that no vassal could legally diminish the value of a fief, to the detriment of the lord from whom he had received it. In consequence of this, manumission by the authority of the immediate master was not valid: and unless it was confirmed by the superior lord of whom he held, slaves belonging to the fief did not acquire a complete right to their liberty. Thus it became necessary to ascend through all the gradations of feudal holding to the King, the lord Paramount²⁵. A form of procedure so tedious and troublesome, discouraged the practice of manumission. Domestic or personal slaves often obtained liberty from the humanity or beneficence of their masters, to whom they belonged in absolute property. The condition of slaves fixed to the soil, was much more unalterable.

SECT. I.

BUT the freedom and independence which one part of the people had obtained by the institution of communities, inspired the other with the most ardent desire of acquiring the same privileges; and their superiors, sensible of the benefits which they themselves had derived from former concessions, were less unwilling to gratify them by the grant of new immunities. The enfranchisement of slaves became more frequent; and the Monarchs of France, prompted by necessity no less than by their inclination to reduce the power of the nobles, endeavoured to render it general. Louis X. and his brother Philip, issued ordinances, declaring,

The motives and progress of this.

A. D. 1315, and 1318.

²⁵ Etablissmens de St. Louis, liv. ii. ch. 34. Ordon. tom. i. 283. not. (a).

SECT. I. " That as all men were by nature free-born, and as their kingdom was called the kingdom of Franks, they determined that it should be so in reality as well as in name; therefore they appointed that enfranchisements should be granted throughout the whole kingdom, upon just and reasonable conditions²⁶." These edicts were carried into immediate execution within the royal domain. The example of their sovereigns, together with the expectation of considerable sums which they might raise by this expedient, led many of the nobles to set their dependents at liberty; and servitude was gradually abolished in almost every province of the kingdom (U). In Italy, the establishment of republican government in their great cities, the genius and maxims of which were extremely different from those of the feudal policy, together with the ideas of equality, which the progress of commerce had rendered familiar, gradually introduced the practice of enfranchising the ancient *predial* slaves. In some provinces of Germany, the persons who had been subject to this species of bondage, were released; in others, the rigour of their state was mitigated. In England, as the spirit of liberty gained ground, the very name and idea of personal servitude, without any formal interposition of the legislature to prohibit it, was totally banished.

²⁶ Ordon. tom. i. p. 583, 653.

(U) NOTE XX.

THE effects of such a remarkable change in the condition of so great a part of the people, could not fail of being considerable and extensive. The husbandman, master of his own industry, and secure of reaping for himself the fruits of his labour, became the farmer of the same fields where he had formerly been compelled to toil for the benefit of another. The odious names of master and of slave, the most mortifying and depressing of all distinctions to human nature, were abolished. New prospects opened, and new incitements to ingenuity and enterprize presented themselves to those who were emancipated. The expectation of bettering their fortune, as well as that of raising themselves to a more honourable condition, concurred in calling forth their activity and genius; and a numerous class of men, who formerly had no political existence, and were employed merely as instruments of labour, became useful citizens, and contributed towards augmenting the force or riches of the society, which adopted them as members.

SECT. I.

The effects of this upon the improvement of society.

V. THE various expedients which were employed in order to introduce a more regular, equal, and vigorous administration of justice, contributed greatly towards the improvement of society. What was the particular mode of dispensing justice in the several barbarous nations which over-ran the Roman Empire, and took possession of its different provinces, cannot now be determined with certainty. We may conclude from the form of government established among them, as well as from

The introduction of a more regular administration of justice, contributes to the improvement of society.

SECT. I. their ideas concerning the nature of society, that the authority of the magistrate was extremely limited, and the independence of individuals proportionally great. History and records, as far as these reach back, justify this conclusion, and represent the ideas and exercise of justice in all the countries of Europe, as little different from those which must take place in a state of nature. To maintain the order and tranquillity of society by the regular execution of known laws, to inflict vengeance on crimes destructive of the peace and safety of individuals, by a prosecution carried on in the name, and by the authority of the community; to consider the punishment of criminals as a public example to deter others from violating the laws; were objects of government little understood in theory, and less regarded in practice. The magistrate could hardly be said to hold the sword of justice; it was left in the hands of private persons. Resentment was almost the sole motive for prosecuting crimes; and to gratify that passion, was the end and rule in punishing them. He who suffered the wrong, was the only person who had a right to pursue the aggressor, and to exact or to remit the punishment. From a system of judicial procedure, so crude and defective as seems to be scarcely compatible with the subsistence of civil society, disorder and anarchy flowed. Superstition concurred with this ignorance concerning the nature of government, in obstructing the administration of justice, or in rendering it capricious and unequal. To provide remedies for these evils; so

as to give a more regular course to justice, was, SECT. I.
 during several centuries, one great object of political wisdom. The regulations for this purpose may be reduced to three general heads: To explain these, and to point out the manner in which they operated, is an important article in the history of society among the nations of Europe.

1. THE first considerable step towards establishing an equal administration of justice, was the abolishment of the right which individuals claimed of waging war with each other, in their own name, and by their own authority. To repel injuries, and to revenge wrongs, is no less natural to man than to cultivate friendship: and while society remains in its most simple state, the former is considered as a personal right no less unalienable than the latter. Nor do men in this situation deem that they have a title to redress their own wrongs alone, they are touched with the injuries of those with whom they are connected, or in whose honour they are interested, and are no less prompt to avenge them. The savage, how imperfectly soever he may comprehend the principles of political union, feels warmly the sentiments of social affection; and the obligations arising from the ties of blood. On the appearance of an injury or affront offered to his family or tribe, he kindles into rage, and pursues the authors of it with the keenest resentment. He considers it as cowardly to expect redress from any arm but his own, and as infamous to give up to another the right of determining what repara-

This effected by abolishing the practice of private war.

Original ideas of men concerning justice.

SECT. I. tion he should accept, or with what vengeance he should rest satisfied.

These lead
to the prac-
tice of pri-
vate war.

THE maxims and practice of all uncivilized nations, with respect to the prosecution and punishment of offenders, particularly those of the ancient Germans, and other Barbarians who invaded the Roman Empire, are perfectly conformable to these ideas²⁷. While they retained their native simplicity of manners, and continued to be divided into small tribes or societies, the defects in this imperfect system of criminal jurisprudence (if it merits that name) were less sensibly felt. When they came to settle in the extensive provinces which they had conquered, and to form themselves into great monarchies; when new objects of ambition presenting themselves, increased both the number and the violence of their dissensions, they ought to have adopted new maxims concerning the redress of injuries, and to have regulated by general and equal laws, that which they formerly left to be directed by the caprice of private passion. But fierce and haughty chieftains, accustomed to avenge themselves on such as had injured them, did not think of relinquishing a right which they considered as a privilege of their order, and a mark of their independence. Laws enforced by the authority of Princes and Magistrates who possessed little power, commanded no great degree of reverence. The administration of justice among rude

²⁷ Tacit. de Mor. German. cap. 21. Vell. Patere. lib. ii. c. 118.

illiterate people, was not so accurate, or decisive, SECT. I.
 or uniform, as to induce men to submit implicitly to
 its determinations. Every offended baron buckled
 on his armour, and sought redress at the head of
 his vassals. His adversary met him in like hostile
 array. Neither of them appealed to impotent
 laws, which could afford them no protection. Nei-
 ther of them would submit points, in which their
 passions were warmly interested, to the slow deter-
 mination of a judicial inquiry. Both trusted to
 their swords for the decision of the contest. The
 kindred and dependents of the aggressor, as well
 as of the defender, were involved in the quarrel.
 They had not even the liberty of remaining neu-
 tral. Such as refused to act in concert with the
 party to which they belonged, were not only ex-
 posed to infamy, but subjected to legal penalties.

THE different kingdoms of Europe were torn The pernicious effects of it.
 and afflicted, during several centuries, by intestine
 wars, excited by private animosities, and carried
 on with all the rage natural to men of fierce man-
 ners, and of violent passions. The estate of every
 baron was a kind of independent territory, dis-
 joined from those around it, and the hostilities be-
 tween them were perpetual. The evil became so
 inveterate and deep-rooted, that the form and laws
 of private war were ascertained, and regulations
 concerning it made a part in the system of juris-
 prudence²⁸, in the same manner as if this practice

²⁸ Beaumanoir *Coutumes de Beauvoisis*, ch. 59, et les
 notes de Thaumassiere, p. 447.

SECT. I. had been founded in some natural right of humanity, or in the original constitution of civil society.

Various methods employed in order to abolish it.

So great was the disorder, and such the calamities which these perpetual hostilities occasioned, that various efforts were made to wrest from the nobles this pernicious privilege which they claimed. It was the interest of every sovereign to abolish a practice which almost annihilated his authority. Charlemagne prohibited it by an express law, as an invention of the devil to destroy the order and happiness of society²⁹; but the reign of one Monarch, however vigorous and active, was too short to extirpate a custom so firmly established. Instead of enforcing this prohibition, his feeble successors durst venture on nothing more than to apply palliatives. They declared it unlawful for any person to commence war, until he had sent a formal defiance to the kindred and dependents of his adversary; they ordained that, after the commission of the trespass or crime which gave rise to a private war, forty days must elapse before the person injured should attack the vassals of his adversary; they enjoined all persons to suspend their private animosities, and to cease from hostilities when the King was engaged in any war against the enemies of the nation. The church co-operated with the civil magistrate, and interposed its authority in order to extirpate a practice so repugnant to the spirit of Christianity. Various councils issued decrees, prohibiting all private wars; and

²⁹ Capitul. A. D. 801. Edit. Baluz. Vol. i. p. 371.

SECT. I.

denounced the heaviest anathemas against such as should disturb the tranquillity of society, by claiming or exercising that barbarous right. The aid of religion was called in to combat and subdue the ferocity of the times. The Almighty was said to have manifested, by visions and revelations to different persons, his disapprobation of that spirit of revenge, which armed one part of his creatures against the other. Men were required, in the name of God, to sheath their swords, and to remember the sacred ties which united them as Christians, and as members of the same society. But this junction of civil and ecclesiastick authority, though strengthened by every thing most apt to alarm and to overawe the credulous spirit of those ages, produced no other effect than some temporary suspensions of hostilities, and a cessation from war on certain days and seasons consecrated to the more solemn acts of devotion. The nobles continued to assert this dangerous privilege; they refused to obey some of the laws calculated to annul or circumscribe it; they eluded others; they petitioned; they remonstrated; they struggled for the right of private war as the highest and most honourable distinction of their order. Even so late as the fourteenth century, we find the nobles in several provinces of France contending for their ancient method of terminating their differences by the sword, in preference to that of submitting them to the decision of any judge. The final abolition of this practice in that kingdom, and the other countries in which it prevailed, is not to be ascribed so much to the force of sta-

SECT. I. tutes and decrees, as to the gradual increase of the royal authority, and to the imperceptible progress of juster sentiments concerning government, order, and public security (X).

The prohibition of trial by judicial combat, another improvement in the administration of justice.

Defects in the judicial proceedings of the middle ages.

2. THE prohibition of the form of trial by judicial combat, was another considerable step towards the introduction of such regular government as secured publick order and private tranquillity. As the right of private war left many of the quarrels among individuals to be decided, like those between nations, by arms; the form of trial by judicial combat, which was established in every country of Europe, banished equity from courts of justice, and rendered chance or force the arbiter of their determinations. In civilized nations, all transactions of any importance are concluded in writing. The exhibition of the deed or instrument is full evidence of the fact, and ascertains with precision what each party has stipulated to perform. But among a rude people, when the arts of reading and writing were such uncommon attainments, that to be master of either, intitled a person to the appellation of a clerk or learned man, scarcely any thing was committed to writing but treaties between Princes, their grants and charters to their subjects, or such transactions between private parties as were of extraordinary consequence, or had an extensive effect. The greater part of affairs in common life and business, were carried on by verbal con-

tracts or promises. This, in many civil questions, SECT. I.
 not only made it difficult to bring proof sufficient to
 establish any claim, but encouraged falsehood and
 fraud by rendering them extremely easy. Even in
 criminal cases, where a particular fact must be as-
 certained, or an accusation be disproved, the nature
 and effect of legal evidence was little understood
 by barbarous nations. To define with accuracy
 that species of evidence which a court had reason
 to expect; to determine when it ought to insist on
 positive proof, and when it should be satisfied with
 a proof from circumstances; to compare the testi-
 mony of discordant witnesses; and to fix the de-
 gree of credit due to each; were discussions too
 intricate and subtle for the jurisprudence of igno-
 rant ages. In order to avoid encumbering them-
 selves with these, a more simple form of procedure
 was introduced into courts as well civil as criminal.
 In all cases, where the notoriety of the fact did
 not furnish the clearest and most direct evidence,
 the person accused, or he against whom an action
 was brought, was called legally, or offered volun-
 tarily to purge himself by oath; and upon his de-
 claring his innocence, he was instantly acquitted³⁰.
 This absurd practice effectually screened guilt and
 fraud from detection or punishment, by render-
 ing the temptation to perjury so powerful, that it
 was not easy to resist it. The pernicious effects
 of it were sensibly felt; and in order to guard

³⁰ Leg. Burgund. Tit. 8, & 45. Leg. Aleman. Tit. 89.
 Leg. Baiwar. Tit. 8. § 5. 2. &c.

SECT. I. against them, the laws ordained, that oaths should be administered with great solemnity, and accompanied with every circumstance which could inspire religious reverence, or superstitious terror³¹. This, however, proved a feeble remedy: these ceremonious rites became familiar, and their impression on the imagination gradually diminished; men who could venture to disregard truth, were not apt to startle at the solemnities of an oath. Their observation of this, put legislators upon devising a new expedient for rendering the purgation by oath more certain and satisfactory. They required the person accused to appear with a certain number of freemen, his neighbours or relations, who corroborated the oath which he took, by swearing that they believed all that he had uttered to be true. These were called *Compurgators*, and their number varied according to the importance of the subject in dispute, or the nature of the crime with which a Person was charged³². In some cases, the concurrence of no less than three hundred of these auxiliary witnesses was requisite to acquit the person accused³³. But even this device was found to be ineffectual. It was a point of honour with every man in Europe, during several ages, not to desert the chief on whom he depended, and to stand by those with whom the ties of blood connected him. Whoever then was bold enough to violate

³¹ Du Cange Glossar. voc. *Juramentum*, vol. iii. p. 1607. Edit. Benedict.

³² Du Cange, *ibid.* vol. iii. p. 1599.

³³ Spelman Glossar. voc. *Affath*. Gregor. Turon. Hist. lib. viii. c. 9.

the laws, was sure of devoted adherents, willing to abet, and eager to serve him in whatever manner he required. The formality of calling Compurgators, proved an apparent, not a real security, against falsehood and perjury; and the sentences of courts, while they continued to refer every point in question to the oath of the defendant, became so flagrantly iniquitous as excited universal indignation against this method of procedure ³⁴.

SECT. I.

SENSIBLE of these defects, but strangers to the manner of correcting them, or of introducing a more proper form, our ancestors, as an infallible method of discovering truth, and of guarding against deception, appealed to Heaven, and referred every point in dispute to be determined, as they imagined, by the decisions of unerring wisdom and impartial justice. The person accused, in order to prove his innocence, submitted, in some cases, to trial, by plunging his arm in boiling water; by lifting a red hot iron with his naked hand; by walking bare-foot over burning plough-shares; or by other experiments equally perilous and formidable. On other occasions, he challenged his accuser to fight him in single combat. All these various forms of trial were conducted with many devout ceremonies; the ministers of religion were employed, the Almighty was called upon to interpose for the manifestation of guilt, and for the protection of innocence; and whoever escaped unhurt, or came off victorious,

These introduced the practice of appealing to heaven:

Particularly by judicial combat.

³⁴ Leg. Langobard. lib. ii. tit. 55. § 34.

SECT. I. was pronounced to be acquitted by the *Judgment of God*³⁵.

The introduction of this practice favoured by the superstition of the middle ages;

AMONG all the whimsical and absurd institutions which owe their existence to the weakness of human reason, this, which submitted questions that affected the property, the reputation, and the lives of men, to the determination of chance, or of bodily strength and address, appears to be the most extravagant and preposterous. There were circumstances, however, which led the nations of Europe to consider this equivocal mode of deciding any point in contest, as a direct appeal to Heaven, and a certain method of discovering its will. As men are unable to comprehend the manner in which the Almighty carries on the government of the universe, by equal, fixed, and general laws, they are apt to imagine, that in every case which their passions or interest render important in their own eyes, the Supreme Ruler of all ought visibly to display his power, in vindicating innocence and punishing vice. It requires no inconsiderable degree of science and philosophy to correct this popular error. But the sentiments prevalent in Europe during the dark ages, instead of correcting, strengthened it. Religion, for several centuries, consisted chiefly in believing the legendary history of those saints whose names croud and disgrace the Romish calendar. The fabulous tales concerning their miracles, had been declared authentick by the bulls of Popes, and

³⁵ Murat. *Dissertatio de judiciis Dei*. Antiquit. Italic. vol. iii. p. 612.

the decrees of councils; they made the great sub-
 ject of the instructions which the clergy offered to
 the people, and were received by them with im-
 plicit credulity and admiration. By attending to
 these, men were accustomed to believe that the
 established laws of nature might be violated on the
 most frivolous occasions, and were taught to look
 rather for particular and extraordinary acts of
 power under the divine administration, than to
 contemplate the regular progress and execution of
 a general plan. One superstition prepared the way
 for another; and whoever believed that the Su-
 preme Being had interposed miraculously on those
 trivial occasions mentioned in legends, could not
 but expect his intervention in matters of greater
 importance, when solemnly referred to his decision.

SECT. I.

WITH this superstitious opinion, the martial spi-
 rit of Europe, during the middle ages, concurred
 in establishing the mode of trial by judicial com-
 bat. To be ready to maintain with his sword
 whatever his lips had uttered, was the first maxim
 of honour with every gentleman. To assert their
 own rights by force of arms, to inflict vengeance
 on those who had injured or affronted them, were
 the distinction and pride of high-spirited nobles.
 The form of trial by combat coinciding with this
 maxim, flattered and gratified these passions. Every
 man was the guardian of his own honour, and of
 his own life; the justice of his cause, as well as his
 future reputation, depended on his own courage
 and prowess. This mode of decision was con-

and like-
 wise by
 their mar-
 tial spirit,

SECT. I. sidered, accordingly, as one of the happiest efforts of wise policy; and as soon as it was introduced, all the forms of trial by fire or water, and other superstitious experiments, fell into disuse, or were employed only in controversies between persons of inferior rank. The trial by combat was authorized over all Europe, and received in every country with equal satisfaction. Not only questions concerning uncertain or contested facts, but general and abstract points in law, were determined by the issue of a combat; and the latter was deemed a method of discovering truth more liberal as well as more satisfactory, than that by examination and argument. Not only might parties, whose minds were exasperated by the eagerness and the hostility of opposition, defy their antagonist, and require him to make good his charge, or to prove his innocence, with his sword; but witnesses, who had no interest in the issue of the question, though called to declare the truth by laws which ought to have afforded them protection, were equally exposed to the danger of a challenge, and equally bound to assert the veracity of their evidence by dint of arms. To complete the absurdities of this military jurisprudence, even the character of a judge was not sacred from its violence. Any one of the parties might interrupt a judge when about to deliver his opinion; might accuse him of iniquity and corruption in the most reproachful terms, and throwing down his gauntlet, might challenge him to defend his integrity in the field; nor could he, without infamy, refuse

to accept the defiance; or decline to enter the SECT. I.
 lifts against such an adversary.

THUS the form of trial by combat, like other abuses, spread gradually, and extended to all persons, and almost to all cases. Ecclesiasticks, women, minors, superannuated and infirm persons, who could not with decency or justice be compelled to take arms, and to maintain their own cause, were obliged to produce champions, whom they engaged, by affection or rewards, to fight their battles. The solemnities of a judicial combat were such as were natural in an action, which was considered both as a formal appeal to God, and as the final decision of questions of the highest moment. Every circumstance relating to them, was regulated by the edicts of Princes, and explained in the comments of lawyers, with a minute and even superstitious accuracy. Skill in these laws and rites was the only science of which warlike nobles boasted, or which they were ambitious to attain ³⁶.

It becomes
universal.

By this barbarous custom, the natural course of proceeding, both in civil and criminal questions, was entirely perverted. Force usurped the place of equity in courts of judicature, and justice was banished from her proper mansion. Discernment, learning, integrity, were qualities less necessary to a judge, than bodily strength and dexterity in the

The pernicious effects
of it.

³⁶ See a curious discourse concerning the laws of judicial combat, by Thomas of Woodstock, Duke of Gloucester, uncle to Richard II. in Spelman's Glossar. voc. *Campus*.

SECT. I. use of arms. Daring courage, and superior vigour or address, were of more moment towards securing the favourable issue of a suit, than the equity of a cause, or the clearness of the evidence. Men, of course, applied themselves to cultivate the talents which they found to be of greatest utility. As strength of body and address in arms were no less requisite in those lists which they were obliged to enter in defence of their private rights; than in the field of battle, where they met the enemies of their country, it became the great object of education, as well as the chief employment in life, to acquire these martial accomplishments. The administration of justice, instead of accustoming men to listen to the voice of equity, or to reverence the decisions of law, added to the ferocity of their manners, and taught them to consider force as the great arbiter of right and wrong.

Various expedients for abolishing this practice.

THESE pernicious effects of the trial by combat were so obvious, that they did not altogether escape the view of the unobserving age in which it was introduced. The clergy, from the beginning, remonstrated against it as repugnant to the spirit of Christianity, and subversive of justice and order³⁷. But the maxims and passions which favoured it, had taken such hold of the minds of men, that they disregarded admonitions and censures, which, on other occasions, would have struck them with terror. The evil was too great and inveterate to yield to that remedy, and continuing to increase,

³⁷ Du Cange. Glossar. voc. *Duellum*, vol. ii. p. 1675. the

the civil power at length found it necessary to interpose. Conscious, however, of their own limited authority, monarchs proceeded with caution, and their first attempts to restrain, or to set any bounds to this practice, were extremely feeble. One of the earliest restrictions of this practice which occurs in the history of Europe, is that of Henry I. of England. It extended no farther than to prohibit the trial by combat in questions concerning property of small value³⁸. Louis VII. of France imitated his example, and issued an edict to the same effect³⁹. St. Louis, whose ideas as a legislator were far superior to those of his age, endeavoured to introduce a more perfect jurisprudence, and to substitute the trial by evidence, in place of that by combat. But his regulations, with respect to this, were confined to his own domains; for the great vassals of the crown possessed such independent authority, and were so fondly attached to the ancient practice, that he durst not venture to extend it to the whole kingdom. Some barons voluntarily adopted his regulations. The spirit of courts of justice became averse to the mode of decision by combat, and discouraged it on every occasion. The nobles, nevertheless, thought it so honourable to depend for the security of their lives and fortunes on their own courage alone, and contended with so much vehemence for the preservation of this favourite privilege of their order, that the suc-

³⁸ Bruffel Usage des Fiefs, vol. ii. p. 962.

³⁹ Ordon. tom. i. p. 16.

SECT. I. cessors of St. Louis, unable to oppose, and afraid of offending such powerful subjects, were obliged not only to tolerate, but to authorize the practice which he had attempted to abolish⁴⁰. In other countries of Europe, efforts equally zealous were employed to maintain the established custom; and similar concessions were extorted from their respective sovereigns. It continued, however, to be an object of policy with every monarch of abilities or vigour, to explode the trial by combat; and various edicts were issued for this purpose. But the observation which was made concerning the right of private war, is equally applicable to the mode of trial under review. No custom, how absurd soever it may be, if it has subsisted long, or derives its force from the manners and prejudices of the age in which it prevails, was ever abolished by the bare promulgation of laws and statutes. The sentiments of the people must change, or some new power sufficient to counteract it must be introduced. Such a change, accordingly took place in Europe, as science gradually increased, and society advanced towards more perfect order. In proportion as the prerogative of Princes extended, and came to acquire new force, a power, interested in suppressing every practice favourable to the independence of the nobles, was introduced. The struggle, nevertheless, subsisted for several centuries; sometimes the new regulations and ideas seemed to gain ground; sometimes ancient habits recurred; and though, upon the whole, the trial

⁴⁰ Ordon. tom. i. p. 328. 390. 435.

by combat went more and more into disuse, yet instances of it occur, as late as the sixteenth century, in the history both of France and of England. In proportion as it declined, the regular administration of justice was restored, the proceedings of courts were directed by known laws, the study of these became an object of attention to judges, and the people of Europe advanced fast towards civility, when this great cause of the ferocity of their manners was removed (Y).

SECT. I.

3. By authorizing the right of appeal from the courts of the Barons to those of the King, and subjecting the decisions of the former to the review of the latter, a new step, not less considerable than those which I have already mentioned, was taken towards establishing the regular, consistent, and vigorous administration of justice. Among all the encroachments of the feudal nobles on the prerogative of their monarchs, their usurping the administration of justice with supreme authority, both in civil and criminal causes, within the precincts of their own estates, was the most singular. In other nations, subjects have contended with their Princes, and have endeavoured to extend their own power and privileges; but in the history of their struggles and pretensions, we discover nothing similar to this right which the feudal barons claimed, and acquired. It must have been something peculiar in their genius and manners that suggested this idea, and prompted

The privilege of appealing from the courts of the barons, another great improvement in the administration of justice.

Origin of the supreme and independent jurisdiction of the nobility.

(Y) NOTE XXII.

SECT. I. them to insist on such a claim. Among the rude people who conquered the various provinces of the Roman Empire, and established new kingdoms there, the passion of resentment, too impetuous to bear controul, was permitted to remain almost unrestrained by the authority of laws. The person offended, as has been observed, retained not only the right of prosecuting but of punishing his adversary. To him it belonged to inflict such vengeance as satiated his rage, or to accept of such satisfaction as appeased it. But while fierce barbarians continued to be the sole judges in their own cause, their enmities were implacable, and immortal; they set no bounds either to the degree of their vengeance, or to the duration of their resentment. The excesses which this occasioned, proved so destructive of peace and order in society, as forced them to think of some remedy. At first, arbiters interposed, and by persuasion or intreaty prevailed on the party offended to accept of a fine or composition from the aggressor, and to drop all farther prosecution. But as submission to persons who had no legal or magisterial authority was altogether voluntary, it became necessary to establish judges with power sufficient to enforce their own decisions. The leader whom they were accustomed to follow and to obey, whose courage they respected, and in whose integrity they placed confidence, was the person to whom a martial people naturally committed this important prerogative. Every chieftain was the commander of his tribe in war, and their

judge in peace. Every baron led his vassals to the field, and administered justice to them in his hall. Their high spirited dependents would not have recognized any other authority, or have submitted to any other jurisdiction. But in times of turbulence and violence, the exercise of this new function was attended not only with trouble, but with danger. No person could assume the character of a judge, if he did not possess power sufficient to protect the one party from the violence of private revenge, and to compel the other to accept of such reparation as he enjoined. In consideration of the extraordinary efforts which this office required, judges, besides the fine which they appointed to be paid as a compensation to the person or family who had been injured, levied an additional sum as a recompence for their own labour; and in all the feudal kingdoms the latter was not only as precisely ascertained, but as regularly exacted, as the former. SECT. I.

