Changing Attitudes
to the Authority of the Holy Roman Emperors
in the Later Middle Ages
(c. 1273 – c. 1519)

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Abstract

This thesis examines the different and changing ideas about the authority of the Holy Roman Emperors during the later middle ages, with particular reference to the belief that the emperors were the temporal heads of Christendom, constituted by God as the defenders of the universal Church, and rightfully possessing an authority (of some sort) beyond their own territorial borders, over Christendom, or even over the world, as a whole.

The thesis argues that ideas of a unique imperial authority continued to be developed and refined throughout the later middle ages: indeed, it was in this period that they found their clearest expositors. Nor were such ideas marginal or lacking in intellectual force: imperialist thought was maintained and defended, often with considerable subtlety, by some of the most important thinkers of their day, such as Dante, Marsilius of Padua, William of Ockham, Petrarch, Nicholas Cusanus, and Aeneas Sylvius Piccolomini.

This thesis identifies several distinct conceptions of imperial authority, maintained by different groups of people for different purposes. It examines each in detail, and explains how they were related to the political circumstances and events of the time. A close analysis of specific crucial events and theoretical texts is set in a narrative account which provides the historical context.

The thesis begins with an account of imperial ideas and institutions from antiquity to the central middle ages, with a particularly close treatment of the Hohenstaufen period (1138-1250), including analysis of the revival of Roman law, the rediscovery of Aristotle, and the development of theories of sovereignty in other states.

This analysis begins with the period in which it seemed that the Papacy had completely triumphed over the Empire (c. 1273 – 1303), making particular reference to what might be called the ‘high papalist’ conception of the Empire expressed by Boniface VIII.

There follows an examination of the expedition of Henry VII (r. 1308-1313) into Italy to claim his imperial crown. In this examination the De Monarchia (c. 1312) and other imperialist writings of Dante are analysed, as representing a universalist (as well as a distinctively Italian Ghibelline) understanding of the Empire. There is also a close treatment of Henry’s conflict with Robert of Naples, which brought about Pope Clement
V’s ruling in the bull *Pastoralis Cura* (1313) that temporal authority is territorial confined.

Ludwig IV’s conflict with the papacy is examined as a dispute over the independence both of the Empire and of Germany. In this connection particular reference is made to Ludwig’s irregular coronation in Rome (1328), in which the ‘civic Roman’ conception of Empire is prominent, and, by way of contrast, to treatises by two of Ludwig’s defenders, Marsilius of Padua and William of Ockham.

In examining the reign of Charles IV (1347-1378), it is argued that a marked divergence then becomes evident between attitudes to the Empire north and south of the Alps. As regards Italy, the career (1347-1354) of the Roman civic revolutionary Cola di Rienzo is discussed as an attempt to create a genuinely ‘Roman’ Empire; and a close examination is made of the writings of the poet Petrarch, whose changing attitudes towards the Empire are taken as representing the beginning of a new ‘humanist’ or ‘Renaissance’ understanding of the Empire and of its continuity (or discontinuity) with antiquity. As regards the territories north of the Alps, the Golden Bull of 1356 is examined as a sign of the Empire’s transformation into a constitutional form for the political organisation of the German states.

The thesis then examines the Empire in the fifteenth century, looking closely at the last occasion on which an emperor effectively exercised a special role with respect to the common affairs of Christendom, the intervention of Sigismund in the Council of Constance (1414). Two very different treatises on the Empire, the De Concordantia Catholica (1433-4) of Nicholas Cusanus, and the Epistola de Ortu et Auctoritate Imperii Romani of Aeneas Sylvius Piccolomini (1446), demonstrate the continued potency of the idea of supranational imperial authority. Finally, the reign of the Emperor Maximilian I (1493-1519) is discussed, as the time in which the fundamental Germanness of the Empire was officially recognised and affirmed.
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Statement of candidate contribution

I am the sole author of this thesis, which is entirely my own work. This thesis does not contain work that has been published, or work that is being prepared for publication.
Introduction

No institution of the middle ages was as peculiar and perplexing as the Holy Roman Empire. For the greater part of the span of years which separates us from the end of the ancient Roman empire in western Europe, there were emperors who claimed to be the successors of the emperors of ancient Rome, and who called their realm the Roman Empire. This Roman Empire was, moreover, considered to have an intrinsic connection with the Christian religion; and for much of the Empire’s life its rulers were considered to have a unique and God-given role in the community of Christendom. Therefore their empire was called ‘Holy’. It was sometimes claimed that the Emperor held with respect to temporal matters a position in Christendom analogous to that of the Pope with respect to spiritual matters: that the Emperor was temporal head of Christendom, and that other kings were his subjects. It was even on occasion claimed that the Emperor was by rights ‘lord of the world’, whom every human being was bound to obey. In this thesis, I will examine closely these claims for the Holy Roman Emperors – that they were the successors of the ancient Roman emperors, that they held a unique role in Christendom, and that their authority stretched beyond their own borders – in the later middle ages.

Just as no institution of medieval western Europe was as peculiar and perplexing as was the Holy Roman Empire, so none, with the exception of the Catholic Church, is comparable to the Holy Roman Empire in the extent to which its existence was sustained by ideas and beliefs. Ideas of what the Empire was and ought to be did not merely affect its history: they were responsible for the Empire’s whole existence. A proper understanding of those ideas, and of how they affected, and were affected by, the course of historical events will help us to understand better not only the history of the Empire, and of its constituent lands, but also the history of the Catholic Church, of the
community of nations in western Christendom, and of medieval political ideas and institutions in general.

There were times in the middle ages when the realities of the ‘Holy Roman Empire’ were such that the claims made for it would have been plausible to those who heard them – times when it was the pre-eminent state, and its emperors the most powerful monarchs, in western Europe; times when it did really include Rome, when the emperors were the protectors and closest allies of the papacy, when neighbouring kings recognised their supremacy. For much of the middle ages, however, theory and reality were far apart. The medieval ‘Roman Emperors’ were mostly German kings, only occasionally visiting the city from which they derived their most illustrious title. The Empire’s centre of gravity was always north of the Alps. After the eleventh century, the popes claimed to be above the emperors, and emperors could no longer convincingly claim a position equivalent to that of the pope. From the beginning of the thirteenth century the rulers of other kingdoms rejected the claims of the emperors’ supremacy; and in the middle of that century the strength of the Empire was broken even in its own territories, which came to consist of a great many practically independent states, under the nominal headship of an elective monarch with very little power. The Empire lost, moreover, its connection with Rome: no emperor was crowned there after the middle ages. Nonetheless the institution itself endured, and as a loose federation of German states it remained in existence until the time of the Napoleonic Wars. Until its dissolution in 1806, the ‘Holy Roman Empire’ retained a title which had become singularly inappropriate and which, as it conspicuously did not correspond in any way with reality, seemed merely absurd. In its final century Voltaire famously, and not without justification, mocked the empire as ‘not holy, not Roman, and not an empire’:

1 Ce corps qui s’appelait et qui s’appelle encore le saint empire romain n’était en aucune manière ni saint, ni romain, ni empire. (Voltaire, Essai sur les mœurs, 1756, chapter 70.)
the words are endlessly quoted, and in the minds of many people represent the verdict of history.

This thesis sets out to examine precisely this area of inconsistency – the inconsistency between what the Holy Roman Empire was and what it was called – which has made our proper understanding of it so difficult. I hope to cast light on the matter by explaining clearly what the Empire was and what it was not, what exactly was claimed for it, how those claims came to be made, and why they were plausible to the people who made them and believed them. I will argue that the changing form of the imperial ideal was related, in each period, to important developments and events of the day. In several instances we shall find some of the most brilliant and influential thinkers of the time – such as Dante, Petrarch, Marsilius of Padua, William of Ockham, Nicholas Cusanus, and Aeneas Sylvius Piccolomini – preoccupied with this very subject.

**Literature review**

Several outstanding works have been invaluable in the writing of this thesis. Before doing anything else, I wish to acknowledge them and to explain briefly why I consider a further work to be warranted. The first is James Bryce’s wonderful, rich and treasure-filled *Holy Roman Empire*, which first excited my interest in this subject; the second is Geoffrey Barraclough’s incisive *Mediæval Empire: Idea and Reality*, with an argument not only clear but clarifying; the third Robert Folz’s *Concept of Empire in Western Europe from the Fifth to the Fourteenth Century*. (I also derived great benefit

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from Friedrich Heer’s *Holy Roman Empire*, even though it does not seek to deal specifically or analytically with beliefs about the authority of the Emperor. In his fascinatingly idiosyncratic and lyrical book, Heer looks at the cultural, artistic, and – one can only say – spiritual significance of the empire for Europe.) Valuable as these sources are, it is necessary, nonetheless, to explain why they do not by themselves suffice, and why additional work is needed.

Though many of Bryce’s characteristically nineteenth-century judgements would not be accepted today, the fact that his *Holy Roman Empire* is by now quite an old book should provide no difficulties to the intelligent and critical reader. It remains in many respects the *locus classicus* for the subject. There is, however, a fundamental problem with Bryce’s argument, as a result of which his work, though a superb piece of historical literature and full of valuable information, needs considerable qualification. One could not lend the book to curious but uninformed students without a sheaf of notes to prevent them from coming away with thoroughly mistaken notions.

Bryce considered the Holy Roman Empire to have been deliberately established to realise the ideal of a single, universal, civilised, Christian community. Bryce’s explanation of how this imperial ideal and the real Holy Roman Empire were related took for granted the priority of the ideal. It was Bryce’s intention to discuss “the inner nature of the Empire” and the principles on which he considered it to be founded, and to “describe the Empire not as a State but as an Institution, an institution created by and embodying a wonderful system of ideas”. Bryce therefore treated the idea of the empire as if it, rather than the fact of the Empire as it really was at any particular time, was the ‘real’ empire. The essential character of the Empire as described by Bryce is thus ideal

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6 It is because Heer makes no claim to treat the themes that are the subject of this thesis that I have no occasion to make any specific criticisms of this book.

7 Bryce, p. 2.
and transcendent: the whole history of the Holy Roman Empire is the story of the ultimately unsuccessful attempt to make this ideal real upon the earth.

Bryce treated Christendom as a united body under two heads. “The Holy Roman Church and the Holy Roman Empire”, he wrote, “are one and the same thing, seen from different sides”.8 In one respect Christendom was a political community, a single state under the rule of the Emperor, and was called the Holy Roman Empire; in another respect it was a religious community, a single church under the rule of the Pope, and was called the Roman Catholic Church. Bryce considered Church and Empire merely different aspects of the one thing: they were thus coterminous, in theory if not in reality. Although such a claim was made by a handful of imperialist theorists during the middle ages, it was made by no more than a handful: it was in fact never anything like the commonplace Bryce took it to be.

Moreover, Bryce considered this imperial idea, of which the Holy Roman Empire was (according to him) the embodiment, to have been clear in everyone’s minds, and to have been so much taken for granted that it seldom needed to be stated explicitly. It need not surprise us, he wrote, “that we do not find in any one author a full account… [of imperial theory], since much of what seems strangest to us was then too obvious to need statement or explanation.”9 Of particular importance for Bryce’s analysis of imperial ideas is his belief that they remained substantially unchanged for century after century. The whole form of Bryce’s discussion presupposes that this is so. Nonetheless, Bryce, in a passage worth quoting at length, at one point gives away that this is in fact not so:

To describe those beliefs concisely and yet faithfully is difficult, for although some of their salient features remained substantially the same from the days of St. Augustine almost to the days of Erasmus, no single

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8 Bryce, p. 105.
9 ibid., p. 108.
epoch in that long series of generations can be taken as shewing them in their full and typical completeness. The system of ideas which created and sustained the Holy Empire was in some of its aspects, or some of its parts, constantly growing, in other aspects and other parts constantly decaying, from the fifth century to the fifteenth, the relative prominence of its cardinal doctrines varying from age to age. But, just as the painter who sees the ever-shifting lights and shades play over the face of a wide landscape faster than his brush can place them on the canvas, in despair at representing their exact position at any single moment, contents himself with painting the effects that are broadest and most permanent, and at giving rather the impression which the scene makes on him than every detail of the scene itself, so here the best and indeed the only practicable course seems to be that of setting forth in its most self-consistent form the body of ideas and beliefs on which the Empire rested, although this form may not be exactly that which they can be asserted to have worn in any one century, and although the illustrations adduced may have to be taken sometimes from earlier, sometimes from later writers. As the fundamental doctrines were in their essence the same during the whole of the Middle Ages, such a general description as is here attempted may, mutatis mutandis, serve true for the tenth as well as for the fourteenth century.\(^\text{10}\)

As Bryce’s *Holy Roman Empire* was for decades the authoritative account in English of imperial ideas, other Anglophone historians of the Holy Roman Empire left his argument unchallenged: for example, Herbert Fisher in his *Medieval Empire* said that he had no intention of trespassing on Bryce’s ground and therefore confined his

\(^{10}\) Bryce, pp. 89-90.
discussion to the realities rather than the theory of the empire. Bryce’s interpretation of how the institutional empire and imperial ideas were related remained essentially the scholarly consensus in the English-speaking world until 1950, when Geoffrey Barraclough delivered to the Historical Association the speech which was later published as *The Medieval Empire: Idea and Reality*. Barraclough was not so much presenting findings of his own as making and insisting on a clear and coherent synthesis of findings that had accumulated over some decades, particularly in German historiography. Although cumulatively these findings demanded the reassessment of Bryce’s interpretation such a reassessment had not yet occurred.

Barraclough argued convincingly that Bryce was wrong in considering the imperial idea to be a single, unchanging thing, which successive generations tried in their differing circumstances to make real. On the contrary, Barraclough argued, both the Empire itself and the ideas of what it was and ought to be changed throughout its history. The Empire, he wrote, “meant different things to different men at the same time, and different things to men at different times; indeed, it was different things at different times.” Bryce, Barraclough argued, because he took for granted the continuity and identity of the imperial idea throughout the centuries, had regarded what was said of it in any one time as applicable to all times, and thereby created a composite that had not really existed. Referring to the passage from Bryce quoted above, Barraclough insisted that “it simply is not a fact that what was ‘true for the tenth’ was true ‘as well for the fourteenth century’”. Consequently, Barraclough concluded that “Bryce’s attempt to depict a self-consistent ‘body of ideas’ on which the Empire rested’, a set of ‘fundamental doctrines’ that ‘were in their essence the same during the whole of the middle ages’, must necessarily fail.” This being so, the history of those ideas and

12 Barraclough, p. 108.
13 *ibid.*, p. 108.
realities needed to be re-interpreted. Barraclough suggested the lines that such a re-
interpretation might take, although he did not himself write along those lines at great
length.

Soon afterwards, Robert Folz, who had been working independently of
Barraclough, published his *L’Idée d’Empire dans L’Occident du Ve au XIVe siècle*,
which clearly distinguishes between different interpretations of imperial authority as
held at different times, in different circumstances, and by different schools of thought.
Yet despite its considerable detail and plentiful documentation, Folz’s analysis is not
entirely satisfactory. This is partly because of the chronological parameters by which
the work is limited, and partly because Folz’s interpretation is, it seems, structured in a
dialectical form which implies, without explicitly stating, that ideas about the Empire
changed according to some sort of logical dynamic. This interpretation is particularly
pronounced and particularly problematic in the last period Folz discusses, after the
middle of the thirteenth century.

Barraclough had apparently considered the ‘Medieval Empire’ to have ended in
the middle of the thirteenth century; and while Folz continues beyond that point, he
does not go as far as the end of the middle ages, instead stopping in the middle of the
fourteenth century. (The last event listed in the chronological tables he provides is the
promulgation of the Golden Bull in 1356.) Folz does not give any explicit reason for
his choice of this point as his *terminus ad quem*, although he does in his conclusions
give his judgement that the last occasions on which the concept of empire caused “any
activity in the political field” were the careers of three individuals, the last of whom
died in 1354. Even if it were granted that the concept of empire exercised no political

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14 This dialectical structure, although it can sometimes be obscured in the text itself, is evident if one
reads the contents pages.
15 Folz, p. 223.
16 ibid., p. 175.
influence after the fourteenth century, which I do not think is the case, it would not follow that imperial ideas were no longer discussed and argued about, or even adapted, developed and refined. (On the contrary, Aeneas Sylvius Piccolomini and Nicholas Cusanus, two of the most important intellectuals of their day, were in the following century to write forceful treatises, which this thesis will examine in detail, in defence of the imperial authority.) Folz’s decision to end his discussion where he does precludes – seemingly arbitrarily – discussion or analysis of these later developments. While Folz is, of course, not obliged to carry his examination to any particular point, his readers are left unaware of the continued development of imperial ideas beyond the limits of Folz’s work.

