

Justinian Sect. 6.

the Cognizance of the Bishops in Ecclesiastical Causes and granted them the privilege of not pleading before Laic Judges. Ordaining (Nov. 638 123) that in Civil Actions the Monks and Clerks should be first Confronted before the Bishop who was to decide their Differences immediately without process, without any Nois, or Judicial Dispute, Upon Condition however, that if one of the parties should Declare within ten days that he would not Acquiesce to his sentence, the ordinary Magistrate should take Cognizance of the cause, not by way of Appeal, as some have beliv'd, and as superior to the Bishops in that, but as an Appeal, and if he gave the same Judgment with the Bishop, there was no Appeal from him but if otherwise there was Room for appealing. Thus as for Criminal Causes, it was allowed to pursue the Crimes either before the Bishop or the ordinary Judge, Except in Ecclesiastical Crimes, such as Heresy, Simony, &c. Obedience to the Bishop and all other things Concerning their Quality, the Cognizance of which belong to the Bishop only; as did also the Differences Concerning Religion and Ecclesiastical Policy over against Laicks. Moreover he ordained, that if in Criminal causes any of the Clergy should be condemned by the Laic Judge, his sentence could not be put in Execution, nor a priest degraded without the Approbation of the Bishop; and if his Appeal Application was made to the Emperor. Thus as for the Bishops, he granted them this privilege, of not being obliged to plead before the Laic Magistrates, which privilege he allowed the Kings Nov. 79. which Jurisprudents have wrongfully extended to the Monks. Thus by the privilege of the Prince, the Cognizance of the Bishops began to be enlarged; Never the less they did not at this time acquire complete Justice, which the Law call Jurisdiction over the Priest, they notwithstanding in those days Jus torrendi L. Pupillus & Gortorium A de verb. signif. nor any coercive power. Their Judges were not Magistrates who could pronounce the three Essential words Do. Sic. Adies. They could not by

their

their own Authority Imprison Ecclesiastical persons, Neither had they any prisons, they could not inflict Corporal punishments, Banishments, and Much less Mutilation of Members or Death; even for the Greatest Crimes, nor Condemn in Pecuniary Mults. The Punishments which they inflicted were Depositions, suspension of orders, fastings and penance; which form of Discipline Continued throughout all the Eight Century.

Lib. 5.

Chap. 5.

Sect. 15.

We must place in the Eight Century the Collection of Isidore Monachus; it is in Latin and Composed of Various Canons of Councils held in Greece, Africa, France, and Spain, and of Many Decretals of Sixteen Popes Down to Zachary, who Died in the Year 752 Doual. Hist. Droit. Canon. Par. 1. cap. 21. David Blondel in Pseudo Isidore Adit. Ann. 1628 shows the Imposture of Many of these Letters Attributed to sundry Popes, whose they are Not; and Peter de Marca de Concord. fac. Imp. lib. 3 cap. 5 and the late Condemns the Method of the Author as too severe, however he Confesses the forgery and Imposture. 'Tis likewise doubt full who the Author of this Collection was; Finemore such Bishop of Rheims (in Epist. c. 29) Makes Isidore of Sevil Author of it. But Isidore Bishop of Sevil cannot be said to be the Author of it, for he Died in the Year 636 And this Collection likewise Comprehends the Epistles of Zachary who Died in the Year 752. Othent Baron Annas 865 n. 5. Mariana lib. 6. de Rebus. Hist. cap. 5. Chronica Juliani Gall. Paris. Edil. A Laurentio Ramirez) therefore Ascribed to Isidore Bishop of Segulveda who Died in the Year 805 who According to the Custom of those times in which the Bishops out of Humility were wont to subscribe themselves in Council and elsewhere, Peccatores, had been called Peccator, and after wards through the fault of Transcribers, in some Copies of this Collection, in stead of Peccator, we read Moreator. Emanuel Gonzalez in Apparatu de Orig. & Progr. Jur. can. n. 96. Relates, that this Collection of Isidore Monachus was pub.