Thus, by the natural operation of circumstances peculiar to the manners or political state of the feudal nations, separate and territorial jurisdictions came not only to be established in every kingdom, but were established in such a way, that the interest of the barons concurred with their ambition in maintaining and extending them. It was not merely a point of honour with the feudal nobles to dispense justice to their vassals; but from the exercise of that power arose one capital branch of their revenue; and the emoluments of their courts

The extent
and bad ef-
fects of this
privilege

SECT. I. were frequently the main support of their dignity. It was with infinite zeal that they asserted and defended this high privilege of their order. By this institution, however, every kingdom in Europe was split into as many separate principalities as it contained powerful barons. Their vassals, whether in peace or in war, were hardly sensible of any authority, but that of their superior lord. They felt themselves subject to no other command. They were amenable to no other jurisdiction. The ties which linked together these smaller confederacies became close and firm; the bonds of public union relaxed, or were dissolved. The nobles strained their invention in devising regulations which tended to ascertain and perpetuate this distinction. In order to guard against any appearance of subordination in their courts to those of the crown, they constrained their monarchs to prohibit the royal judges from entering their territories, or from claiming any jurisdiction there; and if, either through mistake, or from the spirit of encroachment, any royal judge ventured to extend his authority to the vassals of a baron, they might plead their right of exemption, and the lord of whom they held could not only rescue them out of his hands, but was intitled to legal reparation for the injury and affront offered to him. The jurisdiction of the royal judges scarcely reached beyond the narrow limits of the King's demesnes. Instead of a regular gradation of courts, all acknowledging the authority of the same general laws, and looking up to these

as the guides of their decisions, there were in every feudal kingdom a thousand independent tribunals, the proceedings of which were directed by local customs and contradictory forms. The collision of jurisdiction among these numerous courts often retarded the execution of justice: The variety and caprice of their modes of procedure must have for ever kept the administration of it from attaining any degree of uniformity or perfection.

ALL the monarchs of Europe perceived these encroachments on their jurisdiction, and bore them with impatience. But the usurpations of the nobles were so firmly established, and the danger of endeavouring to overturn them by open force was so manifest, that they were obliged to remain satisfied with attempts to undermine them. Various expedients were employed for this purpose; each of which merits attention, as they mark the progress of law and equity in the several kingdoms of Europe. At first, Princes endeavoured to circumscribe the jurisdiction of the barons, by permitting them to take cognizance only of smaller offences, reserving those of greater moment, under the appellation of *Pleas of the Crown*, and *Royal Causes*, to be tried in the King's courts. This affected only the barons of inferior note; the more powerful nobles scorned such a distinction, and not only claimed unlimited jurisdiction, but obliged their sovereigns to grant them charters, conveying or recognizing this privilege in the most

Expedients
employed in
order to li-
mit or abo-
lish it:

SECT. I. ample form. The attempt, nevertheless, was productive of some good consequences, and paved the way for more. It turned the attention of men towards a jurisdiction distinct from that of the baron whose vassals they were; it accustomed them to the pretensions of superiority which the crown claimed over territorial judges; and taught them, when oppressed by their own superior lord, to look up to their sovereign as their protector. This facilitated the introduction of appeals, by which Princes brought the decisions of the barons' courts under the review of the royal judges. While trial by combat subsisted in full vigour, no point decided according to that mode, could be brought under the review of another court. It had been referred to the judgment of God; the issue of battle had declared his will; and it would have been impious to have called in question the equity of the divine decision. But as soon as that barbarous custom began to fall into disuse, Princes encouraged the vassals of the barons to sue for redress, by appealing to the royal courts. The progress of this practice, however, was slow and gradual. The first instances of appeals were on account of *the delay*, or *the refusal of justice* in the baron's court; and as these were countenanced by the ideas of subordination in the feudal constitution, the nobles allowed them to be introduced without much opposition. But when these were followed by appeals on account of *the injustice* or *iniquity of the sentence*, the nobles then began to be sensible, that if this innovation became

general, the shadow of power alone would remain in their hands, and all real authority and jurisdiction would centre in those courts which possessed the right of review. They instantly took the alarm, remonstrated against the encroachment, and contended boldly for their ancient privileges. But the monarchs in the different kingdoms of Europe pursued their plan with steadiness and prudence. Though forced to suspend their operations on some occasions, and seemingly to yield when any formidable confederacy of their vassals united against them, they resumed their measures as soon as they observed the nobles to be remiss or feeble, and pushed them with vigour. They appointed the royal courts, which originally were ambulatory, and irregular with respect to their times of meeting, to be held in a fixed place, and at stated seasons. They were solicitous to name judges of more distinguished abilities than such as presided in the courts of the barons. They added dignity to their character, and splendour to their assemblies. They laboured to render their forms regular, and their decrees consistent. Such judicatories became, of course, the objects of publick confidence as well as veneration. The people, relinquishing the partial tribunals of their lords, were eager to bring every subject of contest under the more equal and discerning eye of those whom their sovereign had chosen to give judgment in his name. Thus Kings became once more the heads of the community, and the dispensers of

SECT. I.

SECT. I. justice to their subjects. The barons, in some kingdoms, ceased to exercise their right of jurisdiction, because it sunk into contempt; in others it was circumscribed by such regulations as rendered it innocent, or it was entirely abolished by express statutes. Thus the administration of justice taking its rise from one source, and following one direction, held its course in every state with more uniformity, and with greater force (Z).

The regulations of the canon law promote a more perfect administration.

VI. THE forms and maxims of the canon law, which were become universally respectable from their authority in the spiritual courts, contributed not a little towards these improvements in jurisprudence which I have enumerated. If we consider the canon law politically, and view it either as a system framed on purpose to assist the clergy in usurping powers and jurisdiction no less repugnant to the nature of their function, than inconsistent with the order of government; or as the chief instrument in establishing the dominion of the Popes, which shook the throne, and endangered the liberties of every kingdom in Europe, we must pronounce it one of the most formidable engines ever formed against the happiness of civil society. But if we contemplate it merely as a code of laws respecting the rights and property of individuals, and attend only to the civil effects of its decisions concerning these, it will appear in a different, and a much more favourable light. In ages of

The progress of ecclesiastical usurpation.

ignorance and credulity, the ministers of religion are the objects of superstitious veneration. When the barbarians who over-ran the Empire first embraced the Christian faith, they found the clergy in possession of considerable power; and they naturally transferred to those new guides the profound submission and reverence which they were accustomed to yield to the priests of that religion which they had forsaken. They deemed their persons to be as sacred as their function; and would have considered it as impious to subject them to the profane jurisdiction of the laity. The clergy were not blind to the advantages which the weakness of mankind afforded them. They established courts, in which every question relating to their own character, their function, or their property was tried. They pleaded, and obtained an almost total exemption from the authority of civil judges. Upon different pretexts, and by a multiplicity of artifices, they communicated this privilege to so many persons, and extended their jurisdiction to such a variety of cases, that the greater part of those affairs which gave rise to contest and litigation, was drawn under the cognizance of the spiritual courts.

BUT in order to dispose the laity to suffer these usurpations without murmuring or opposition, it was necessary to convince them, that the administration of justice would be rendered more perfect by the establishment of this new jurisdiction.

SECT. I.

The plan of ecclesiastical jurisprudence more perfect than that in the civil courts.

SECT. I. This was not a difficult undertaking, at the period when ecclesiasticks carried on their encroachments with the greatest success. That scanty portion of science which served to guide men in the ages of darkness, was wholly engrossed by the clergy. They alone were accustomed to read, to enquire, and to reason. Whatever knowledge of ancient jurisprudence had been preserved, either by tradition, or in such books as had escaped the destructive rage of barbarians, was possessed only by them. Upon the maxims of that excellent system, they founded a code of laws consonant to the great principles of equity. Being directed by fixed and known rules; the forms of their courts were ascertained, and their decisions became uniform and consistent. Nor did they want authority sufficient to enforce their sentences. Excommunication and other ecclesiastical censures, were punishments more formidable than any that civil judges could inflict in support of their decrees.

The good
effects of
imitating
and ad-
opting it.

It is not surprising, then, that ecclesiastical jurisprudence should become such an object of admiration and respect; that exemption from civil jurisdiction was courted as a privilege, and conferred as a reward. It is not surprising, that even to rude people, the maxims of the canon law should appear more equal and just than that ill-digested jurisprudence which directed all proceedings in the civil courts. According to the latter, the differences between contending barons were

terminated, as in a state of nature, by the sword; SECT. I.
according to the former, every matter was subjected to the decision of laws. The one, by permitting judicial combats, left chance and force to be arbiters of right or wrong, of truth or falsehood, the other, passed judgment with respect to these by the maxims of equity, and the testimony of witnesses. Any error or iniquity in a sentence pronounced by a baron to whom feudal jurisdiction belonged, was irremediable, because originally it was subject to the review of no superior tribunal; the ecclesiastical law established a regular gradation of courts, through all which a cause might be carried by appeal, until it was determined by that authority which was held to be supreme in the church. Thus the genius and principles of the canon law prepared men for approving those three great alterations in the feudal jurisprudence which I have mentioned. But it was not with respect to these points alone that the canon law suggested improvements beneficial to society. Many of the regulations, now deemed the barriers of personal security, or the safeguards of private property, are contrary to the spirit, and repugnant to the maxims of the civil jurisprudence, known in Europe during several centuries, and were borrowed from the rules and practice of the ecclesiastical courts. By observing the wisdom and equity of the decisions in these courts, men began to perceive the necessity either of deserting the martial

SECT. I. tribunals of the barons, or of attempting to reform them (A A).

The revival
of the Ro-
man law
contributes
more liberal
ideas con-
cerning jus-
tice and
order.

The cir-
cumstances
from which
the Roman
law fell into
oblivion.

VII. THE revival of the knowledge and study of the Roman law co-operated with the causes which I have mentioned, in introducing more just and liberal ideas concerning the nature of government, and the administration of justice. Among the calamities which the devastations of the barbarians who broke in upon the Empire brought upon mankind, one of the greatest was their overturning the system of Roman jurisprudence, the noblest monument of the wisdom of that great people, formed to subdue and to govern the world. The laws and regulations of a civilized community, were altogether repugnant to the manners and ideas of these fierce invaders. They had respect to objects, of which a rude people had no conception; and were adapted to a state of society with which they were entirely unacquainted. For this reason, wherever they settled, the Roman jurisprudence soon sunk into oblivion, and lay buried for some centuries under the load of those institutions which the inhabitants of Europe dignified with the name of laws. But towards the middle of the twelfth century, a copy of Justinian's Pandects was accidentally discovered in Italy. By that time, the state of society was so far advanced, and the ideas of men so much en-

larged and improved by the occurrences of several centuries, during which they had continued in political union, that they were struck with admiration of a system which their ancestors could not comprehend. Though they had not hitherto attained such a degree of refinement, as to catch from the ancients a relish for true philosophy, or speculative science; though they were still insensible to the beauty and elegance of classical composition; they were sufficiently qualified to judge with respect to the merit of their system of laws, in which all the points most interesting to mankind, and the chief objects of their attention in every age, were settled with discernment, precision and equity. All men of letters studied this new science with eagerness; and within a few years after the discovery of the Pandects, professors of civil law were appointed, who taught it publicly in most countries of Europe.

Circumstances which favoured the revival of it.

THE effects of having such a perfect model to study and to imitate were soon manifest. Men, as soon as they were acquainted with fixed and general laws, perceived the advantage of them, and became impatient to ascertain the principles and forms by which judges should regulate their decisions. Such was the ardour with which they carried on an undertaking of so great importance to society, that before the close of the twelfth century, the feudal law was reduced into a regular system; the code of canon law was enlarged and

The effects of this upon the ideas of men, and the dispensation of justice.

SECT. I. methodized; and the loose uncertain customs of different provinces or kingdoms were collected and arranged with an order and accuracy acquired from the knowledge of Roman jurisprudence. In some countries of Europe the Roman law was adopted as subsidiary to their own municipal law; and all cases to which the latter did not extend, were decided according to the principles of the former. In others, the maxims as well as forms of Roman jurisprudence mingled imperceptibly with the laws of the country, and had a powerful, though less sensible, influence; in improving and perfecting them (BB).

From all
these arose
a distinction
in profes-
sions.

THESE various improvements in the system of jurisprudence, and administration of justice, occasioned a change in manners, of great importance, and of extensive effect. They gave rise to a distinction of professions; they obliged men to cultivate different talents, and to aim at different accomplishments, in order to qualify themselves for the various departments and functions which became necessary in society⁴¹. Among uncivilized nations, there is but one profession honourable, that of arms. All the ingenuity and vigour of the human mind are exerted in acquiring military skill, or address. The functions of peace are few and simple, and require no particular course of

(BB) NOTE XXV.

⁴¹ Dr. Ferguson's Essay on the History of Civil Society, part iv. sect. 1.

education

education or of study, as a preparation for dis- SECT. I.
 charging them. This was the state of Europe
 during several centuries. Every gentleman, born
 a soldier, scorned any other occupation; he was
 taught no science but that of war; even his exer-
 cises and pastimes were feats of martial prowess.
 Nor did the judicial character, which persons of
 noble birth were alone entitled to assume, demand
 any degree of knowledge beyond that which such
 untutored soldiers possessed. To recollect a few,
 traditionary customs which time had confirmed,
 and rendered respectable; to mark out the lists
 of battle with due formality; to observe the issue of
 the combat; and to pronounce whether it had
 been conducted according to the laws of arms;
 included every thing that a baron, who acted as a
 judge, found it necessary to understand.

BUT when the forms of legal proceedings were
 fixed, when the rules of decision were committed
 to writing, and collected into a body, law became
 a science, the knowledge of which required a
 regular course of study, together with long atten-
 tion to the practice of courts. Martial and illi-
 terate nobles, had neither leisure nor inclination to
 undertake a task so laborious, as well as so foreign
 from all the occupations which they deemed enter-
 taining, or suitable to their rank. They gradu-
 ally relinquished their places in courts of justice,
 where their ignorance exposed them to contempt.
 They became weary of attending to the discussion

The effects
 of this on
 society.

SECT. I. of cases which grew too intricate for them to comprehend. Not only the judicial determination of points which were the subject of controversy, but the conduct of all legal business and transactions was committed to persons trained by previous study and application to the knowledge of law. An order of men, to whom their fellow-citizens had daily recourse for advice, and to whom they looked up for decision in their most important concerns, naturally acquired consideration and influence in society. They were advanced to honours which had been considered as the peculiar rewards of military virtue. They were entrusted with offices of the highest dignity, and most extensive power. Thus, another profession than that of arms, came to be introduced among the laity, and was reputed honourable. The functions of civil life were attended to. The talents requisite for discharging them were cultivated. A new road was opened to wealth and eminence. The arts and virtues of peace were placed in their proper rank, and received their due recompence (CC).

The spirit of chivalry introduces more liberal sentiments, and more generous manners.

VIII. WHILE improvements so important with respect to the state of society and the administration of justice, gradually made progress in Europe, sentiments more liberal and generous had begun to animate the nobles. These were inspired by the spirit of Chivalry, which, though considered, commonly, as a wild institution, the effect of

caprice, and the source of extravagance, arose naturally from the state of society at that period, and had a very serious influence in refining the manners of the European nations. The feudal state was a state of perpetual war, rapine, and anarchy; during which the weak and unarmed were exposed every moment to insults or injuries. The power of the sovereign was too limited to prevent these wrongs; and the administration of justice too feeble to redress them. There was scarcely any protection against violence and oppression, but what the valour and generosity of private persons afforded. The same spirit of enterprise which had prompted so many gentlemen to take arms in defence of the oppressed pilgrims in Palestine, incited others to declare themselves the patrons and avengers of injured innocence at home. When the final reduction of the Holy Land under the dominion of Infidels put an end to these foreign expeditions, the latter was the only employment left for the activity and courage of adventurers. To check the insolence of overgrown oppressors; to succour the distressed; to rescue the helpless from captivity; to protect, or to avenge women, orphans, and ecclesiastics, who could not bear arms in their own defence; to redress wrongs, and to remove grievances; were deemed acts of the highest prowess and merit. Valour, humanity, courtesy, justice, honour, were the characteristic qualities of chivalry. To these were added religion, which mingled itself with every passion and institution during the middle

SECT. I.

Origin of
Chivalry.

SECT. I. ages, and by infusing a large proportion of enthusiastic zeal, gave them such force, as carried them to romantic excess. Men were trained to knighthood by a long previous discipline: they were admitted into the order by solemnities no less devout than pompous: every person of noble birth courted that honour; it was deemed a distinction superior to royalty; and monarchs were proud to receive it from the hands of private gentlemen.

Its beneficial effects.

THIS singular institution, in which valour, gallantry, and religion, were so strangely blended, was wonderfully adapted to the taste and genius of martial nobles; and its effects were soon visible in their manners. War was carried on with less ferocity, when humanity came to be deemed the ornament of knighthood no less than courage. More gentle and polished manners were introduced, when courtesy was recommended as the most amiable of knightly virtues. Violence and oppression decreased, when it was reckoned meritorious to check and to punish them. A scrupulous adherence to truth, with the most religious attention to fulfil every engagement, became the distinguishing characteristic of a gentleman, because chivalry was regarded as the school of honour, and inculcated the most delicate sensibility with respect to that point. The admiration of these qualities, together with the high distinctions and prerogatives conferred on knighthood in every part of Europe, inspired persons of noble birth on

some occasions with a species of military fanaticism, and led them to extravagant enterprises. But they imprinted deeply in their minds the principles of generosity and honour. These were strengthened by every thing that can affect the senses, or touch the heart. The wild exploits of those romantic knights who sallied forth in quest of adventures, are well known, and have been treated with proper ridicule. The political and permanent effects of the spirit of chivalry have been less observed. Perhaps, the humanity which accompanies all the operations of war, the refinements of gallantry, and the point of honour, the three chief circumstances which distinguish modern from ancient manners, may be ascribed in a great measure to this whimsical institution, seemingly of little benefit to mankind. The sentiments which chivalry inspired, had a wonderful influence on manners and conduct during the twelfth, thirteenth, fourteenth, and fifteenth centuries. They were so deeply rooted, that they continued to operate after the vigour and reputation of the institution itself began to decline. Some considerable transactions, recorded in the following history, resemble the adventurous exploits of chivalry, rather than the well regulated operations of sound policy. Some of the most eminent personages, whose characters will be delineated, were strongly tinctured with this romantic spirit. Francis I. was ambitious to distinguish himself by all the qualities of an accomplished knight, and en-

SECT. I. deavoured to imitate the enterprising genius of chivalry in war, as well as its pomp and courtesy during peace. The fame which he acquired by these splendid actions, so far dazzled his more temperate rival, that he departed on some occasions from his usual prudence and moderation, and emulated Francis in deeds of prowess, or of gallantry (DD).

The progress of science has great influence on the manners and character of men.

Ignorance of the middle ages.

IX. THE progress of science, and the cultivation of literature, had considerable effect in changing the manners of the European nations, and introducing that civility and refinement by which they are now distinguished. At the time when their Empire was overturned, the Romans, though they had lost that correct taste which has rendered the productions of their ancestors the standards of excellence, and models for imitation to succeeding ages, still preserved their love of letters, and cultivated the arts with great ardour. But rude barbarians were so far from being struck with any admiration of these unknown accomplishments, that they despised them. They were not arrived at that state of society, when those faculties of the human mind, which have beauty and elegance for their objects, begin to unfold themselves. They were strangers to all those wants and desires which are the parents of ingenious invention; and as they did not comprehend either the merit or utility of the Roman arts, they destroyed the mo-

numents of them, with industry not inferior to that with which posterity have since studied to preserve, or to recover them. The convulsions occasioned by their settlement in the Empire; the frequent as well as violent revolutions in every kingdom which they established; together with the interior defects in the form of government which they introduced, banished security and leisure; prevented the growth of taste, or the culture of science; and kept Europe, during several centuries, in that state of ignorance which has been already described. But the events and institutions which I have enumerated, produced great alterations in society. As soon as their operation, in restoring liberty and independence to one part of the community, began to be felt, as soon as they began to communicate to all the members of society some taste of the advantages arising from commerce, from public order, and from personal security, the human mind became conscious of powers which it did not formerly perceive, and fond of occupations or pursuits of which it was formerly incapable. Towards the beginning of the twelfth century, we discern the first symptoms of its awakening from that lethargy in which it had been long sunk, and observe it turning with curiosity and attention towards new objects.

THE first literary efforts, however, of the European nations in the middle ages, were extremely ill-directed. Among nations, as well as individuals, the powers of imagination attain some degree

The first literary efforts ill directed, and the causes of this.

SECT. I. of vigour before the intellectual faculties are much exercised in speculative or abstract disquisition. Men are poets before they are philosophers. They feel with sensibility, and describe with force, when they have made but little progress in investigation or reasoning. The age of Homer and of Hesiod long preceded that of Thales, or of Socrates. But, unhappily for literature, our ancestors, deviating from this course which nature points out, plunged at once into the depths of abstruse and metaphysical inquiry. They had been converted to the Christian faith, soon after they settled in their new conquests. But they did not receive it pure. The presumption of men had added to the simple and instructive doctrines of Christianity, the theories of a vain philosophy, that attempted to penetrate into mysteries, and to decide questions which the limited faculties of the human mind are unable to comprehend, or to resolve. These over-curious speculations were incorporated with the system of religion, and came to be considered as the most essential part of it. As soon, then, as curiosity prompted men to inquire and to reason, these were the subjects which first presented themselves, and engaged their attention. The scholastic theology, with its infinite train of bold disquisitions, and subtle distinctions concerning points which are not the object of human reason, was the first production of the spirit of inquiry after it began to resume some degree of activity and vigour in Europe. It was not this circumstance alone that gave

such a wrong turn to the minds of men, when they began again to exercise talents which they had so long neglected. Most of the persons who attempted to revive literature in the twelfth and thirteenth centuries, had received instruction, or derived their principles of science from the Greeks in the eastern Empire, or from the Arabians in Spain and Africa. Both these people, acute and inquisitive to excess, corrupted those sciences which they cultivated. The former rendered theology a system of speculative refinement, or of endless controversy. The latter communicated to philosophy a spirit of metaphysical and frivolous subtlety. Misled by these guides, the persons who first applied to science were involved in a maze of intricate inquiries. Instead of allowing their fancy to take its natural range, and to produce such works of invention as might have improved their taste, and refined their sentiments; instead of cultivating those arts which embellish human life, and render it comfortable; they were fettered by authority, they were led astray by example, and wasted the whole force of their genius in speculations as unavailing as they were difficult.

BUT fruitless and ill directed as these speculations were, their novelty roused, and their boldness interested the human mind. The ardour with which men pursued those uninviting studies, was astonishing. Genuine philosophy was never cultivated, in any enlightened age, with more zeal. Schools, upon the model of those instituted by Charlemagne,

They had however, considerable effects.

SECT. I. were opened in every cathedral, and almost in every monastery of note. Colleges and universities were erected, and formed into communities or corporations, governed by their own laws, and invested with separate and extensive jurisdiction over their own members. A regular course of studies was planned. Privileges of great value were conferred on masters and scholars. Academical titles and honours of various kinds were invented, as a recompence for both. Nor was it in the schools alone that superiority in science led to reputation and authority; it became an object of respect in life, and advanced such as acquired it to a rank of no inconsiderable eminence. Allured by all these advantages, an incredible number of students resorted to those new seats of learning, and crowded with eagerness into that new path which was opened to fame and distinction.

A circumstance which prevented their being more extensive.

BUT how considerable soever these first efforts may appear, there was one circumstance which prevented the effects of them from being as extensive as they ought to have been. All the languages in Europe, during the period under review, were barbarous. They were destitute of elegance, of force, and even of perspicuity. No attempt had been hitherto made to improve or to polish them. The Latin tongue was consecrated by the church to religion. Custom, with authority scarcely less sacred, had appropriated it to literature. All the sciences cultivated in the twelfth and thirteenth centuries, were taught in Latin. All books with

respect to them were written in that language. To have treated of any important subject in a modern language, would have been deemed a degradation of it. This confined science within a very narrow circle. The learned alone were admitted into the temple of knowledge; the gate was shut against all others, who were allowed to remain involved in their former darkness and ignorance.

SECT. I.

BUT though science was thus prevented, during several ages, from diffusing itself through society, and its influence much circumscribed, the progress which it made may be mentioned, nevertheless, among the great causes which contributed to introduce a change of manners into Europe. The ardent, though ill-judged spirit of inquiry which I have described, occasioned a fermentation of mind that put ingenuity and invention in motion, and gave them vigour. It led men to a new employment of their faculties, which they found to be agreeable as well as interesting. It accustomed them to exercises and occupations which tended to soften their manners, and to give them some relish for the gentle virtues, peculiar to nations among which science hath been cultivated with success (EE).

Its influence
on manners
merits at-
tention.

X. THE progress of commerce had considerable influence in polishing the manners of the European nations, and in leading them to order, equal laws,

The pro-
gress of com-
merce had
great influ-
ence on
manners and
government.

SECT. I. and humanity. The wants of men, in the original and most simple state of society, are so few, and their desires so limited, that they rest contented with the natural productions of their climate and soil, or with what they can add to these by their own rude industry. They have no superfluities to dispose of, and few necessities that demand a supply. Every little community subsisting on its own domestick stock, and satisfied with it, is either unacquainted with the states around it, or at variance with them. Society and manners must be considerably improved, and many provisions must be made for public order and personal security, before a liberal intercourse can take place between different nations. We find, accordingly, that the first effect of the settlement of the barbarians in the Empire, was to divide those nations which the Roman power had united. Europe was broken into many separate communities. The intercourse between these divided states, ceased almost totally during several centuries. Navigation was dangerous in seas infested by pirates; nor could strangers trust to a friendly reception in the ports of uncivilized nations. Even between distant parts of the same kingdom, the communication was rare and difficult. The lawless rapine of banditti, together with the avowed exactions of the nobles, scarcely less formidable and oppressive, rendered a journey of any length a perilous enterprise. Fixed to the spot in which they resided, the greater part of the inhabitants of Europe lost, in a great measure, the knowledge of remote regions, and were

Low state of
commerce
in the middle
ages.

unacquainted with their names, their situations, SECT. I.
their climates, and their commodities (FF).