Moreover, not only does Folz not discuss these later developments, but he presents his material in a way that strongly suggests that beyond the fourteenth century there is nothing more to discuss. Folz had characterised the period from the accession of Otto I (962) to the downfall of the Hohenstaufen dynasty (c.1254) as a time of “attempts at a synthesis” by which the ‘theory’ and the political reality of the empire might in some way be brought together. Although “attempts” at such a synthesis were made, the synthesis itself was not: and the Empire was thus left, according to Folz, “between theory and reality” throughout that period.17 Continuing on this line of characterisation, Folz’s discussion of the period between the middle of the thirteenth and the middle of the fourteenth centuries is called “The Concept of Empire Beyond the Realm of Reality”.18 Although practical efforts to make the imperial ideal real in the form of the Holy Roman Empire had ended in failure, “the concept of empire became an object of discussion – intense discussion, which presented a sharp contrast with the disintegration

17 The title of Folz’s Book III (pp. 59-118) is “Attempts at a synthesis: the Empire between theory and reality”.
18 Folz, Book IV (pp. 119-167).
of the Empire as an institution.” 19 This theoretical discussion, because it did not succeed in effecting a change in the *de facto* situation of the empire, is treated as ‘unreal’ and, by implication, pointless. An increasing detachment from reality is taken as the main characteristic of the period after the fall of the Hohenstaufen.

Such an impression is encouraged by Folz’s arrangement of material, which toward the end of the book is thematic rather than chronological. One example, which will also demonstrate Folz’s quasi-dialectical structure, is chapter twelve, ‘The Concept of Empire on the Threshold of Modern Times: Realities and Aspirations’. 20 This chapter is in three parts. The first is ‘The failure of Roman universalism’; the second discusses how, within the Holy Roman Empire, a universal imperial idea was replaced by the idea of a national state; the third discusses prophecies and legends about the Empire. Such an arrangement suggests a process by which universalist conceptions of Empire ‘failed’, giving way, as a consequence of that failure, to a limited, national conception of Empire, the larger idea of Empire becoming finally a sort of romantic dream. However, each of the three parts of the chapter in fact covers about the same period chronologically. Although prophetic themes, for example, were a feature of the whole period, they are presented as the consummation of a process whereby the idea of Empire became completely detached from reality. It is at that point that the body of the book finishes. The reader is left with no inkling of the later revivals, reassertions and reassessments of universalist imperial ideas.

The specialisation of historians as medievalists or early-modernists has contributed to an inconsistency in treatment of the Holy Roman Empire after the time of the Hohenstaufens. Medievalists have tended to focus on the high days of the empire, before the death of Frederick II, the last Hohenstaufen emperor (1250); consequently most of the work done by medievalists falls before the period examined specifically in

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19 Folz, p. 132.

this thesis. There is also a considerable body of literature on the revival of imperial ideas in connection with the reign of the emperor Charles V (r. 1519-1555), and, in general, on the Holy Roman Empire from the beginning of the Reformation to the end of the Thirty Years War (1648) – this time, the work of early modernists. Meanwhile, the later middle ages remain strangely neglected.

**The purpose and aims of this thesis**

These shortcomings in the existing scholarship suggest strongly that there needs to be a new and more thorough analysis of the changing attitudes to the imperial authority through the whole of the later middle ages. This thesis will deal specifically with this neglected period. (For the purposes of studying the Holy Roman Empire, the later middle ages may be defined as beginning with the interregnum (c. 1254-1273) after the downfall of the Hohenstaufens, and ending with the death of the Emperor Maximilian I in 1519). Unlike Bryce, I will proceed on the principle that there were several ideas of Empire, ideas which were in fact often incompatible. I intend to examine in greater detail the parts of the later middle ages covered more cursorily by Folz, and to carry my examination through to the end of the fifteenth century. To avoid those problems which, in Folz’s case, were caused by a thematic arrangement of material, I have made a deliberate decision to adhere to a chronological scheme of presentation.

Since I am making a particular effort to explain why ideas about the Empire took the form that they did, and why they were plausible, changes in imperial political theory will not be discussed in isolation. The closer analyses of particular topics will be set in a narrative account which covers the whole period in some depth, so that each incident in which claims were made about the imperial authority can be seen in its historical context. Moreover, I will consistently relate what particular people thought, said and
wrote about the Empire not only to other ideas on the subject, but also to the contemporary state of the empire as a political reality, and to the greater themes of the history of the time. These closer analyses will examine different interpretations of the imperial authority, as held by different schools of thought, at different times, and in different circumstances.

The plan of the thesis

The themes of continuity, of succession and inheritance, and of the transmission of authority by an unbroken (if tenuous) connection with antiquity are of utmost importance for understanding the Empire. All theories of the Empire depended on the idea that an institution, in spite of an almost complete change in outward appearances, could endure and remain in essence the same. The identity of the Empire of the day with the Empire of the past, all the way back to the time of Augustus Caesar (r. 31 B.C. – A.D. 14), was the fundamental principle of imperial theory. We will not be able properly to understand ideas held about the Empire at any particular time unless we have a clear understanding of what went before them. With this in mind, I will give an overview of the history of imperial institutions and ideas in antiquity and in the early and central middle ages before beginning the closer analysis of the later middle ages which is the specific topic of this thesis.

I will first discuss briefly the history of the ancient Roman Empire, and explain why the people who lived through the fall of the Roman Empire in the west did not consider the Empire to have come to an end. I will then trace the continued existence of the title of ‘Roman Emperor’ after the fall of that original empire, to establish what exactly was the nature of the title that came to the German rulers of the middle ages. I will examine how the title of ‘Roman Emperor’ came to be conferred on the Frankish monarchs, and how, after a lapse, it came to be conferred on the kings of Germany. I
will describe precisely the nature of the Empire as it was established by the accession to
the imperial dignity of Otto I (962) – an accession which, I will argue, marks the real
beginning of the Holy Roman Empire – and will explain how the popes, from a position
of equivalence or even subservience to the emperors, came to claim and to be accorded
independence and, increasingly, superiority.

This historical overview will culminate in a closer examination of the
Hohenstaufen period (1138-1250), which will form Chapter Two. This period has
particular significance, firstly because it provides the immediate background to the later
middle ages, but also because it was the time of the most forceful conscious assertion of
a coherent body of imperialist political theory. The treatment of the Hohenstaufen
dynasty will begin with a narrative account of Frederick Barbarossa, Henry VI,
Frederick II, and the downfall of the dynasty. In this account particular attention will be
paid to the exchange between Frederick Barbarossa and the delegation from the ‘people
of Rome’ (inspired by the teaching of Arnold of Brescia) that met him when he was
approaching the city for his imperial coronation in 1155, since it demonstrates well the
clash of two mutually exclusive conceptions of the Empire – one being that the Empire
was intrinsically Roman, the other being that the imperial authority had been vested
immediately in the German monarch. This narrative account will be followed by
examinations of three important themes from the Hohenstaufen period: firstly, the
revival of Roman law, with its implications for the authority of the Roman emperor, and
its influence on the way in which other kings’ independence and authority were
understood; secondly, the slightly later rediscovery of Aristotle, with its influence on
developing theories of the state; thirdly, the attitudes to the Empire on the part of the
French monarchy, which had been vigorously arguing for its independence through the
thirteenth century and which with the fall of the Hohenstaufens would take over from
the Empire as the dominant monarchy in western Europe.
In Chapter Three, we will look at the German monarchs of the last decades of the thirteenth and the first decade of the fourteenth century – Rudolf, Adolf, and Albert – who ruled in the period in which the quarrels between the popes and the emperors seemed to have concluded in the complete triumph of the papacy. I will examine particularly closely the dealings of Boniface VIII, probably the most forthright exponent of claims to papal supremacy, with Albert. These dealings will show particularly well what may be called the high papalist conception of the Empire.

Thereafter, we will look at the short but highly significant reign of Henry VII (r. 1308-1313), whose expedition into Italy to claim his imperial crown occasioned the writing by the poet Dante Alighieri (1265-1321) of his exposition of imperial theory, the treatise De Monarchia. That treatise will be closely examined, representing as it does an Italian Ghibelline understanding of the Empire. We will also look at the emperor’s conflict with Robert of Naples, which was to bring about the highly significant declaration by Pope Clement V, in his bull Pastoralis Cura of 1313, that temporal authority is territorial confined, a declaration that effectively nullified imperial claims to sovereignty over other monarchs.

In Chapter Four we will examine the reign of Ludwig IV and his conflict with the papacy, with particular reference to Ludwig’s irregular coronation in Rome, in which the ‘Roman’ conception of Empire, rebutted by Frederick Barbarossa, was pragmatically employed by his successor. We will examine in detail texts by two of Ludwig’s defenders, the political theorists Marsilius of Padua (the Defensor Pacis) and William of Ockham (the Breviloquium de principatu tyrannico and the treatise De Imperatorem et Pontificum Potestate), in which the independence of the emperor from the pope was asserted and defended. We will also discuss the declarations of Rhense

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21 The career of Ludwig IV was so complicated that it is impossible satisfactorily to assign him regnal dates: speaking broadly, one may consider him to have ruled in the third to fifth decades of the fourteenth century.
and Frankfurt (1338 and 1339), by which the German estates definitively declared that the man chosen by the German electors had full authority as a result of that choice, and did not need any confirmation by the pope.

In Chapter Five, we will examine the reign of Charles IV (1347-1378), in which a marked divergence can be seen between attitudes to the Empire north and south of the Alps. We will look closely at the Roman regime of the civic revolutionary Cola di Rienzo, in which the arguments for a genuinely ‘Roman’ Empire, first put forward by Arnold of Brescia, asserted against Frederick Barbarossa, and reinvigorated by the Roman expedition of Ludwig IV, came to their dramatic culmination (1347-1354). In examining Cola di Rienzo’s career, and also in discussing the subsequent visit of Charles IV to Rome (1355), we will pay particular attention to the writings of the poet Petrarch (1304-1374), whose changing attitudes to the imperial authority can be taken as representing the beginning of a new ‘humanist’ or ‘Italian Renaissance’ understanding of the Empire and of its continuity (or discontinuity) with antiquity. We will also, by way of contrast, look closely at the Golden Bull of 1356, the Empire’s ‘Constitution’, which was promulgated in Charles’s reign, and which demonstrates how the Holy Roman Empire was increasingly becoming a constitutional device for the political organisation of the territories north of the Alps.

Finally, in Chapter Six we will look at the Empire in the fifteenth century. We will see how the new attitude towards the past that was characteristic of the Italian Renaissance affected attitudes to the Empire in Italy, and will look closely at the last occasion on which an emperor effectively exercised a special role with respect to the common affairs of Christendom, the intervention of the Emperor Sigismund in the Council of Constance (1414). We will examine in detail two very different treatises on the Empire, the *De Concordantia Catholica* (1433-4) of Nicholas Cusanus, and the *Epistola de Ortu et Auctoritate Imperii Romani* of Aeneas Sylvius Piccolomini (1446) –
one demonstrating how ideas about the imperial authority could be developed and refined with great subtlety to remain relevant and logically acceptable in modern circumstances, the other demonstrating that even the most extreme conceptions of imperial authority could still win the adherence of significant thinkers in the fifteenth century. Finally, we will look at the reign of the Emperor Maximilian I (1493-1519), in which the fundamental Germanness of the Empire was officially recognised and affirmed.
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Historical Review

The foundation of imperial theories throughout the middle ages was the presumed continuity of the Empire through the centuries, back to ancient Rome, a continuity taken for granted by all theorists of the Empire until the time of the Italian humanists. Consequently, theorists treated events from the distant past as constitutionally relevant to their own times, and made of them examples and proofs for crucial points in their arguments. The debate about the Empire was thus in many respects a debate about history: about what had actually happened, and about what its significance was. Many of the themes that were most important and most contentious in the later middle ages had originated long before that time. It is for this reason that we must have a clear understanding of the history of the Empire, both ancient and medieval, before we begin our close examination of the later middle ages. This chapter sets out to provide such an understanding, and to show the origins of many of the features of the late-medieval ideas of Empire.

For example, we shall find the antecedents of the conception of the Empire as a world-government in the Hellenistic idea of an *ecumene*, and in the ancient Roman idea of an *orbis terrarum* coterminous with the *imperium Romanum*. Similarly, the constitutional development of ancient Rome – particularly the process by which the authority of a republican city-state with a vast empire came to be vested in an *imperator* – would inspire the medieval ‘Roman’ interpretation of Empire in which universal authority belongs by rights to the people of the city of Rome itself. Again, ancient times will show us the detachment from the actual city both of the quality of *Romanitas* and of the imperial authority of Rome – a development crucial for an understanding of later *translationes imperii*. 
We shall see how the Roman Empire came to be associated particularly with the Christian religion, and how, in the centuries after Constantine, it was largely the Roman emperors who governed the Church in their realm. Knowing this history will enable us better to understand medieval conceptions of the Emperor as the particular defender and even governor of the Church, and the special roles sometimes attributed to emperors in religious matters.

We will pay particular attention in this chapter to the significance of the coronations of Charlemagne and of Otto I – the former marking the revival of an imperial dignity in the west, the latter the effective vesting of that imperial dignity in the German monarchy. How exactly the imperial authority came to be given to these monarchs would prove a crucial question in later debates, determining the right by which their successors held the office of emperor, and the nature of the authority which they held.

Since the antagonism between Papacy and Empire will feature prominently in this thesis, it is essential that we understand the investiture controversy, with which that antagonism began. Reviewing that controversy and its aftermath, we shall find the origin of the papal claims to supremacy over the Empire, and of the counter-claims of Imperial independence and supremacy. Throughout our examination of the later middle ages, we shall see the papacy taking a particular interest in the Empire, and claiming rights of intervention in the Empire which it did not claim in other states: the origins of this interest and of these claims are also to be found in this earlier period.

In the span of ancient and medieval history that this chapter covers we will see a complex interaction of changing political situations and changing political theories. By the high middle ages, these changes had produced both the configurations of territorial government and political power, and the conflicting bodies of thought, within which the
developments of the later middle ages were to occur. It is vital, therefore, that we understand properly how things came to be the way they were.

**The idea of Empire in pre-Roman times**

The idea of Empire as it will be considered in this thesis predates even ancient Rome: it began with Alexander the Great, when he was away in the east on that great expedition of conquest that took his army to lands no Greek had seen before. Alexander had been educated by the philosopher Aristotle, whose ideas we shall encounter again; and Aristotle had taught him that Greeks were superior to barbarians, and that the natural and best form of government was the city-state. But Alexander, having conquered the Persian Empire and seen more of the world than his old tutor had seen, came to a different conclusion. He decided that, despite superficial cultural differences, people were basically the same; and that they ought to be brought together into a single world-community – which Alexander, of course, would rule. It was with this plan in mind that Alexander continued his conquests in the east; and he would, had he lived, have gone conquering in the west also, seeking to bring all lands under his rule. Alexander did not succeed in conquering the world, but his empire was the largest that had yet been seen.

Although Alexander’s empire was divided following his death, the lands that he had conquered formed the ‘Hellenistic world’, characterised by Greek civilisation. The idea that all people were members of a single human community remained: it would be particularly emphasised by the Stoic philosophers. Beside, and not unrelated to, that idea of a single human community, however, was the idea that Greek civilisation was civilisation *par excellence*, and that beyond the areas where it prevailed there could only be barbarism. Thus was established the idea of an *ecumene*: an area of Hellenistic

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culture in which various peoples were united in a common civilisation, an area in which alone the ideal of a single civilised human community was being realised. ¹ Those outside the *ecumene* were destined either eventually to be incorporated into it or to remain in barbarism, essentially excluded from the human community, their human capacities unrealised. This concept of an *ecumene* was one of the dominant and unifying ideas of the Hellenistic world of the eastern Mediterranean.

**The empire of republican Rome**

There have been empires in the ordinary, modern sense of the word that have had nothing whatever to do with the empire of Rome. Ancient empires had already risen and fallen before Rome’s was founded, and there were other empires in other parts of the world altogether. However, the word *imperium*, of which our English word ‘empire’ is merely a different form, is a Latin word, and it was of the ancient Roman empire that it was first used. The word was in ancient times and through the middle ages almost always understood to refer to something specifically Roman: not until modern times did the word ‘empire’ obtain its present generic applicability. ⁴

Rome began as a city-state, and after the expulsion of the last of her kings had a republican form of government. This city-state of Rome over many years conquered and ruled other lands. While Rome herself, the city-state, long remained republican in her own internal government, her government of the conquered lands was absolute. In the language of the time, the city of Rome wielded *imperium* over these territories. ⁵ Rome was still a republic; but she possessed what we would call an empire. The provinces of this empire were ruled by governors: they exercised in their provinces the authority of Rome, and were answerable to her senate; but their authority over Rome’s subjects was despotic, and was enforced by the occupying Roman army. There was a clear distinction

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¹ Folz, p. 4.
⁵ *ibid.*, pp. 5-6.
between the Roman citizen and the subject of Rome: the citizen alone was a Roman, entitled to participate in Rome’s republican government, and to share the benefits of Rome’s rule over conquered peoples.

Eventually Rome ruled the lands of the eastern Mediterranean, and took over the Hellenistic idea of an ecumene. Into the Roman empire had been gathered the contributions of all the ancient civilisations around the Mediterranean Sea. The Romans rather exaggerated the extent of this achievement: they spoke as if all civilisations were now part of the Roman empire. Accordingly, it was the Roman Empire, now, that was the single community of civilised peoples. Once that was taken for granted, the conclusion followed that whatever was outside the Roman empire must of necessity be uncivilised. The Roman empire was therefore regarded as inherently coextensive with the civilised world. Rome, it was said, ruled the orbis terrarum, the whole world; people spoke of Roman rule as universal. (The Romans were of course quite aware that their empire did not cover the whole geographical world; but those who were outside its borders they dismissed as barbarians and beneath consideration.) The Roman empire could be identified with the whole world because it was all of the world that mattered. The purpose of Rome’s conquest of other lands, it was said, was to give peace and good government, by bringing them under a single rule. To the ‘barbarians’, Rome would give the benefits of civilisation, bringing their lands into the community of civilised peoples. Rome herself was the Eternal City, to whom it was given not only to endure for ever but for ever to rule all lands. Jove himself, sang the poet Virgil, had bestowed that power on Rome:

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7 Folz, p. 4; Koebner, p. 14; Pagden, pp. 19-23, 38.
His ego nec metas rerum, nec tempora pono:
Imperium sine fine dedi.\textsuperscript{10}

\textbf{The establishment of emperors}

Eventually, as the result of civil wars (with which we need not be concerned here), power passed into the hands of one man, the \textit{princeps} or \textit{imperator}. At first, the authority over the \textit{orbis terrarum} was still that of the City of Rome. However, within Rome’s republican government the \textit{princeps} was now a dominating figure; and the \textit{imperium} which Rome wielded over the empire was entirely in his hands. In theory, it was as chosen executive of the ‘Senate and People of Rome’ that the \textit{princeps} held power over the empire and was in charge of Rome’s army. Increasingly, the reality was the other way around: an ambitious general who controlled the army could obtain the supreme power. For this reason the military title of commander-in-chief, \textit{imperator}, or emperor, came to be increasingly important.\textsuperscript{11}

With the concentration of power, especially military power, in the hands of one man, there was nothing to prevent him from using that power, in theory delegated to him to use on Rome’s behalf, to reduce Rome herself to submission. A general himself a provincial, at the head of one of Rome’s provincial armies, having been acclaimed by his troops and having defeated his rivals might bring his army against Rome herself and compel the Senate to recognise formally his seizure of the supreme power. (These emperors, not Roman themselves but imposed upon Rome, gaining the office by bringing an army to the capital city, foreshadow in some ways the German emperors of later days.) Thus over time the authority of the emperor over Rome herself, as over the empire, became absolute, the powers of the old republican institutions being reduced to a mere form, such as the formal recognition of the emperors whose authority they could

\textsuperscript{10} \textit{Aeneid} I. 278-9; cited by, \textit{inter alia}, Bryce, p. 20.

\textsuperscript{11} Bryce, p. 4; Folz, pp. 5-6; Harold Mattingly, \textit{Christianity in the Roman Empire}, University of Otago, 1955, p. 10.
not dispute. Tacitus had earlier described the discovery of the secret of the empire, that an emperor need not be made at Rome: he was speaking only of then recent events, but his perceptive comment explains much of the survival of the Roman imperial title for so many centuries after his time.

The Roman ‘world-state’

The territories ruled by Rome gradually became a large state called the imperium Romanum. The imperium—as-authority formerly belonging to the Roman people was vested in an imperator, who ruled the empire, Rome included. With the reduction to ineffectuality of the Roman republican institutions, the dignity of citizenship lost its intrinsic connection with the city and became a status of privilege within the empire. Citizenship was conferred upon other inhabitants of the empire, not Romans by birth: eventually, by the Edict of Caracalla (212), it was extended to all free inhabitants of the empire, putting an end even to the notional connection of citizenship with the City. Differences of race and culture had been lost in a common ‘Roman’ identity: every one in the empire, regardless of ancestry or dwelling-place, was now a Roman.

Rome itself, from being the ruler of an empire, became merely the capital: the Empire had become more important than the City. Romanitas, the quality of ‘Romanness’, was a property not of Rome only but of the whole empire, and of the parts as much as the whole. The Roman Empire could have, so to speak, a life of its own in which the City which had given it its existence no longer played a central part – or even

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12 On the decline of the Senate, see Chris Wickham, The Inheritance of Rome: Illuminating the Dark Ages, 400-100 (Penguin, 2009), p. 28.
13 “...evulgato imperii arcano posse principem alibi quam Romae fieri.” Tacitus, Histories, i. 4, quoted by Bryce, p. 80, Koebner, p. 12.
14 Pagden, p. 13; Koebner, pp. 7-8.
16 Bryce, p. 5; Mattingly, p. 11.
17 Bryce, p. 6; Pagden, p. 17.
any part at all. Towards the end of the third century emperors were establishing their seats of government in cities other than Rome, cities which, while lacking Rome’s historical significance, were strategically more important.

**Rome and the Christian Church**

The Roman emperors had – for the most part – had a tolerant religious policy: all religions were tolerated as long as they did not disturb the peace or, significantly, prevent the citizen from performing what were considered his civic duties. Among those duties was participation in the imperial cult, the worship of the emperor as a god. This worship was regarded as an essential sign of loyalty to the state, and refusal to participate was taken to be an act of, and evidence of, disloyalty. The worship of the emperor was consistent with paganism, but it was not consistent with Christianity; and Christians, for their conscientious objection in a matter which most Romans considered a mere formality, were persecuted as disloyal to the state. In fact they were nothing of the sort: the early Christians regarded the Roman empire as having a special role in God’s providential designs; they habitually prayed for the welfare of the emperors and the empire; and, despite the persecutions, they insisted on the conscientious duty of loyalty to the state.

In the early fourth century the imperial policy was suddenly changed. The Emperor Constantine first tolerated Christianity and then actively favoured it (although he was himself not baptised until shortly before his death). Constantine’s successors mostly continued his support for Christianity: the attempted revival of paganism under Julian ‘the Apostate’ (361-363) was unsuccessful, and in the reign of Theodosius (379-395)

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18 Bryce, pp. 8-9.
19 ibid., p. 6n, 7.
Christianity was declared the only legitimate religion, the pagan temples were closed, and the worship of the pagan gods was forbidden. Christian teaching already upheld the authority of the emperor; and the emperor acted as defender, patron and promoter of the Church.

Although the conversion of the Empire to Christianity put an end to the worship of the emperors as gods, the aura of sacred authority surrounding the emperors was not diminished. Much of the imperial ceremonial and imagery adopted in the reigns of Aurelian and Diocletian, by which the emperor was presented as the earthly equivalent of the Unconquered Sun, continued in use: the emperor was now portrayed as the representative on earth of the One God.

The emperor was also in practice the governor of the Church. In pagan times, emperors had, under Roman law, had authority over the pagan priests, over the conduct of the cultus of the Roman gods, and over the maintenance of the pagan temples and shrines. When Christianity became a religio licita, this legal authority of the emperor was judged to extend to the Christian Church as well. The clergy within the empire were organised into a hierarchy paralleling the civil governors: the emperors appointed bishops, and generally oversaw all the administrative and organisational business of the Church.

Constantine himself expressed his position clearly to the Christian bishops: they were to take care of the internal, he of the external business of the Church. Here is a division of roles with respect to religion very different from later concepts of church and state. The internal matters, the concern of the clergy, were things like the conduct of

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22 See, for example, Matthew xxii. 15-21; Romans xiii. 1-7; I Timothy ii. 1-2; I Peter ii. 13-17.
23 Bryce, p. 22; Folz, p. 8.
24 Folz, p. 8.
26 Bryce, pp. 10-11, 22-23, 99; Folz, p. 8; Mitchell, pp. 271-272.
divine worship, the definition and preaching of Christian doctrine, and the care of the souls of the faithful, while the external matters, which pertained to the imperial government, included all the organisation of the Church insofar as it was an institution existing in the world.\textsuperscript{27} Constantine’s description of his office with respect to the government of the Church is telling. He referred to himself as the επίσκοπος των εκτός, which might be rendered as the ‘overseer of the external things’, but which significantly uses the word επίσκοπος, literally meaning ‘an overseer’ but also the word for ‘a bishop’.\textsuperscript{28} Thus the emperor’s authority with respect to the Church, although covering different matters, was presented as being essentially of the same sacred, religious character as that of the bishops.\textsuperscript{29}

When, after the toleration of Christianity, there arose theological disagreements, these were settled in a striking new way: at the Emperor’s bidding the bishops of the Empire assembled in a council, at which the Emperor presided; the decision of the council was published with imperial authority as the end of the controversy. Constantine, prior to becoming sole emperor, had presided over such a council at Arles, to the decisions of which he gave force as far as his own authority stretched. After Constantine became sole emperor, the Council of Nicaea, convened by him to deal with the Arian controversy, was significantly called ‘ecumenical’, and regarded (in a typical application of a familiar principle) as being a meeting of all the bishops of the world, a council of the Universal Church. (Christians outside the empire were ignored.) It would seem that Constantine did not involve himself in the theological debates, deferring to the bishops as judges of theological truth: his concern as a ruler was with having the matter settled, and with imposing what had been decided, and this he did. Such was the awe of the imperial office, and the legal certainty of the emperor’s right to control such

\textsuperscript{27} Ullmann, pp. 180-181.

\textsuperscript{28} Eusebius, \textit{Vita Constantini}, iv. 24, cited by Mitchell, p. 69; Ullmann, p. 181; see also Heer, p. 18.

\textsuperscript{29} Folz, p. 8.
matters, that in the following centuries theological disputes (at least in the east) were ordinarily resolved by the emperor convening and presiding at a council, the decrees of which were enforced by law.\textsuperscript{30}

Even before the conversion of the empire to Christianity, the idea had appeared that the Roman Empire was destined to last for ever (as we have seen, for example, in the words of Virgil). Many people had come really to consider it an inherent part of the nature of things: the Roman Empire and civilisation, society, law and order were one and the same.\textsuperscript{31} To these secular considerations was added a theological one.\textsuperscript{32} The apostle Paul, in his second epistle to the Thessalonians, had referred to some power that was restraining evil in the present age, the removal of which would bring on the coming of Antichrist, and the terrible persecution in the last days before Christ’s return and the end of the world:

Now concerning the coming of our Lord Jesus Christ and our assembling to meet him, we beg you, brethren, not to be quickly shaken in mind or excited, either by spirit or by word, or by letter purporting to be from us, to the effect that the day of the Lord has come. Let no one deceive you in any way; for that day will not come, unless the rebellion comes first, and the man of lawlessness is revealed, the son of perdition, who opposes and exalts himself against every so-called god or object of worship, so that he takes his seat in the temple of God, proclaiming himself to be God. Do you not remember that when I was still with you I told you this? And you know what is restraining him now so that he may be revealed in his time. For the mystery of lawlessness is already at

\textsuperscript{30} Bryce, pp. 10, 12; Kellett, pp. 215-217.

\textsuperscript{31} Bryce, p. 20.

\textsuperscript{32} See also Bryce, pp. 92-93.
work; only he who now restrains it will do so until he is out of the way.

And then the lawless one will be revealed...

The “lawless one”, the “son of perdition” is naturally taken to be Antichrist. Rather less easy to understand are Paul’s (perhaps deliberately obscure) references to some power that is restraining “the mystery of lawlessness” and preventing the coming of Antichrist before the appointed time. An interpretation found in the first centuries of the Christian era, at a time when the Roman imperial government was still persecuting Christians, identifies this restraining influence with the Roman empire itself, an identification which would still be accepted centuries later. Accordingly, Christians had prayed for the Empire even as it was persecuting them.

A similar interpretation was applied to the vision recounted in the second chapter of the book of Daniel. Here, king Nebuchadnezzar saw a statue of a man, with a head of gold, breast and arms of silver, belly and thighs of bronze, legs of iron, and feet partly of iron and partly of clay. In the interpretation given by the prophet Daniel in the book itself, the head of gold is Nebuchadnezzar, while the silver, bronze, and iron parts of the statue represent a second, third and fourth kingdom (to which no names are given). The fourth of these kingdoms would eventually be divided and weakened (this being represented by the feet, in which the iron was adulterated with clay), and finally destroyed by the establishment of an eternal kingdom. The second, third and fourth kingdoms were subsequently identified with the Persian empire, the empire of

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33 II Thessalonians ii. 1-8.
Alexander, and the Roman empire respectively. Accordingly, the passage was taken to mean that the Roman empire would be destroyed only shortly before the establishment of Christ’s kingdom, at the end of the world – although between the empire’s destruction and Christ’s return would come the calamities of the last times. Beliefs such as these help to explain why, later, the Roman Empire’s continued existence was assumed despite appearances to the contrary – for since the last things had not yet come, the Empire must still be in existence.

**The transfer of the seat of Empire from Rome**

As mentioned earlier, for some time it had been customary for the seat of government to be located elsewhere than Rome. Constantine went much further than such temporary expedients, founding on the Bosphorus a new city, to replace Rome altogether as capital. Here is the clearest evidence that the identity of the Roman Empire had become independent of the city of Rome itself. Constantine himself called this city *Roma Nova*, a name that makes abundantly clear its status as a replacement for Rome; but it came to be called rather the ‘city of Constantine’, Constantinople.

It also became common, for practical reasons, for there often to be more than one emperor at a time – for example, one emperor residing in the western, and another in the eastern part of the empire. Although the administration was divided, the empire itself remained one and indivisible. The administration of the empire had been divided under Diocletian and among his immediate successors; then held alone by Constantine

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37 Bryce, pp. 23, 112; Heer, p. 3.

38 Bryce, p. 8.

39 Bryce, p. 24; Mitchell, p. 102.
and his successors for several reigns; divided in the time of Valentinian; held alone by Theodosius; divided again between his sons Arcadius and Honorius. Such divisions of administration were only temporary expedients, and were never considered permanent. (The ‘Eastern Empire’ and ‘Western Empire’ so often mentioned in history books are retrospective classifications, and, for understanding the matter we are examining, not particularly helpful ones. There was never, to those living at the time, more than one empire.) The senior emperor was the one in Constantinople, who administered the eastern and more valuable parts of the empire; his junior partner, who administered the western parts of the empire, had his residence not at Rome, but first at Milan and later at Ravenna. When there was only one emperor, he resided as a matter of course at Constantinople. This arrangement successfully consolidated the eastern part of the Empire – which was to endure for another thousand years – but did so largely at the expense of the west.

**The lapse of imperial power in the west**

The causes of the great changes that befell the empire in the following centuries are complicated, and we need not tell all the details here. Suffice to say that there was a steady migration of Germanic tribes into the Empire; that their demands for places to settle led to strife and war; that, in the western part of the empire, centralised government broke down; and that, eventually, imperial rule in the west was largely replaced by the existence of several practically independent kingdoms ruled by Germanic kings. The eastern part of the empire held firm under the authority of its emperor: but after the loss of the west and particularly of Rome seems increasingly to be a different entity from the Roman Empire of previous days.

By and large the Teutons were not hostile to Roman civilisation and had no intention of destroying the Roman Empire. On the contrary, despite its admittedly quite

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40 Bryce, p. 8.
serious problems, they admired it and wanted to be a part of it. The Germanic chieftains were proud of the Roman honours and titles which they received from the Emperor. Even as they took over *de facto* power in territories that the Emperor had once ruled directly, they requested of the Emperor, and were given by him, the titles of Roman offices: and it was to these titles, and not to conquest, that, not only then but long after, they ascribed their legitimacy.\(^41\) For some time the Germanic kings ruling outlying parts of the empire recognised the (ineffectual) local western emperor as their overlord: that is, their newly-established kingdoms were considered to exist within the Empire.

The real power of the emperors steadily declined: eventually, the only part of the western emperors’ area of administration that had not been taken over by a Germanic king was Italy herself. In Italy, the western emperors were reduced to being mere puppets of the dominant Germanic generals. Eventually, in 476, the general who held *de facto* power in Italy, Odoacar, forced the abdication of the feeble western emperor, the boy Romulus Augustulus.

No new western emperor was appointed; and therefore many historians have considered that the empire, at least in the west, came to an end with this abdication. Whether it did so or not is a matter of definition: what matters here is that this event, which historians have tended to regard as momentous, was not considered so at the time.\(^42\) No-one thought even that “the western empire” had ended (for there was no such thing), let alone that the Roman Empire had ceased to exist. For a century and a half the capital of the Empire had been at Constantinople. For the whole lifetime of even old people then living, the emperor in the east had been the stronger and the senior partner in the co-rule of the undivided empire; the western emperor had been the junior partner, and weaker. The real government of the western provinces had long been out of the hands of the emperor anyway. The change was, in fact, only small.

\(^{41}\) Bryce, pp. 16-19, 30, 45; Mitchell, p. 203.

\(^{42}\) Bryce, p. 26.
The endurance of the imperial idea

It was to the Roman Senate (even then still in existence despite having done nothing of note for centuries) that Romulus Augustulus announced his abdication: and his last imperial act (performed at Odoacer’s bidding) was to send a senatorial embassy to the eastern emperor Zeno, carrying the imperial insignia, which they laid before Zeno’s feet. The emissaries told Zeno that the west no longer required a second emperor of its own; and they asked him to confer on Odoacer the rank of ‘patrician’, and to give him authority to administer Italy on the emperor’s behalf.\textsuperscript{43}

In theory, all that had happened was that the temporary and extraordinary division of imperial responsibility between two emperors had come to an end, as had happened on previous occasions, the emperor at Constantinople thereafter being sole ruler of the whole empire. There had only ever been one Empire, and one Empire there still was: its capital and its emperor were at Constantinople, just as they had been in Constantine’s day.\textsuperscript{44} Some of the further western provinces had admittedly been lost – and given up for lost – but the existence of the Empire was not impaired thereby. Italy, heartland of the original empire, had strictly speaking not been lost. It was still part of the Empire: the emperors at Constantinople still asserted their authority over it, and, while it was not under their actual control, it was ruled by a king who was deemed to be the deputy of the absent Roman Emperor and who in word recognised the emperor’s jurisdiction. In Rome itself statues of Zeno as reigning Emperor were set up.\textsuperscript{45}

The reality, however, was that as the later western emperors had wielded no actual power, Romulus Augustulus had at his abdication had nothing of substance to concede to the eastern emperor. On the former occasions in which the divided rule of the Empire had once again been taken into the hands of one man, as in the case of

\textsuperscript{43} Bryce, p. 25; Mitchell, p. 119; Wickham, p. 86.