VARIOUS causes, however, contributed to revive ^{Causes of its revival.}
the spirit of commerce, and to renew, in some degree, the intercourse between different nations. The Italians, by their connection with Constantinople and other cities of the Greek empire, had preserved in their own country some relish for the precious commodities and curious manufactures of the East. They communicated some knowledge of these to the countries contiguous to Italy. But this commerce was extremely limited, nor was the intercourse which it occasioned between different nations considerable. The Crusades, by leading multitudes from every corner of Europe into Asia, opened a more extensive communication between the East and West, which subsisted for two centuries, and though the object of these expeditions was conquest and not commerce; though the issue of them proved as unfortunate, as the motives for undertaking them were wild and enthusiastic, their commercial effects, as hath been shewn, were both beneficial and permanent. During the continuance of the Crusades, the great cities in Italy, and in other countries of Europe, acquired liberty, and together with it such privileges as rendered them respectable and independent communities. Thus, in every state there was formed a new order of citizens, to whom commerce presented itself as their proper object, and opened to
(FF) NOTE XXIX.

SECT. I. them a certain path to wealth and dignity. Soon after the close of the Holy War, the mariner's compass was invented, which, by rendering navigation more secure as well as more adventurous, facilitated the communication between remote nations, and brought them nearer to each other.

First among
the Italians,

THE Italian States, during the same period, established a regular commerce with the East in the ports of Egypt, and drew from thence all the rich products of the Indies. They introduced into their own territories manufactures of various kinds, and carried them on with great ingenuity and vigour. They attempted new arts, and transplanted from warmer climates, to which they had been hitherto deemed peculiar, several natural productions which now furnish the materials of a lucrative and extended commerce. All these commodities, whether imported from Asia, or produced by their own skill, they disposed of to great advantage among the other people of Europe, who began to acquire some taste of elegance unknown to their ancestors, or despised by them. During the twelfth and thirteenth centuries, the commerce of Europe was almost entirely in the hands of the Italians, more commonly known in those ages by the name of Lombards. Companies or societies of Lombard merchants settled in every different kingdom. They were taken under the immediate protection of the several governments. They enjoyed extensive privileges and immunities. The operation of the ancient barbarous laws concerning

strangers, was suspended with respect to them. SECT. I.
They became the carriers, the manufacturers, and
the bankers of all Europe.

WHILE the Italians, in the south of Europe, ^{Then by means of the} cultivated trade with such industry and success, ^{Hanseatick} the commercial spirit awakened in the North to-^{league.} wards the middle of the thirteenth century. As the nations around the Baltick were, at that time; extremely barbarous, and infested that sea with their piracies, the cities of Lubeck and Hamburgh, soon after they began to open some trade with these people, found it necessary to enter into a league of mutual defence. They derived such advantages from this union, that other towns acceded to their confederacy, and, in a short time, eighty of the most considerable cities scattered through those vast countries which stretch from the bottom of the Baltick to Cologne on the Rhine, joined in the famous Hanseatick league, which became so formidable, that its alliance was courted, and its enmity was dreaded by the greatest monarchs. The members of this powerful association formed the first systematick plan of commerce known in the middle ages, and conducted it by common laws enacted in their general assemblies. They supplied the rest of Europe with naval stores, and pitched on different towns, the most eminent of which was Bruges in Flanders, where they established staples in which their commerce was regularly carried on. Thither the Lombards brought the productions of

SECT. I. India, together with the manufactures of Italy, and exchanged them for the more bulky, but not less useful commodities of the North. The Hanseatick merchants disposed of the cargoes which they received from the Lombards, in the ports of the Baltick, or carried them up the great rivers into the interior parts of Germany.

Commerce
makes pro-
gress in the
Nether-
lands;

THIS regular intercourse opened between the nations in the North and South of Europe, made them sensible of their mutual wants, and created such new and vast demands for commodities of every kind, that it excited among the inhabitants of the Netherlands a more vigorous spirit in carrying on the two great manufactures of wool and flax, which seem to have been considerable in that country as far back as the age of Charlemagne. As Bruges became the center of communication between the Lombard and Hanseatick merchants, the Flemings traded with both in that city to such extent as well as advantage, as spread among them a general habit of industry, which long rendered Flanders and the adjacent provinces the most opulent, the most populous, and best cultivated countries in Europe.

and in
England.

STRUCK with the flourishing state of these provinces, of which he discerned the true cause, Edward III. of England endeavoured to excite a spirit of industry among his own subjects, who, blind to the advantages of their situation, and ignorant
of

of the source from which opulence was destined to flow into their country, were so little attentive to their commercial interests, as hardly to attempt those manufactures, the materials of which they furnished to foreigners. By alluring Flemish artificians to settle in his dominions, as well as by many wise laws for the encouragement and regulation of trade, Edward gave a beginning to the woollen manufactures of England, and first turned the active and enterprising genius of his people towards those arts which have raised the English to the highest rank among commercial nations. SECT. I.

THIS increase of commerce, and of intercourse between nations, how inconsiderable soever it may appear in respect of their rapid and extensive progress during the last and present ages, seems vast, when we compare it with the state of both in Europe previous to the twelfth century. It did not fail of producing great effects. Commerce tends to wear off those prejudices which maintain distinction and animosity between nations. It softens and polishes the manners of men. It unites them by one of the strongest of all ties, the desire of supplying their mutual wants. It disposes them to peace, by establishing in every state an order of citizens bound by their interests to be the guardians of publick tranquillity. As soon as the commercial spirit begins to acquire vigour, and to gain an ascendancy in any society, we discover a new genius in its policy, its alliances, its wars, and its negotiations.

The beneficial effects of this.

SECT. I. Conspicuous proofs of this occur in the history of the Italian States, of the Hanfeatic league, and the cities of the Netherlands during the period under review. In proportion as commerce made its way into the different countries of Europe, they successively turned their attention to those objects, and adopted those manners, which occupy and distinguish polished nations (GG).

(GG) NOTE XXX.

A
V I E W
OF THE
PROGRESS OF SOCIETY

I N
E U R O P E,
FROM THE
SUBVERSION OF THE ROMAN EMPIRE,
TO THE
BEGINNING OF THE SIXTEENTH CENTURY.

SECTION II.

*View of the Progress of Society in Europe, with
respect to the command of the national force requi-
site in foreign operations.*

SUCH are the events and institutions, which SECT. II.
by their powerful operation contributed, gra- State of so-
dually, to introduce more regular government and ciety greatly
more polished manners into the various nations of improved at
Europe. When we survey the state of society, or the begin-
the character of individuals, at the opening of the ning of the
fifteenth century.

SECT. II. fifteenth century, and then turn back to view the condition of both at the time when the barbarous tribes which overturned the Roman power completed their settlement in their new conquests, the progress which mankind had made towards order and refinement will appear immense.

Still defective with respect to the command of the national force.

GOVERNMENT, however, was still far from having attained that state, in which extensive monarchies act with united vigour, or carry on great undertakings with perseverance and success. Small tribes or communities, even in their rudest state, may operate in concert, and exert their utmost force. They are excited to act not by the distant objects or the refined speculations, which interest or affect men in polished societies, but by their present feelings. The insults of an enemy kindle resentment; the success of a rival tribe awakens emulation: these passions communicate from breast to breast, and all the members of the community, with united ardour, rush into the field in order to gratify their revenge, or to acquire distinction. But in widely extended states, such as the great kingdoms of Europe at the beginning of the fifteenth century, where there is little intercourse between the distant members of the community, and where every great enterprize requires previous concert and long preparation, nothing can rouse and call forth their united strength, but the absolute command of a Despot, or the powerful influence of regular policy. Of the former the vast

Empires in the East are an example; the irresistible mandate of the Sovereign reaches the most remote provinces of his dominions, and compels whatever number of his subjects he is pleased to summon, to follow his standard. The kingdoms of Europe, in the present age, are an instance of the latter; the Prince, by the less violent, but no less effectual operation of laws and a well regulated government, is enabled to avail himself of the whole force of his state, and to employ it in enterprizes which require strenuous and persevering efforts.

SECT. II.

BUT, at the opening of the fifteenth century, the political constitution in all the kingdoms of Europe was very different from either of these states of government. The several monarchs, though they had somewhat enlarged the boundaries of prerogative by successful encroachments on the immunities and privileges of the nobility, were possessed of an authority extremely limited. The laws and interior police of kingdoms, though much improved by the various events and regulations which I have enumerated, were still feeble and imperfect. In every country, a numerous body of nobles, who continued to be formidable notwithstanding the various expedients employed to depress them, watched all the motions of their Sovereign with a jealous attention, which set bounds to his ambition, and either prevented his forming schemes of

The power
of Monarchs
very limited.

SECT. II. extensive enterprize, or thwarted the execution of them.

Their revenues small.

THE ordinary revenues of every Prince were so extremely small as to be inadequate to any great undertaking. He depended for extraordinary supplies on the good-will of his subjects, who granted them often with a reluctant, and always with a sparing hand.

Their armies unfit for conquest.

As the revenues of Princes were inconsiderable, the armies which they could bring into the field were unfit for long and effectual service. Instead of being able to employ troops trained to skill in arms, and to military subordination, by regular discipline, Monarchs were obliged to depend on such forces as their vassals conducted to their standard in consequence of their military tenures. These, as they were bound to remain under arms only for a short time, could not march far from their usual place of residence, and being more attached to the lord of whom they held, than to the Sovereign whom they served, were often as much disposed to counteract as to forward his schemes. Nor were they, even if they had been more subject to the command of the monarch, proper instruments to carry into execution any great and arduous enterprize. The strength of an army formed either for conquest or defence lies in infantry. To the stability and discipline of their legions, consisting chiefly of infantry, the

Romans during the times of the republic were SECT. II.
indebted for all their victories; and when their
descendants, forgetting the institutions which had
led them to universal dominion, so far altered their
military system as to place their principal confi-
dence in a numerous cavalry, the undisciplined
impetuosity of the barbarous nations who fought
mostly on foot, was sufficient, as I have already
observed, to overcome them. These nations, soon
after they settled in their new conquests, unin-
structed by the fatal error of the Romans, relin-
quished the customs of their ancestors, and con-
verted the chief force of their armies into cavalry.
Among the Romans this change was occasioned
by the effeminacy of their troops, who could not
endure the fatigues of service, which their more
virtuous and hardy ancestors sustained with ease.
Among the people who established the new mo-
narchies into which Europe was divided, this
innovation in military discipline seems to have
flowed from the pride of the nobles, who scorning
to mingle with persons of inferior rank, aimed at
being distinguished from them in the field as well
as during peace. The institution of chivalry, and
the frequency of tournaments, in which knights,
in complete armour, entered the lists on horseback
with extraordinary splendour, displaying amazing
address, and force, and valour, brought cavalry
into still greater esteem. The fondness for that
service increased to such a degree, that, during
the thirteenth and fourteenth centuries, the armies

SECT. II. of Europe were composed almost entirely of cavalry. No gentleman would appear in the field but on horseback. To serve in any other manner he would have deemed derogatory to his rank. The cavalry, by way of distinction, was called *The battle*, and on it alone depended the fate of every action. The infantry, collected from the dregs and refuse of the people, ill-armed and worse disciplined, was of no account.

They are incapable of forming any general or extensive plan of operation. As these circumstances rendered the operations of particular kingdoms less considerable and less vigorous, so they long kept the Princes of Europe from giving such attention to the schemes and transactions of their neighbours, as led them to form any regular system of publick security. They prevented them from uniting in confederacy, or from acting with concert, in order to establish such a distribution and balance of power, as should hinder any state from rising to a superiority, which might endanger the general liberty and independence. During several centuries, the nations of Europe appear to have considered themselves as separate societies, scarcely connected together by any common interest, and little concerned in each other's affairs or operations. An extensive commerce did not afford them an opportunity of observing and penetrating into the schemes of every different state. They had not ambassadors residing constantly in every court to watch and give early intelligence of all its motions. The expectation

of remote advantages, or the prospect of distant and contingent evils, were not sufficient to excite nations to take arms. They only, who were within the sphere of immediate danger, and unavoidably exposed to injury or insult, thought themselves interested in any contest, or bound to take precautions for their own safety. SECT. II.

WHOEVER records the transactions of any of the more considerable European states during the two last centuries, must write the history of Europe. Its various kingdoms, throughout that period, have been formed into one great system, so closely united, that each holding a determinate station, the operations of one are so felt by all, as to influence their counsels and regulate their measures. But previous to the fifteenth century, unless when vicinity of territory rendered the occasions of discord frequent and unavoidable, or when national emulation fomented or embittered the spirit of hostility, the affairs of different countries are seldom interwoven. In each kingdom of Europe great events and revolutions happened, which the other powers beheld with almost the same indifference as if they had been uninterested spectators, to whom the effect of these transactions could never extend. They were little connected with each other.

DURING the violent struggles between France and England, and notwithstanding the alarming progress which was made towards rendering one A confirmation of this from the affairs of France.

SECT. II. Prince the master of both these kingdoms, hardly one measure which can be considered as the result of a sagacious and prudent policy, was formed in order to guard against an event so fatal to Europe. The Dukes of Burgundy and Bretagne, whom their situation would not permit to remain neutral, engaged, it is true, in the contest; but in taking their part, they seem rather to have followed the impulse of their passions, than to have been guided by any just discernment of the danger which threatened themselves and the tranquillity of Europe. The other Princes, seemingly unaffected by the alternate successes of the contending parties, left them to decide the quarrel, or interposed only by feeble and ineffectual negotiations.

From those
of Spain.

NOTWITHSTANDING the perpetual hostilities in which the various kingdoms of Spain were engaged during several centuries, and the successive occurrences which visibly tended to unite that part of the continent into one great monarchy, the Princes of Europe scarcely took a single step, which discovers that they gave any attention to that important event. They permitted a power to arise imperceptibly, and to acquire strength there, which soon became formidable to all its neighbours.

From those
of Germany.

AMIDST the violent convulsions with which the spirit of domination in the See of Rome, and the turbulent ambition of the German nobles, agitated the Empire, neither the authority of the Popes, seconded by all their artifices and intrigues, nor

the solicitations of the Emperors, could induce any of the powerful monarchs in Europe to engage in their quarrel, or to avail themselves of many favourable opportunities of interposing with effect and advantage. SECT. II.

THIS amazing inactivity, during transactions so interesting, is not to be imputed to any incapacity of discerning their political consequences. The power of judging with sagacity, and of acting with vigour, is the portion of men in every age. The Monarchs who reigned in the different kingdoms of Europe during several centuries were not blind to their particular interest, negligent of the publick safety, or strangers to the method of securing both. If they did not adopt that salutary system, which teaches modern politicians to take the alarm at the prospect of distant dangers, which prompts them to check the first encroachments of any formidable power, and which renders each state the guardian, in some degree, of the rights and independence of all its neighbours, this was owing entirely to such imperfections and disorders in the civil government of each country, as made it impossible for sovereigns to act suitably to those ideas, which the posture of affairs, and their own observation, must have suggested. This inactivity occasioned entirely by the state of government.

BUT during the course of the fifteenth century, various events happened, which, by giving Princes more entire command of the force in their respective dominions, rendered their operations more Events happened during the 15th century which ren-

SECT. II. vigorous and extensive. In consequence of this, the affairs of different kingdoms becoming more frequently as well as more intimately connected, they were gradually accustomed to act in concert and confederacy, and were insensibly prepared for forming a system of policy, in order to establish or to preserve such a balance of power as was most consistent with the general security. It was during the reign of Charles the Fifth, that the ideas, on which this system is founded, first came to be fully understood. It was then, that the maxims by which it has been uniformly maintained since that æra, were universally adopted. On this account, a view of the causes and events which contributed to establish a plan of policy more salutary and extensive than any that has taken place in the conduct of human affairs, is not only a necessary introduction to the following work, but is a capital object in the history of Europe.

The first of these was the depriving the English of their territories on the continent. THE first event, that occasioned any considerable alteration in the arrangement of affairs in Europe, was the annexation of the extensive territories, which England possessed on the continent, to the crown of France. While the English were masters of several of the most fertile and opulent provinces in France, and a great part of its most martial inhabitants was bound to follow their standard, an English monarch considered himself rather as the rival, than as the vassal of the sovereign of whom he held. The Kings of France, circum-

SECT. II.

scribed and thwarted in their schemes and operations by an adversary no less jealous than formidable, durst not venture upon any enterprize of importance or of difficulty. The English were always at hand, ready to oppose them. They disputed even their right to their crown, and being able to penetrate, with ease, into the heart of the kingdom, could arm against them those very hands which ought to have been employed in their defence. Timid counsels and feeble efforts were natural to monarchs in such a situation. France, dismembered and overawed, could not attain its proper station in the system of Europe. But the death of Henry V. of England, happily for France, and not unfortunately for his own country, delivered the French from the calamity of having a foreign master seated on their throne. The weakness of a long minority, the dissensions in the English court, together with the unsteady and languid conduct which these occasioned, afforded the French a favourable opportunity of recovering the territories which they had lost. The native valour of the French nobility heightened to an enthusiastick confidence, by a supposed interposition of heaven in their behalf; conducted in the field by skilful leaders; and directed in the cabinet by a prudent monarch; was exerted with such vigour and success, during this favourable juncture, as not only wrested from the English their new conquests, but stript them of their ancient possessions in France, and reduced them within

SECT. II. the narrow precincts of Calais, and its petty territory.

The effect of this on increasing the power of the French monarchy. As soon as so many considerable provinces were re-united to their dominions, the Kings of France, conscious of this acquisition of strength, began to form bolder schemes of interior policy, as well as of foreign operations. They immediately became formidable to their neighbours, who began to fix their attention on their measures and motions, the importance of which they fully perceived. From this æra, France, possessed of the advantages which it derives from the situation and contiguity of its territories, as well as from the number and valour of its people, rose to new influence in Europe, and was the first power in a condition to give alarm to the jealousy or fears of the states around it.

On the state of the military force in the nation. NOR was France indebted for this increase of importance merely to the re-union of the provinces which had been torn from it. A circumstance attended the recovery of these, which, though less considerable, and less observed, contributed not a little to give additional vigour and decision to all the efforts of that monarchy. During the obstinate struggles between France and England, all the defects of the military system under the feudal government were sensibly felt. A war of long continuance languished, when carried on by troops bound and accustomed to keep the field only for

SECT II.

a few weeks. Armies, composed chiefly of heavy-armed cavalry, were unfit either for the attack or the defence of the many towns and castles, which it became necessary to guard or to reduce. In order to obtain such permanent and effective force, as became requisite during these lengthened contests, the Kings of France took into their pay considerable bands of mercenary soldiers, levied sometimes among their own subjects, and sometimes in foreign countries. But as the feudal policy provided no sufficient fund for such extraordinary service, these adventurers were dismissed at the close of every campaign, or upon any prospect of accommodation; and having been little accustomed to the restraints of discipline, they frequently turned their arms against the country which they had been hired to defend, and desolated it with no less cruelty than its foreign enemies.

A BODY of troops kept constantly on foot, and regularly trained to military subordination, would have supplied what was wanting in the feudal constitution, and have furnished Princes with the means of executing enterprizes, to which they were then unequal. Such an establishment, however, was so repugnant to the genius of feudal policy, and so incompatible with the privileges and pretensions of the nobility, that during several centuries no monarch was either so bold, or so powerful, as to venture on any step towards introducing it. At last, Charles VII. availing himself of the reputation which he had acquired by his successes against the

It occasions
the intro-
duction of
standing
armies.

SECT. II. English, and taking advantage of the impressions of terror which such a formidable enemy had left upon the minds of his subjects, executed that which his predecessors durst not attempt. Under pretence of keeping always on foot a force sufficient to defend the kingdom against any sudden invasion of the

A. D. 1445. English, he, at the time when he disbanded his other troops, retained under arms a body of nine thousand cavalry, and of sixteen thousand infantry. He appropriated funds for the regular payment of these; he stationed them in different places of the kingdom, according to his pleasure; and appointed the officers, who commanded and disciplined them. The prime nobility courted this service, in which they were taught to depend on their sovereign, to execute his orders, and to look up to him as the judge and rewarder of their merit. The feudal militia, composed of the vassals whom the nobles could call out to follow their standard, as it was in no degree comparable to a body of soldiers regularly trained to war, sunk gradually in reputation. The strength of armies came to be estimated only by the number of disciplined men which they contained. In less than a century, the nobles and their military tenants, though sometimes summoned to the field, according to ancient form, were considered as an incumbrance upon the troops with which they acted; and were viewed with contempt by soldiers accustomed to the vigorous and steady operations of regular service.

THUS

THUS the regulations of Charles the Seventh, by SECT. II. establishing the first standing army known in Europe, occasioned an important revolution in its affairs and policy. By depriving the nobles of that direction of the national military force of the state, which had raised them to such high authority and importance, a deep wound was given to the feudal aristocracy, in that part where its power seemed to be most complete. The effects of this.

FRANCE, by forming this body of regular troops, at a time when there was hardly a squadron or company kept in constant pay in any other part of Europe, acquired such advantages over its neighbours, either in attack or defence, that self-preservation made it necessary for them to imitate its example. Mercenary troops were introduced into all the considerable kingdoms on the continent. They gradually became the only military force that was employed or trusted. It has long been the chief object of policy to increase and to support them. It has long been the great aim of Princes and ministers to discredit and to annihilate all other means of national activity or defence.

As the Kings of France got the start of other powers in establishing a military force in their dominions, which enabled them to carry on foreign operations with more vigour, and to greater extent, so they were the first who effectually broke the feudal aristocracy, and humbled the great vas-

The monarchs of France encouraged to extend their prerogative.

SECT. II. fals of the crown, who by their exorbitant power had long circumscribed the royal prerogative within very narrow limits, and had rendered all the efforts of the monarchs of Europe inconsiderable. Many things concurred to undermine, gradually, the power of the feudal aristocracy in France. The wealth and property of the nobility were greatly impaired during the long wars which the kingdom was obliged to maintain with the English. The extraordinary zeal with which they exerted themselves in defence of their country against its ancient enemies, exhausted the fortunes of some great families. As almost every province in the kingdom was, in its turn, the seat of war, the lands of others were exposed to the depredations of the enemy, were ravaged by the mercenary troops which their sovereigns hired occasionally, but could not pay, or were desolated with rage still more destructive by the peasants, in their different insurrections. At the same time, the necessities of government having forced their kings upon the desperate expedient of making great and sudden alterations in the current coin of the kingdom, the fines, quit-rents, and other payments fixed by ancient custom, sunk much in value, and the revenues of a fief were reduced far below the sum which it had once yielded. During their contests with the English, in which a generous nobility courted every station where danger appeared, or honour could be gained, many families of note became extinct, and their fiefs were reunited to the crown. Other fiefs, in a long course of years, fell to female

heirs, and were divided among them; were diminished by profuse donations to the church, or were broken and split by the succession of remote collateral heirs ⁴².

SECT. II.

ENCOURAGED by these manifest symptoms of decline in that body which he wished to depress, Charles VII. during the first interval of peace with England, made several efforts towards establishing the regal prerogative on the ruins of the aristocracy. But his obligations to the nobles were so many, as well as recent, and their services in recovering the kingdom so splendid, as made it necessary for him to proceed with moderation and caution. Such, however, was the authority which the crown had acquired by the progress of its arms against the English, and so much was the power of the nobility diminished, that, without any opposition, he soon made innovations of great consequence in the constitution. He not only established that formidable body of regular troops, which has been mentioned, but he was the first monarch of France who, by his royal edict, without the concurrence of the States-general of the kingdom, levied an extraordinary subsidy on his people. He prevailed likewise with his subjects, to render several taxes perpetual, which had formerly been imposed occasionally, and exacted during a short time. By means of all these, he acquired such an increase of power, and extended

The progress
of the royal
power under
Charles VII.

A. D. 1440.

⁴² Boulainvilliers Histoire du Gouvernement de France, Lettre xii.

SECT. II. his prerogative so far beyond its ancient limits, that, from being the most dependent Prince who had ever sat upon the throne of France, he came to possess, during the latter years of his reign, a degree of authority which none of his predecessors had enjoyed for several ages ⁴³.

Under

Louis XI.

THAT plan of humbling the nobility which Charles formed, his son Louis XI. carried on with a bolder spirit, and with greater success. Louis was formed by nature to be a tyrant; and at whatever period he had been called to ascend the throne, his reign must have abounded with schemes to oppress his people, and to render his own power absolute. Subtle, unfeeling, cruel; a stranger to every principle of integrity, and regardless of decency, he scorned all the restraints which a sense of honour, or the desire of fame, impose even upon ambitious men. Sagacious, at the same time, to discern his true interest, and influenced by that alone, he was capable of pursuing it with a persevering industry, and of adhering to it with a systematic spirit, from which no object could divert, and no danger could deter him.

His measures for humbling the nobility;

THE maxims of his administration were as profound as they were fatal to the privileges of the nobility. He filled all the departments of government with new men, and often with persons whom

⁴³ Histoire de France par Velly & Villaret, tom. xv. 331, &c. 389. tom. xvi. 324. Variations de la Monarchie Francoise, tom. iii. 162.

he called from the lowest as well as most despised functions in life, and raised at pleasure to stations of great power or trust. These were his only confidants, whom he consulted in forming his plans, and to whom he committed the execution of them; while the nobles, accustomed to be the companions, the favourites, and the ministers of their sovereigns, were treated with such studied and mortifying neglect, that if they would not submit to follow a court, in which they appeared without any shadow of their ancient power, they were obliged to retire to their castles, where they remained unemployed and forgotten. Not satisfied with having rendered the nobles of less consideration, by taking out of their hands the sole direction of affairs, Louis added insult to neglect; and by violating their most valuable privileges endeavoured to degrade the order, and to reduce the members of it to the same level with other subjects. Persons of the highest rank among them, if so bold as to oppose his schemes, or so unfortunate as to awaken the jealousy of his capricious temper, were prosecuted with rigour, from which all who belonged to the order of nobility had hitherto been exempt; they were tried by judges who had no right to take cognizance of their actions; and were subjected to torture, or condemned to an infamous death, without regard to their birth or condition. The people, accustomed to see the blood of the most illustrious personages shed by the hands of the common executioner, to behold them shut up in dungeons, and carried

SECT. II. about in cages of iron, began to view the nobility with less reverence than formerly, and looked up with terror to the royal authority, which seemed to have humbled or annihilated every other power in the kingdom.

and of dividing them.