\textsuperscript{44} Bryce, pp. 26, 44, 62-63, 318; Kellett, p. 247n.

\textsuperscript{45} Bryce, pp. 25-26, 26n, 27, 44; Folz, p. 13; Mitchell, pp. 102, 121, 217.
Constantine or of Theodosius, that rule over the whole Empire had been real. In this last case, the reunion of the divided imperial powers in one person was merely nominal. While the emperor at Constantinople continued to wield real power over the eastern parts of the old Empire, as he had done previously, he did not wield any real power in the west.

While the Emperor might have no actual power beyond the east, the influence of the name and idea of a Roman Emperor spread much further than the areas where the Emperor’s commands were actually obeyed. There are cases of the rulers of the western kingdoms obtaining a Roman title and confirmation of their government from the distant Emperor: for example, Clovis the Frank (r. 481-511) received the honorary title of consul from the emperor Anastasius, in celebration of which he processed through the city of Tours vested in the consul’s purple robe and the chlamys of a senator. This demonstrates that while the Emperor may have had no actual power, he was still regarded, even by the kings, as strictly speaking the legitimate sovereign; and that the rule of the kings was considered to be dependent for its legitimacy on imperial approval.

In practice, however, most of the west ignored the emperors. Kings ruled without reference to him; he neither appointed them, nor confirmed them in office, nor gave them instructions, nor indeed took much notice of them at all. Yet he was still the Emperor; and the Emperor was a different sort of ruler from a king. Here we see already an idea we shall encounter again: that the rule of the Emperor and the rule of the king do not contradict or conflict with each other, but are of different kinds and exist, so to speak, on different planes.

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46 Bryce, pp. 17, 30; for examples of western rulers receiving the title of ‘patrician’ from the Emperor at Constantinople, see pp. 18, 25, 30n.
47 Bryce, pp. 18, 29-30; Folz, p. 6.
48 Bryce, p. 21.
In Italy, a special case, the imperial connection was more immediately relevant. Not only was Italy the historic heartland of the Empire and the location of the still symbolically-significant city of Rome, she was also geographically quite close to those parts of the Empire which remained under imperial rule. Although Italy had been on the western side of the former administrative division, that division no longer existed. To understand clearly the situation in Italy in this period, it is necessary to place the peninsula rather in the context of the continuing direct rule of the Emperor than in the context of the farther west, where such rule had *de facto* broken down. Although imperial rule over Italy was not direct, culturally and politically Italy formed the western edge of the enduring late Roman civilisation centred in Constantinople: and presently Italy would again (briefly) be under direct imperial rule.

Within sixty years of the abdication of Romulus Augustulus the emperor Justinian set out to restore real and direct imperial rule at least to these adjacent lands, instead of having them in the hands of rulers who recognised imperial authority in words but were independent in fact. Justinian sent to Italy an army which removed his nominal ‘representative’ and eventually brought Italy back under direct imperial rule. This time the peninsula was governed on the Emperor’s behalf by the Exarch of Ravenna, who was genuinely answerable to the emperor.49 Further invasions, this time by the Lombards, beginning in 568 meant that much of northern Italy was subsequently lost to the rule of the Emperor, although he (through his representative the exarch) retained control over the south of the country and the eastern coast.50

Although Italy recognised the emperors’ authority, the emperors’ main concern was not with Italy. In spite of their Roman name and legacy, their main concern was the defence and government of the bulk (further east) of their large state, to which Italy was peripheral. The Arab invasions greatly curtailed that state in the eastern Mediterranean,

49 Bryce, p. 29; Kellett, p. 247n; Mitchell, pp. 142-147, 381-386.
50 Bryce, pp. 29, 37; Mitchell, pp. 407-408.
and the attention of the emperors was therefore of necessity turned elsewhere than Italy and the west. As a consequence the rather shrunken state actually ruled from Constantinople became more and more Greek in character. The invasions thus contributed to a process already evident in Justinian’s day.

It is quite correct to say that this eastern empire, considered as a territorial state, was a continuation of the Roman empire, and likewise that its institutions, particularly the emperorship, maintained unbroken continuity with those of ancient Rome. If we look, however, at what the state ruled by the emperor at Constantinople actually was, we shall be forced to admit that it is something quite different from the ancient Roman empire. Its emperor might have been the successor to the Roman emperors, but to call him the ‘Roman emperor’ was by the seventh and eighth centuries rather far-fetched; and likewise for the inhabitants of this state, who were not of Roman origin and who never saw Rome, to call themselves – and in Greek, moreover, for Greek, not Latin, was the language they spoke – Ρωμαίοι, or ‘Romans’.  

Yet such they did. We can see here, therefore, the complete separation of the idea of Rome – which clearly retained some value, and to which people clung – from the reality of the city of Rome.

The disasters that befell the city did not disturb the continued identification of what remained of the Empire as Roman, an identification that was, moreover, not confined to the lands ruled from Constantinople. Furthermore, it was not merely the lands that remained under direct imperial rule that were still considered to constitute the Roman Empire. It would seem that there continued to exist, at least in the back of some people’s minds, the idea of imperial rule: not merely as something in the past, but as a reality of the present, so that even in the seventh century Isidore of Seville could speak

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52 Bryce, pp. 31, 45.
of a “Roman Empire, of which other kingdoms are dependencies”. Such was the situation even in far-lying lands, and centuries after the abdication of the last emperor actually to dwell in the west.

The rise of the Papacy

Although the state ruled by the emperor at Constantinople is after the sixth century better described as the Byzantine empire than as any sort of Roman empire, Italy at least still operated within the structures of late-Roman (or Byzantine) politics, with the empire’s continued existence taken for granted. Quite some time before, the management of practical matters in and around the city of Rome had, largely by default, fallen to her bishops. In the eighth century these bishops still recognised the Emperor as their temporal sovereign, and even obtained his confirmation of their election to office: but in reality they were often left to themselves, not only in religious matters but also in the government of the city of Rome and the nearby areas. In Rome the imperial authority was recognised, but it was the bishop who governed.

By this time, ideas about the role of the bishops of Rome – the popes – were changing. In the days of the early Church the bishop of Rome had been held in special esteem, partly because, according to tradition, the see had been founded by the apostle Peter, and partly because of the pre-eminence of Rome as the capital city of the Empire. When, under Constantine, the higher clergy were organised into a hierarchy corresponding to the civil government, the bishop of Rome gained considerable jurisdiction over the clergy of the western parts of the Empire. In the various theological debates of the following centuries, the bishops of Rome had consistently supported the doctrines that were subsequently recognised by the whole Church, and

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53 Isidore of Seville, Etymologie (c.622 – 33), IX. 3. 2, quoted by Folz, p. 7.
54 See Wickham, pp. 147-148.
55 Bryce, p. 99.
56 ibid., p. 99.
accordingly gained a reputation for doctrinal orthodoxy. When, in the absence of anyone else, they had assumed the government of Rome and its environs, they both inherited much of the prestige associated with the city, and also came to embody the long-inactive but never quite forgotten claims of the city herself to a decisive role in the government of the Empire.

At the same time, the popes were starting to claim authority in ecclesiastical matters not simply over their patriarchate of the west but over the whole Church. Such claims were not received well in the east, whether by the Emperor or by the popes’ fellow-bishops. (Since the imperial government had remained strong in the east, the emperors were accustomed to having ecclesiastical affairs there very much under their own control.) In the west, however, the pope’s ecclesiastical position was unchallenged. Accordingly, the popes increasingly turned their attention away from the imperial east and towards the west, both the old Roman territory and the newly-converted ‘barbarian’ lands, in which their actions were unhindered. There was not yet a breach between the pope in Rome and the emperor in Constantinople; but the course of events was tending that way.

**Italy, the Byzantines and the Franks**

Rome had since the latter part of the sixth century been frequently threatened by the Lombards, who had established a kingdom in the north and continually attacked other parts of Italy. The exarch of Ravenna was unable to defeat them. The popes repeatedly appealed as imperial subjects to their emperor for more assistance. The emperors, however, had more pressing problems, as areas closer to home, even the city of Constantinople itself, were at that time being attacked by other invaders; nothing could be spared for Italy.  

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Relations between the papacy and the emperors became more strained when in the 720s a dispute over the use of sacred images broke out in the east. The ‘iconoclasts’, arguing that the traditional veneration of icons was idolatrous, started destroying them. The emperors took the lead, ordering the destruction of images. There was a fierce conflict throughout the east between the iconoclasts and the venerators of images, the iconodules. The popes supported the veneration of images, which would eventually, though not for many decades, prevail in the east. The iconoclasts were in charge in Constantinople, the emperor chief among them, when in 731 the pope declared them to be heretics and excommunicated them.\(^{58}\)

Taking the opportunity, the Lombards attacked Rome. In such circumstances the Emperor was neither able nor willing to help to defend the city. Such territories in the north of Italy as remained under the rule of the Exarch of Ravenna were seized by the Lombards. In this predicament the pope turned for help not to the Byzantine emperor but to Charles Martel, the real (though not official) ruler of the Franks, with whom he had cordial relations and who had just shown himself a formidable champion of Christianity by his victory over the Moors at the Battle of Tours.\(^{59}\)

The kingdom of the Franks was the strongest of the Germanic kingdoms in the west.\(^{60}\) As well as their military strength, the Frankish rulers were friendly with the clergy in their land and with the pope. At this moment, with the pope considering the Emperor to have lapsed from the true faith into heresy, the Franks were in his eyes the most powerful of the orthodox and Catholic nations.\(^{61}\) (The Frankish kings of the

\(^{58}\) Bryce, p. 38-39; Kellett, pp. 248-9; Wickham, pp. 268-270.

\(^{59}\) Wickham, pp. 267-268; Bryce, pp. 38-39, 46.

\(^{60}\) Bryce, p. 34.

\(^{61}\) McKitterick, *Frankish Kingdoms*, pp. 47, 50; Bryce, pp. 36-37.
Merovingian dynasty had no power, and the real rulers were the ‘Mayors of the Palace’, this being the position that Charles Martel held.\textsuperscript{62)}

The pope wrote to Charles Martel urgently requesting his help. Charles Martel died soon after and was succeeded as ‘Mayor of the Palace’ by his son Pepin, who took up the task his father had not had time to carry out.\textsuperscript{63} What followed is of great significance. Pepin was the real ruler of the Franks; but he was not the king. By arrangement with Pepin, the pope, by virtue of his religious authority, sanctioned the deposition of the powerless Merovingian king, and established Pepin as king in his stead – the first exercise of an alleged papal authority in temporal matters which would be of great importance later. Pepin’s accession to the kingship was not only marked by civil observances as before, but was also sealed by a religious rite of anointing.\textsuperscript{64} The pope then called on the new king, as it were in return, to intervene in Italy to protect Rome from the Lombards, which he dutifully did.\textsuperscript{65} These events set a precedent for papal interventions in the appointment of temporal rulers. They also turned a substantial part of Italy from an appendage of the Byzantine east to a part of the Frankish west.\textsuperscript{66} (The south of the peninsula remained under the real rule of the Byzantine emperors, governing through an exarch at Bari.)

While not subduing the Lombard kingdom itself, Pepin did take from the Lombards the territories of the Exarch that they had seized. He neither kept them for

\textsuperscript{62} McKitterick, \textit{Frankish Kingdoms}, pp. 22-23, 28-33, 36

\textsuperscript{63} Bryce, p. 39; McKitterick, \textit{Frankish Kingdoms}, pp. 32-34.


\textsuperscript{65} Bryce, pp. 39-40; Folz, p. 15; McKitterick, \textit{Frankish Kingdoms}, p. 36; Wickham, pp. 144, 377.

\textsuperscript{66} See Wickham, pp. 267-268.
himself nor returned them to the emperor, but rather bestowed them on the pope.\textsuperscript{67} The pope gave to Pepin the title of ‘Patrician’, which formerly only the emperor had bestowed: the pope, being ruler in Rome, was beginning to consider as his own some of the prerogatives of his predecessors in that capacity, the Roman emperors. (This title of ‘Patrician’, formerly a title of rank, had always been bestowed by the Emperor on the Exarch of Ravenna, and in Italy had come to be considered as the title of an office, with an imprecisely-defined task of government roughly analogous to that which had been carried out by the Exarch.)\textsuperscript{68}

It was around this time that a remarkable document appeared, the so-called \textit{Donation of Constantine}.\textsuperscript{69} The document purports to be a decree given in the second decade of the fourth century by the emperor Constantine, who, mindful of the spiritual authority of the pope, granted to the pope of his day and to his successors the government of Italy and the whole western part of the empire, along with the right to use the imperial regalia. Then, lest he should detract from the pope’s dignity by having his own seat of government in the city where the pope had his, he withdrew to the east and established his capital at Constantinople. The story is completely fictitious and the document was a forgery.\textsuperscript{70} This document, by telling the story of Constantine’s giving jurisdiction over the west to the pope, implied that the Byzantine emperors had no right to rule in Italy – a pertinent claim, given their continuing possession of the south of the peninsula – and suggested that in the west the pope, as ‘successor’ to the emperors, had

\begin{footnotesize}
\textsuperscript{67} Bryce, p. 40; McKitterick, \textit{Frankish Kingdoms}, p. 47.
\textsuperscript{68} Bryce, pp. 40-41, 46; Davis, p. 78; McKitterick, \textit{Frankish Kingdoms}, pp. 48-49.
\textsuperscript{69} Reproduced in Ernest F. Henderson (ed.), \textit{Select Historical Documents of the Middle Ages} (London, G. Bell and Sons, 1896), pp. 319-329.
\textsuperscript{70} Bryce, pp. 43, 99-100, 509; H. E. J. Cowdrey, “Eleventh-Century Reformers’ Views of Constantine” (in \textit{idem, Popes and Church Reform in the 11th Century}, Ashgate, 2000, no. 1), pp. 69-72; Davis, p. 78; Folz, pp. 10-12; McKitterick, \textit{Frankish Kingdoms}, pp. 47-48; Nelson, “Kingship and Empire”, p. 53. We do not, however, know who fabricated it, nor whether the popes who referred to it and made claims based upon it knew that it was spurious.
\end{footnotesize}
‘imperial’ authority.\textsuperscript{71} (It also, incidentally, illustrates a curious fact, that people in the west knew of only one line of emperors: these emperors had been at Rome until Constantine’s time, and had then moved to Constantinople, where the emperor still was. About the line of western emperors that had come to an end with Romulus Augustulus they had forgotten entirely.\textsuperscript{72})

Although the Frankish kings were committed to the task of defending the popes, the Lombard kingdom had not been subjected. After Pepin had died the Lombards again attacked to the south. This time, when the pope appealed to the new Frankish king, Charlemagne, the latter went with an army into Lombardy, defeated the king of the Lombards, took the crown for himself, and added the kingdom to his own dominions.\textsuperscript{73} He was received favourably in Rome, confirmed the pope in his territorial possessions, and was also given the title of ‘Patrician of Rome’. Nonetheless, the Emperors in the east were, even now, still recognised at Rome; and presently Charlemagne went north again.\textsuperscript{74} (Southern Italy and Sicily remained then and for some time after under the direct and effective rule of the Emperor at Constantinople; they were never part of the Frankish realm nor, later, of the Holy Roman Empire.\textsuperscript{75})

\textbf{Rome’s breach with Constantinople, and the coronation of Charlemagne}

At this point it was evident how much the situation had changed over the last few generations. It was a crucial moment of reappraisal. Greek-speaking Constantinople and the Latin-speaking west were culturally increasingly estranged; and the emperors

\textsuperscript{71} Davis, pp. 78-79; Folz, p. 11.
\textsuperscript{72} Bryce, pp. 63, 508-9.
\textsuperscript{74} Bryce, pp. 43, 46; McKitterick, \textit{Charlemagne}, p. 114.
\textsuperscript{75} Although southern Italy and Sicily were to form part of the personal inheritance of the Emperor Frederick II, they were not ruled by him in his capacity as Holy Roman Emperor, and they were never incorporated into the Empire.
and popes had for some time been at odds over ecclesiastical matters. The absence of effective imperial rule might once have left Rome helpless, still turning, for want of anyone else, to the Emperor, even though he was unable to help: Rome, however, was now well protected by the Frankish king. In western Europe at least Charlemagne wielded power such as no one had wielded since ancient times. The peoples of the west, both those under his rule and those not, looked to Charlemagne as the foremost defender of Christianity and civilisation.