AT the same time, Louis, being afraid that opposition might rouse the nobles, whom the rigour of his government had intimidated, or that self-preservation might at last teach them to unite, dexterously scattered among them the seeds of discord; and industriously fomented those ancient animosities between the great families, which the spirit of jealousy and emulation, natural to the feudal government, had originally kindled and still kept alive. To accomplish this, all the arts of intrigue, all the mysteries and refinements of his fraudulent policy were employed, and with such success, that at a juncture which required the most strenuous efforts, as well as the most perfect union, the nobles never acted, except during one short fall of resentment at the beginning of his reign, either with vigour or with concert.

He adds to the number of standing forces.

As he stripped the nobility of their privileges, he added to the power and prerogative of the crown. In order to have at command such a body of soldiers as might be sufficient to crush any force that his disaffected subjects could draw together, he not only kept on foot the regular troops which his father had raised, but took into his pay six thousand Swiss, at that time the best disciplined

and most formidable infantry in Europe ⁴⁴. From the jealousy natural to tyrants, he confided in these foreign mercenaries, as the most devoted instruments of oppression, and the most faithful guardians of the power which he had acquired. That they might be ready to act on the shortest warning, he, during the latter years of his reign, kept a considerable body of them encamped in one place ⁴⁵.

SECT. II.

GREAT funds were requisite, not only to defray the expence of this additional establishment, but to supply the sums employed in the various enterprizes which the restless activity of his genius prompted him to undertake. But the prerogative that his father had assumed of levying taxes without the concurrence of the States-general, which he was careful not only to retain but to extend, enabled him to provide in some measure for the increasing charges of government.

He augments the revenues of the crown.

WHAT his prerogative, enlarged as it was, could not furnish, his address procured. He was the first monarch in Europe who discovered the method of managing those great assemblies, in which the feudal policy had vested the power of granting subsidies and of imposing taxes. He first taught other Princes the fatal art of beginning their attack on publick liberty, by corrupting the source from which it should flow. By exerting all

His address in managing the assembly of States.

⁴⁴ Mém. de Comines, tom. i. 367. Dan. Hist. de la Milice Françoisé, tom. i. 182. ⁴⁵ Mém. de Com. tom. i. 381.

SECT. II. his power and address in influencing the election of representatives, by bribing or overawing the members, and by various changes which he artfully made in the form of their deliberations, Louis acquired such entire direction of these assemblies, that, from being the vigilant guardians of the privileges and property of the people, he rendered them tamely subservient, in promoting the most odious measures of his reign ⁴⁶. As no power remained to set bounds to his exactions, he not only continued all the taxes imposed by his father, but made immense additions to them, which amounted to a sum that appeared astonishing to his contemporaries ⁴⁷ *

He enlarges
the bounds
of the
French mo-
narchy.

NOR was it the power alone or wealth of the crown that Louis increased; he extended its territories by acquisitions of various kinds. He got possession of Roussillon by purchase; Provence was conveyed to him by the will of Charles de Anjou; and upon the death of Charles the Bold, he seized with a strong hand Burgundy and Artois, which had belonged to that Prince. Thus, during the course of a single reign, France was formed into one compact kingdom, and the steady unrelenting policy of Louis XI, not only subdued

⁴⁶ Mém. de Comin, tom i 136. Chron. Scandal. ibid. tom. ii. p. 71.

⁴⁷ Mém. de Com. tom. i. 334.

* Charles VII. levied taxes to the amount of 1, 800,000 francs: Louis XI. raised 4,700,000. The former had in pay 9000 cavalry and 16,000 infantry. The latter augmented the cavalry to 15,000, and the infantry to 25,000. Mém. de Com. tom. i. 384.

the haughty spirit of the feudal nobles, but established a species of government, scarcely less absolute, or less terrible, than eastern despotism. SECT. II.

BUT fatal as his administration was to the liberties of his subjects, the authority which he acquired, the resources of which he became master, and his freedom from restraint in concerting his plans as well as in executing them, rendered his reign active and enterprising. Louis negotiated in all the courts of Europe; he observed the motions of all his neighbours, he engaged, either as principal, or as an auxiliary, in every great transaction; his resolutions were prompt; his operations vigorous; and upon every emergence he could call forth into action the whole force of his kingdom. From the æra of his reign, the Kings of France, no longer fettered and circumscribed at home by a jealous nobility, have exerted themselves more abroad, have formed more extensive schemes of foreign conquests, and have carried on war with a spirit and vigour long unknown in Europe.

By all these the French government rendered more active and enterprising.

THE example which Louis set was too inviting not to be imitated by other Princes. Henry VII. as soon as he was seated on the throne of England, formed the plan of enlarging his own prerogative, by breaking the power of the nobility. The circumstances under which he undertook to execute it, were less favourable than those which induced Charles VII. to make the same attempt; and

Steps taken towards extending the power of the crown in England;

SECT. II. the spirit with which he conducted it, was very different from that of Louis XI. Charles, by the success of his arms against the English, by the merit of having expelled them out of so many provinces, had established himself so firmly in the confidence of his people, as encouraged him to make bold encroachments on the ancient constitution. The daring genius of Louis broke through every barrier, and endeavoured to overturn or to remove every obstacle that stood in his way. But Henry held the sceptre by a disputed title; a popular faction was ready every moment to take arms against him; and after long civil wars, during which the nobility had often displayed their power in creating and deposing Kings, he felt that the regal authority had been so much relaxed, and that he entered into possession of a prerogative so much abridged, as made it necessary to carry on his measures deliberately, and without any violent exertion. He endeavoured to undermine that formidable structure, which he durst not attack with open force. His schemes, though cautious and slow in their operation, were well concerted, and productive in the end of great effects. By his laws, permitting the barons to break the entails of their estates, and to expose them to sale; by his regulations to prevent the nobility from keeping in their service those numerous bands of retainers, which rendered them formidable, and turbulent; by encouraging population, agriculture, and commerce; by securing to his subjects, during a long reign, the enjoyment of the blessings

which flow from the arts of peace; by accus- **SECT. II.**
toming them to an administration of government,
under which the laws were executed with steady-
ness and vigour; he made imperceptibly such
alterations in the English constitution, that he
transmitted to his successor authority so extensive,
as rendered him one of the most absolute Mo-
narchs in Europe, and capable of the greatest and
most vigorous efforts.

In Spain, the union of all its crowns by the ^{and in}
marriage of Ferdinand and Isabella; the glory that ^{Spain.}
they acquired by the conquest of Granada, which
brought the odious dominion of the Moors to a
period; the command of the great armies which
it had been necessary to keep long on foot, in
order to accomplish this; the wisdom and steady-
ness of their administration, and the address with
which they availed themselves of every incident
to humble the nobility, and to extend their own
prerogative, conspired in raising these monarchs
to such eminence and authority, as none of their
predecessors had ever enjoyed. Though several
causes, which shall be explained in another place,
prevented their attaining the same extensive powers
with the Kings of France and England, and pre-
served the feudal constitution in Spain longer
entire, their great abilities supplied the defects of
their prerogative, and improved with such dex-
terity all the advantages which they possessed, that
Ferdinand carried on his foreign operations, which

SECT. II. were very extensive, with extraordinary vigour and effect.

Events happened, WHILE these Princes were thus enlarging the boundaries of prerogative, and taking such steps towards rendering their kingdoms capable of acting with union and with force, events occurred, which called them forth to exert their new powers which they had acquired. These engaged them in such a series of enterprizes and negotiations, that the affairs of all the considerable nations in Europe came to be insensibly interwoven with each other; and a great political system was gradually formed, which grew to be an object of universal attention.

The first of these events was the marriage of the heiress of the house of Burgundy. THE first event which merits notice, on account of its influence in producing this change in the state of Europe, was the marriage of the daughter of Charles the Bold, the sole heiress of the house of Burgundy. For some years before her father's death, she had been considered as the apparent successor to his territories, and Charles had made proposals of marrying her to several different Princes, with a view of alluring them, by that offer, to favour the schemes which his restless ambition was continually forming.

The importance of this to the state of Europe. THIS rendered the alliance with her an object of general attention, and all the advantages of acquiring possession of her territories, the most opulent at that time and best cultivated of any on

this side of the Alps, were perfectly understood. SECT. II.
 As soon, then, as the untimely death of Charles opened the succession; the eyes of all the Princes in Europe were turned towards Mary, and they felt themselves deeply interested in the choice which she was about to make of the person, on whom she would bestow that rich inheritance.

A. D. 1477.
 January 5.

LOUIS XI. from whose kingdom several of the provinces which she possessed had been dismembered, and whose dominions stretched along the frontier of her territories, had every inducement to court her alliance. He had, likewise, a good title to expect the favourable reception of any reasonable proposition he should make, with respect to the disposal of a Princess, who was the vassal of his crown, and descended from the royal blood of France. There were only two propositions, however, which he could make with propriety. The one was the marriage of the Dauphin, the other that of the Count of Angouleme, a Prince of the blood, with the heiress of Burgundy. By the former, he would have annexed all her territories to his crown, and have rendered France at once the most respectable monarchy in Europe. But the great disparity of age between the two parties, Mary being twenty, and the Dauphin only eight years old; the avowed resolution of the Flemings, not to chuse a master possessed of such power as might enable him to form schemes dangerous to their liberties; together with their dread of falling under the odious and oppressive govern-

Views of
 Louis XI.
 with respect
 to it.

SECT. II. ment of Louis, were obstacles in the way of executing this plan, which it was vain to think of surmounting. By the latter, the accomplishment of which might have been attained with ease, Mary having discovered some inclination to a match with the Count of Angouleme⁴³, Louis would have prevented the dominions of the house of Burgundy from being conveyed to a rival power, and in return for such a splendid establishment for the Count of Angouleme, he must have obtained, or would have extorted from him, concessions highly beneficial to the crown of France. But Louis had been accustomed so long to the intricacies of a crooked and insidious policy, that he could not be satisfied with what was obvious and simple; and was so fond of artifice and refinement, that he came to consider these as his ultimate object, not as the means only of conducting affairs. From this principle, no less than from his unwillingness to aggrandize any of his own subjects, or from his desire of oppressing the house of Burgundy, which he hated, he neglected the course which a Prince less able and artful would have taken, and followed one more suited to his own genius.

The singular course which he followed.

HE proposed to render himself, by force of arms, master of those provinces which Mary held of the crown of France, and even to push his conquests into her other territories, while he amused her with insisting continually on the impracticable match with the Dauphin. In prosecuting this

⁴³ Mém. de Comines, i. 358.

plan, he displayed wonderful talents and industry, and exhibited such scenes of treachery, falsehood and cruelty, as are amazing even in the history of Louis XI. Immediately upon the death of Charles, he put his troops in motion, and advanced towards the Netherlands. He corrupted the leading men in the provinces of Burgundy and Artois, and seduced them to desert their sovereign. He got admission into some of the frontier towns by bribing the governors; the gates of others were opened to him in consequence of his intrigues with the inhabitants. He negotiated with Mary; and, in order to render her odious to her subjects, he betrayed to them her most important secrets. He carried on a private correspondence with the two ministers whom she chiefly trusted, and then communicated the letters which he had received from them to the States of Flanders, who, enraged at their perfidy, brought them immediately to trial, tortured them with extreme cruelty, and, unmoved by the tears and entreaties of their sovereign, who knew and approved of all that the ministers had done, they beheaded them in her presence⁴⁹.

WHILE Louis, by this conduct, unworthy of a great monarch, was securing the possession of Burgundy, Artois, and the towns on the Somme, the States of Flanders carried on a negotiation with the Emperor Frederick III. and concluded a treaty of marriage between their sovereign and his

The effect of this, the marriage of Maximilian with the heiress of Burgundy. A. D. 1477.

⁴⁹ Mém. de Comines, liv. v. ch. 15. p. 309. &c.

SECT. II. fon Maximilian , archduke of Austria. The illustrious birth of that Prince, as well as the high dignity of which he had the prospect, rendered the alliance honourable for Mary , while, from the distance of his hereditary territories, and the scantiness of his revenues, his power was so inconsiderable as did not excite the jealousy or fear of the Flemings.

The influence of that on the state of Europe.

THUS Louis, by the caprice of his temper, and the excess of his refinements, put the house of Austria in possession of this noble inheritance. By this acquisition, the foundation of the future grandeur of Charles V. was laid, and he became master of those territories, which enabled him to carry on his most formidable and decisive operations against France. Thus, too, the same monarch who first united the interior force of France, and established it on such a footing as to render it formidable to the rest of Europe, contributed, far contrary to his intention, to raise up a rival power, which, during two centuries, has thwarted the measures, opposed the arms, and checked the progress of his successors.

The next considerable event was the invasion of Italy by Charles VIII. A. D. 1494.

THE next event of consequence in the fifteenth century, was the expedition of Charles VIII. into Italy. This occasioned revolutions no less memorable; produced alterations, which were more immediately perceived, both in the military and political system; roused the states of Europe to bolder efforts; and blended their affairs and interests

interests more closely together. The mild administration of Charles, a weak but generous Prince, seems to have revived the spirit and genius of the French nation, which the rigid despotism of Louis XI. his father had depressed, and almost extinguished. The ardour for military service, natural to the French nobility, returned, and their young monarch was impatient to distinguish his reign by some splendid enterprize. While he was uncertain towards what quarter he should turn his arms, the sollicitations and intrigues of an Italian politician, no less infamous on account of his crimes, than eminent for his abilities, determined his choice. Ludovico Sforza, having formed the design of deposing his nephew the duke of Milan, and of placing himself on the ducal throne, was so much affraid of a combination of the Italian powers to thwart this measure, and to support the injured Prince, with whom most of them were connected by blood or alliance, that he saw the necessity of securing the aid of some able protector. The King of France was the person to whom he applied; and without disclosing to him his own intentions, he laboured to prevail with him to march into Italy, at the head of a powerful army, in order to seize the crown of Naples, to which he had pretensions as heir of the house of Anjou. The right to that kingdom, claimed by the Angevin family, had been conveyed to Louis XI. by Charles of Anjou, count of Maine and Provence. But that sagacious monarch, though he took immediate possession of those territories of

SECT. II.

The motives of this.

SECT. II. which Charles was really master, totally disregarded his ideal title to a kingdom, over which another Prince reigned in tranquillity; and uniformly declined involving himself in the labyrinth of Italian politicks. His son, more adventurous, or more inconsiderate, embarked eagerly in this enterprize; and contemning all the remonstrances of his most experienced counsellors, prepared to carry it on with the utmost vigour.

His resources for this enterprize.

THE power which Charles possessed was so great, that he reckoned himself equal to this arduous undertaking. His father had transmitted to him such an ample prerogative, as gave him the entire command of his kingdom. He himself had added considerably to the extent of his dominions, by his prudent marriage with the heiress of Bretagne, which rendered him master of that province, the last of the great fiefs that remained to be annexed to the crown. He soon assembled forces which he thought sufficient; and so impatient was he to enter on his career as a conqueror, that sacrificing what was real, for what was chimerical, he restored Roussillon to Ferdinand, and gave up part of his father's acquisitions in Artois to Maximilian, with a view of inducing these Princes not to molest France, while he was carrying on his operations in Italy.

His preparations for it.

BUT so different were the efforts of the States of Europe in the fifteenth century, from those

which we shall behold in the course of this history, SECT. II.
that the army, with which Charles undertook this great enterprize, did not exceed twenty thousand men. The train of artillery, however, the ammunition, and warlike stores of every kind provided for its use, were so considerable as to bear some resemblance to the immense apparatus of modern war⁵⁰.

WHEN the French entered Italy, they met with ^{its success,} nothing able to resist them. The Italian powers having remained, during a long period, undisturbed by the invasion of any foreign enemy, had formed a system with respect to their affairs, both in peace and war, peculiar to themselves. In order to adjust the interests, and balance the power of the different states into which Italy was divided, they were engaged in perpetual and endless negotiations with each other, which they conducted with all the subtlety of a refining and deceitful policy. Their contests in the field, when they had recourse to arms, were decided in mock battles, by innocent and bloodless victories. Upon the first appearance of the danger which now impended, they had recourse to the arts which they had studied, and employed their utmost skill in intrigue in order to avert it. But this proving ineffectual, their effeminate mercenaries, the only military force that remained in the country, being fit only for the parade of service, were terrified

⁵⁰ Mezeray Hist. tom. ii. 777.

SECT. II. at the aspect of real war, and shrunk at its approach. The impetuosity of the French valour appeared to them irresistible. Florence, Pisa, and Rome opened their gates as the French army advanced. The prospect of this dreadful invasion struck one King of Naples with such panic terror, that he died (if we may believe historians) of the fright. Another abdicated his throne from the same pusillanimous spirit. A third fled out of his dominions, as soon as the enemy appeared on the Neapolitan frontiers. Charles, after marching thither from the bottom of the Alps, with as much rapidity, and almost as little opposition, as if he had been on a progress through his own dominions, took quiet possession of the throne of Naples, and intimidated or gave law to every power in Italy.

Its effects, particularly in giving rise to the system concerning a balance of power. SUCH was the conclusion of this expedition, which must be considered as the first great exertion of those new powers which the Princes of Europe had acquired, and now began to exercise. Its effects were no less considerable than its success had been astonishing. The Italians, unable to resist the impression of the enemy which broke in upon them, permitted him to hold on his course undisturbed. They quickly perceived that no single power, which they could rouse to action, was an equal match for a monarch, who ruled over such extensive territories, and was at the head of such a martial people; but that a confe-

deracy might accomplish what the separate members of it durst not attempt. To this expedient, the only one that remained to deliver or to preserve them from the yoke; they had recourse. While Charles inconsiderately wasted his time at Naples in festivals and triumphs on account of his past successes, or was fondly dreaming of future conquests in the East, to the empire of which he now aspired, they formed against him a powerful combination of almost all the Italian states, supported by the Emperor Maximilian, and Ferdinand King of Aragon. The union of so many powers, who suspended or forgot all their particular animosities, that they might act with concert against an enemy who had become formidable to them all, awakened Charles from his thoughtless security. He saw now no prospect of safety but in returning to France. An army of thirty thousand men, assembled by the allies, was ready to obstruct his march; and though the French, with a daring courage, which more than counterbalanced their inferiority in number, broke through that great body, and gained a victory, which opened to their monarch a safe passage into his own territories, he was stripped of all his conquests in Italy in as short a time as it had taken to acquire them; and the political system in that country resumed the same appearance as before his invasion.

THE sudden and decisive effect of this confederacy, seems to have instructed the Princes and

SECT. II. statesmen of Italy as much as the irruption of the French had disconcerted and alarmed them. They had extended, on this occasion, to the affairs of Europe, the maxims of that political science which had hitherto been applied only to regulate the operations of the petty states in their own country. They had discovered the method of preventing any monarch from rising to such a degree of power, as was inconsistent with the general liberty; and had manifested the importance of attending to that great secret in modern policy, the preservation of a proper distribution of power among all the members of the system into which the states of Europe are formed. During all the wars of which Italy from that time was the theatre, and amidst the hostile operations which the imprudence of Louis XII. and the ambition of Ferdinand of Aragon, carried on in that country, with little interruption, from the close of the fifteenth century to that period at which the subsequent history commences, the maintaining a proper balance of power between the contending parties, became the great object of attention to the statesmen of Italy. Nor was the idea confined to them. Self-preservation taught other powers to adopt it. It grew to be fashionable and universal. From this æra we can trace the progress of that intercourse between nations, which has linked the powers of Europe so closely together; and can discern the operations of that provident policy, which, during peace, guards against remote and contingent dangers; which

in war hath prevented rapid and destructive conquests. SECT. II.

THIS was not the only effect of the operations which the great powers of Europe carried on in Italy. They contributed to render general such a change, as the French had begun to make in the state of their troops; and obliged all the Princes, who appeared on this new theatre of action, to establish the military force of their kingdoms on the same footing with that of France. When the feat of war came to be remote from the countries which maintained the contest, the service of the feudal vassals ceased to be of any use; and the necessity of employing troops regularly trained to arms, and kept in constant pay, came at once to be evident. When Charles marched into Italy, his cavalry was entirely composed of those companies of Gendarmes, embodied by Charles VII. and continued by Louis XI.; his infantry consisted partly of Swiss, hired of the Cantons, and partly of Gascons, armed and disciplined after the Swiss model. To these Louis XII. added a body of Germans, well known in the wars of Italy by the name of the Black Bands. But neither of these monarchs made any account of the feudal militia, or ever had recourse to that military force which they might have commanded, in virtue of the ancient institutions in their kingdom. Maximilian and Ferdinand, as soon as they began to act in Italy, employed the same instruments, and trusted the

The wars in Italy render standing armies general.

SECT. II. execution of their plans entirely to mercenary troops.

Teach the
Europeans
the superior
importance
of infantry
in war.

THIS innovation in the military system was quickly followed by another, which the custom of employing Swifs in the Italian wars was the occasion of introducing. The arms and discipline of the Swifs were different from those of other European nations. During their long and violent struggles in defence of their liberties against the house of Austria, whose armies, like those of other considerable Princes, consisted chiefly of heavy-armed cavalry, the Swifs found that their poverty, and the small number of gentlemen residing in their country, at that time barren and ill cultivated, put it out of their power to bring into the field any body of horse capable of facing the enemy. Necessity compelled them to place all their confidence in infantry; and in order to render it capable of withstanding the shock of cavalry, they gave the soldiers breast-plates and helmets as defensive armour; together with long spears, halberts, and heavy swords, as weapons of offence. They formed them into large battalions, ranged in deep and close array, so that they could present on every side a formidable front to the enemy⁵¹. The men at arms could make no impression on the solid strength of such a body. It repulsed the Austrians in all their attempts to conquer Swisserland. It broke the Burgundian Gendarmerie, which was scarcely inferior to that of France, either in number or re-

⁵¹ Machiavel's Art of War, b. ii. chap. ii. p. 451.

putation: and when first called to act in Italy, it bore down by its irresistible force every enemy that attempted to oppose it. These repeated proofs of the decisive effect of infantry, exhibited on such conspicuous occasions, restored that service to reputation, and gradually re-established the opinion, which had been long exploded, of its superior importance in the operations of war. But the glory which the Swifs had acquired, having inspired them with such high ideas of their own prowess and consequence as frequently rendered them mutinous and insolent, the Princes who employed them became weary of depending on the caprice of foreign mercenaries, and began to turn their attention towards the improvement of their national infantry. SECT. II.

THE German powers having the command of men, whom nature has endowed with that steady courage and persevering strength which forms them to be soldiers, soon modelled their troops in such a manner, that they vied with the Swifs both in discipline and valour. National infantry established in Germany.

THE French monarchs, though more slowly, and with greater difficulty, accustomed the impetuous spirit of their people to subordination and discipline: and were at such pains to render their national infantry respectable, that as early as the reign of Louis XII. several gentlemen of high rank had so far abandoned their ancient ideas, as to condescend to enter into that service. In France.

¹² Brantome, tom. x. p. 18. *Mém. de Fleuranges*, 143.

SECT. II. THE Spaniards, whose situation made it difficult

In Spain. to employ any other than their national troops in the southern parts of Italy, which was the chief scene of their operations in that country, not only adopted the Swiss discipline, but improved upon it, by mingling a proper number of soldiers, armed with heavy muskets, in their battalions; and thus formed that famous body of infantry, which, during a century and a half, was the admiration and terror of all Europe. The Italian states gradually diminished the number of their cavalry, and, in imitation of their more powerful neighbours, brought the strength of their armies to consist in foot soldiers. From this period, the nations of Europe have carried on war with forces more adapted to every species of service, more capable of acting in every country, and better fitted both for making conquests, and for preserving them.

The Italian wars occasion an increase of the publick revenues in Europe.

As their efforts in Italy led the people of Europe to these improvements in the art of war, they gave them likewise the first idea of the expence which accompanies great and continued operations, and accustomed them to the burden of those impositions, which are necessary for supporting them. While the feudal policy subsisted in full vigour, while armies were composed of military vassals called forth to attack some neighbouring power, and to perform, in a short campaign, the services which they owed to their sovereign, the expence of war was extremely moderate. A small subsidy enabled a Prince to begin and to finish his greatest

operations. But when Italy became the theatre on which the powers of Europe contended for superiority, the preparations requisite for such a distant expedition, the pay of armies kept constantly on foot, their subsistence in a foreign country, the sieges to be undertaken, and the towns to be defended, swelled the charges of war immensely, and by creating demands unknown in less active times, multiplied taxes in every kingdom. The progress of ambition, however, was so rapid, and Princes extended their operations so fast, that it was impossible at first to establish funds proportional to the increase of expence which these occasioned. When Charles VIII. invaded Naples, the sums requisite for carrying on that enterprize so far exceeded those which France had been accustomed to contribute, that before he reached the frontiers of Italy, his treasury was exhausted, and the domestic resources, of which his extensive prerogative gave him the command, were at an end. As he durst not venture to lay any new imposition on his people, oppressed already with the weight of unusual burdens; the only expedient that remained was, to borrow of the Genoese as much money as might enable him to continue his march. But he could not obtain a sufficient sum, without consenting to pay annually the exorbitant interest of forty-two livres for every hundred that he received⁵³. We may observe the same disproportion between the efforts and revenues of other

SECT. II.

⁵³ *Mém. de Comines*, liv. vii. c. 5. p. 440.

SECT. II. Princes, his contemporaries. From this period, taxes went on increasing; and during the reign of Charles V. such sums were levied in every state, as would have appeared prodigious at the close of the fifteenth century, and gradually prepared the way for the more exorbitant exactions of modern times.

The league
of Cambray
another im-
portant oc-
currence.

THE last transaction, previous to the reign of Charles V. that merits attention on account of its influence upon the state of Europe, is the league of Cambray. To humble the republick of Venice, and to divide its territories, was the object of all the powers who united in this confederacy. The civil constitution of Venice, established on a firm basis, had suffered no considerable alteration for several centuries; during which, the senate conducted its affairs by maxims of policy no less prudent than vigorous, and adhered to these with a uniform consistent spirit, which gave that commonwealth great advantage over other states, whose views and measures changed as often as the form of their government, or the persons who administered it. By these unintermitted exertions of wisdom and valour, the Venetians enlarged the dominions of their commonwealth, until it became the most considerable power in Italy. While their extensive commerce, the useful and curious manufactures which they carried on, together with their monopoly of the precious commodities of the East, rendered Venice the most opulent state in Europe.