Charlemagne, though not without respect for the Byzantine court, refused to accept the Byzantine claims to pre-eminence. He denied that any Greek emperor could call himself ‘Roman’: indeed, he took advantage of the fact that the Byzantines, being speakers of Greek, called their ruler the basileus (the word for ‘king’), and insisted that he and the Byzantine emperor were of equal status and held equivalent roles. In the west it was Charlemagne who exercised the ‘imperial’ functions of governing ecclesiastical affairs, presiding in church councils, and defending the Christian peoples from the attacks of unbelievers.

Significantly Charlemagne adopted in the ecclesiastical matters of his realm the same role claimed by the Byzantine emperor. A particularly clear case is the councils held to resolve the dispute over images. The empress Eirene had in 787 convened a council (the Second Council of Nicaea) to resolve the matter. Although called an ‘ecumenical’ council, and declaring that its decisions should be accepted by the whole Church, the council was attended (apart from the papal legates) only by Greek bishops. Charlemagne objected strongly to this presumption on the part of the Greeks to decide for the whole of Christendom, and convened in 794 a council at Frankfurt, which

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76 McKitterick, *Frankish Kingdoms*, p. 70.
77 Folz, pp. 19-20; see also Bryce, p. 338.
78 Folz, p. 17.
repudiated the decrees of Nicaea and made its own decision with regards to the question of images.  

When a new pope, Leo III, was elected, he sent Charlemagne the banner of the city of Rome and the keys of the shrine of Saint Peter, thereby showing his own commitment to the Frankish monarchy and entrusting Charlemagne with a responsibility of protection. Soon after Leo’s election, strife broke out in Rome and the pope was physically attacked. He escaped the city and fled north to ask help of Charlemagne. When Leo returned to Rome he did so with reinforcements from Charlemagne; and Charlemagne himself soon followed (799).

To understand what happened next we must bear in mind that, to the people of that time, the Roman Empire was not just something enduring in the east: it continued to exist even in territories that were not directly under imperial rule. All that had ever been the Roman empire was still the Roman empire. In that empire there were now two great rulers, one a Greek, ruling in the east, the other a Frank, ruling in the west. But which of these two rulers within the Empire was really what an Emperor ought to be? Charlemagne was no mere barbarian chieftain: he was altogether as powerful a ruler as was the Emperor in Constantinople. Moreover, in Rome and indeed through much of the west, Charlemagne was able and willing to do – he was in fact doing – what an emperor ought to do: and the emperor at Constantinople was not doing so. Nevertheless, as long as it was the emperor at Constantinople who had the title of Roman Emperor, it was he, strictly speaking, who was Rome’s sovereign.

At that crucial moment, the throne at Constantinople was occupied by the Empress Eirene, widow of a former emperor. When this emperor had died he had been

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80 Bryce, p. 44; Folz, p. 21; McKitterick, Charlemagne, pp. 114-115.
succeeded by their son, Constantine VI. The dowager empress had without much delay
deposed her son, blinded him, and taken the throne herself. It was a great scandal, and
gave room for arguments that, such an accession being quite illegitimate, the throne was
therefore legally vacant.\textsuperscript{82} The time seemed apt for the title of emperor to be given to
the ruler who actually exercised ‘imperial’ authority.

While all this was going on Charlemagne, as we have seen, had come to Rome
and stayed there some time. On Christmas day of the year 800, he attended mass in
Saint Peter’s basilica: and as he was praying, the pope approached him, and placed on
his head a crown, as the congregation acclaimed, “To Charles Augustus, crowned by
God, the great and peace-giving Emperor, be life and victory.”\textsuperscript{83}

\textbf{The significance of the coronation of Charlemagne}

This coronation was of immense importance for later discussions of the imperial
authority, because on it depended the legitimacy of all Charlemagne’s successors. This
question, by what authority exactly the imperial dignity was conferred on Charlemagne,
became crucial, because it determined by what authority his successors ruled, and what
exactly made an emperor. There was the possibility for such a protracted and ultimately
unresolvable dispute because the matter had not been at all clear at the time.

It seems that those involved in this coronation did not have in mind a clear
theory as to the right by which they did what they did. That the pope performed the
action does not mean that the coronation was consciously performed by specifically
papal authority. The pope certainly was not then claiming jurisdiction over the emperor,
for no sooner had he placed the crown on Charlemagne’s head than he fell down in
obeisance before him, paying him the homage that had customarily been rendered by

\textsuperscript{82} Wickham, p. 271; Bryce, pp. 47, 53, 54.
\textsuperscript{83} Bryce, pp. 48-49, 54-55; Davis, p. 80; Folz, p. 21; Heer, p. 11; McKitterick, \textit{Frankish Kingdoms}, p. 70.
the popes to the Byzantine emperors. Bryce convincingly explains the coronation as the result of a remarkable co-incidence of intentions on the part of those involved, for whom circumstances so clearly suggested the coronation of Charlemagne as the natural and right thing to happen that they took it to be the will of God and simply acted accordingly.

The coronation of Charlemagne as emperor is often spoken of as the foundation of the Holy Roman Empire. It was in reality no such thing. It did not create a territorial polity of any sort. Charlemagne had already been a great territorial ruler before he became emperor: and his becoming emperor altered neither the nature of his territorial holdings, nor the right by which he ruled them. The territories that Charlemagne ruled he ruled as King of the Franks, as King of the Lombards, and so forth. Although Charlemagne placed greatest emphasis on his imperial title, his kingly titles were not forgotten: he was styled, ‘Charles the most serene, the august, crowned by God, the great and pacific emperor, governing the Roman empire, who is also by the mercy of God king of the Franks and of the Lombards.’ Perhaps the imperial title was considered to give some particular rights in Rome herself: we cannot be sure. But Charlemagne’s territorial realm was a Frankish realm, and as it had been before he was

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84 Bryce, pp. 54, 151; Folz, pp. 21-22; Heer, p. 12.
85 Nelson, “Kingship and Empire”, p. 70.
86 Bryce, p. 56; see also Janet Nelson, “Symbols in Context: Rulers’ Inauguration Rituals in Byzantium and the West in the Early Middle Ages” (Studies in Church History, 13, 1976, pp. 97-119; reprinted in Politics and Ritual in Early Modern Europe, pp. 259-282), pp. 267-268, 270-271, which shows that the appointment of Byzantine emperors was understood similarly.
87 McKitterick, Frankish Kingdoms, p. 71.
88 Carolus serenissimus Augustus, a Deo coronatus, magnus et pacificus imperator, Romanum gubernans imperium, qui et per misericordiam Dei rex Francorum et Langobardorum. Bryce, pp. 126, 530; Folz, p. 23; McKitterick, Frankish Kingdoms, p. 131, Charlemagne, p. 116; Nelson, “Kingship and Empire”, pp. 70-71.
crowned as emperor so it still was afterwards. It was not of this territorial realm that he was emperor, but of Rome and consequently of the whole Roman world. (It would be grossly misleading to suggest that Charlemagne’s coronation transformed his territories in particular into ‘the Roman Empire’.) The imperial dignity given him was a personal one, not definitively limited by place, and existing so to speak on a different plane from his rule of particular territories. In this respect it differed from the rule of the emperors at Constantinople, for what territory they did really rule they ruled as Emperors, and not in some other capacity. The imperial role that Charlemagne possessed in the west, a role distinct from territorial rule, is analogous to that which the emperor in Constantinople had in theory had in the west in the preceding centuries.

Charlemagne’s coronation was not taken well at Constantinople. The Byzantines thought of the emperors in the west (if they thought of them at all) as barbarian imposters, and their own line of ‘Roman emperors’ continued thereafter unaffected. Charlemagne sensibly did not consider his having become ‘Roman Emperor’ (in the eyes of the west, at least) to give him any territorial rights to the lands under the continuing rule of Constantinople. Although Charlemagne was concerned to be on good terms with the Byzantines, this attitude to the Byzantine lands was not the result only of prudence: it also followed logically from the imperial theory according to which Charlemagne had been crowned. If the Roman Empire were everywhere, the Byzantine lands were not identified with the ‘Roman Empire’ any more than was any other part of the ancient empire.

The coronation of Charlemagne in fact brought about again a situation that had existed in the past, whereby there were two emperors, one in the east and one in the west. It was not, however, anyone’s intention (as far as we can tell) at Charlemagne’s

89 cf. Barraclough, Medieval Empire, p. 8; Bryce, p. 68.
90 Barraclough, Medieval Empire, p. 8; Bryce, pp. 188-189, 319, 338; Davis, p. 80; Folz, p. 22; Heer, p.7; McKitterick, Frankish Kingdoms, p. 71.
coronation to revive a distinct ‘western’ imperial dignity. That such a thing had existed had been entirely forgotten in the years since the abdication of the last western emperor: Charlemagne was considered the immediate successor of Constantine VI, not the successor, after an interval, of Romulus Augustulus. In western thought throughout the middle ages, the imperial authority had gone east with Constantine, and returned to the west in Charlemagne. From his time onwards westerners did not refer, or only very seldom referred, to the ruler at Constantinople as the ‘Roman emperor’. They did not challenge his right to rule his own territories: and indeed he might be called an emperor, but a Greek emperor only; for how could he be called a ‘Roman’ emperor when not he, but another emperor ruled over Rome?

Charlemagne did not take up residence in Rome. He was, though dignified by the imperial title, before all else a Frankish king, and the centre of gravity of his realm was north of the Alps: his capital was at Aachen.

The later Carolingians and the division of Charlemagne’s empire

Before his death Charlemagne crowned his intended successor, Louis ‘the Pious’, with his own hand as an associate ruler (consors regni), thereby ensuring the succession, and acting, as seems most likely, to prevent the establishment from his own imperial coronation of a precedent whereby the popes conferred the imperial crown.  

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91 Bryce, p. 63-64, 508-9.
92 The locus classicus is the Embassy of Liudprand of Cremona (968) to “the Constantinopolitan emperor Nicephoras Phocas”, e.g. parts 5, 17 (but see also 12!); see also Davis, p. 81; Folz, pp. 50-51, 171; Nelson, “Kingship and Empire”, pp. 72, 79-80.
94 On this coronation, see Barraclough, Origins, p. 11; Bryce, pp. 61, 76; Folz, p. 25; Heer, p. 16; McKitterick, Charlemagne, p. 158, Frankish Kingdoms, pp. 108, 131; Nelson, “Kingship and Empire”, p. 71, “Symbols in Context”, p. 272 (also pp. 292-3 for a different interpretation of Charlemagne’s motives from that offered here). In this action Charlemagne followed Byzantine precedent, by which, more often than not, an emperor crowned his intended successor as a junior colleague, who would then succeed automatically upon the senior emperor’s death (Nelson, “Symbols in Context”, p. 261).
On Charlemagne’s death Louis (his father’s only surviving son) succeeded him as ruler of the whole Frankish realm. If Charlemagne had tried to separate the handing-on of the imperial dignity from the papacy, the devout Louis did not do so: having become outright ruler, he was, despite the previous coronation in his father’s lifetime, anointed and crowned by the pope. The precedent of Charlemagne’s coronation in 800, which might otherwise have come to be regarded as exceptional, was being turned into a tradition.

After Louis’s death the Frankish realm was divided, according to the Frankish custom of inheritance, into three parts for his three sons, who became practically independent rulers (the Partition of Verdun, 843). Lothar, as the eldest, was given nominal precedence over the others, and it was he who held the title of Emperor. To Charles ‘the Bald’ was given the western part of the Frankish realm, a territory that would become France; to Louis ‘the German’ was given the eastern part, which would become Germany. The imperial title had little in reality to back it up, for Lothar’s share of the territories was not an advantageous one. The shape of his domain was determined by the need, since he was emperor, for his possessions to encompass both Aachen (the Frankish capital and hitherto the real seat of government) and Rome (the symbolic and imperial capital). Therefore Lothar was given a narrow, long kingdom between the other two, a kingdom which stretched down into Italy as far as Rome. Lothar, after several years’ delay, was anointed and crowned as Emperor in Rome by

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95 McKitterick, *Frankish Kingdoms*, p. 108. The emperors of the Carolingian line after Charlemagne retained the clear distinction between the imperial dignity and the Frankish and Lombard kingships: each was styled, August Emperor, king of the Franks and the Lombards (*Imperator Augustus, rex Francorum et Langobardorum*).

96 Bryce, p. 153; Davis, p. 80; Folz, pp. 27, 29; Fuhrmann, p. 346; McKitterick, *Charlemagne*, p. 158, *Frankish Kingdoms*, p. 132.


the pope, as his father had been: it had become an accepted principle that this was necessary if a ruler was to be an emperor. 99

Although in each kingdom the rulers were Franks and most of the population was not, the western and eastern kingdoms at least had a national character on the basis of which a country with a fairly stable, continuous existence could be established. The Franks in the west soon became one people with the much more numerous Romanised Gauls over whom they ruled – so much so that the people of that country gave up the old name of Gaul and, although themselves scarcely of Frankish stock, called themselves by the name of the Franks (hence France and Français.) Likewise the territory in the east, inhabited by several Germanic peoples akin to the Franks, became Germany. 100

The middle kingdom, lacking any such common feature, and being geographically the most impractical, was doomed to fragmentation and annexation. Subsequently, after Lothar had died, the division of territories made at Verdun was revised by the Partition of Mersen (870). The long, thin northern stretch of Lothar’s kingdom (everything north of Geneva) was divided between Charles the Bald and Louis the German. 101 Aachen was allocated to the eastern Frankish kingdom, an assignment that may have been of some significance for the later inheritance of the imperial tradition by Germany. The partition left Lothar’s successor, the Emperor Louis II, with the rule only of northern Italy and of the counties of Burgundy and Provence. Within a few decades the two counties become independent, and the holder of the imperial title was reduced to the rule of the Regnum Italicum. 102 This reduction had the effect of

99 Folz, pp. 27-28; Fuhrmann, p. 346.
100 McKitterick, Frankish Kingdoms, p. 176.
101 Bryce, p. 77; Folz, p. 28; McKitterick, Frankish Kingdoms, pp. 176, 179.
102 Folz, p. 29.
reinforcing the connection between the rule of Italy and the possession of the imperial title.\textsuperscript{103}

Although the \textit{Regnum Italicum} took in only the northern half of Italy, it was, in the context of subsequent discussions about the empire and the imperial authority, commonly referred to simply as ‘Italia’. (Hereafter the word ‘Italy’ will normally be used in that sense, the phrase ‘Italian peninsula’ being used when the whole peninsula is meant.) The territorial rule over ‘Italy’ did not include, and was not taken to include, rule over the southern half of the peninsula. In the high and later middle ages, when the emperors were Germans, it was principally the north of the peninsula that mattered, both because of its greater prosperity and its many important cities, and because it lay between them and the imperial city of Rome.

\textbf{The lapse of the imperial title}

The next century or so was one of considerable political disorder in the Frankish lands. These lands were repeatedly divided among members of the Carolingian royal house like private property. However, because there remained an idea of the Frankish lands being a unity – and indeed they were briefly re-united under one sceptre by Charles the Fat – it was only with difficulty and after a long time that the distinct parts were consolidated into separate states.\textsuperscript{104} It would be both tedious and complicated, and of little benefit, to follow the vicissitudes of the kingdoms and of the imperial title in this tumultuous period. From time to time one or other of the kings seized momentary control of northern Italy, or even merely of Rome, and obtained the imperial crown, each time at the hands of the pope, and each time as a peculiar personal dignity. The imperial title was as a matter of fact taken not by the strongest rulers of the time but by a succession of comparatively unimportant figures, each of whom gained the title by a

\textsuperscript{103} Folz, pp. 30, 34.

\textsuperscript{104} Barraclough, \textit{Origins}, p. 15; Bryce, p. 78; Folz, pp. 33-34; McKitterick, \textit{Frankish Kingdoms}, p. 262; Wickham, pp. 396, 401-402.
limited local success but lacked any power to back it up.\textsuperscript{105} In a century the title of Roman Emperor had gone from being conferred on the greatest ruler in western Europe to being the adornment of non-entities. The imperial office was not settled on any particular line or people; and the haphazard way in which it was given and received shows how little real significance it had in that chaotic time.

Enough of a precedent had been established for the custom of the emperors being crowned by the popes to continue; and each repetition strengthened the principle. Eventually, precedents would turn into a papal prerogative.\textsuperscript{106} For the time being, coronation by the pope strengthened an emperor’s authority: and so, although Charlemagne himself had at the very beginning had an inkling of the difficulties that might arise, successive emperors did not question by what right the pope gave them the welcome boon of the coronation. That the coronation of the emperor was in the hands of the pope would ultimately be a disastrous liability for the emperors: that no one could be emperor until the pope made him so would be used as evidence that the office was entirely in the pope’s gift; that he could give it or withhold it at his discretion; that he could exact from a candidate what conditions he would; that what he had given he might, in the last resort, take away.\textsuperscript{107} All that was yet in the future: but the precedents were being established now that would bring about those claims later.