THEIR power was the object of terror to their Italian neighbours. Their wealth was viewed with envy by the greatest monarchs, who could not vie with their private citizens in the magnificence of their buildings, in the richness of their dress and furniture, or in splendour and elegance of living¹⁴. Julius II. whose ambition was superior, and his abilities equal, to those of any Pontiff who ever sat on the Papal throne, formed the idea of this league against the Venetians, and endeavoured, by applying to these passions which I have mentioned, to persuade other Princes to join in it. By working upon the fears of the Italian powers, and upon the avarice of the monarchs beyond the Alps, he induced them, in concurrence with other causes, which it is not my province to explain, to form one of the most extensive confederacies against those haughty republicans, that Europe had ever beheld.

THE Emperor, the King of France, the King of Aragon, the Pope, were principals in the league of Cambray, to which almost all the Princes of Italy acceded, the least considerable of them hoping for some share in the spoils of a state, which they already deemed to be devoted to destruction. The Venetians might have diverted this storm, or have broken its force; but with a presumptuous rashness, to which there is nothing similar in the course of their history, they waited its approach. The impetuous valour of the French, rendered

The rapid
progress of
the confederates.

¹⁴ Heliani oratio apud Goldastum in polit. Imperial. p. 980.

SECT. II. ineffectual all their precautions for the safety of the republick; and the fatal battle of Ghiarradda entirely ruined the army, on which they relied for defence. Julius seized all the towns which they held in the ecclesiastical territories. Ferdinand re-annexed the towns of which they had got possession on the coast of Calabria, to his Neapolitan dominions. Maximilian, at the head of a powerful army, advanced towards Venice on the one side. The French pushed their conquests on the other. The Venetians, surrounded by so many enemies, and left without one ally, sunk from the height of presumption to the depths of despair; abandoned all their territories on the continent; and shut themselves up in their capital, as their last refuge, and the only place which they hoped to preserve.

Division
arises among
them.

THIS rapid success, however, proved fatal to the confederacy. The members of it, united while they were engaged in seizing their prey, began to feel their ancient jealousy and animosities revive, as soon as they had a prospect of dividing it. When the Venetians observed these symptoms of alienation and distrust, a ray of hope broke in upon them; the spirit natural to their councils returned; they resumed such wisdom and firmness, as made some atonement for their former imprudence and dejection; they recovered part of the territory which they had lost; they appeased the Pope and Ferdinand by well-timed concessions in their favour; and at length dissolved the confederacy,

which had brought their commonwealth to the SECT. II.
brink of ruin.

JULIUS, elated with beholding the effects of a New objects
league which he himself had planned, and ima- of their po-
gining that nothing was too arduous for him to licy and am-
undertake, conceived the idea of expelling every bition.
foreign power out of Italy, and bent all the force
of his mind towards executing a scheme so well
suited to his vast and enterprizing genius. He
directed his first attack against the French, who,
on many accounts, were more odious to the Ita-
lians, than any of the foreigners who had aquired
dominion in their country. By his activity and
address, he prevailed on most of the powers, who
had joined in the league of Cambray, to turn
their arms against the King of France, their for-
mer ally; and engaged Henry VIII. who had
lately ascended the throne of England, to favour
their operations by invading France. Louis XII.
resisted all the efforts of this formidable and unex-
pected confederacy, with undaunted fortitude. Ho-
stilities were carried on, during several campaigns,
in Italy, on the frontiers of Spain, and in Picardy,
with alternate success. Exhausted, at length, by
the variety as well as extent of his operations;
unable to withstand a confederacy which brought
against him superior force, conducted with wisdom,
and acting with perseverance; Louis found it ne-
cessary to conclude separate treaties of peace with

SECT. II. his enemies; and the war terminated with the loss of every thing which the French had acquired in Italy, except the castle of Milan, and a few inconsiderable towns in that dutchy.

By this the
intercourse
among the
European
nations in-
creases.

THE various negociations carried on during this busy period, and the different combinations formed among powers hitherto little connected with each other, greatly increased that intercourse between the nations of Europe, which I have mentioned as one effect of the events in the fifteenth century. While the greatness of the objects at which they aimed, the distant expeditions which they undertook, as well as the length and obstinacy of the contests in which they engaged, obliged them to exert themselves with a vigour and perseverance unknown in the preceding ages.

They are
prepared for
the trans-
actions of
the sixteenth
century.

THOSE active scenes which the following History will exhibit, as well as the variety and importance of those transactions which distinguish the period to which it extends, are not to be ascribed solely to the ambition, to the abilities, or to the rivalry of Charles V. and of Francis I. The kingdoms of Europe had arrived at such a degree of improvement in the internal administration of government, and Princes had acquired such command of the national force which was to be exerted in foreign wars that they were in a condition to enlarge the sphere of their operations, and to increase

increase the vigour of their efforts. Their con-
tests in Italy, which led them first to try the extent
of the power that they had acquired, gave rise to
so many opposite claims and pretensions, excited
such a spirit of discord and rivalry between na-
tions, and laid the foundation of so many quarrels,
as could not fail of producing extraordinary con-
vulsions in Europe. Accordingly the sixteenth
century opened with the certain prospect of its
abounding in great and interesting events,

A
V I E W
OF THE
PROGRESS OF SOCIETY
IN
E U R O P E,
FROM THE
SUBVERSION OF THE ROMAN EMPIRE,
TO THE
BEGINNING OF THE SIXTEENTH CENTURY,
SECTION III.

*View of the political Constitution of the principal
States in Europe, at the Commencement of the
sixteenth Century.*

SECT. III. **H**AVING thus enumerated the principal
A considerable variety in the constitution of the different nations of Europe. causes and events, the influence of which extended to all the states in Europe, and contributed either to improve their internal government and police, or to enlarge the sphere of their activity, and to augment their national force; nothing remains, in order to prepare my readers for enter-

ing with full information upon perusing the Hist. SECT. III.
 tory of the reign of Charles V. but to give some
 view of the particular constitution and form of
 civil government, in each of the nations which
 acted any considerable part during that period.
 While the institutions and occurrences, which I have
 endeavoured to illustrate, formed the people of Eu-
 rope to resemble each other, and conducted them
 from barbarism to refinement, in the same path, and
 with almost equal steps; there were other circum-
 stances which occasioned a difference in their poli-
 tical establishments, and gave rise to those peculiar
 modes of government, which have produced such
 variety in the character and genius of nations.

It is no less necessary to become acquainted Necessary to
 with the latter, than to have contemplated the explain the
 former. The view which I have exhibited of the state of each
 causes and events, whose influence was universal, when
 will enable my readers to account for the surpris- Charles V.
 ing resemblance among the nations of Europe in began his
 their interior police, and foreign operations. reign.
 But, without a distinct knowledge of the peculiar form
 and genius of their civil government, a great part
 of their transactions must appear altogether myste-
 rious and inexplicable. The historians of partic-
 ular states, as they seldom extended their views
 farther than to the amusement or instruction of
 their fellow-citizens, by whom they might pre-
 sume that all domestic customs and institutions
 were perfectly understood, have often neglected to

SECT. III. descend into such details with respect to these, as are sufficient to convey to foreigners full light and information concerning the occurrences which they relate. But a history, which comprehends the transactions of so many different countries, would be extremely imperfect, without a previous survey of their respective constitutions and political state. It is from his knowledge of these, that the reader must draw those principles, which will enable him to judge with discernment, and to decide with certainty concerning the conduct of nations.

A MINUTE detail, however, of the peculiar forms and regulations in every country, would lead to deductions of immeasurable length. To sketch out the great lines which distinguish and characterise each government, is all that the nature of my present work will admit of, and all that is necessary to illustrate the events which it records.

The state
of Italy.

AT the opening of the sixteenth century, the political face of Italy was extremely different from that of any other part of Europe. Instead of those extensive monarchies, which occupied the rest of the continent, that delightful country was parcelled out among many small states, each of which possessed sovereign and independent jurisdiction. The only monarchy in Italy was that of Naples. The dominion of the Popes was of a peculiar species, to which there is nothing similar either in ancient or modern times. In Venice and

Florence, a republican form of government was SECT. III. established. Milan was subject to sovereigns, who had assumed no higher title than that of Dukes.

THE Pope was the first of these powers in dig-The Papal nity, and not the least considerable by the extent dignity the of his territories. In the primitive church, the highest in jurisdiction of bishops was equal and co-ordinate. They derived, perhaps, some degree of consideration from the dignity of the See in which they presided. They possessed, however, no real authority or pre-eminence, but what they acquired by superior abilities, or superior sanctity. As Rome had so long been the seat of empire, and capital of the world, its bishops were on that Origin and account entitled to respect; they received it; but progress of during several ages they claimed and received no-the Papal thing more. From these humble beginnings, they power. advanced with such an adventurous and well-directed ambition, that they established a spiritual dominion over the minds and sentiments of men, to which all Europe submitted with implicit obedience. Their claim of universal jurisdiction, as heads of the church, and their pretensions to infallibility in their decisions, as successors of St. Peter, are as chimerical, as they are repugnant to the genius of the Christian religion. But on these foundations, the superstition and credulity of mankind enabled them to erect an amazing superstructure. In all ecclesiastical controversies, their decisions were received, as the infallible oracles of truth. Nor was the plenitude of their power con-

SECT. III. fined to these alone; they dethroned monarchs; disposed of crowns; absolved subjects from the obedience due to their sovereigns; and laid kingdoms under interdicts. There was not a state in Europe which had not been disquieted by their ambition. There was not a throne which they had not shaken; nor a Prince, who did not tremble at their power.

The territories of the Popes inadequate to support their spiritual jurisdiction.

NOTHING was wanting to render this Empire absolute, and to establish it on the ruins of all civil authority, but that the Popes should have possessed such a degree of temporal power, as was sufficient to second and enforce their spiritual decrees. Happily for mankind, while their spiritual jurisdiction was most extensive, and at its greatest height, their temporal property was extremely limited. They were powerful Pontiffs, formidable at a distance; but they were petty Princes, without any considerable domestick force. They had early endeavoured, indeed, to acquire territory by arts, similar to those which they had employed in extending their jurisdiction. Under pretence of a donation from Constantine, and of another from Charlemagne or his father Pepin, they attempted to take possession of some towns adjacent to Rome. But these donations were fictitious, and availed them little. The benefactions, for which they were indebted to the credulity of the Norman adventurers, who conquered Naples, and to the superstition of the countess Matilda,

were real, and added ample domains to the Holy See. SECT. III.

BUT the power of the Popes did not increase in proportion to the extent of territory which they had acquired. In the dominions annexed to the Holy See, as well as in those subject to other Princes in Italy, the sovereign of a state was far from having the command of the force which it contained. During the turbulence and confusion of the middle ages, the powerful nobility or leaders of popular factions in Italy, had seized the government of different towns; and after strengthening their fortifications, and taking a body of mercenaries into pay, they aspired at independence. The territory which the church had gained, was filled with petty tyrants of this kind, who left the Pope hardly the shadow of dominion. Their authority in their own territories extremely limited.

As these usurpations almost annihilated the Papal power in the greater part of the towns subject to the church, the Roman barons frequently disputed the authority of the Popes, even in Rome itself. In the twelfth century, an opinion began to be propagated, "That as the function of ecclesiasticks was purely spiritual, they ought to possess no property, and to claim no temporal jurisdiction; but, according to the laudable example of their predecessors in the primitive church, should subsist wholly upon their tithes, or upon the voluntary oblations of the people". This doctrine being It was circumscribed by the ambition of the Roman barons.

⁸⁵ Otto Frisingensis de Gestis Frider. Imp. lib. ii. cap. 10.

SECT. III. addressed to men, who had beheld the scandalous manner in which the avarice and ambition of the clergy had prompted them to contend for wealth, and to exercise power, they listened to it with fond attention. The Roman Barons, who had felt most sensibly the rigour of ecclesiastical oppression, adopted these sentiments with such ardour, that they set themselves instantly to shake off the yoke.

A. D. 1143. They endeavoured to restore some image of their ancient liberty, by reviving the institution of the Roman senate, in which they vested supreme authority; committing the executive power sometimes to one chief senator, sometimes to two, and sometimes to a magistrate dignified with the name of *The Patrician*. The Popes exerted themselves with vigour, in order to check this fatal encroachment on their jurisdiction. One of them, finding all his endeavours ineffectual, was so much mortified, that extreme grief cut short his days. Another, having ventured to attack the senators at the head of some armed men, was mortally wounded in the fray⁵⁶. During a considerable period, the power of the Popes, before which the greatest monarchs in Europe trembled, was circumscribed within such narrow limits in their own capital, that they durst hardly exert any act of authority without the permission and concurrence of the senate.

⁵⁶ Otto Frising. Chron. lib. vii. cap. 27. 31. Id. de Gest. Frid. lib. i. c. 27. Muratori Annali d'Italia, vol. ix 398.

ENCROACHMENTS were made upon the Papal **SECT. III.**
 authority, not only by the usurpations of the Ro-
 man nobility, but by the mutinous spirit of the
 people. During seventy years of the fourteenth
 century, the Popes fixed their residence in Avig-
 non. The inhabitants of Rome, accustomed to
 consider themselves as the descendants of the
 people who had conquered the world, and had
 given laws to it, were too high-spirited to submit
 with patience to the delegated authority of those
 persons, to whom the Popes committed the go-
 vernment of the city. On many occasions, they
 opposed the execution of the Papal mandates, and
 on the slightest appearance of innovation or op-
 pression, they were ready to take arms in defence
 of their own immunities. Towards the middle of
 the fourteenth century, being instigated by Nicolas
 Rienzo, a man of low birth and a seditious spirit,
 but of popular eloquence, and an enterprising am-
 bition, they drove all the nobility out of the city,
 established a democratical form of government,
 elected Rienzo Tribune of the people, and invested
 him with extensive authority. But though the
 frantick proceedings of the Tribune soon over-
 turned this new system; though the government
 of Rome was reinstated in its ancient form; yet
 every fresh attack contributed to weaken the
 Papal jurisdiction: and the turbulence of the peo-
 ple concurred with the spirit of independence
 among the nobility, to circumscribe it within very

and by the
 turbulence
 of the Ro-
 man people,
 from A. D.
 1308, to
 A. D. 1377.

SECT. III. narrow bounds⁵⁷. Gregory VII. and other domineering pontiffs, accomplished those great things which rendered them so formidable to the Emperors with whom they contended, not by the force of their arms, or by the extent of their power, but by the dread of their spiritual censures, and by the effect of their intrigues, which excited rivals, and called forth enemies against every Prince, whom they wished to depress or to destroy.

Alexander
VI. and Ju-
lius II. ren-
der the
Popes con-
siderable
Princes.

MANY attempts were made by the Popes, not only to humble those usurpers, who lorded it over the cities in the ecclesiastical state, but to break the turbulent spirit of the Roman people. These were long unsuccessful. At last Alexander VI. with a policy no less artful than flagitious, subdued and extirpated most of the great Roman barons, and rendered the Popes masters of their own dominions. The enterprizing ambition of Julius II. added conquests of no inconsiderable value to the patrimony of St. Peter. Thus the Popes, by degrees, became powerful temporal Princes. Their territories, in the age of Charles V. were of greater extent than at present; their country seems to have been better cultivated, and more populous; and as they drew large contributions from every part of Europe, their revenues far

⁵⁷ Historie Fiorentine di Giov. Villani, lib. xii. c. 89. 104. ap. Murat. Script. Rerum Ital. vol. xiii. Vita di Cola di Rienzo, ap. Murat. Antiq. Ital. vol. iii. p. 399. &c. Hist. de Nic. Rienzy, par M. de Boisspreaux, p. 91, &c.

exceeded those of the neighbouring powers, and rendered them capable of more sudden and vigorous efforts. SECT. III.

THE genius of the papal government, however, was better adapted to the exercise of spiritual dominion, than of temporal power. With respect to the former, all its maxims were steady and invariable. Every new Pontiff adopted the plan of his predecessor. By education and habit, Ecclesiastics were so formed, that the character of the individual was sunk in that of the profession; and the passions of the man were sacrificed to the interest and honour of the order. The hands which held the reins of administration might change; but the spirit which conducted them was always the same. While the measures of other governments fluctuated, and the objects at which they aimed varied, the church kept one end in view; and to this unrelaxing constancy of pursuit, it was indebted for its success in the boldest attempts ever made by human ambition. Defects in the nature of ecclesiastical dominion.

BUT in their civil administration, the Popes followed no such uniform or consistent plan. There as in other governments, the character, the passions, and the interests of the person who had the supreme direction of affairs, occasioned a variation both in objects and measures. As few Prelates reached the summit of ecclesiastical dignity, until they were far advanced in life, a change of masters

SECT. III. was more frequent in the Papal dominions than in other states, and the political system was, of course, less stable and permanent. Every Pope was eager to make the most of the short period, during which he had the prospect of enjoying power, in order to aggrandize his own family, and to attain his private ends; and it was often the first business of his successor to undo all that he had done, and to overturn what he had established.

As Ecclesiasticks were trained to pacifick arts, and early initiated in the mysteries of that policy, by which the court of Rome extended or supported its spiritual dominion, the Popes were apt to conduct their temporal affairs with the same spirit; and in all their measures were more ready to employ the refinements of intrigue, than the force of arms. It was in the Papal court that address and subtlety in negotiation first became a science; and during the sixteenth century, Rome was considered as the school in which it might be best acquired.

As the decorum of their ecclesiastical character prevented the Popes from placing themselves at the head of their armies, or taking the command, in person, of the military force in their dominions, they were afraid to arm their subjects; and in all their operations, whether offensive or defensive, they trusted entirely to mercenary troops.

As their power and dominions could not descend SECT. III.
to their posterity, the Popes were less solicitous than other Princes to form or to encourage schemes of publick utility and improvement. Their tenure was only for a short life; present advantage was what they chiefly studied; to squeeze and to amass, not to meliorate, was their object. They erected, perhaps, some work of ostentation, to remain as a monument of their pontificate; they found it necessary, at some times, to establish useful institutions, in order to sooth and silence the turbulent populace of Rome; but plans of general benefit to their subjects, and framed with a view to futurity, were rarely objects of attention in the Papal policy. The patrimony of St. Peter was worse governed than any part of Europe; and though a generous Pontiff might suspend for a little, or counteract the effects of those vices which are peculiar to the administration of ecclesiasticks; the disease not only remained incurable, but has gone on increasing from age to age; and the decline of the state has kept pace with its progress.

ONE circumstance, farther, concerning the Papal government, is so singular, as to merit attention. As the spiritual supremacy and temporal power were united in one person, and uniformly aided each other in their operations, they became so blended together, that it was difficult to separate them, even in imagination. The potentates, who found it necessary to oppose the measures which the

The Popes derive some advantages from the union of their spiritual and temporal authority.

SECT. III. Popes pursued as temporal Princes, could not divest themselves of the reverence which they imagined to be due to them as heads of the church, and vicars of Jesus Christ. It was with reluctance that they could be brought to a rupture with them; they were averse to push their operations against them to extremity; they listened eagerly to the first overtures of accommodation, and were willing to procure it almost upon any terms. Their consciousness of this encouraged the enterprising Pontiffs, who filled the Papal throne about the beginning of the sixteenth century, to engage in schemes seemingly the most extravagant. They trusted, that if their temporal power was not sufficient to carry them through with success, the respect paid to their spiritual dignity would enable them to extricate themselves with facility and with honour⁵⁸.

⁵⁸ The manner in which Louis XII. of France undertook and carried on war against Julius II. remarkably illustrates this observation. Louis solemnly consulted the clergy of France, whether it was lawful to take arms against a Pope, who had wantonly kindled war in Europe, and whom neither the faith of treaties, nor gratitude for favours received, nor the decorum of his character, could restrain from the most violent actions, to which the lust of power prompts ambitious Princes. Though his clergy authorized the war, yet Anne of Bretagne, his Queen, entertained scruples with regard to the lawfulness of it. The King himself, from some superstition of the same kind, carried it on faintly; and, upon every fresh advantage, renewed his propositions of peace. Mezeray, *Hist. de France*, fol. edit. 1685. tom. i. 852. I shall produce another proof of this reverence for the Papal character, still more striking. Guicciardini, the most sagacious, perhaps, of all modern historians, and the

But when Popes came to take part more frequently in the contests among Princes, and to engage as principals or auxiliaries in every war kindled in Europe, this veneration for their sacred character began to abate; and striking instances will occur in the following history of its being almost totally extinct.

Of all the Italian powers, the republic of Venice, next to the Pope, was most connected with the rest of Europe. The rise of that commonwealth, during the inroads of the Huns in the fifth century; the singular situation of its capital in the small isles of the Adriatick gulf; and the more singular form of its civil constitution, are generally known. If we view the Venetian government as calculated for the order of nobles alone, its institutions may be pronounced excellent; the deliberative, legislative, and executive powers, are so admirably distributed and adjusted, that it must be regarded as a perfect model of political wisdom. But if we consider it as formed for a numerous body of people subject to its jurisdiction, it will appear a rigid and partial aristocracy, which lodges all power in the hands of a few members of the community, while it degrades and oppresses the rest.

boldest in painting the vices and ambition of the Popes, represents the death of Migliau, a Spanish officer, who was killed during the siege of Naples, as a punishment inflicted on him by Heaven, on account of his having opposed the setting of Clement VII. at liberty. Guic. Historia d'Italia, Genev. 1645, vol. ii. lib. 18. p. 467.

SECT. III.

Constitution
of the re-
publick of
Venice,
with its rise
and progress.

SECT. III.

Defects in
its govern-
ment, par-
ticularly
with respect
to its mili-
tary opera-
tions.

THE spirit of government, in a commonwealth of this species, was, of course, timid and jealous. The Venetian nobles distrusted their own subjects, and were afraid of allowing them the use of arms. They encouraged among them the arts of industry and commerce; they employed them in manufactures and in navigation; but never admitted them into the troops which the state kept in its pay. The military force of the republick consisted entirely of foreign mercenaries. The command of these was never trusted to noble Venetians, lest they should acquire such influence over the army, as might endanger the publick liberty; or become accustomed to the exercise of such power, as would make them unwilling to return to the condition of private citizens. A foldier of fortune was placed at the head of the armies of the commonwealth; and to obtain that honour, was the great object of the Italian *Condottieri*, or leaders of bands, who, in the fifteenth and sixteenth centuries, made a trade of war, and raised and hired out soldiers to different states. But the same suspicious policy, which induced them to employ these adventurers, prevented their placing entire confidence in them. Two noblemen, appointed by the senate, accompanied their army when it took the field, with the appellation of *Proveditori*, and, like the field-deputies of the Dutch republick in latter times, observed all the motions of the general, and checked and controuled him in all his operations.

A COMMON-

A COMMONWEALTH, with such civil and mili-
 tary institutions, was not formed to make conquests.
 While its subjects were disarmed, and its nobles ex-
 cluded from military command, it carried on its
 warlike enterprizes with great disadvantage. This
 ought to have taught the Venetians to make self-
 preservation, and the enjoyment of domestic secu-
 rity, the objects of their policy. But republicks
 are apt to be seduced by the spirit of ambition, as
 well as Princes. When the Venetians so far for-
 got the interior defects in their government, as to
 aim at extensive conquests, the fatal blow, which
 they received in the war excited by the league of
 Cambray, convinced them of the imprudence and
 danger of making violent efforts, in opposition to
 the genius and tendency of their constitution.

It is not, however, by its military, but by its
 naval and commercial power, that the importance
 of the Venetian commonwealth must be estimated.
 In the latter, the real force and nerves of the state
 consisted. The jealousy of government did not
 extend to this department. Nothing was appre-
 hended from this quarter, that could prove formi-
 dable to liberty. The senate encouraged the no-
 bles to trade, and to serve on board the fleet. They
 became merchants and admirals. They increased
 the wealth of their country by their industry.
 They added to its dominions, by the valour with
 which they conducted its naval armaments.

Excellence
 of its naval
 institutions.

SECT. III. THE Venetian commerce was an inexhaustible source of opulence. All the nations in Europe depended upon them, not only for the commodities of the East, but for various manufactures fabricated by them alone, or finished with a dexterity and elegance unknown in other countries. From this extensive commerce, the state derived such immense supplies as concealed these vices in its constitution which I have mentioned; and enabled it to keep on foot such armies, as were not only an over-match for the force which any of its neighbours could bring into the field, but were sufficient to contend, for some time, with the powerful monarchs beyond the Alps. During its struggles with the Princes united against it by the league of Cambray, the republick levied sums which, even in the present age, would be deemed considerable; and while the king of France paid the exorbitant interest which I have mentioned for the money advanced to him, and the Emperor eager to borrow, but destitute of credit, was known by the name of *Maximilian the Money-les*, the Venetians raised whatever sums they pleased, at the moderate premium of five in the hundred ⁹.

The constitution of Florence.

THE constitution of Florence was perfectly the reverse of the Venetian. It partook as much of the democratical turbulence and licentiousness, as

⁹ Hist. de la ligue faite à Cambray par M. l'Abbè du Bos, lib. v. *Storia Civile Veneziana*, lib. viii. c. 16. p. 291, &c.

the other of aristocratical rigour. Florence, how-
ever, was a commercial, not a military democracy. SECT. III.
The nature of its institutions was favourable to
commerce, and the genius of the people was turned
towards it. The vast wealth which the family of
Medici had acquired by trade; together with the
magnificence, the generosity, and the virtue of
the first Cosmo, gave him such an ascendant over
the affections as well as the councils of his coun-
trymen, that though the forms of popular govern-
ment were preserved, though the various depart-
ments of administration were filled by magis-
trates distinguished by the ancient names, and
elected in the usual manner, he was in reality the
head of the commonwealth, and in the station of
a private citizen he possessed supreme authority.
Cosmo transmitted a considerable degree of this
power to his descendants; and during the greater
part of the fifteenth century, the political state of
Florence was extremely singular. The appearance
of republican government subsisted, the people
were passionately attached to it, and on some oc-
casions contended warmly for their privileges, and
yet they permitted a single family to assume the di-
rection of their affairs, almost as absolutely as if it
had been formally invested with sovereign power.
The jealousy of the Medici concurred with the
commercial spirit of the Florentines, in putting
the military force of the republic upon the same
footings with that of the other Italian states. The
troops, which the Florentines employed in their

SECT. III. wars, consisted almost entirely of mercenary soldiers, furnished by the *Condottieri*, or leaders of bands, whom they took into their pay.