The Frankish territorial ‘empire’ had ended, and after a while even the title of ‘emperor’ ceased to be used altogether – there being no one who could credibly hold it. The Regnum Italicum changed hands repeatedly, but after 924 (the death of Berengar) neither its rulers nor anyone else in western Europe held the title of ‘Emperor’.\textsuperscript{108}

\textsuperscript{105} Folz, p. 34; Koebner, p. 24; McKitterick, \textit{Frankish Kingdoms}, p. 263.
\textsuperscript{106} McKitterick, \textit{Frankish Kingdoms}, p. 180.
\textsuperscript{107} Folz, p. 28.
\textsuperscript{108} Barraclough, \textit{Medieval Empire}, p. 11-12; Folz, p. 26.
Had the title of ‘Roman Emperor’ not been given to Charlemagne, it is likely that it would have remained the sole prerogative of the Byzantine emperors and soon become altogether irrelevant in the west. The coronation of Charlemagne, however, had detached the idea of the Roman Empire from the long line of emperors succeeding the original possessors, revived the role in the west, and renewed the original connection with the city of Rome. In spite of the disasters in the generations immediately after Charlemagne, the imperial role had been given a new lease of life. While Charlemagne’s reign had been presented as a revival of the glory of ancient days (and indeed the scholars of whom he was patron seem to have cultivated such an idea), it also, more significantly for the purposes of our enquiry, laid the foundations of what was to come. The continued existence of the imperial role is a legacy not so much from ancient Rome as from Charlemagne; and it was the memory of Charlemagne, as much as the memory of ancient Rome, that would throughout the middle ages and beyond make the name of ‘emperor’ so evocative and so potent. The absence, therefore, of an emperor at this chaotic point did not necessarily mean that the imperial idea had failed, or that anyone considered the Empire to have been extinguished: the fact that an office is unfilled does not mean it has ceased to exist.

The acquisition of the Imperial office by the German kings

After a time the male line of the Carolingian rulers in Germany died out (with the death of Louis the Child, 911) and the German nobles (even though they still considered theirs to be the eastern Frankish kingdom) chose as king one of their own, Conrad, duke of the Franconians. Under the next king, Henry ‘the Fowler’, once duke of the Saxons, and under his still greater son Otto, who succeeded him, the German

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109 Bryce, p. 84.
110 *ibid.*, p. 84.
111 Barraclough, *Origins*, p. 20; Bryce, pp. 79, 119, 120; Wickham, p. 431.
monarchy became far stronger than before, both internally and externally.\textsuperscript{112} Though Otto, unlike Charlemagne, was not ruler of a huge territory, he was nonetheless a ruler of considerable strength, the most powerful in the western Europe of his day.\textsuperscript{113}

Repeated contests for the rule of Italy, and the political fragmentation of the Italian peninsula, had prevented the establishment of a stable or long-lasting government in the kingdom of Italy. These political disorders rendered the kingdom particularly susceptible to invasion from without. Moreover, at the end of the ninth century the Roman nobility had succeeded in bringing the papacy into subjection and taking over the rule of the papal territories: a succession of irreligious and negligent popes, drawn from the powerful Roman families, was imposed upon the papal see. This state of affairs, combined with Otto’s military strength and the tradition of outside intervention in Italy, made an intervention by Otto a plausible prospect.\textsuperscript{114}

The imperial tradition was so strong in Italy that the people there did not consider it possible that they could have any ultimate sovereign other than a Roman Emperor. When in the political disorder of the times they looked for stable government, that inevitably took the form of wanting a Roman Emperor.\textsuperscript{115} They were accustomed, by long experience, to Roman Emperors of other nationalities and who lived elsewhere: the broader significance of the role suggested that it ought to be held by a ruler of great power and pan-European influence. Such an expectation became particularly pertinent in the pontificate of John XII, in which the attacks of Berengar of Ivrea threatened Rome. The prospect of conquest impelled the pope to look for a protector. It was apparent that the government of Italy would not be beyond the capabilities of Otto, with the resources of Germany behind him: and indeed the distant German king, of whose

\begin{itemize}
  \item \textsuperscript{112} Barraclough, \textit{Origins}, pp. 30-31, 37, 44; Bryce, p. 119.
  \item \textsuperscript{113} Wickham, p. 432.
  \item \textsuperscript{114} Bryce, pp. 82, 83, 85, 287; Folz, pp. 34-35; Heer, p. 37; Kellett, pp. 283-284.
  \item \textsuperscript{115} Bryce, p. 84.
\end{itemize}
dominions Rome could only ever be a small part, seemed to the pope preferable to an Italian whose rule might be expected to be direct and oppressive. The pope therefore sent an embassy to the German king offering him the imperial crown if he would come and establish peace in Italy. To Otto the title of Emperor, evoking not only the distant memories of ancient Rome but also, and more prominently, the more recent memories of Charlemagne’s Frankish empire, had great appeal. Otto crossed the Alps; was acknowledged King of Italy; and, having come to Rome, was crowned as Roman Emperor by the pope, on the second of February 962.

Analysis of the constitution of the Empire as established under Otto I

The territorial empire of Otto I and his successors was not, except in the most tenuous sense, a continuation of the Frankish empire of Charlemagne. The kingdoms of Germany and Italy were indeed successor states to the Frankish empire: but the connection of the kingship of Germany with the title of ‘Roman Emperor’, which is the essential characteristic of the empire from Otto onward, was in no way inherited from the Frankish empire, but was made in Otto’s time. Thus the Holy Roman Empire as a continuously existing polity, and the association of the German monarchy with the office of Roman Emperor, must be reckoned to begin with Otto the Great. Yet it must be pointed out here, firstly that the title ‘Holy Roman Empire’ was not used until centuries later; and secondly that, whatever its name, the Holy Roman Empire was, from the beginning, territorially speaking a German empire. The greater part of the empire was German; its ruler was a German, elected by Germans, living most of the time in Germany; and it was German strength that made possible the possession by the German king of the kingdom of Italy and of the title of ‘Roman Emperor’.

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116 Barraclough, Origins, p. 53; Folz, p. 47.
117 Barraclough, Origins, p. 53; Bryce, pp. 80-81, 83-87; Folz, p. 47; Fuhrmann, p. 347; Heer, p. 37.
118 Bryce, p. 79.
It is well that at this point we should consider in full the manner in which the empire was constituted, for at no time after the Ottonian dynasty did the forms of the empire’s constitution so closely match the realities, nor did the empire have so clear, coherent and logical a form, as in those days.

The constituent kingdoms that made up the empire were not united to form a single realm, nor was the office of Roman emperor yet confounded with the territorial jurisdiction of the ruler in Germany. Although these offices, of German king, of Italian king, of Roman emperor, were always held by the same person, they – and the kingdoms – remained distinct. This continued distinct existence of the empire’s constituent kingdoms is shown clearly by the several successive coronations that each emperor would receive. The ruler of the territorial empire had, or at least could have, three, or later even four, distinct coronations.\(^{119}\)

The man who had succeeded or been elected to the German kingship would first be crowned by German bishops at Aachen. This coronation made him king – but, it must be emphasised, not more than king, and king only of Germany.\(^{120}\) The effect of this coronation was that it secured his right to rule north of the Alps. The title used in the early days, ‘king of the East Franks’ or ‘king of the Franks and the Saxons’, makes it clear that what was involved was a German kingship.

As Italy had not been merged into Germany, the king of Germany must now become king also of the separate Kingdom of Italy. Becoming king of Germany did not of itself confer upon the ruler the kingship of Italy or the Roman emperorship. Very significantly, however, it was considered, if not to confer upon him those offices themselves, nonetheless to confer upon him the right to obtain those offices, an important but subtle difference. The fact of Italy and Germany’s having a common ruler was thus more than a merely personal union, but less than a political union. The offices

\(^{119}\) Bryce, pp. 189, 533.

\(^{120}\) ibid., pp. 189-190.
of king of Italy and of Roman emperor, though distinct from the German kingship, nonetheless belonged or pertained to the German king as German king. He did not possess them automatically, but his subsequent taking possession of them was done as a matter of right. Italy, and Rome in particular, were both subject to the rule of the German king and obliged to accept as their ruler the king whom the Germans would appoint.

Having obtained the German kingship, the king would go, with his German vassals and a German army, to Italy. When he had taken possession of that kingdom – not seldom relying on his army to enforce his ‘rights’ against unwilling Italians – he would be crowned as King of Italy with the Iron Crown of the Lombards at Milan, Monza or Pavia. Only then, having obtained secure possession of both Germany and Italy, could he proceed to Rome to be crowned as Roman emperor; and only when he had been thus crowned could he be called ‘emperor’.

One might consider it strange, given that Rome is in Italy, that there should be one coronation as king of Italy in one place, and another coronation as Roman emperor in Rome. The Roman coronation, however, clearly gave something more than had been given at the ‘Italian’ coronation in the north of the country. The first reason for the duplication of coronations in Italy is that, in spite of the change in name, the kingship of Italy held by the Ottonians and their successors borrowed many elements from the Carolingians’ kingship of the Lombards – for example, the holding of the coronation at one or other of the old Lombard seats of government, or the wearing of the Iron Crown of the Lombards. The Lombard kingdom, it will be remembered, had not included Rome: the necessity of two coronations was carried over into the later arrangement. More important, though, was the fact that the title of ‘Roman emperor’ had a much greater significance than merely conferring rule over a city and its surroundings on the

121 Bryce, p. 190.
122 ibid., pp. 190, 192.
edge of a large territorial empire. The dignity it conferred on the German king was no less potent for being, as yet, undefined. It gave, in itself, no actual power; but it gave him an invaluable dignity as successor both to the ancient emperors and – which was perhaps more in people’s minds – to the Frankish emperors of the more recent past. The emperors, once crowned in Rome, tended to use thereafter the imperial title in preference to the royal, even within Germany, as suggesting a greater and more formidable authority.

In reading medieval writings about the Empire, one frequently comes across various forms of the statement that ‘the Empire was given’ (or transferred, or translated, depending on the writer) ‘to the Germans’ – the ‘transference of the Empire’ or *translatio imperii*. It will be helpful for our discussion to establish what exactly that statement means, since medieval authors seldom clarify it. To clarify it for them is difficult, as the medieval word-use was rather confused – but not, I think, hopelessly so.

Firstly, ‘the Empire’ in such a statement must, obviously, be clearly distinguished from the territorial empire ruled by the emperor. If the two were identified, the statement would be nonsensical, for the bulk of that territory was in fact in Germany, and one can hardly say that Germany had been given or transferred to the Germans. As used in this context, ‘the Empire’ above all else denotes the *imperium* or unique authority that is the Roman Emperorship, and, inextricably connected with it, the rule of the city of Rome.

To say that ‘the Empire was transferred to the Germans’ makes it clear that ‘the Empire’ and the German kingdom were distinct. The statement describes a recognised arrangement whereby succession as king of Germany (at first partly by inheritance, partly by election, and later by the choice of the seven specified ‘electors’) conferred the rights to become king of Italy and Roman Emperor. Thus the Germans, as a nation, possessed ‘the Empire’ in the person of their king, who would also as a matter of course
be the Roman Emperor; furthermore, ‘the Germans’, who in the person of their princes
and barons choose their king, thus ‘possess the empire’ in that it is in their hands, not in
the hands of the Romans, of the Italians, or of anyone else, to appoint a ruler to Italy and
to Rome. Although the German kingship remains a dignity distinct from the Italian
kingship and the Roman emperorship, by virtue of this ‘giving of the empire to the
Germans’ the Germans decided the succession to these other dignities simply by their
own act of electing their own king, without having to consult any other parties.

Thus, the expression ‘the Empire’, as used in the statements of medieval writers
about the Empire being transferred, does not mean the territorial empire, including
Germany, as it is now represented on maps. It indicates something distinct from the
German kingdom – the right to the Roman emperorship and the rule of Italy (the
imperial territory par excellence), a right that had been acquired by the German
kingdom, and a right that the German kingdom under present circumstances possessed
but which was not intrinsically inseparable from it. How exactly Germany had come to
possess that right, and how that transfer had been made, was later to become a matter of
great contention.

In those early days of the Ottonian empire the long-drawn-out conflict between
the empire and the papacy had not yet begun: indeed, from Otto I to Henry III the
emperors (who were considered to rule by the grace of God and so to have a God-given
authority in their own right) had substantial control over the papacy. They were sworn
at their coronation to be the defenders and champions of the Holy See, a role that, far
from rendering them subservient to the papacy, gave them a considerable power of
superintendence. For example, when the people of Rome had complained to Otto I
about the misdeeds of Pope John XII, Otto had, by his own authority, deposed the very
man who had crowned him, and, again by his own authority, obtained the election of a

123 Bryce, p. 141.
new pope. He also obtained from ‘the Roman clergy and people’ a promise that they would not in future elect any pope without the Emperor’s approval. Popes appointed by the emperors were, significantly, accepted without protest by the rest of western Christendom, even beyond the territories ruled by the emperor: in fact, the emperors’ role with respect to the papacy added considerably to the empire’s pre-eminence.  

**The Roman emperorship of Otto III**

The son of Otto the Great, also called Otto, was crowned during his father’s lifetime and succeeded him as a matter of course. Otto I arranged for his son to marry a Byzantine princess, Theophano, niece of the Byzantine emperor: the marriage of the Saxon warrior and the Greek princess produced a remarkable son, the future Otto III.  

Otto II died at an early age when his son and heir was only three years old. At that time the esteem for the royal lineage was strong, and the Germans accepted the young boy as king. In his formative years the youth was much influenced by his mother, who taught him many of the ways of the ‘other’ Roman empire in the east, and by his tutor, Gerbert of Aurillac. Unlike most of the German emperors, Otto III thought of his empire as essentially Roman. A young man of high endeavour, ever conscious of the sacredness of the task given to him as emperor, and zealous for the restoration of Rome to her former glory, Otto assumed the government of his empire while still in his ’teens. Having gone to Rome and established his control over the city, he set about restoring and beautifying it, intending to make Rome his capital and residence. He proclaimed the *Renovatio Imperii Romanorum*, and meant what he said: his establishing the imperial

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capital at Rome would have made Germany merely a province of a genuinely Roman Empire.\textsuperscript{126}

Otto appointed as pope Gerbert of Aurillac, still his trusted advisor. As pope, Gerbert took the name of Sylvester II, bringing to mind the earlier Pope Sylvester, in whose pontificate Constantine had been converted to Christianity and who was closely connected with him in early medieval historiography.\textsuperscript{127} This choice of name suggests that the pope (and quite possibly the emperor also) wished to suggest a likeness between the earlier pair and themselves.

The period in which Otto III was emperor and Sylvester II was pope was one of the few occasions in the history of the empire in which was realised that ideal (so often talked about in later times) of the pope and emperor being of one mind and working side by side in partnership.\textsuperscript{128} Their plan was to bring to completion what had been started by Otto’s father and grandfather – to restore to their proper form and to their true dignity both the universal Empire and the universal Church, and thereby to restore the world to order and righteousness. The turn of the millennium saw a great and real empire in Europe, its capital at Rome, its highest temporal and spiritual rulers in harmony: a holy and Roman empire indeed. It was not to last more than a moment. Having done much in his short life, Otto III died at the age of twenty-one.\textsuperscript{129}

**Constitutional developments in the post-Ottonian period**

The direct line of Otto the Great having failed, the German princes elected as king Henry II, the most senior surviving descendent of Henry the Fowler.\textsuperscript{130} The emperors who followed Otto III would not pursue the *Renovatio Imperii Romanorum*.

\textsuperscript{126} Blumenthal, pp. 39-40; Bryce, pp. 142-144, 146; Davis, p. 83; Folz, pp. 64, 65, 67. On Gerbert, see esp. Wickham, pp. 427-429.

\textsuperscript{127} Blumenthal, p. 41; Bryce, p. 143; Davis, p. 83; Heer, pp. 38-45.

\textsuperscript{128} Bryce, p. 107.

\textsuperscript{129} Blumenthal, p. 41; Bryce, p. 145.

\textsuperscript{130} Bryce, p. 146; Heer, p. 49; Wickham, p. 433.
which he had begun, nor entertain his universalist ideals. Instead they attended to more achievable goals, recognising that the strength of their empire lay north of the Alps.

This period following the particularly ‘Roman’ emperorship of Otto III (the reigns of Henry II, Conrad II and Henry III) saw several significant changes in the constitution of the empire: the accession to the empire of the Kingdom of Burgundy; the adoption of the term ‘Imperium Romanum’ for the territorial empire; and the adoption of the title of Rex Romanorum by German monarchs who had not yet received the imperial crown in Rome.

It was in the reign of Conrad II – that is, well after the establishment of the territorial empire – that the emperor acquired the kingdom of Burgundy or Arles. This kingdom was located in what is now the most south-easterly part of France and the western part of Switzerland – that is, contiguous with the existing territory of the Empire. The Burgundian territories were more or less incorporated into Germany. For

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131 Blumenthal, p. 42; Folz, p. 66.
132 See Heer, pp. 50-51. The numbering of these rulers is the standard one, which is that of German kings and not of Roman emperors. The first Conrad was the German or ‘East Frankish’ king who was elected after the demise of the Carolingian line of rulers in Germany, and the first Henry was Henry ‘the Fowler’, Otto the Great’s father – neither of whom was ever Emperor. Thus to use expressions like ‘the emperor Conrad II’ is strictly speaking incorrect, but as the usage has become accepted I will not confuse matters by insisting on the correct numbering. Medieval authors, however, were not afraid to be pedantic on this subject, which is further evidence that the distinction between the German kingdom and the Roman empire long remained clear. Otto of Freising, for example, says of the later emperor Henry IV that he “is found to be fourth of this name among the kings and third among the emperors” (Otto of Freising, The Deeds of Frederick Barbarossa, translated by Charles Christopher Mierow, New York, W. W. Norton & Company, 1953, 1966: Book I, chapter 1, p. 28); his successor was Henry “fourth in the line of the emperors, but fifth in that of the kings” (I. x: p. 44). Otto’s continuator Rahewin applies the distinction even to the years of the emperor’s reign: he mentions “the third year of the reign of our most serene Emperor Frederick as emperor and the fifth of his rule as king” (Deeds of Frederick Barbarossa, IV, xiv: pp. 245-6).
133 Barraclough, Origins, p. 72; Bryce, pp. 148, 190, 526; Folz, p. 66; Heer, pp. 39, 49, 51; Wickham, p. 439.
example, they sent representatives to the German diet. A reminder of Burgundy’s former separate existence remained, however, in the possibility of an emperor being crowned as king of Burgundy at Arles, bringing to four the number of coronations he might have. The Burgundian coronation differed from the Italian and Roman coronations, which were also the entitlement of the German monarch. These latter coronations were considered either to confer authority or at least to establish the German king’s authority in Italy, and often had to be obtained by force. By contrast, no German king had to fight to make good his claim to the Burgundian territories, nor is there anywhere any suggestion that his authority in those territories was any less for his not having had a Burgundian coronation. The Burgundian coronation was, therefore, in more reigns omitted than performed.

It was in Conrad’s time also that it became customary for Germany, Italy (and now Burgundy) to be referred to together as the *Imperium Romanum*. It had once been considered that the ‘Roman Empire’ encompassed other lands beside those of that king to whom the title of ‘Roman Emperor’ happened to be given: now (whether or not the Emperor had some form of authority over those lands) they were not counted as being, territorially speaking, ‘within the Empire’. Germany, Italy and Burgundy, united by a special connection, by themselves constituted a definite polity, and one which, by reason of its being ruled by the ‘Roman emperor’, was identified with the ‘Roman Empire’. Conrad II was succeeded by his son Henry III, who, immediately upon his father’s death, took the title of ‘King of the Romans’, which thereafter would be borne by German monarchs who had not yet received the imperial crown. The effect of this

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135 Bryce, p. 190.


new title was to assert an intrinsic connection between the German monarchy and the Roman imperial office in spite of the fact that the German king could not call himself ‘emperor’ until crowned at Rome by the pope. It thus suggested that any German king would receive the imperial crown in due course, and not simply at the pope’s discretion.\textsuperscript{138}

The new title of \textit{Rex Romanorum} retains dutifully the old distinction, that the ruler was a king from the time of his coronation in Germany, but was not an emperor until he had been crowned by the pope in Rome. It obliterates, however, the important distinction between the German kingship and the Roman emperorship, and so the distinction between the Roman Empire and the territories that happened to be ruled by the German monarch. The kingship conferred at the German coronation (in the German city of Aachen, attended by the German nobles and given by the hands of the German bishops) had been simply the German kingship. Such it still was, in fact, for it remained a German matter, and, while it secured the rule north of the Alps for the man crowned, it had in itself no practical effect south of the Alps. The title that was taken henceforth was, however, an altogether inappropriate one, and one moreover never heard of until that time, the title of ‘king of the Romans’. From that time on the ruler of Germany was \textit{Romanorum Rex} until crowned by the pope at Rome, and \textit{Romanorum Imperator} thereafter: there was now no mention of Germany in his title.\textsuperscript{139} This change marks an important stage in the confusion of German with Roman and imperial rule.

It was in the reign of Henry III that the actual power of the Emperor was at its height. Henry had the power of the great German nobles in his own hands, and his control over the ecclesiastical hierarchy within his territories, including the choice of pope, was complete. As we have seen, the Romans had undertaken to elect no pope


\textsuperscript{139} Nelson, “Kingship and Empire”, p. 80.
without the Emperor’s consent, and in this period emperors both deposed and appointed popes on their own authority.\textsuperscript{140} Yet that very control provoked resistance, both from churchmen and from the German nobility. When Henry III died suddenly, leaving as his successor a child, Henry IV (who had already been recognised as king and crowned in his father’s lifetime), those, both ecclesiastical and noble, who had been kept under imperial control in the days of Henry III took the opportunity to gain their independence.\textsuperscript{141}

**The first great quarrel between the Papacy and the Empire, and its consequences**

For a long time now the popes had come to be recognised throughout the Christian lands of western Europe as having a unique dignity as the successors of the apostle Peter, as teaching authoritatively and as exercising primacy in ecclesiastical matters. Nonetheless they had not yet started to govern monarchical the affairs of the universal Church; nor would it have been practically within their ability to run a centralised government of the Church had they attempted to do so. While churchmen recognised this religious authority of the pope and regarded the Roman see with deference, the running of the Church was still largely in the hands of the local bishops, who were normally appointed and overseen by the local temporal rulers.

Across western Europe, a great many large feudal estates were held *ex officio* by churchmen or belonged to religious institutions such as monasteries. The holding of these lands involved the churchmen and institutions in all the commitments of feudal relations: since the lands were held feudally from the temporal ruler, those who held them were required to do him homage for the lands and pledge him their loyalty. Not

\textsuperscript{140} Bryce, pp. 148-149, 152; Folz, p. 63; Heer, p. 52; Kellett, p. 285.

\textsuperscript{141} Bryce, p. 149, 153.
only did churchmen incur obligations to their temporal rulers, they were often in fact appointed by them.\textsuperscript{142}

While these arrangements were in place, it was the emperor who, within the territorial empire, oversaw the life of the Church and appointed the clergy. Be the popes’ spiritual dignity what it may, they were at this time no exception to this general principle: as we have seen, they were often appointed by the emperors and were subject to their oversight. The emperors had a particular concern for the papacy, because of its ecclesiastical pre-eminence and because of its connection with the imperial city of Rome and with the giving of the imperial crown.\textsuperscript{143} For the time being, since the emperors had great real power and the popes made comparatively little use of their moral authority, the popes remained subordinated to the emperors, very much in the old Byzantine pattern. The emperor not only had a duty to defend the pope and the Roman church, he was also taken to have authority to oversee and govern them. This situation was about to change.

As long as the emperors appointed the popes and governed them in practice, they were happy to exalt the dignity of the see of Rome. It was the emperors themselves who had begun the necessary process of reforming the papacy after the scandals of the tenth century: Henry III had shown himself particularly and conscientiously committed to the task. The reform of the papacy would, however, have consequences that the emperors had not foreseen, for the transformed and renewed papacy would soon come to rival the emperors themselves.\textsuperscript{144}

This succession of reforming popes was inspired by the principles of the Cluniac movement, which was working on a reform of the Church throughout western Europe. The reformers saw that the close connection between the authorities in church and state

\begin{footnotesize}
\textsuperscript{142} See, for example, Blumenthal, pp. 35-36, 55.
\textsuperscript{143} Blumenthal, p. 39.
\textsuperscript{144} Barraclough, \textit{Origins}, pp. 56, 69, 80, 103; Blumenthal, pp. 55-58; Bryce, pp. 143, 150.
\end{footnotesize}
involved the clergy in worldly matters and brought many areas of the Church’s life, particularly the appointment of clergy, into subjection to temporal powers. The reformers argued that these arrangements compromised the independence and integrity of the Church. It was not right, they said, that laymen should appoint to religious offices; nor was it fitting that any churchman should in his ecclesiastical capacity do homage to a lay ruler.\textsuperscript{145} The realisation of these new principles would effect a drastic change in relations between the emperors and the Church, and thus a drastic change in perceptions of the imperial role altogether.

The leader of the reforming party was Hildebrand, the archdeacon of Rome and the power behind the throne through several pontificates.\textsuperscript{146} He accomplished a significant change by definitively establishing (in 1059) who had the authority to elect the pope. Hitherto by custom the election had been in the hands of the undefined ‘people and clergy of Rome’ and of the Emperor: now it was to be in the hands of the college of cardinals.\textsuperscript{147} This change started the removal of the papacy itself from temporal control; next would come the bringing under papal control of all ecclesiastical matters, and ultimately of many civil matters also.

Since the time of Constantine there had been a close connection between the Church and the civil authorities. The reformers were not, by insisting on the Church’s independence, suggesting that that connection be undone: rather, they intended to retain the connection but to assert the superiority of the clerical over the civil authorities.\textsuperscript{148} They guarded jealously the ‘liberties of the Church’, upon which the state must not be allowed to encroach, while asserting the right of popes and other churchmen to intervene in temporal matters. The two authorities, temporal and spiritual, were to work

\begin{itemize}
\item \textsuperscript{145} Blumenthal, pp. 52-53, 89-90 (particularly the quotations from the \textit{Libri tres adversos simoniaeos} of Humbert of Sylva Candida).
\item \textsuperscript{146} Blumenthal, pp. 115-116; Bryce, pp. 150, 155.
\item \textsuperscript{147} Blumenthal, pp. 76, 93; Barraclough, \textit{Origins}, p. 105; Bryce, p. 155; Folz, p. 77; Kellett, p. 285.
\item \textsuperscript{148} See, e.g., Blumenthal, p. 118.
\end{itemize}
together, but their relation was asymmetrical: the spiritual authority was to take the leading role, and the temporal authority to follow.

In 1073 Hildebrand himself became pope as Gregory VII, and launched the most direct attack yet on the powers of the temporal rulers over the Church (1075): he declared it a sin for any clergyman to be invested with his office by a layman, a very common practice. The practical consequences of this pronouncement were immense. No layman was to appoint to any ecclesiastical office, from the papacy down to the parish church. The Church was to be entirely independent: church appointments were to be made by churchmen. Yet as a large amount of land and property was attached to these offices, ultimate control of huge stretches of land, and of a great deal of manpower and income, would thereby pass from the temporal ruler to the ecclesiastical hierarchy. The temporal rulers objected strongly to these principles.

Gregory’s declaration inevitably brought about a great rift between the emperor and the pope, and thus began a kind of war between the two great powers, spiritual and temporal, of western Christendom. Gregory claimed that the pope could not be judged by any authority on earth; that he had the right to deem a man unworthy of becoming an emperor or king; that he might sit in judgement on the actions of a ruler; that he might depose a ruler who used his power wrongly.

When the Emperor Henry IV insisted on continuing to appoint and invest bishops, Gregory threatened him with deposition. The emperor, however, did not submit: on the contrary, he reacted by exercising the rights that his own predecessors had claimed, and, at a synod at Worms in 1076, he denied the validity of Gregory’s papal election and called on him to renounce his office. The pope, in response, not only

149 Barraclough, Origins, p. 108; Blumenthal, pp. 113, 139; Bryce, p. 155.
151 Bryce, pp. 150, 156; Folz, p. 75.
excommunicated Henry, but declared him deposed and his subjects absolved of their oaths to him.\textsuperscript{152}

The mutual depositions made the question quite clear: was the pope to have authority over the emperor or the emperor over the pope? Although the pope had little in the way of force to compel the emperor to do his will, his moral authority was immense. By excommunicating a person – expelling him from the Christian community, outside which there was no salvation – or threatening to do so (and no one questioned the pope’s authority over this undeniably religious matter), the pope was able to bring immense moral pressure to bear on those who resisted him. Moreover, excommunication was not only a moral sanction – powerful though it was as such. In a society in which membership of the Church was taken for granted, excommunication removed a person from society. For example, oaths to an excommunicate were held to be no longer binding. Therefore, vassals of an excommunicated lord could, if they saw it to be to their advantage, repudiate their obligations of loyalty; dues need not be paid, nor loans repaid, if they had been guaranteed by oath. Ultimately, excommunication would render any ruler’s position untenable.

Moreover, there at once appeared what would be a recurring phenomenon through the following centuries: those who for practical reasons of their own wanted to be free of the control of the emperor declared their loyal support for the pope. Some of the German barons, professing their acceptance of the pope’s deposition of the emperor, at once revolted against Henry. Faced with this rebellion, Henry was compelled, if he was to retain his crown, to submit to the pope’s demands. He travelled to Italy, to the castle of the Countess Matilda at Canossa, where the pope was staying for the winter, and there, barefoot and clad in a simple woollen garment, he stood three days in the snow in penance, until the pope, relenting, accepted his submission and absolved him.

\textsuperscript{152} Barraclough, \textit{Origins}, p. 109; Blumenthal, pp. 121-122; Bryce, p. 156; Heer, p. 54-55; Kellett, p. 286.
Although the greater question of relations of church and state would not be settled for a long time yet, the humiliation, not for Henry only but for the imperial office also, was profound.\textsuperscript{153}

The great change that occurred in that period was not immediately evident in the lifetime of the two antagonists. Henry IV’s son, also called Henry, became during his father’s lifetime leader of those German barons who were rebelling against the emperor in the name of the pope. At the head of these barons the young Henry eventually deposed his father and took his throne, becoming Henry V (1105): his father died soon after (1106). Henry V, it seems, had no heart-felt commitment to those papal principles of which he had been the champion. Having taken the throne, he demanded for himself the imperial rights of investiture; and thus the quarrel continued.\textsuperscript{154} It did not end until 1122, when a settlement, the Concordat of Worms, was agreed upon between Henry V and Pope Calixtus II.\textsuperscript{155} By this agreement the emperor retained the right to invest the clergy with the temporalities (the lands, property and so forth) attached to their offices, while foregoing the right to choose directly the holders of ecclesiastical offices or to invest them with the office itself.\textsuperscript{156} The question of investitures may have been settled, but popes and emperors would remain rivals for centuries, for the popes had not abandoned their claims of authority over earthly rulers.

Whereas previously emperors had claimed and enjoyed the right of confirming the elections of popes or of choosing popes themselves (something that no emperor hereafter would effectively do), now popes claimed a decisive role in the appointment of emperors. It was now claimed that Leo III’s coronation of Charlemagne had


constituted a transfer, effected by the pope, of the imperial dignity from Byzantium to the Franks or Germans, and that this demonstrated, firstly that it was by the gift of the papacy that the German monarch was, as a matter of course, the prospective emperor, and secondly that the reception of the imperial crown was at the pope’s discretion. If one pope had had authority to transfer the imperial office in Charlemagne’s case, another pope would have it in another case. Therefore any pope could take the imperial office away from its present holders and confer it upon another.\footnote{Bryce, p. 215.} The popes would, indeed, ordinarily and as a matter of course confer the imperial crown on the German king: but this was precisely because the right to choose the prospective emperor had been transferred to the Germans by their predecessor. Since it was in the pope’s power at any time to transfer the Empire again, a fortiori he had the right to examine the German king who presented himself for imperial coronation and, if for any reason they considered him unsuitable, to reject him.\footnote{ibid., p. 214.} The popes would show no reluctance to exercise that right.

Moreover, the popes used the precedent of earlier imperial coronations – in which an emperor had received his crown, not merely as a formality but as a constitutive act, at the hands of a pope – as proof that it was and always had been wholly from the pope that any emperor derived his authority. Other rulers received their authority subject only to the pope’s intervention if he saw fit, but the emperor could have no authority at all unless it were given him by the pope himself. What had originally been evidence of the emperor’s special authority now became evidence of his subordination.

The papal claims therefore touched particularly on the independence and role of the emperor. In the eyes of Gregory and of those who followed his line of thought, the emperors had no authority over the Church, were appointed by the popes, were required
to follow the popes’ directions, and had as their principal task the defence of the papacy and the execution by temporal means of papal policy.

The papal claims had serious effects on the realities of power and government within the empire. In 1125 Henry V died with no male heir. In the absence of an hereditary successor it fell to the German barons to choose their king, and they elected Lothar of Saxony, of the house of Welf (Lothar III). The barons chose Lothar for their own advantage: he was willing to submit to the claims of the pope and was thus a less formidable ruler. This papally-approved ruler was however opposed by the brothers Frederick of Swabia and Conrad of Franconia, of the Hohenstaufen family and the house of Waiblingen. Conrad made his own bid for the crown, and went into Italy, where he had some success; but the opposition of the pope made that enterprise ultimately unsuccessful. Lothar, by contrast, had shown his subservience to the pope by an unprecedented and dramatic action, holding the stirrup of the pope’s horse, and had sworn an oath to defend the papacy. He, going some time later into Italy, succeeded where Conrad had failed, and received the imperial crown in Rome at the hands of an obliging pope.

Although this first bid for the imperial office by members of the Hohenstaufen family was unsuccessful, in it are foreshadowed the main themes of the next century or more. Conrad’s expedition into Italy provoked a division among the Italians between those who supported him and those who supported Lothar. The contest was not merely personal: basic principles were involved. The Hohenstaufens stood for those who wanted an emperor who would really be in charge, while Lothar was the candidate of choice for those who wanted an emperor limited in his power by the pope and therefore forced to concede to the Italian cities a greater independence. The two parties would

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159 Barraclough, Origins, p. 155; Heer, pp. 63-64.
160 Barraclough, Origins, p. 156; Heer, p. 65.
161 Bryce, p. 163.
(albeit much later) acquire the names, rendered into Italian, of the German houses of the two rivals: the supporters of Lothar’s house of Welf became, in Italian, the *Guelphi*; the supporters of Conrad’s house of Waiblingen became the *Ghibellini*. The particular circumstances in which these two factions had first appeared soon became insignificant, but the Guelphs and Ghibellines themselves, representing different groups within Italy with different interests, would remain in existence for centuries.