The constitution of the kingdom of Naples.

IN the kingdom of Naples, to which the sovereignty of the Island of Sicily was annexed, the feudal government was established in the same form, and with the same defects, as in the other nations of Europe. The frequent and violent revolutions which happened in that monarchy, had considerably increased these defects, and rendered them more intolerable. The succession to the crown of Naples had been so often interrupted or altered, and so many Princes of foreign blood had taken possession of the throne, that the Neapolitan nobility had lost, in a great measure, that attachment to the family of their sovereigns, as well as that reverence for their persons, which, in other feudal kingdoms, contributed to set some bounds to the encroachments of the barons upon the royal prerogative and power. At the same time, the different pretenders to the crown, being obliged to court the barons who adhered to them, and on whose support they depended for the success of their claims, they augmented their privileges by liberal concessions, and connived at their boldest usurpations. Even when seated on the throne, it was dangerous for a Prince, who held his sceptre by a disputed title, to venture on any step towards extending his own power, or circumscribing that of the nobles.

FROM all these causes, the kingdom of Naples SECT. III. was the most turbulent of any in Europe, and the authority of its Monarchs the least extensive. Though Ferdinand I. who began his reign in the year one thousand four hundred and sixty-eight, attempted to break the power of the aristocracy; though his son Alphonso, that he might crush it at once by cutting off the leaders of greatest reputation and influence among the Neapolitan barons, ventured to commit one of the most perfidious and cruel actions recorded in history; the order of nobles was nevertheless more exasperated than humbled by their measures ⁶⁰. The resentment which these outrages excited was so violent, and the power of the malcontent nobles was still so formidable, that to these may be ascribed, in a great degree, the ease and rapidity with which Charles VIII. conquered the kingdom of Naples ⁶¹.

A. D. 1487.

THE event that gave rise to the violent contests concerning the succession to the crown of Naples and Sicily, which brought so many calamities upon these kingdoms, happened in the thirteenth century. Upon the death of the Emperor Frederick II. Manfred his natural son aspiring to the Neapolitan throne, murdered his brother the Emperor Conrad (if we may believe contemporary historians) and by that crime obtained possession of it ⁶². The Popes, from their implacable enmity

State of the dispute concerning the right of succession to the crown.

A. D. 1253.

⁶⁰ Giannone, book xxviii. chap. 2. vol. ii. p. 410, &c.

⁶¹ Giannone, *ibid.* p. 414.

⁶² Struv. corp. hist. Germ. i. 481. Giannone, book xviii. ch. 5.

SECT. III. to the house of Swabia, not only refused to recognize Manfred's title, but endeavoured to excite against him some rival capable of wresting the sceptre out of his hand. Charles Count of Anjou, the brother of St. Louis, King of France, undertook this; and he received from the Popes, the investiture of the kingdom of Naples and Sicily as a fief held of the Holy See. The Count of Anjou's efforts were crowned with success; Manfred fell in battle; and he took possession of the vacant throne. But soon after, Charles sullied the glory which he had acquired, by the injustice and cruelty with which he put to death, by the hands of the executioner, Conradin, the last Prince of the house of Swabia, and the rightful heir of the Neapolitan crown. That gallant young Prince asserted his title, to the last, with a courage, worthy of a better fate. On the scaffold, he declared Peter, at that time Prince, and soon after King of Aragon, who had married Manfred's only daughter, his heir; and throwing his glove among the people, he entreated that it might be carried to Peter as the symbol by which he conveyed all his rights to him⁶³. The desire of avenging the insult offered to royalty by the death of Conradin, concurred with ambition, in prompting Peter to take arms in support of the title, which he had acquired. From that period, during almost two centuries, the houses of Aragon and Anjou contended for the crown of Naples. Amidst a succession of revolutions more rapid, as well as of

⁶³ Giannone, book xix. ch. 4. § 2.

crimes more atrocious, than what occur in the SECT. III.
 history of almost any other kingdom, Monarchs
 sometimes of the Aragonesse line, and sometimes
 of the Angevin, were seated on the throne. At
 length the Princes of the house of Aragon obtained A. D. 1434.
 such firm possession of this long-disputed inheritance,
 that they transmitted it quietly to a bastard
 branch of their family “.

THE race of the Angevin Kings, however, was Pretensions
 not extinct; nor had they relinquished their title of the
 to the Neapolitan crown. The Count of Maine French and
 and Provence, the heir of this family, conveyed Spanish
 all his rights and pretensions to Louis XI. and to Monarchs.
 his successors. Charles VIII. as I have already A. D. 1494.
 related, crossed the Alps at the head of a powerful
 army, in order to prosecute his claim with a degree
 of vigour far superior to that, which the Princes
 from whom he derived it, had been capable of
 exerting. The rapid progress of his arms in Italy,
 as well as the short time during which he enjoyed
 the fruits of his success, are well known. Freder-
 ick, the heir of the illegitimate branch of the
 Aragonesse family, soon recovered the throne of
 which Charles had dispossessed him. Louis XII.
 and Ferdinand of Aragon united against this Prince,
 whom both, though for different reasons, consid-
 ered as an usurper, and agreed to divide his
 dominions between them. Frederick, unable to A. D. 1501.
 resist the combined Monarchs, each of whom was
 far his superior in power, resigned his sceptre.

“ Giannone, book xxvi. ch. 2.

SECT. III. Louis and Ferdinand, though they had concurred in making the conquest, differed about the division of it; and from allies became enemies. But Gonzalvo de Cordova, partly by the exertion of such military talents as gave him a just title to the appellation of the *Great Captain*, which the Spanish historians have bestowed upon him, and partly by such shameless and frequent violations of the most solemn engagements, as leave an indelible stain on his memory; stripped the French of all that they possessed in the Neapolitan dominions, and secured the peaceable possession of them to his master. These, together with his other kingdoms, Ferdinand transmitted to his grandson Charles V. whose right to possess them, if not altogether uncontrovertible, seems, at least, to be as well founded as that, which the Kings of France set in opposition to it ⁶⁵.

State of the
dutchy of
Milan, and
the right of
succession
to it.

THERE is nothing in the political constitution, or interior government of the dutchy of Milan, so remarkable, as to require a particular explanation. But as the right of succession to that fertile province was the cause or the pretext of almost all the wars carried on in Italy during the reign of Charles V, it is necessary to trace these disputes to their source, and to inquire into the pretensions of the various competitors.

⁶⁵ Droits des Rois de France au Royaume de Sicile. Mém. de Comin. Edit. de Fresnoy. tom. iv. part. ii. p. 5.

DURING the long and fierce contests excited in **SECT. III.** Italy by the violence of the Guelf and Ghibelline ^{Rise and progress of the disputes concerning this.} factions, the family of Visconti rose to great eminence among their fellow-citizens of Milan. As the Visconti had adhered uniformly to the Ghibelline or Imperial interest, they, by way of recompence, received, from one Emperor, the dignity of perpetual vicars of the Empire in Italy⁶⁶: they were created by another, Dukes of Milan, and together with that title, the possession of the city and its territories was bestowed upon them as an hereditary fief⁶⁷. John, King of France, among other expedients for raising money, which the calamities of his reign obliged him to employ, condescended to give one of his daughters in marriage to John Galeazzo Visconti the first duke of Milan, from whom he had received considerable sums. Valentine Visconti, one of the children of this marriage, married her cousin, Louis Duke of Orleans, the only brother of Charles VI. In their marriage contract, which the Pope confirmed, it was stipulated that, upon failure of heirs-male in the family of Visconti, the duchy of Milan should descend to the posterity of Valentine and the Duke of Orleans. That event took place. In the year one thousand four hundred and forty-seven, Philip Maria the last Prince of the ducal family of Visconti died. Various competitors pretended to the succession. Charles Duke of Orleans

A. D. 1354.

A. D. 1395.

⁶⁶ Petrarch epist. ap. Struv. corp. i. 625.

⁶⁷ Leibnit. cod. jur. gent. diplom. vol. i. 257.

SECT. III. pleaded his right to it, founded on the marriage-contract of his mother Valentine Visconti. Alphonso King of Naples claimed it in consequence of a will made by Philip Maria in his favour. The Emperor contended that, upon the extinction of male issue in the family of Visconti, the fief returned to the superior Lord, and ought to be re-annexed to the Empire. The people of Milan, smitten with that love of liberty which prevailed among the Italian States, declared against the dominion of any master, and established a republican form of government.

BUT during the struggle among so many competitors, the prize for which they contended was seized by one from whom none of them apprehended any danger. Francis Sforza, the natural son of Jacomuzzo Sforza, whom his courage and abilities had elevated from the rank of a peasant to be one of the most eminent and powerful of the Italian *Condottieri*, having succeeded his father in the command of the adventurers who followed his standard, had married a natural daughter of the last Duke of Milan. Upon this shadow of a title Francis founded his pretensions to the duchy, which he supported with such talents and valour as placed him at last on the ducal throne. The virtues as well as abilities with which he governed, inducing his subjects to forget the defects in his title, he transmitted his dominions quietly to his son; from whom they descended to his grandson. He was murdered by his grand uncle Ludovico,

furnamed the Moor, who took possession of the dutchy; and his right to it was confirmed by the investiture of the Emperor Maximilian in the year one thousand four hundred and ninety-four⁶⁸. SECT. III.

LOUIS XI. who took pleasure in depressing the Princes of the blood, and who admired the political abilities of Francis Sforza, would not permit the Duke of Orleans to take any step in prosecution of his right to the dutchy of Milan. Ludovico the Moor kept up such a close connection with Charles VIII. that, during the greater part of his reign, the claim of the family of Orleans continued to lie dormant. But when the crown of France devolved to Louis XII. Duke of Orleans, he instantly asserted the rights of his family with the ardour which it was natural to expect. Ludovico Sforza, incapable of contending with such a rival, was stripped of all his dominions in the space of a few days. The King, clad in the ducal robes, entered Milan in triumph; and soon after, Ludovico having been betrayed by the Swiss in his pay, was sent a prisoner into France, and shut up in the castle of Loches, where he lay unpitied during the remainder of his days. In consequence of one of the singular revolutions which occur so frequently in the history of the Milanese, his son Maximilian Sforza was placed on the ducal throne, of which he kept possession during the reign of

⁶⁸ Ripalm. hist. Mediol. lib. vi. 654. ap. Struv. corp. i. 930.
Du Mont, Corps Diplom. tom. iii. p. ii. 333.

SECT. III. Louis XII. But his successor Francis I. was too
 A. D. 1512. high-spirited and enterprising tamely to relinquish
 his title. As soon as he was seated upon the
 throne, he prepared to invade the Milanese; and
 his right of succession to it, appears from this
 detail, to have been more natural and more just
 than that of any other competitor.

It is unnecessary to enter into any detail with
 respect to the form of government in Genoa,
 Parma, Modena, and the other inferior States of
 Italy. Their names, indeed, will often occur in
 the following history. But the power of these
 States themselves was so inconsiderable, that their
 fate depended little upon their own efforts; and
 the frequent revolutions which they underwent,
 were brought about by the operations of the
 Princes who attacked or defended them, rather than
 by any thing peculiar in their internal constitution.

The consti-
 tution and
 government
 of Spain.

OF the great kingdoms on this side of the Alps,
 Spain is one of the most considerable; and as it
 was the hereditary domain of Charles V. as well
 as the chief source of his power and wealth, a
 distinct knowledge of its political constitution is
 of capital importance towards understanding the
 transactions of his reign.

Conquered
 by the
 Vandals,

THE Vandals and Goths, who overturned the
 Roman power in Spain, established a form of
 government in that country, and brought in cus-
 toms and laws, perfectly similar to those which

were introduced into the rest of Europe, by the other victorious tribes which acquired settlements there. For some time, society advanced, among the new inhabitants of Spain, by the same steps, and seemed to hold the same course, as in other European nations. To this progress, a sudden stop was put by the invasion of the Saracens or Moors. The Goths could not withstand the efforts of their enthusiastick valour, which subdued Spain, with the same impetuous rapidity that distinguishes all the operations of their arms. The conquerors introduced into the country in which they settled the Mahometan religion, the Arabick language, the manners of the East, together with that taste for the arts, and that love of elegance and splendour, which the Caliphs had begun to cultivate among their subjects.

A. D. 712.

and by the Moors.

SUCH Gothick nobles, as disdained to submit to the Moorish yoke, fled for refuge to the inaccessible mountains of Asturias. There they comforted themselves with enjoying the exercise of the Christian religion, and with maintaining the authority of their ancient laws. Being joined by many of the boldest and most warlike among their countrymen, they sallied out upon the adjacent settlements of the Moors, in small parties; but venturing only upon short excursions at first, they were satisfied with plunder and revenge, without thinking of conquest. By degrees, their strength increased, their views enlarged, a regular government was established among them, and they began

The Christians gradually recovered dominion in Spain.

SECT. III. to aim at extending their territories. While they pushed on their attacks with the unremitting ardour excited by zeal for religion, by the desire of vengeance, and by the hope of rescuing their country from oppression; while they conducted their operations with the courage natural to men who had no other occupation but war, and who were strangers to all the arts which corrupt or enfeeble the mind, the Moors gradually lost many of the advantages, to which they had been indebted for their first success. They threw off all dependence on the Caliphs⁶⁹; they neglected to preserve a close connection with their countrymen in Africa; their empire in Spain was split into many small kingdoms; the arts which they cultivated, together with the luxury to which these gave rise, relaxed, in some measure, the force of their military institutions, and abated the vigour of their warlike spirit. The Moors, however, continued still to be a gallant people, and possessed great resources. According to the magnificent stile of the Spanish historians, eight centuries of almost uninterrupted war elapsed, and three thousand seven hundred battles were fought before the last of the Moorish kingdoms in Spain submitted to the Christian arms.

1492.

The union
of its various
kingdoms.

As the Christians made their conquests upon the Mahometans at various periods, and under different leaders, each formed the territory which he had wrested from the common enemy, into an

⁶⁹ Jos. Sim. Affemanni Hist. Ital. Scriptores, vol. iii. p. 135.

independent State. Spain was divided into as many separate kingdoms, as it contained provinces; in each city of note, a petty Monarch established his throne, and assumed all the ensigns of royalty. In a series of years, however, by the usual events of intermarriages, or legal succession, or conquest, all these inferior principalities were annexed to the more powerful kingdoms of Castile and of Aragon. At length, by the fortunate marriage of Ferdinand and Isabella, the former the hereditary Monarch of Aragon, and the latter raised to the throne of Castile by the affection of her subjects, all the Spanish crowns were united, and descended in the same line.

SECT. III.

1481.

FROM this period, the political constitution of Spain began to assume a regular and uniform appearance; the genius of government may be delineated, and the progress of its laws and manners may be traced with certainty. Notwithstanding the singular revolution which the invasion of the Moors occasioned in Spain, and the peculiarity of its fate, in being so long subjected to the Mahometan yoke, the customs introduced by the Vandals and Goths had taken such deep root, and were so thoroughly incorporated with the frame of its government, that in every province which the Christians recovered from the Moors, we find the condition of individuals, as well as the political constitution, nearly the same as in other nations of Europe. Lands were held by the same tenure; justice was dispensed in the same form; the same

Their ancient customs and laws reserved amidst all their revolutions;

SECT. III. which renders their state in some degree similar to that of other nations of Europe. privileges were claimed by the nobility; and the same power exercised by the Cortes, or general assembly of the kingdom. Several circumstances contributed to secure this permanence of the feudal institutions in Spain, notwithstanding the conquest of the Moors, which seemed to have overturned them. Such of the Spaniards, as preserved their independence, adhered to their ancient customs, not only from attachment to them, but out of antipathy to the Moors, to whose ideas concerning property and government these customs were totally repugnant. Even among the Christians, who submitted to the Moorish conquerors, and consented to become their subjects, ancient customs were not entirely abolished. They were permitted to retain their religion; their laws concerning private property; their forms of administering justice; and their mode of levying taxes. The followers of Mahomet are the only enthusiasts, who have united the spirit of toleration with zeal for making profelytes, and who, at the same time that they took arms to propagate the doctrine of their prophet, permitted such as would not embrace it, to adhere to their own tenets, and to practise their own rites. To this peculiarity in the genius of the Mahometan religion, as well as to the desire which the Moors had of reconciling the Christians to their yoke, it was owing that the ancient manners and laws in Spain survived the violent shock of a conquest, and were permitted to subsist, notwithstanding the introduction of a new religion and

and a new form of government into that country. SECT. III.
 It is obvious from all these particulars, that the Christians must have found it extremely easy to re-establish manners and government on their ancient foundations in those provinces of Spain which they wrested successively from the Moors. A considerable part of the people retained such a fondness for the customs, and such a reverence for the laws of their ancestors, that wishing to see them completely restored, they were not only willing but eager to resume the former, and to recognize the authority of the latter.

BUT though the feudal form of government, with all the institutions which characterize it, was thus preserved entire in Castile and Aragon, as well as in all the kingdoms which depended on these crowns, there were certain peculiarities in their political constitutions which distinguish them from those of any other country in Europe. The royal prerogative, extremely limited in every feudal kingdom, was circumscribed, in Spain, within such narrow bounds, as reduced the power of the sovereign almost to nothing. The privileges of the nobility were vast in proportion, and extended so far, as to border on absolute independence. The immunities of the cities were great, they possessed considerable influence in the Cortes, and they aspired at obtaining more. Such a state of society, in which the political machine was so ill adjusted, and the several members of the legislature so im-

Certain peculiarities in their constitution and laws.

The prerogative more limited, and the immunities of the people more extensive.

SECT. III. properly balanced, produced interior disorders in the kingdoms of Spain, which rose beyond the pitch of turbulence and anarchy, usual under the feudal government. The whole tenor of the Spanish history confirms the truth of this observation; and when the mutinous spirit, to which the genius of their policy gave birth and vigour, was no longer restrained and overawed by the immediate dread of the Moorish arms, it broke out into more frequent insurrections against the government of their Princes, as well as more outrageous insults on their dignity, than occur in the annals of any other country. These were accompanied at some times with more liberal sentiments concerning the rights of the people, at other times with more elevated notions concerning the privileges of the nobles, than were common in other nations.

Instances
of this.

In the principality of Catalonia, which was annexed to the kingdom of Aragon, the impatience of the people to obtain the redress of their grievances having prompted them to take arms against their sovereign John II, they, by a solemn deed, recalled the oath of allegiance which they had sworn to him, declared him and his posterity to be unworthy of the throne^{2°}, and endeavoured to establish a republican form of government, in order to secure the perpetual enjoyment of that

^{2°} Zurita Annales de Arag. tom. iv. 113. 115, &c.

liberty, after which they aspired⁷¹. Nearly about SECT. III.
 the same period, the indignation of the Castilian nobility against the weak and flagitious administration of Henry IV. having led them to combine against him, they arrogated, as one of the privileges belonging to their order, the right of trying and of passing sentence on their sovereign. That the exercise of this power might be as publick and solemn, as the pretension to it was bold, they summoned all the nobility of their party to meet A. D. 1465.
 at Avila; a spacious theatre was erected in a plain without the walls of the town, an image representing the King, was seated on a throne, clad in royal robes, with a crown on its head, a sceptre in its hand, and the sword of justice by its side. The accusation against the King was read, and the sentence of deposition was pronounced, in presence of a numerous assembly. At the close of the first article of the charge, the archbishop of Toledo advanced, and tore the crown from the head of the image; at the close of the second, the Conde de Placentia snatched the sword of justice from its side; at the close of the third, the Conde de Beneventè wrested the sceptre from its hand; at the close of the last, Don Diego Lopes de Stuniga tumbled it headlong from the throne. At the same instant, Don Alfonso, Henry's brother, was proclaimed King of Castile and Leon in his stead⁷².

⁷¹ Ferreras hist. d'Espagne, tom. vii. p. 92. P. Orleans Revol. d'Espagne, tom. iii. p. 155. L. Marinæus Siculus de reb. Hispan. apud Schotti Script. Hispan. fol. 429.

⁷² Marian. hist. lib. xxiii. c. 9.

SECT. III. THE most daring leaders of faction would not have ventured on these measures, nor have conducted them with such publick ceremony, if the sentiments of the people concerning the royal dignity, had not been so formed by the laws and policy, to which they were accustomed both in Castile and Catalonia, as prepared them to approve of such extraordinary proceedings, or to acquiesce in them.

The constitution and government of Aragon.

IN Aragon, the form of government was monarchical, but the genius and maxims of it were purely republican. The Kings, who were long elective, retained only the shadow of power; the real exercise of it was in the Cortes or parliament of the kingdom. This supreme assembly was composed of four different *arms* or members. The nobility of the first rank. The Equestrian order, or nobility of the second class. The representatives of the cities and towns, whose right to a place in the Cortes, if we may give credit to the historians of Aragon, was coeval with the constitution. The ecclesiastical order, composed of the dignitaries of the church, together with the representatives of the inferior clergy ⁷³. No law could pass in this assembly without the assent of every single member who had a right to vote ⁷⁴. Without the permission of the Cortes, no tax could be imposed; no war could be declared; no peace concluded; no money could be coined; nor any alteration be

⁷³ Forma de celebrar Cortes en Aragon. por Geron. Martel.

⁷⁴ Martel. *ibid.* p. 2.

made in the current specie⁷⁵. The power of re-
viewing the proceedings of all inferior courts, the
privilege of inspecting every department of ad-
ministration, and the right of redressing all griev-
ances, belonged to the Cortes. Nor did those who
conceived themselves to be aggrieved, address the
Cortes in the humble tone of supplicants, and pe-
tition for redress; they demanded it as the birth-
right of freemen, and required the guardians of
their liberty to decide with respect to the points
which they laid before them⁷⁶. This sovereign
court was held, during several centuries, every
year, but, in consequence of a regulation intro-
duced about the beginning of the fourteenth cen-
tury, it was convoked from that period only once
in two years. After it was assembled, the King
had no right to prorogue or dissolve it without its
own consent; and the session continued forty days⁷⁷.

SECT. III.

NOT satisfied with having erected such formidable barriers against the encroachments of the royal prerogative, nor willing to commit the guardianship of their liberties to the vigilance and authority of an assembly, similar to the diets, states-general, and parliaments, in which the other feudal nations placed so much confidence, the Aragonese had recourse to an institution peculiar to themselves, and elected a *Justiza* or supreme judge. This magis-

⁷⁵ Hier. Blanca comment. rer. Aragon. ap. Schot, Script. Hispan. vol. iii. p. 750.

⁷⁶ Martel. Forma de celebr. p. 2.

⁷⁷ Hier. Blanca comment. 763.

SECT. III. trate, whose office bore some resemblance to that of the Ephori in ancient Sparta, acted as the protector of the people, and the comptroller of the Prince. The person of the Justiza was sacred, his power and jurisdiction almost unbounded. He was the supreme interpreter of the laws. Not only inferior judges, but the Kings themselves were bound to consult him in every doubtful case, and to receive his responses with implicit deference⁷⁸. An appeal lay to him from the royal judges, as well as from those appointed by the barons within their respective territories. Even when no appeal was made to him, he could interpose by his own authority, prohibit the ordinary judge to proceed, take immediate cognizance of the cause himself, and remove the party accused to the *Manifestation* or prison of the state, to which no person had access but by his permission. His power was exerted with no less vigour and effect in superintending the administration of government, than in regulating the course of justice. It was the prerogative of the Justiza to inspect the conduct of the King. He had a title to review all the royal proclamations and patents, and to declare whether or not they were agreeable to law, and ought to be carried into execution. He, by his sole authority, could exclude any of the King's ministers from the conduct of affairs, and call them to answer for

⁷⁸ Blanca has preserved two responses of the Justiza to James II. who reigned towards the close of the thirteenth century, Blanca 748.

their mal-administration. He himself was accountable to the Cortes alone, for the manner in which he discharged the duties of this high office, and performed functions of the greatest importance that could be committed to a subject (HH) ⁷⁹. SECT. III.

It is evident from a bare enumeration of the privileges of the Aragonese Cortes, as well as of the rights belonging to the Justiza, that a very small portion of power remained in the hands of the King. The Aragonese seem to have been solicitous that their monarchs should know and feel this state of impotence, to which they were reduced. Even in swearing allegiance to their sovereign, an act which ought, naturally, to be accompanied with professions of submission and respect, they divided an oath, in such a form, as to remind him of his dependence on his subjects. "We," said the Justiza to the King in the name of his high-spirited barons, "who are each of us as good, and who are altogether more powerful than you, promise obedience to your government, if you maintain our rights and liberties; but if not, not." Conformably to this oath, they established it as a fundamental article in their constitution, that if the King should violate their rights and privileges, it was lawful for the people to disclaim him as their sovereign, and to elect another, even though a heathen, in his place ⁸⁰. The attachment of the

(HH) NOTE XXXI.

⁷⁹ Hier. Blanca Comment. p. 747—755.

⁸⁰ Hier. Blanca Comment. 720.

SECT. III. Aragonefe to this fingular constitution of government, was extreme, and their respect for it approached to superstitious veneration (II). In the preamble to one of their laws, they declare, that fuch was the barrennefs of their country, and the poverty of the inhabitants, that, if it were not on account of the liberties by which they were diftinguifhed from other nations, the people would abandon it, and go in queft of a fettlement to fome more fruitful region ²¹.

Constitution
and go-
vernment of
Caftile.

IN Caftile, there were not fuch peculiarities in the form of government, as to eftablifh any remarkable diftinction between it and that of the other European nations. The executive part of government was committed to the King, but with a prerogative extremely limited. The legislative authority refided in the Cortes, which was compofed of the nobility, the dignified ecclefiaftics, and the representatives of the cities. The afsembly of the Cortes in Caftile was very ancient, and feems to have been coeval with the constitution. The members of the three different orders, who had a right of fuffrage, met in one place, and deliberated as one collective body; the decifions of which were regulated by the fentiments of the majority. The right of impofing taxes, of enacting laws, and of redreffing grievances belonged to this afsembly; and in order to fecure the affent of the King to fuch ftatutes and regulations as were deem-

(II) NOTE XXXII.

²¹ Hier, Blanca Com. p. 751.

ed salutary or beneficial to the kingdom, it was usual in the Cortes, to take no step towards granting money, until all business relative to the public welfare was concluded. The representatives of cities seem to have obtained a seat very early in the Cortes of Castile, and soon acquired such influence and credit, as were very uncommon, at a period when the splendour and pre-eminence of the nobility had eclipsed or annihilated all other orders of men. The number of members from cities bore such a proportion to that of the whole collective body, as rendered them extremely respectable in the Cortes (KK). The degree of consideration, which they possessed in the state, may be estimated by one event. Upon the death of John I. ^A D. 1390. a council of regency was appointed to govern the kingdom during the minority of his son. It was composed of an equal number of noblemen, and of deputies chosen by the cities; the latter were admitted to the same rank, and invested with the same powers, as prelates and grandees of the first order²². But though the members of communities in Castile were elevated above the condition wherein they were placed in other kingdoms of Europe; though they had attained to such political importance, that even the proud and jealous spirit of the feudal aristocracy could not exclude them from a considerable share in government; yet the nobles, notwithstanding these acquisitions of the commons, continued to assert the privileges of

(KK) NOTE XXXIII.

²² Marian. hist. lib. xviii. c. 15.

SECT. III, their order, in opposition to the crown, in a tone extremely high. There was not any body of nobility in Europe more distinguished for independence of spirit, haughtiness of deportment, and bold pretensions, than that of Castile. The history of that monarchy affords the most striking examples of the vigilance with which they observed, and of the vigour with which they opposed every scheme of their Kings, that tended to encroach on their jurisdiction, to diminish their dignity, or to abridge their power. Even in their ordinary intercourse with their Monarchs, they preserved such a consciousness of their rank, that the nobles of the first order claimed it as a privilege to be covered in the royal presence, and approached their sovereigns rather as equals than as subjects.

THE constitution of the subordinate monarchs, which depended on the crowns of Castile and Aragon, nearly resembled that of the kingdom to which they were annexed. In all of them, the dignity and independence of the nobles were great; the immunities and power of the cities were considerable.

Various
causes of
the limited
authority of
the Spanish
Monarchs.

AN attentive observation of the singular situation of Spain, as well as the various events which occurred there, from the invasion of the Moors to the union of its kingdoms under Ferdinand and Isabella, will discover the causes to which all the peculiarities in its political constitution I have pointed out, ought to be ascribed.

As the provinces of Spain were wrested from the Mahometans gradually and with difficulty, the nobles, who followed the standard of any eminent leader in these wars, conquered not for him alone, but for themselves. They claimed a share in the lands which their valour had torn from the enemy, and their prosperity and power increased, in proportion as the territory of the Prince extended. SECT. III.

DURING their perpetual wars with the Moors, the Monarchs of Spain depended so much on their nobles, that it became necessary to conciliate their good will by successive grants of new honours and privileges. By the time that any Prince could establish his dominion in a conquered province, the greater part of the property was parcelled out by him among his barons, with such jurisdiction and immunities, as raised them almost to sovereign power.

AT the same time, the kingdoms erected in so many different corners of Spain, were extremely inconsiderable. The petty monarch was but little elevated above his nobles. They, feeling themselves to be almost his equals, acted as such. The Kings of such limited domains could neither command much respect, nor possess great power; and noblemen, so nearly on the same level, could not look up to them with that reverence, with which the sovereigns of the great monarchies in Europe were viewed by their subjects (LL).

(LL) NOTE XXXIV.

SECT. III. THESE circumstances concurred in exalting the nobility, and in depressing the royal authority; there were other causes which raised the cities in Spain to consideration and power.

As the open country, during the wars with the Moors, was perpetually exposed to the excursions of the enemy, with whom no peace or truce was so permanent as to prove any lasting security, self-preservation obliged persons of all ranks to fix their residence in places of strength. The castles of the barons, which, in other countries, afforded a commodious retreat from the depredations of banditti, or from the transient violence of any interior commotion, were unable to resist an enemy whose operations were conducted with regular and persevering vigour. Cities, in which great numbers united for their mutual defence, were the only places in which people could fix their residence with any prospect of safety. To this was owing the rapid growth of those cities in Spain of which the Christians recovered possession. All who fled from the Moorish yoke resorted to them, as to an asylum; and there, the greater part of those who took the field against the Mahometans established their families.

EACH of these cities, during a longer or shorter course of years, was the capital of a little state, and enjoyed all the advantages which accelerate the increase of inhabitants in every place that is the seat of government.

THE number of cities in Spain, at the beginning of the fifteenth century, was considerable, and they were peopled far beyond the proportion which was common in other parts of Europe, except in Italy and the Low-Countries. The Moors had introduced manufactures into those cities, while under their dominion. The Christians, who, by intermixture with them, had learned their arts, continued to cultivate these. The trade of several of the Spanish towns appears to have been considerable; and the spirit of commerce continued to preserve the number of their inhabitants, as the sense of danger had first induced them to crowd together. SECT. III.

As the Spanish cities were populous, many of the inhabitants were of a rank superior to those who resided in towns in other countries of Europe. That cause, which contributed chiefly to their population, affected equally persons of every condition, who flocked thither promiscuously, in order to find shelter, or in hopes of making a stand there against the enemy, with greater advantage than in any other station. The persons elected as their representatives in the Cortes by the cities, or promoted to offices of trust and dignity in the government of the community, were often, as will appear from transactions which I shall hereafter relate, of such considerable rank in the kingdom, as reflected lustre on their constituents, and on the stations wherein they were placed.

SECT. III. As it was impossible to carry on a continual war against the Moors, without some other military force, than that which the barons were obliged to bring into the field, in consequence of the feudal tenures, it became necessary to have some troops, particularly a body of light cavalry, in constant pay. It was one of the privileges of the nobles, that their lands were exempt from the burden of taxes. The charge of supporting the troops requisite for the publick safety, fell wholly upon the cities; and their Kings, being obliged frequently to apply to them for aid, found it necessary to gain their favour by concessions, which not only extended their immunities, but added to their wealth and power.

WHEN the influence of all these circumstances, peculiar to Spain, is added to the general and common causes, which contributed to aggrandize cities in other countries of Europe, this will fully account for the extensive privileges which they acquired, as well as for the extraordinary consideration to which they attained, in all the Spanish kingdoms (MM).

Measures of
different
Princes in
order to ex-
tend their
power;

By these exorbitant privileges of the nobility, and this unusual power of the cities in Spain, the royal prerogative was hemmed in on every side, and reduced within very narrow bounds. Sensible of this, and impatient of such restraint, different Monarchs endeavoured, at various junctures, to enlarge their own jurisdiction, and to circumscribe

(MM) NOTE XXXV.

that of their subjects. Their power, however, or SECT. III.
 their abilities, were so unequal to the undertaking,
 that their efforts were attended with little success.
 But when Ferdinand and Isabella found themselves particularly
 at the head of the united kingdoms of Spain, of Ferdi-
 and delivered from the danger and interruption nand and
 of domestic wars, they were not only in a con- Isabella.
 dition to resume, but were able to prosecute with
 advantage, the schemes of extending the preroga-
 tive, which their ancestors had attempted in vain.
 Ferdinand's profound sagacity in concerting his
 measures, his persevering industry in conducting
 them, and his uncommon address in carrying them
 into execution, fitted him admirably for an under-
 taking which required all these talents.

As the overgrown power, and high pretensions Ferdinand's
 of the nobility were what the Monarchs of Spain different
 felt most sensibly, and bore with the greatest im- schemes for
 patience, the great object of Ferdinand's policy abridging
 was to reduce these within more moderate bounds. the privi-
 Under various pretexts, sometimes by violence, leges and
 more frequently in consequence of decrees power of the
 obtained in the courts of law, he wrested from the nobility.
 barons a great part of the lands, which had been
 granted to them by the inconsiderate bounty of
 former Monarchs, particularly during the feeble
 and profuse reign of his predecessor Henry IV.
 He did not give the entire conduct of affairs to
 persons of noble birth, who were accustomed to
 occupy every department of importance in peace
 or in war, as if it had been a privilege peculiar to

SECT. III. their order, to be employed as the sole counsellors and ministers of the crown. He often transacted business of great consequence without their intervention, and committed many offices of power and trust to new men, devoted to his interest⁸³. He introduced a degree of state and dignity into his court, which being unknown in Spain, while it remained split into many small kingdoms, taught the nobles to approach their sovereign with more ceremony, and gradually rendered him the object of greater deference and respect.

Particularly
by annexing
the grand-
masterships
of the three
orders to the
crown;

THE annexing the masterships of the three military orders of St. Jago, Calatrava, and Alcantara, to the crown, was another expedient, by which Ferdinand greatly augmented the revenue and power of the Kings of Spain. These orders were instituted in imitation of those of the Knights Templars and of St. John of Jerusalem, on purpose to wage perpetual war with the Mahometans, and to protect the pilgrims who visited Compostella, or other places of eminent sanctity in Spain. The zeal and superstition of the ages, in which they were founded, prompted persons of every rank to bestow such liberal donations on those holy warriors, that, in a short time, they engrossed a considerable share in the property and wealth of the kingdom. The masterships of these orders came to be stations of the greatest power and opulence to which a Spanish nobleman could be advanced. These high dignities were in the disposal

⁸³ Zurita annales de Arag. tom. vi. p. 22.

of the Knights of the Order, and placed the persons on whom they conferred them almost on a level with their sovereign (NN). Ferdinand, unwilling that the nobility, whom he considered as already too formidable, should derive such additional credit and influence from possessing the government of these wealthy fraternities, was solicitous to wrest it out of their hands, and to vest it in the crown. His measures for accomplishing this, were wisely planned, and executed with vigour⁸⁴. By address, by promises, and by threats, he prevailed on the Knights of each Order to place Isabella and him at the head of it. Innocent VIII. and Alexander VI. gave this election the sanction of papal authority⁸⁵; and subsequent Pontiffs rendered the annexation of these master-ships to the crown perpetual.

SECT. III.

A. D. 1476.
and 1493.

WHILE Ferdinand, by this measure, diminished the power and influence of the nobility, and added new lustre or authority to the crown, he was taking other important steps with a view to the same object. The sovereign jurisdiction which the feudal barons exercised within their own territories, was the pride and distinction of their order. To have invaded openly a privilege which they prized so highly, and in defence of which they would

And by circumscribing the jurisdiction of the nobility.

(NN) NOTE XXXVI.

⁸⁴ Marian. hist. lib. xxv. c. 5.⁸⁵ Zurita annales, tom. 5. p. 22. *Ælii Anton. Nebriffensis rerum a Ferdinand. & Elizab. gestarum decades ii. apud Schot. script. Hispan. i. 860.*

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O

SECT. III. have run so eagerly to arms, was a measure too daring for a Prince of Ferdinand's cautious temper. He took advantage, however, of an opportunity which the state of his kingdoms and the spirit of his people presented him, in order to undermine what he durst not assault. The incessant depredations of the Moors, the want of discipline among the troops which were employed to oppose them, the frequent civil wars between the crown and the nobility, as well as the undiscerning rage with which the barons carried on their private wars with each other, filled all the provinces of Spain with disorder. Rapine, outrage, and murder, became so common, as not only to interrupt commerce, but in a great measure to suspend all intercourse between one place and another. That security and protection which men expect from entering into civil society, ceased almost totally. Interior order and police, while the feudal institutions remained in vigour, were so little objects of attention, and the administration of justice was so extremely feeble, that it would have been vain to have expected relief from the established laws of the ordinary judges. But the evil became so intolerable, and the inhabitants of cities, who were the chief sufferers, grew so impatient of this anarchy; that self-preservation forced them to have recourse to an extraordinary remedy. About the middle of the thirteenth century, the cities in the kingdom of Aragon, and after their example those in Castile, formed themselves into an asso-

ciation, distinguished by the name of the *Holy* SECT. III.
Brotherhood. They exacted a certain contribution from each of the associated towns; they levied a considerable body of troops, in order to protect travellers, and to pursue criminals; they appointed judges, who opened their courts in various parts of the kingdom. Whoever was guilty of murder, robbery, or of any act that violated the public peace, and was seized by the troops of the *Brotherhood*, was carried before judges of their nomination, who, without paying any regard to the exclusive and sovereign jurisdiction which the lord of the place might claim, tried and condemned the criminals. By means of this, the prompt and impartial administration of justice was restored; and together with it, internal tranquillity and order began to return. The nobles alone murmured at this salutary institution. They complained of it as an encroachment on one of their most valuable privileges. They remonstrated against it in an high tone; and, on some occasions, refused to grant any aid to the crown, unless it were abolished. Ferdinand, however, was sensible not only of the good effects of the Holy Brotherhood with respect to the police of his kingdoms, but perceived its tendency to abridge, and at length to annihilate the territorial jurisdiction of the nobility. He countenanced the institution on every occasion. He supported it with the whole force of royal authority; and besides the expedients employed by him in common with the other monarchs of Europe,

SECT. III. he availed himself of this institution, which was peculiar to his kingdom, in order to limit and abolish that independent jurisdiction of the nobility, which was no less inconsistent with the authority of the Prince, than with the order of society (OO).

Notwithstanding all these, the government of Spain still extremely free.

BUT though Ferdinand by these measures considerably enlarged the boundaries of prerogative, and acquired a degree of influence and power far beyond what any of his predecessors had enjoyed, yet the limitations of the royal authority, as well as the barriers against its encroachments, continued to be many and strong. The spirit of liberty was vigorous among the people of Spain; the spirit of independence was high among the nobility; and though the love of glory, peculiar to the Spaniards in every period of their history, prompted them to support Ferdinand with zeal in his foreign operations, and to afford him such aid as enabled him not only to undertake but to execute great enterprizes; he reigned over his subjects with a jurisdiction less extensive than that of any of the great monarchs in Europe. It will appear from many passages in the following history, that, during a considerable part of the reign of his successor Charles V. the prerogative of the Spanish crown was equally circumscribed.

Constitution and government of France,

THE ancient government and laws in France so nearly resembled those of the other feudal king-

doms, that such a detail with respect to them as SECT. III.
 was necessary, in order to convey some idea of the
 nature and effects of the peculiar institutions which
 took place in Spain, would be superfluous. In
 the view which I have exhibited of the means by
 which the French monarchs acquired such full
 command of the national force of their kingdom,
 as enabled them to engage in extensive schemes of
 foreign operation, I have already pointed out the
 great steps by which they advanced towards a
 more ample possession of political power, and a
 more uncontrouled exercise of their royal prero-
 gative. All that now remains is to take notice of
 such particulars in the constitution of France, as
 serve either to distinguish it from that of other
 countries, or tend to throw any light on the
 transactions of that period to which the following
 history extends.

UNDER the French monarchs of the first race, Power of
the General
Assemblies
under the
first race of
Kings.
 the royal prerogative was very inconsiderable.
 The General Assemblies of the nation, which met
 annually at stated seasons, extended their authority
 to every department of government. The power
 of electing Kings, of enacting laws, of redressing
 grievances, of conferring donations on the Prince;
 of passing judgment in the last resort, with respect
 to every person and to every cause, resided in
 this great convention of the nation. Under the Under the
second.
 second race of Kings, notwithstanding the power
 and splendour which the conquests of Charlemagne
 added to the crown, the general assemblies of the

SECT. III. nations continued to possess extensive authority.

The right of determining which of the royal family should be placed on the throne, was vested in them. The Princes elevated to that dignity by their suffrage were accustomed regularly to call and to consult them with respect to every affair of importance to the state, and without their consent no law was passed, and no new tax was levied.

Under the
third.

BUT, by the time that Hugh Capet, the father of the third race of Kings, took possession of the throne of France, such changes had happened in the political state of the kingdom, as considerably affected the power and jurisdiction of the general assembly of the nation. The royal authority in the hands of the degenerate posterity of Charlemagne, had dwindled into insignificance and contempt. Every considerable proprietor of land had formed his territory into a barony, almost independent of the sovereign. The dukes or governors of provinces, the counts or governors of towns and small districts, and the great officers of the crown, had rendered these dignities, originally granted only during pleasure or for life, hereditary in their families. Each of these had usurped all the rights which hitherto had been deemed the distinctions of royalty, particularly the privileges of dispensing justice within their own domains, of coining money, and of waging war. Every district was governed by local customs, acknowledged a distinct lord, and pursued a separate interest. The formality of doing homage to their sovereign, was

almost the only act of subjection, which haughty barons would perform, and that bound them no farther than they were willing to acknowledge its obligation (PP). SECT. III.

In a kingdom broken into so many independent baronies, hardly any common principle of union remained; and the general assembly in its deliberations could scarcely consider the nation as forming one body, or establish common regulations to be of equal force in every part. Within the immediate domains of the crown the King might publish laws, and they were obeyed, because there he was acknowledged as the only lord. But if he had aimed at rendering these general, that would have alarmed the barons as an encroachment upon the independence of their jurisdiction. The barons, with no less care, avoided the enacting of general laws, because the execution of them must have been vested in the King, and would have enlarged that paramount power, which was the object of their jealousy. Thus under the descendants of Hugh Capet, the States General (for that was the name by which the supreme assembly of the French nation came then to be distinguished) lost their legislative authority, or at least entirely relinquished the exercise of it. From that period, the jurisdiction of the States General extended no farther than to the imposition of new taxes, the determination of questions with respect to the right of succession

The power of the General Assembly lets considerable and extensive.

SECT. III. to the crown, the settling of the regency when the preceding monarch had not fixed it by his will, and the presenting remonstrances enumerating the grievances of which the nation wished to obtain redress.

As, during several centuries the monarchs of Europe seldom demanded extraordinary subsidies of their subjects, and the other events which required the interposition of the States, rarely occurred, their meetings in France were not frequent. They were summoned occasionally by their Kings, when compelled by their wants or by their fears to have recourse to their aid; but they did not, like the Diet in Germany, the Cortes in Spain, or the Parliament in England, form an essential member of the constitution, the regular exertion of whose powers was requisite to give vigour and order to government.

The crown
begins to ac-
quire legis-
lative au-
thority,

WHEN the States of France ceased to exercise legislative authority, the Kings began to assume it. They ventured at first on acts of legislation with great reserve; and after taking every precaution that could prevent their subjects from being alarmed at the exercise of a new power. They did not at once issue their ordinances in a tone of authority and command. They treated with their subjects; they pointed out what was best; and allured them to comply with it. By degrees, however, as the prerogative of the crown extended, and as the supreme jurisdiction of the royal courts came to be

established, the Kings of France assumed more SECT. III.
 openly the stile and authority of law-givers; and
 before the beginning of the fifteenth century,
 the complete legislative power was vested in
 them (QQ).

HAVING secured this important acquisition, the and the
power of
levying
taxes.
 steps which led to the right of imposing taxes were
 rendered few and easy. The people, accustomed to
 see their sovereigns, by their sole authority, issue
 ordinances which regulated points of the greatest
 consequence with respect to the property of their
 subjects, were not alarmed when they were required,
 by the royal edicts, to contribute certain sums to-
 wards supplying the exigencies of government, and
 carrying forward the measures of the nation. When
 Charles VII. and Louis XI. first ventured to exer-
 cise this new power, in the manner which I have
 already described, the gradual increase of the royal
 authority had so imperceptibly prepared the minds
 of the people of France for this innovation, that it
 excited no commotion in the Kingdom, and seems
 scarcely to have given rise to any murmur or
 complaint.

WHEN the Kings of France had thus engrossed Govern-
ment of
France be-
comes
purely mo-
narchical.
 every power which can be exerted in government;
 when the right of making laws, of levying money,
 of keeping an army of mercenaries in constant
 pay, of declaring war and of concluding peace

{QQ) NOTE XXXIX.

SECT. III. centered in the crown, the constitution of the Kingdom, which, under the first race of Kings, was nearly democratical, which, under the second race, became an aristocracy, terminated, under the third race, in a pure monarchy. Every thing that tended to preserve the appearance, or revive the memory of the ancient mixed government, seems from that period to have been industriously avoided. During the long and active reign of Francis I. the variety as well as extent of whose operations obliged him to lay many heavy impositions on his subjects, the States-General of France were not once assembled, nor were the people once allowed to exert the power of taxing themselves, which, according to the original ideas of feudal government, was a right essential to every freeman.

The exercise of prerogative restrained by the privileges of the nobility;

Two things, however, remained, which moderated the exercise of the regal prerogative, and restrained it within such bounds as preserved the constitution of France from degenerating into mere despotism. The rights and privileges claimed by the nobility, must be considered as one barrier against the absolute dominion of the crown. Though the nobles of France had lost that political power which was vested in their order as a body, they still retained the personal rights and pre-eminence which they derived from their rank. They preserved a consciousness of elevation above other classes of citizens; an exemption from burdens to which they were subject; a contempt of the occupations in which they were engaged; the

privilege of assuming ensigns that indicated their dignity; a right to be treated with a certain degree of deference during peace; and a claim to various distinctions when in the field. Many of these pretensions were not founded on the words of statutes, or derived from positive laws; they were defined and ascertained by the maxims of honour, a title more delicate, but no less sacred. These rights, established and protected by a principle equally vigilant in guarding, and intrepid in defending them, are to the Sovereign himself objects of respect and veneration. Wherever they stand in its way, the royal prerogative is bounded. The violence of a Despot may exterminate such an order of men; but as long as it subsists, and its ideas of personal distinction remain entire, the power of the Prince has limits⁵⁶.

As in France, the body of nobility was very numerous, and the individuals of which it was composed retained an high sense of their own pre-eminence, to this we may ascribe, in a great measure, the mode of exercising the royal prerogative which peculiarly distinguishes the government of that kingdom. An intermediate order was placed between the Monarch and his other subjects, and in every act of authority it became necessary to attend to its privileges, and not only to guard against any real violation of these, but to avoid any suspicion of its being possible that they might be violated.

⁵⁶ De l'Esprit des Loix, liv. ii. c. 4. Dr. Ferguson's Essay on the Hist. of Civil Society, part i. sect. 10.

SECT. III. Thus a species of government was established in France, unknown in the ancient world, that of a monarchy, in which the power of the sovereign, though unconfined by any legal or constitutional restraint, has certain bounds set to it by the ideas which one class of his subjects entertain concerning their own dignity.

and by the
jurisdiction
of the par-
liaments
particularly
that of
Paris.

THE jurisdiction of the Parliaments in France, particularly that of Paris, was the other barrier which served to confine the exercise of the royal prerogative within certain limits. The parliament of Paris was originally the court of the Kings of France, to which they committed the supreme administration of justice within their own domains, as well as the power of deciding with respect to all cases brought before it by appeals from the courts of the barons. When, in consequence of events and regulations which have been mentioned formerly, the time and place of its meeting were fixed, when not only the form of its procedure, but the principles on which it decided, were rendered regular and consistent, when every cause of importance was finally determined there, and when the people became accustomed to resort thither as to the supreme temple of justice, the parliament of Paris rose to high estimation in the kingdom, its members acquired dignity, and its decrees were submitted to with deference. Nor was this the only source of the power and influence which the parliament obtained. The Kings of France, when they first began to assume the legislative power, in

order to reconcile the minds of their people to this SECT. III.
new exertion of prerogative, produced their edicts
and ordinances in the parliament of Paris, that they
might be approved of and registered there, before
they were published and declared to be of autho-
rity in the kingdom. During the intervals between
the meetings of the States-General of the kingdom,
or under those reigns when the States-General were
not assembled, the monarchs of France were ac-
customed to consult the parliament of Paris with
respect to the most arduous affairs of government,
and frequently regulated their conduct by its ad-
vice, in declaring war, in concluding peace, and in
other transactions of publick concern. Thus there
was erected in the kingdom a tribunal which be-
came the great depository of the laws, and by the
uniform tenour of its decrees, it established princi-
ples of justice and forms of proceeding which were
considered as so sacred, that even the sovereign
power of the Monarch durst not venture to disre-
gard or to violate them. The members of this
illustrious body, though they neither possess legi-
slative authority, nor can be considered as the re-
presentatives of the people, have availed them-
selves of the reputation and influence which they
had acquired among their countrymen, in order to
make a stand to the utmost of their ability against
every unprecedented and exorbitant exertion of the
prerogative. In every period of the French his-
tory, they have merited the praise of being the vir-

SECT. III. tuous but feeble guardians of the rights and privileges of the nation (RR).

Constitution
and govern-
ment of the
German
Empire.

THE kingdom of France extends to the confines of the German Empire, from which Charles V. derived his title of highest dignity. In explaining the political constitution of this vast and complex body at the beginning of the sixteenth century, I shall avoid entering into such a detail as would involve my readers in that inextricable labyrinth, which it formed by the multiplicity of its tribunals, the number of its members, their interfering rights, and by the endless discussions or refinements of the publick lawyers of Germany with respect to all these.

Its state under Charle-
magne and
his descen-
dants.

THE Empire of Charlemagne was a structure erected in so short a time that it could not be permanent. Under his immediate successor it began to totter; and it soon fell to pieces. The crown of Germany was separated for ever from that of France, and the descendants of Charlemagne established two great monarchies so situated as to give rise to a perpetual rivalry and enmity between them. But the Princes of the race of Charlemagne who were placed on the Imperial throne, were not altogether so degenerate, as those of the same family who reigned in France. In the hands of the former the royal authority retained some vigour, and the nobles of Germany, though pos-

possessed of extensive privileges as well as ample territories, did not so early attain independence. The great offices of the crown continued to be at the disposal of the sovereign, and during a long period, fiefs remained in their original state, without becoming hereditary and perpetual in the families to which they had been granted.

SECT. III.

At length the German branch of the family of Charlemagne became extinct, and his feeble descendants who reigned in France had sunk into such contempt, that the Germans, without looking towards them, exercised the right inherent in a free people; and in a general assembly of the nation elected Conrad Count of Franconia Emperor. After him Henry of Saxony, and his descendants the three Othos, were placed, in succession, on the Imperial throne, by the suffrages of their countrymen. The extensive territories of the Saxon Emperors, their eminent abilities and enterprising genius, not only added a new vigour to the Imperial dignity, but raised it to higher power and pre-eminence. Otho the Great marched at the head of a numerous army into Italy, and after the example of Charlemagne, gave law to that country. Every power there recognized his authority. He created Popes and deposed them by his sovereign mandate. He annexed the kingdom of Italy to the German Empire. Elated with his success, he assumed the title of Cæsar Augustus⁸⁷. A Prince born in the heart of Germany pretended

Other families are raised to the Imperial dignity.

H. D. 911,

A. D. 992,

⁸⁷ Annalista Saxo, &c. ap. Struy. Corp. vol. i. p. 246.

SECT. III. to be the successor of the Emperors of ancient Rome, and claimed a right to the same power and prerogative.

The German nobility acquire independent and sovereign authority.

BUT while the emperors, by means of these new titles, and new dominions, gradually acquired additional authority and splendour, the nobility of Germany went on at the same time extending their privileges and jurisdiction. The situation of affairs was favourable to their attempts. The vigour which Charlemagne had given to government quickly relaxed. The inability of some of his successors was such, as would have encouraged vassals less enterprising than the nobles of that age, to have claimed new rights and to have assumed new powers. The civil wars in which other emperors were engaged, obliged them to pay perpetual court to their subjects on whose support they depended, and not only to connive at their usurpations, but to permit and even to authorize them. Fiefs gradually became hereditary. They were transmitted not only in the direct, but in the collateral line. The investiture of them was demanded not only by male but by female heirs. Every baron began to exercise sovereign jurisdiction within his own domains; and the Dukes and Counts of Germany took wide steps towards rendering their territories distinct and independent States^{ss}. The Saxon Emperors observed their progress, and were aware of its ten-

The German ecclesiasticks raised to the same power.

^{ss} Pfeffel. Abrégé, p. 120. 152. Lib. Feudor. tit. i.
dency.

dency. But as they could not hope to humble SECT. III.
 vassals already grown too potent, unless they had
 turned their whole force as well as attention to
 that enterprize, and as they were extremely intent
 on their expeditions into Italy, which they could
 not undertake without the concurrence of their
 nobles, they were solicitous not to alarm them by
 any direct attack on their privileges and jurisdic-
 tions. They aimed, however, at undermining
 their power. With this view, they inconsiderately
 bestowed additional territories, and accumulated
 new honours on the clergy, in hopes that this or-
 der might serve as a counterpoise to that of the
 nobility in any future struggle⁹⁹.

THE unhappy effects of this fatal error in policy The fatal
effects of
aggrandiz-
ing the
clergy.
A. D. 1024.
 were quickly felt. Under the Emperors of the
 Franconian and Swabian lines, whom the Ger-
 mans by their voluntary election placed on the
 Imperial throne, a new face of things appeared,
 and a scene was exhibited in Germany, which
 astonished all Christendom at that time, and
 in the present age appears almost incredible. The
 Popes, hitherto dependent on the Emperors, and
 indebted for power as well as dignity to their
 beneficence and protection began to claim a su-
 perior jurisdiction; and in virtue of authority
 which they pretended to derive from heaven, tried,
 condemned, excommunicated, and deposed their
 former masters. Nor is this to be considered

⁹⁹ Puffendorf. Abrégé, P. 154.

SECT. III. merely as a frantick folly of passion in a pontiff intoxicated with high ideas concerning the extent of priestly domination, and the plenitude of papal authority. Gregory VII. was able as well as daring. His presumption and violence were accompanied with political discernment and sagacity. He had observed that the Princes and nobles of Germany, had acquired such considerable territories and such extensive jurisdiction as rendered them not only formidable to the Emperors, but disposed them to favour any attempt to circumscribe their power. He foresaw that the ecclesiasticks of Germany, raised almost to a level with its Princes, were ready to support any person who would stand forth as the protector of their privileges and independence. With both of these Gregory negotiated, and had secured many devoted adherents among them, before he ventured to enter the lists against the head of the Empire.

The contests
between the
Popes and
Emperors,
and the consequences of
these.

HE began his rupture with Henry IV. upon a pretext that was popular and plausible. He complained of the venality and corruption with which the Emperor had granted the investiture of benefices to ecclesiasticks. He contended that this right belonged to him as head of the church; he required Henry to confine himself within the bounds of his civil jurisdiction, and to abstain for the future from such sacrilegious encroachments on the spiritual dominion. All the censures of the church were denounced against Henry, because

he refused to relinquish those powers which his SECT. III.
 predecessors had uniformly exercised. The most
 considerable of the German Princes and eccle-
 siasticks were excited to take arms against him.
 His mother, his wife, his sons were wrought upon
 to disregard all the ties of blood as well as of
 duty, and to join the party of his enemies²⁰. Such
 were the successful arts with which the court of
 Rome inflamed the superstitious zeal, and con-
 ducted the factious spirit of the Germans and Ita-
 lians, that an Emperor, distinguished not only for
 many virtues, but possessed of considerable talents,
 was at length obliged to appear as a supplicant
 at the gate of the castle in which the Pope resided,
 and to stand there, three days, bare-footed, in the
 depth of winter, imploring a pardon, which at A. D. 1077.
 length he obtained with difficulty (SS).

THIS act of humiliation degraded the Imperial
 dignity. Nor was the depression only momentary.
 The contest between Gregory and Henry gave
 rise to the two great factions of the Guelfs and
 Ghibellines; the former of which supporting the
 pretensions of the Popes, and the latter defending
 the rights of the Emperor, kept Germany and
 Italy in perpetual agitation during three centuries.
 A regular system for humbling the Emperors and
 circumscribing their power was formed, and ad-
 hered to uniformly throughout that period. The
 Popes, the free States in Italy, the nobility and

The Imper-
 rial autho-
 rity gradu-
 ally declines.

²⁰ Annal. German. ap. Struv. i. p. 325.

SECT. III. ecclesiasticks of Germany, were all interested in its success; and notwithstanding the return of some short intervals of vigour, under the administration of a few able Emperors, the Imperial

A. D. 1256. authority continued to decline. During the anarchy of the long interregnum subsequent to the death of William of Holland, it dwindled down

A. D. 1273. to nothing. Rodolph of Hapsburgh, the founder of the House of Austria, and who first opened the way to its future grandeur, was at length elected Emperor; not that he might re-establish and extend the Imperial authority, but because his territories and influence were so inconsiderable as to excite no jealousy in the German Princes, who were willing to preserve the forms of a constitution, the power and vigour of which they had destroyed. Several of his successors were placed on the Imperial throne from the same motive; and almost every remaining prerogative was wrested out of the hands of feeble Princes unable to exercise or to defend them.

A total change in the political constitution of the Empire.

DURING this period of turbulence and confusion the constitution of the Germanick body underwent a total change. The ancient names of courts and magistrates, together with the original forms and appearance of policy, were preserved; but such new privileges and jurisdiction were assumed, and so many various rights established, that the same species of government no longer subsisted. The Princes, the great nobility, the dignified ecclesiasticks, the free-cities had taken advantage of

the interregnum, which I have mentioned, to establish or to extend their usurpations. They claimed and exercised the right of governing their respective territories with full sovereignty. They acknowledged no superior with respect to any point, relative to the interior administration and police of their domains. They enacted laws, imposed taxes, coined money, declared war, concluded peace, and exerted every prerogative peculiar to independent States. The ideas of order and political union which had formed the various provinces of Germany into one body were entirely lost; and the society must have dissolved, if the forms of feudal subordination had not preserved such an appearance of connection or dependence among the various members of the community, as preserved it from falling to pieces.

THIS bond of union, however, was extremely feeble; and no principle remained in the German constitution of sufficient force to maintain public order, and hardly to ascertain personal security. From the accession of Rodolph of Hapsburgh, to the reign of Maximilian, the immediate predecessor of Charles V. the Empire felt every calamity which a state must endure when the authority of government is so much relaxed as to have lost all vigour. The causes of dissension among that vast number of members which composed the Germanick body, were infinite and unavoidable. These gave rise to perpetual private wars, carried on with all the violence of resentment when un-

SECT. III.
Expedients
for putting
an end to
this state of
anarchy.

SECT. III. restrained by superior authority, Rapine, outrage, exactions, became universal. Commerce was interrupted; industry suspended; and every part of Germany resembled a country which an enemy had plundered and laid desolate²¹. The variety of expedients employed with a view to restore order and tranquillity, prove that the grievances occasioned by this state of anarchy had grown intolerable. Arbiters were appointed to terminate the differences among the several states. The cities united in a league, the object of which was to check the rapine and extortions of the nobility. The nobility formed confederacies, on purpose to maintain tranquillity among their own order. Germany was divided into several Circles, in each of which a provincial and partial jurisdiction was established, to supply the place of a publick and common tribunal²².

Particularly
by the institution of the
Imperial
Chamber.

BUT all these remedies were so fruitless, that they served only to demonstrate the violence of that anarchy which prevailed, and the inefficacy of the means employed to correct it. At length Maximilian re-established publick order in the Empire, by instituting the Imperial chamber, a tribunal composed of judges named partly by the
A. D. 1495. Emperor, partly by the several States, and vested with authority to decide finally concerning all differences among the members of the Germanick

²¹ See above, page 53. and note xxi. Datt. de pace publica Imper. p. 25, no. 53. p. 28, no. 26, p. 35, no. 11.

²² Datt. passim. Struv. Corp. Hist. i. 510, &c.

body. A few years after, by giving a new form SECT. III.
to the Aulick council, which takes cognizance of A. D. 1512.
all feudal causes, and such as belong to the Em-
peror's immediate jurisdiction, he restored some
degree of vigour to the Imperial authority.

BUT notwithstanding the salutary effects of these
regulations and improvements, the political con-
stitution of the German Empire, at the commence-
ment of the period of which I propose to write
the history, was of a species so peculiar, as not to
resemble perfectly any form of government known
either in the ancient or modern world. It was a
complex body, formed by the association of several
States, each of which possessed sovereign and in-
dependent jurisdiction within its own territories.
Of all the members which composed this united
body, the Emperor was the head. In his name,
all degrees and regulations with respect to points
of common concern, were issued; and to him the
power of carrying them into execution was com-
mitted. But this appearance of monarchical power
in the Emperor was more than counterbalanced
by the influence of the Princes and States of the
Empire in every act of administration. No law
extending to the whole body could pass, no re-
solution that affected the general interest could be
taken, without the approbation of the Diet of the
Empire. In this assembly, every sovereign Prince
and State of the Germanick body had a right to be
present, to deliberate, and to vote. The decrees

At the be-
ginning of
the sixteenth
century, the
Empire an
association
of sovereign
states.

SECT. III. or *Recesses* of the Diet were the laws of the Empire, which the Emperor was bound to ratify and enforce.

Peculiarities
in the na-
ture of this
tion.

UNDER this aspect the constitution of the Empire appears a regular confederacy, similar to the Achæan league in ancient Greece, or to that of the United Provinces and of the Swiss Cantons in modern times. But if viewed in another light, striking peculiarities in its political state present themselves. The Germanick body was not formed by the union of members altogether distinct and independent. All the princes and States joined in this association, were originally subject to the Emperors, and acknowledged them as sovereigns. Besides this, they originally held their lands as Imperial fiefs, and in consequence of this tenure owed the Emperors all those services which feudal vassals are bound to perform to their liege lord. And though this political subjection was entirely at an end, and the influence of the feudal relation much diminished, the ancient forms and institutions introduced while the Emperors governed Germany with authority, not inferior to that which the other monarchs of Europe possessed, still remained. Thus an opposition was established between the genius of the government, and the forms of administration in the German Empire. The former considered the Emperor only as the head of a confederacy, the members of which, by their voluntary choice, have raised him to that dignity; the latter seemed to imply, that he is

really invested with sovereign power. By this circumstance, such principles of hostility and discord were interwoven in the frame of the Germanick body, as affected each of its members, rendering their interior union incomplete, and their external efforts feeble and irregular. The effects of this vice or disorder inherent in the constitution of the Empire are so considerable, that, without attending to them, it is impossible to comprehend many transactions in the reign of Charles V. or to form just ideas concerning the genius of the German government.

SECT. III.
The defects
in the con-
stitution of
the Empire.

THE Emperors of Germany, at the beginning of the sixteenth century, were distinguished by the most pompous titles, and by such ensigns of dignity as intimated their authority to be superior to that of all other monarchs. The greatest Princes of the Empire attended, and served them on some occasions, as the officers of their household. They exercised prerogatives which no other sovereign ever claimed. They retained pretensions to all the extensive powers which their predecessors had enjoyed in any former age. But at the same time, instead of possessing that ample domain which had belonged to the ancient Emperors of Germany, and which stretched from Basil to Cologne, along both banks of the Rhine⁹³, they were stript of all territorial property, and had not a single city, a single castle, a single foot of land, that pertained to them as heads of the Empire. As their domain

Arising
from the li-
mited power
of the Em-
perors.

⁹³ Pffefel, Abrégé, &c. p. 241.

SECT. III. was alienated, their stated revenues were reduced almost to nothing; and the extraordinary aids, which on a few occasions they obtained, were granted sparingly, and paid with reluctance. The Princes and States of the Empire, though they seemed to recognize the Imperial authority, were subjects only in name, each of them possessing a complete municipal jurisdiction within the precincts of his own territories.

From the
nature of
their titles
and preten-
sions.

FROM this ill-compacted frame of government, effects that were unavoidable resulted. The Emperors, dazzled with the splendour of their titles, and the exterior signs of vast authority, were apt to imagine themselves to be the real sovereigns of Germany, and were led to aim continually at recovering the exercise of those powers which the forms of the constitution seemed to vest in them, and which their predecessors, Charlemagne and the Othos, had actually enjoyed. The Princes and States, aware of the nature as well as extent of their pretensions, were perpetually on their guard, in order to watch all the motions of the Imperial court, and to circumscribe its power within limits still more narrow. The Emperors, in support of their claims, appealed to ancient forms and institutions, which the States held to be obsolete. The States founded their rights on recent practice and modern privileges, which the Emperors considered as usurpations.

THIS jealousy of the Imperial authority, together with the opposition between it and the rights of the States, increased considerably from the time that the Emperors were elected, not by the collective body of German nobles, but by a few Princes of chief dignity. During a long period, all the members of the Germanick body assembled, and made choice of the person whom they appointed to be their head. But amidst the violence and anarchy which prevailed for several centuries in the Empire, seven Princes who possessed the most extensive territories, and who had obtained a hereditary title to the great offices of the State, acquired the exclusive privilege of nominating the Emperor. This right was confirmed to them by the Golden Bull; the mode of exercising it was ascertained, and they were dignified with the appellation of *Electors*. The nobility and free cities being thus stripped of a privilege which they had once enjoyed, were less connected with a Prince, towards whose elevation they had not contributed by their suffrages, and came to be more apprehensive of his authority. The Electors, by their extensive power, and the distinguishing privileges which they possessed became formidable to the Emperors, with whom they were placed almost on a level in several acts of jurisdiction. Thus the introduction of the Electoral college into the Empire, and the authority which it acquired, instead of diminishing, contributed to strengthen the principles of hostility and discord in the Germanick constitution.

SECT. III.
From the manner in which they were elected.

SECT. III. THESE were further augmented by the various and repugnant forms of civil policy in the several States which composed the Germanick body. It is no easy matter to render the union of independent States perfect and entire, even when the genius and forms of their respective governments happen to be altogether similar. But in the German Empire, which was a confederacy of Princes, of Ecclesiasticks, and of free-cities, it was impossible that they could incorporate thoroughly. The free-cities were small republicks, in which the maxims and spirit peculiar to that species of government prevailed. The Princes and nobles, to whom supreme jurisdiction belonged, possessed a sort of monarchical power within their own territories, and the forms of their interior administration nearly resembled those of the great feudal kingdoms. The interests, the ideas, the objects of States so differently constituted, cannot be the same. Nor could their common deliberations be carried on with the same spirit, while the love of liberty and attention to commerce were the reigning principles in the cities; while the desire of power, and ardour for military glory, were the governing passions of the Princes and nobility.

From the opposition between the secular and ecclesiastical members. THE secular and ecclesiastical members of the Empire were as little fitted for union as the free-cities and the nobility. Vast territories had been granted to several of the German bishopricks and abbeys, and some of the highest offices in the Empire having been annexed to them inalienably, were

held by the ecclesiasticks raised to these dignities. SECT. III.

The younger sons of noblemen of the second order, who had devoted themselves to the church, were commonly promoted to these stations of eminence and power; and it was no small mortification to the Princes and great nobility, to see persons raised from an inferior rank to the same level with themselves, or even exalted to superior dignity. The education of these churchmen, the genius of their profession, and their connection with the court of Rome, rendered their character as well as interest different from those of the other members of the Germanick body, with whom they were called to act in concert. Thus another source of jealousy and variance was opened, which ought not to be overlooked when we are searching into the nature of the German constitution.

To all these causes of dissension may be added one more, arising from the unequal distribution of power and wealth among the States of the Empire. The Electors, and other nobles of the highest rank, not only possessed sovereign jurisdiction, but governed such extensive, populous, and rich countries, as rendered them great Princes. Many of the other members, though they enjoyed all the rights of sovereignty, ruled over such petty domains, that their real power bore no proportion to this high prerogative. A well-compacted and vigorous confederacy could not be formed of such dissimilar states. The weaker were jealous, timid, and unable either to assert or to defend their just

From the unequal distribution of wealth and power among the members.

SECT. III. privileges. The more powerful were apt to assume and to become oppressive. The electors and Emperors by turns endeavoured to extend their own authority, by encroaching on the rights of those feeble members of the Germanick body; and they, over-awed or corrupted, tamely surrendered their privileges, or meanly favoured the designs formed against them (TT).

All these
render the
Germanick
body inca-
pable of act-
ing with
union and
vigour.

AFTER contemplating all these principles of disunion and opposition in the constitution of the German Empire, it will be easy to account for the want of concord and uniformity, conspicuous in its councils and proceedings. That slow, dilatory, distrustful, and irresolute spirit, which characterizes all its deliberations, will appear natural in a body, the junction of whose members was so incomplete, the different parts of which were held together by such feeble ties, and set at variance by such powerful motives. But the Empire of Germany, nevertheless, comprehended countries of such vast extent, and was inhabited by such a martial and hardy race of men, that when the abilities of an Emperor, or zeal for any common cause could rouse this unwieldy body to put forth its strength, it acted with irresistible force. In the following history we shall find, that as the measures on which Charles V. was most intent, were often thwarted or rendered abortive by the spirit of jealousy and division peculiar to the Germanick constitu-

tion; so it was by the influence which he acquired over the Princes of the Empire, and by engaging them to co-operate with him, that he was enabled to make some of the greatest efforts which distinguish his reign. SECT. III.

THE Turkish history is so blended, during the reign of Charles V. with that of the great nations in Europe, and the Ottoman Porte interposed so often, and with such decisive influence in the wars and negociations of the Christian Princes, that some previous account of the state of government in that great Empire, is no less necessary for the information of my readers, than those views of the constitution of other kingdoms which I have already exhibited to them. View of the Turkish government.

IT has been the fate of the southern and more fertile parts of Asia, at different periods, to be conquered by that warlike and hardy race of men, who inhabit the vast country known to the ancients by the name of Scythia, and among the moderns by that of Tartary. One tribe of these people, called Turks or Turcomans, extended its conquests, under various leaders, and during several centuries, from the shore of the Caspian to the Straights of the Dardanelles. Towards the middle of the fifteenth century, these formidable conquerors took Constantinople by storm, and established the seat of their government in that Imperial city. Greece, Moldavia, Walachia, and the other provinces of the ancient kingdoms of Thrace and Macedonia, to- Its origin.

SECT. III. gether with part of Hungary, were subjected to their power.

Its despotic
genius.

BUT though the seat of the Turkish government was fixed in Europe, and the Sultans obtained possession of such extensive dominions in that quarter of the globe, the genius of their policy was purely Asiatick; and may be properly termed a despotism, in contradistinction to those monarchical and republican forms of government which we have been hitherto contemplating. The supreme power was vested in Sultans of the Ottoman race, that blood being deemed so sacred, that no other was thought worthy of the throne. From this elevation, these sovereigns could look down and behold all their subjects reduced to the same level before them. The maxims of Turkish policy admit not any of those institutions, which, in other countries, limit the exercise, or moderate the rigour of monarchical power: no great court with constitutional and permanent jurisdiction to interpose both in enacting laws, and in executing them: no body of hereditary nobles, whose sense of their own pre-eminence, whose consciousness of what is due to their rank and character, whose jealousy of their privileges circumscribe the authority of the Prince, and serve not only as a barrier against the excesses of his caprice, but stand as an intermediate order between him and the people. Under the Turkish government, the political condition of every subject is equal. To be employed in the service of the Sultan, is the only circumstance that confers distinc-

tion. Even this distinction is annexed so closely SECT. III.
to the stations in which persons serve, that it is
scarcely communicated to those who are placed in
them. The highest dignity in the Empire does
not give any rank or pre eminence to the family
of him who enjoys it. As every man, before he
is raised to any station of authority, must go through
the preparatory discipline of a long and servile obe-
dience^{**}, the moment he is deprived of power, he
and his posterity return to the same condition with
other subjects, and sink back into obscurity. It is
the distinguishing and odious characteristick of
Eastern despotism, that it annihilates all other ranks
of men, in order to exalt the monarch; that it
leaves nothing to the former, while it gives every
thing to the latter; that it endeavours to fix
in the minds of those who are subject to it, the
idea of no relation between men, but that of a
master and of a slave, the former destined to com-
mand and to punish, the latter formed to tremble
and to obey (UU).

BUT as there are circumstances which frequently Power of
the Sultan
limited by
religion.
obstruct or defeat the salutary effects of the best-
regulated governments, there are others which con-
tribute to mitigate the evils of the most vicious
forms of policy. There can, indeed, be no con-
stitutional restraints upon the will of a Prince in a
despotic government; but there may be such as

^{**} State of the Turkish Empire by Ricaut, p. 25.

(UU) NOTE XLIII.

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SECT. III. are accidental. Absolute as the Turkish Sultans are, they feel themselves circumscribed both by religion, the principle on which their authority is founded^s, and by the army, the instrument which they must employ in order to maintain it. Wherever religion interposes, the will of the sovereign must submit to its decrees. When the Koran hath prescribed any religious rite; hath enjoined any moral duty; or hath confirmed, by its sanction, any political maxim, the command of the Sultan cannot overturn that which an higher authority hath established. The chief restriction, however, on the will of the Sultans, is imposed by the military power. An armed force must surround the throne of every Despot, to maintain his authority, and to execute his commands. As the Turks extended their empire over nations, which they did not exterminate, but reduced to subjection, they found it necessary to render their military establishment numerous and formidable. Amurath, their third Sultan, in order to form a body of devoted troops, that might serve as the immediate guards of his person and dignity, appointed his officers to seize annually, as the Imperial property, the fifth part of the youth taken in war. These, after being instructed in the Mahometan religion, inured to obedience by severe discipline, and trained to warlike exercises, were formed into a body distinguished by the name of *Janizaries*, or new soldiers. Every sentiment which enthusiasm can inspire, every mark of distinction that the favour of the Prince

and by the
military.

Origin of
the Jani-
zaries.

A. D. 1362.

^s Ricaut, p. 8.

could confer, were employed in order to animate this body with martial ardour, and with a consciousness of its own pre-eminence⁹⁶. The Janizaries soon became the chief strength and pride of the Ottoman armies; and by their number as well as reputation, were distinguished above all the troops, whose duty it was to attend on the person of the Sultans (XX).

THUS, as the supreme power in every society is possessed by those who have arms in their hands, this formidable body of soldiers, destined to be the instruments of enlarging the Sultan's authority, acquired, at the same time, the means of controuling it. The Janizaries in Constantinople, like the Prætorian bands in ancient Rome, quickly perceived all the advantages which they derived from being stationed in the capital; from their union under one standard; and from being masters of the person of the Prince. The Sultans became no less sensible of their influence and importance. The *Capiculy*, or soldiery of the Port, was the only power in the Empire that a Sultan or his Visier had reason to dread. To preserve the fidelity and attachment of the Janizaries was the great art of government and the principal object of attention in the policy of the Ottoman court. Under a monarch, whose abilities and vigour of mind fit him for command, they are obsequious instruments; execute whatever he enjoins; and render his power

Their vast influence in the Turkish government.

⁹⁶ Prince Cantemir's History of the Ottoman Empire, p. 87.

SECT. III. irresistible. Under feeble Princes, or such as are unfortunate, they become turbulent and mutinous; assume the tone of masters; degrade and exalt Sultans at pleasure; and teach those to tremble, on whose nod, at other times, life or death depend.

Progress of
the Turks
towards do-
minion.

FROM Mahomet II. who took Constantinople, to Solyman, who began his reign a few months after Charles V. was placed on the Imperial throne of Germany, a succession of illustrious Princes ruled over the Turkish Empire. By their great abilities, they kept their subjects of every order, military as well as civil, submissive to government; and had the absolute command of whatever force their vast empire was able to exert. Solyman, in particular, who is known to the Christians chiefly as a conqueror, but is celebrated in the Turkish annals as the great law-giver who established order and police in their Empire, governed during his long reign with no less authority than wisdom. He divided his dominions into several districts; he appointed the number of soldiers which each should furnish; he appropriated a certain proportion of the lands in every province for their maintenance; he regulated, with a minute accuracy, every thing relative to their discipline, their arms, and the nature of their service. He put the finances of the Empire into an orderly train of administration; and though the taxes in the Turkish dominions, as well as in the other despotic monarchies of the East, are far from being considerable, he supplied that defect by an attentive and severe œconomy.

NOR was it only under such Sultans as Solyman, SECT. III. whose talents were no less adapted to preserve interior order than to conduct the operations of war, that the Turkish Empire engaged with advantage in its contests with the Christian states. The long succession of able Princes, which I have mentioned, had given such vigour and firmness to the Ottoman government, that it seems to have attained during the sixteenth century, the highest degree of perfection of which its constitution was capable. whereas the great monarchies in Christendom were still far from that state, which could enable; them to act with a full exertion of their force. Besides this, the Turkish troops in that age possessed every advantage which arises from superiority in military discipline. At the time when Solyman began his reign, the Janizaries had been embodied near a century and a half, and during that long period, the severity of their military discipline had in no degree relaxed. The soldiers drawn from the provinces of the Empire, had been kept almost continually under arms, in the various wars which the Sultans had carried on with hardly any interval of peace. Against troops thus trained and accustomed to service, the forces of the Christian powers took the field with great disadvantage. The most intelligent as well as impartial authors of the sixteenth century, acknowledge and lament the superior attainments of the Turks in the military art (YY). The success which uniformly attended their arms in all their

Advantages
which they
possessed
over the
Christian
powers in
the six-
teenth cen-
tury.

(YY) NOTE XLV.

SECT. III. wars, demonstrates the justness of this observation.

The Christian armies did not acquire that superiority over the Turks, which they now possess, until the long establishment of standing forces had improved military discipline among the former; and until various causes and events, which it is not my province to explain, had corrupted or abolished their ancient warlike institutions among the latter.