We have now reached the time of the Hohenstaufens, which, coming as it does immediately before the period specifically analysed in this thesis, has been set apart for closer examination. Looking back over the time reviewed in this chapter, we can see already evident many of the themes that will be prominent in the history of the Empire both in the Hohenstaufen period and in the later middle ages. We have seen the first formulations of the idea of universal rule and of the belief that such rule is vested in the Roman Empire, and the appearance of the concept of a universal community characterised by a Roman identity. We have also observed the increasing abstraction of ‘Romanness’, and its separation from the city of Rome itself, already evident in antiquity, which would provide the very basis for the later Empire’s identification of itself as ‘Roman’. In the relations between the Church and the Empire of late antiquity we have found the origin of the idea that the Empire had an intrinsically religious role, and have seen a politico-ecclesiastical arrangement to which later imperial theorists would appeal. We have seen also the origin of ideas concerning the Empire’s destiny – such as the belief that the Empire would endure until the end of the world – which would last through the middle ages. In the coronation of Charlemagne we have seen the revival in the west of an imperial dignity, held for some time by Frankish monarchs; and then in the coronation of Otto I we seen that dignity revived yet again, this time becoming definitively attached to the German monarchy and associated with the rule of a complex of territories presently identified as the *Imperium Romanum*. Finally, we
have seen the great conflict between the Papacy and the Empire, with the Papacy beginning to claim superiority over the Empire and the right to intervene in its affairs and in the succession to its crown. We are, therefore, now well-placed to understand properly the complexities of the later period, to which we now turn.
The Idea of Empire under the Hohenstaufens, and the Rise of Political Theories of the Sovereign State

After the death of Lothar II, the German barons again elected the new king, this time choosing a member of the Hohenstaufen family, Conrad III.\(^1\) He, however, in his fourteen years’ reign never made the customary Roman expedition and thus never received the imperial crown.\(^2\) After Conrad’s death the barons elected his nephew Frederick – known to posterity, from the name the Italians gave to him, as Frederick Barbarossa. Frederick was elected in 1152, and crowned at Aachen as king.\(^3\) Frederick was remarkably successful in his government of Germany, more so than any king since the Investiture Controversy. Holding great hereditary territorial possessions in his own right, Frederick was a formidable ruler.\(^4\)

The era of the Hohenstaufens, although it was not the time of the emperors’ greatest actual power, was nonetheless the time in which the claims of emperors were made most assertively. When the emperors had been the most powerful political figures in western Europe, a grand theory of Empire had been unnecessary. By the time of the Hohenstaufens, however, the most powerful figures in Europe were not the emperors but the popes, precisely because the popes had a plausible theory justifying their authority. To back up the imperial authority against the pope a similarly cogent body of

\(^1\) Friedrich Heer, *The Holy Roman Empire*, translated by Janet Sondheimer, Weidenfeld and Nicolson, London, 1968; Phoenix, London, 1995, p. 65. This Conrad is different from that earlier Conrad, of the same family, who had made a bid for the crown after the death of Henry V.


\(^4\) Bryce, pp. 175-176.
imperialist theory had to be presented. It is from this period, and not from earlier times when such claims might have been more realistic, that those ideas of the universal imperial authority date which were put forth by imperial apologists throughout the later middle ages.

The study of Roman law and its application by the Emperors

It is particularly from the revival of the study of Roman law that these ideas gained their new strength. The use of ancient Roman law as the basis of jurisprudence in the high and later middle ages was not a survival from ancient times. Although the Roman law had never entirely been forgotten, it had not been in continuous use since antiquity: indeed, the codified texts of Roman law – the Codex, the Digest or Pandects, the Institutes, and the Novels – were compiled in the reign of the emperor Justinian (527-565), after Roman rule had ceased over most of the west. However, it was Roman codified law that was adopted as the basis for the teaching of jurisprudence in the first universities, that of Bologna foremost among them. As a result the importance of Roman law had increased greatly in recent times. It was held in high esteem and had become the subject of an unprecedented amount of devoted and diligent study.

This use of Roman law served the emperors well. Since the Holy Roman Empire was identified with the ancient Roman Empire, it would be natural for the emperors to adopt Roman law and use it as law in their territories. Indeed, the decrees that Holy Roman Emperors had made since the codification under Justinian were dutifully

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6 ibid., p. 98.
7 ibid., p. 91.
8 Bryce, p. 169; Folz, p. 91.
inserted in the Novels – the collections of novae leges or new laws.\textsuperscript{10} When Frederick Barbarossa went into Italy, he sought to regain the rights enjoyed by his predecessors that had fallen into desuetude, among them not only various taxes and tolls but also the right of selecting the local ruler or podestà of the northern Italian cities.\textsuperscript{11} The reassertion of these imperial rights would have deprived the cities of no small part of their independence: it was by appealing to his prerogatives under Roman law that Frederick sought to justify this action.\textsuperscript{12} At the later Diet of Roncaglia, the Archbishop of Milan, addressing Frederick as the “most illustrious prince and sole Emperor of the world and the City”,\textsuperscript{13} ascribed to him absolute authority, justifying that ascription by quoting the Roman law:

\begin{quote}
Know, therefore, that all authority in establishing laws for the people is vested in you. Your will is law, in accordance with the statement: ‘What pleases the prince has the force of law, as the people have yielded and granted to him all their authority and power. For whatever the emperor has established by letter, or taken cognizance of and decreed, or enjoined by an edict, that is accepted as the law.’ [\textit{Institutes} I.ii.6.]
\end{quote}

The principles of Roman law had implications also for the authority of the Emperor outside his own territories. As might be expected, the ancient Roman law had spoken at length about the prerogatives of the emperor. Having been devised for the Roman empire, it assumed a single state with a single ruler – the Roman emperor – over everyone. Later emperors saw how well Roman law would serve to support, and to


\textsuperscript{11} Mierow’s note on \textit{The Deeds of Frederick Barbarossa}, p. 238n.

\textsuperscript{12} \textit{Gesta Frederici}, IV, v (p. 236).

\textsuperscript{13} \textit{ibid.}, IV, v (pp. 236-237); quoted in part in Bryce, p. 170.
provide a legal basis for, claims to jurisdiction over other rulers.\textsuperscript{15} Beginning in the reign of Frederick Barbarossa, imperialist jurists applied directly to the Holy Roman Emperor, the ancient emperors’ present-day successor, everything that the Roman law had ascribed to the emperors in ancient times. As in the Roman law, so in the teaching of the jurists, the emperor was \textit{dominus mundi}, lord of the world.\textsuperscript{16} Rainald of Dassel, Frederick Barbarossa’s outspoken chancellor, spoke of the kings of Europe as mere \textit{reguli} or ‘kinglings’, subordinate to the emperor, and at the Diet of Dole in 1162 called them mere \textit{provinciarum reges}, kings not of independent countries but of the provinces of the empire, and thus, subject to the emperor’s authority.\textsuperscript{17} However, writers such as John of Salisbury in other countries responded angrily when they heard of these claims, regarding them as novelties.\textsuperscript{18}

\textbf{Frederick Barbarossa in Italy}

In 1154 Frederick crossed the Alps on the customary expedition, to assert his rights in Italy and to obtain the imperial crown in Rome.\textsuperscript{19} Throughout northern Italy there was at this time no doubt that the Emperor was the legitimate sovereign – in theory at least. But the reality had changed greatly in the last few generations. Since the Investiture Controversy emperors had seldom been in a position effectively to exercise their authority south of the Alps. The northern Italian cities, which in this time had increased in size and in wealth, and which had adopted republican institutions for their own internal government, had become accustomed to the large measure of liberty

\textsuperscript{16} Bryce, pp. 191, 255.
\textsuperscript{18} Folz, p. 109.
\textsuperscript{19} \textit{Gesta Frederici}, II. xi (p. 124).
afforded them by the absence and weakness of the emperors. With the accession of Frederick this situation changed, and an emperor once again appeared in Italy with the strength of an army behind him, and ready to exercise all the rights of his predecessors.

Coming to the cities of northern Italy, Frederick found them reluctant to submit to the reassertion of imperial authority. The rights which none denied in theory few accepted in practice: the cities objected to the emperor’s involvement in their affairs, refused to accept the governors he appointed over them, and grumbled about the long-neglected taxes and tolls which he now (albeit quite legally) claimed.

When Frederick reached Rome, he found it in an even more difficult state. The Roman populace had for a long time now objected to its German rulers. The Romans considered the emperors Tedescan barbarians, who again and again came from far away with armies, marched into their city as if they had a God-given right to it, and claimed as ‘Roman emperors’ a great dignity and authority over a ‘Roman’ empire even though they had nothing to do with Rome any of the rest of the time. Likewise, the Romans objected to the temporal rule of the pope over them – for it was the pope, in his capacity as a local temporal ruler, who governed Rome. Other Italian cities were at this time developing municipal institutions and asserting their independence of feudal lords: and the Roman populace decided that the time had come for Rome to do likewise.

Their inspiration was an unlikely figure, Arnold of Brescia, a reformer principally concerned with the state of the Church. Arnold criticised the Church’s worldliness, and taught that churchmen, who ought to be attending to spiritual things, were wrong to attempt to exercise temporal authority. The Romans, taking up this
attractive teaching, cast off the temporal rule of the pope.\textsuperscript{25} They went further than that, however, for the revival of municipal institutions had evoked the memory of the Roman Republic, of the time when the Romans themselves had not only governed their city by their own municipal institutions but had also governed other lands both near and far.\textsuperscript{26}

The Romans now threw out the prefect who represented the emperor, and re-established (after a fashion) the forms of the ancient republic, with a senate and consuls.\textsuperscript{27} They did not deny the legitimacy of the Empire: but, far from submitting to the imperial authority themselves, they claimed that the emperors derived their authority from, and ought to be chosen by, the Roman people.\textsuperscript{28}

The Romans then, remembering the past, made the startling decision that they ought, by rights, to be the rulers of the world. Of course, this intention, as a practical proposal, was so far-fetched as to be laughable. Whatever the great achievements of earlier Romans, the Romans of that day did not have the strength even to subdue the neighbouring Italian cities, and they were doing well when they could protect Rome herself from being conquered.\textsuperscript{29} What is significant for our enquiry, however, is the reappearance, it seems for the first time since antiquity, of the idea that it was from the people of Rome that the Emperor derived his authority. Representatives of the Roman populace would present this argument again for many years to come.

It was one thing for the Romans to decide this matter to their own satisfaction, and another to obtain general acceptance for it. The Romans had previously written to Conrad III – who, it will be remembered, never went to Italy – asking him to come and make the city of Rome again the ruler of the lands.\textsuperscript{30} That letter had abounded in

\textsuperscript{25} Gesta Frederici, II, xxviii (p. 144); Bryce, pp. 171, 288; Heer, p. 67.
\textsuperscript{26} Bryce, p. 289.
\textsuperscript{27} Gesta Frederici, I, xxviii (p. 61); II, xxviii (p. 144); Bryce, pp. 171, 288; Davis, p. 86; Heer, p. 67.
\textsuperscript{28} Bryce, pp. 288-289.
\textsuperscript{29} ibid., p. 289.
\textsuperscript{30} Gesta Frederici, I, xxviii-xxix (pp. 61-63); Bryce, p. 172; Folz, p. 96.
statements of the Romans’ loyalty and of their desire to increase Conrad’s power as ruler of the Roman Empire. “You will be able,” they wrote to him, “by dwelling (as is our wish) in the City which is the head of the world and by removing every obstacle of the clergy, to exercise dominion over all Italy and the German realm more freely and better than practically all your predecessors”. They had hoped that Conrad would put an end to the temporal power of the pope and rule the world from Rome.

Conrad, however, would have nothing to do with it. Perhaps he saw, as the Romans did not, the impossibility of the enterprise; or perhaps he noted the reference to the Romans’ being able “to place the imperial crown upon the royal head as is fitting”, a novelty which would have caused nothing but trouble.

Now, in 1155, when Frederick, having passed through northern Italy, was approaching Rome, the Romans sent out a deputation to meet him. They spoke to him of the dignity of the Roman people, and informed him that it was the Roman people who had chosen him and bestowed upon him the imperial dignity. There is some truth in the statement that the Germanic kings, first Charlemagne and later Otto I, had come to Rome at the invitation of the Roman people, though it is very far from the whole story; and Frederick, their successor, might be deemed to be coming on the strength of that standing invitation. Both the Roman deputation, in this speech, and Frederick, in his reply, do seem to speak of the present ruler as if he and his predecessors were one and the same, and in this respect the Romans’ statement is slightly more plausible. Any claim that they had chosen and invited Frederick himself would, however, be absurd.

31 Gesta Frederici, I, xxix (p. 62).
32 Gesta Frederici, I, xxix (p. 63); Bryce, pp. 172, 289.
33 Gesta Frederici, I, xxix (p. 62).
34 Gesta Frederici, II, xxix (pp. 144-146); Bryce, pp. 172, 290.
Otto of Freising gives an account of Frederick’s response to the claims of the Roman delegation. Although we cannot tell how much of the speech which Otto recounts – a splendid piece of oratory – was actually spoken by Frederick, that scarcely matters for the present purpose: Otto was one of Frederick’s closest advisors, and therefore any words that Otto might have chosen to put into Frederick’s mouth are almost as good a testament to the ideals of the imperial party as would be the precise words of Frederick himself. In this speech Frederick (whether in real life or merely in Otto’s retelling of the event) argues that the glory of Rome is not in the city itself, but is now in the hands of the Germans – whom he, in an appeal to history, identifies with the ‘Franks’.

Frederick begins by granting the truth of the Romans’ statement about the historic glories of Rome, but at once turns it around: though Rome was indeed once great, she is not so now. It was not possible that Rome could alone escape from the effects of the passing of time, which touches all things; and her ancient glories have long since passed away from her.

It is clear how first the strength of your nobility was transferred from this city of ours to the royal city of the East, and how for the course of many years the thirsty Greekling sucked the breasts of your delight. Then came the Frank,… and forcibly possessed himself of whatever freedom was still left to you. Do you wish to know the ancient glory of your Rome? The worth of the senatorial dignity? The impregnable disposition of the camp? The virtue and the discipline of the equestrian order, its unmarred and unconquerable boldness when advancing to a conflict? Behold our state. All these things are to be found with us. All these have descended to us, together with the empire. Not in utter nakedness did the empire come to

35 Gesta Frederici, II, xxx (pp. 146-149).
us. It came clad in its virtue. It brought its adornments with it. With us are your consuls. With us is your senate. With us is your soldiery. These very leaders of the Franks must rule you by their counsel, these very knights of the Franks must avert harm from you with the sword.\textsuperscript{36}

To answer the Roman claims that the German kings held the emperorship because it was granted them by the Romans, Frederick presents an account of how the imperial dignity and the rule of Rome came to be with the Germans – what is, in fact, his own interpretation of the \textit{translatio imperii}.\textsuperscript{37} His words are not only a rebuttal of the notion that the \textit{imperium} still resided inherently with the Romans, but also indirectly of the claim that the \textit{imperium} had been transferred to the Germans by the pope. In Frederick’s account, control of Rome and of all Italy, and with that control the office of Roman emperor, had been taken by the Franks by force of arms, by conquest, when the power of the city of Rome had waned:

Let us ponder over the exploits of modern emperors, to see whether it was not our divine princes Charles and Otto who, by their valour and not by anyone’s bounty, wrested the City along with Italy from the Greeks and the Lombards and added it to the realms of the Franks…\textsuperscript{38}

As he goes on, Frederick identifies himself with the emperors of old, as if to show that the rights that Charlemagne or Otto had gained, Frederick their successor held as fully as if he had acquired them himself:

But, you say: ‘You came on my invitation,’ I admit it; I was invited. Give me the reason why I was invited! You were being assailed by enemies and could not be freed by your own hand or by the effeminate Greeks. The power of the Franks was invoked by invitation. I would call it entreaty

\textsuperscript{36} Gesta Frederici, II, xxx (pp. 146-147).
\textsuperscript{37} Bryce, p. 172.
\textsuperscript{38} Gesta Frederici, II, xxx (p. 147).
rather than invitation. In your misery you besought the happy, in your frailty the valiant, in your weakness the strong, in your anxiety the carefree. Invited after that fashion – if it may be called an invitation – I have come. I have made your prince my vassal and from that time until the present have transferred you to my jurisdiction. I am the lawful possessor. Let him who can, snatch the club from the hand of Hercules.\footnote{Gesta Frederici, II, xxx (pp. 147-148).}

From this speech we can see that, in the opinion of the emperor and his supporters, the rights that the Romans had formerly possessed had passed entirely to the Germans because it was with the Germans that the dignity, the martial strength, and the noble character that had distinguished the ancient Romans, and upon which their empire had been built, were in those days to be found. Moreover we can see that, from the imperial point of view, the rule of Rome and the office of Emperor had not passed to the German rulers by a grant of the Roman people, nor by a transferral by the pope: the German kings had themselves transferred Rome to their jurisdiction by subduing her and were now the rightful rulers of Rome and of Italy by conquest.

Frederick and the popes of his day would come into conflict both about the greater question of the relation of temporal and spiritual authority and about the matter of control of the city of Rome. For the time being, however, Frederick managed (particularly by his harsh measures against Arnold of Brescia) to win the approval of Pope Hadrian IV: and so he was crowned as emperor at the pope’s hands.\footnote{ibid., II, xxxii (p. 150).}

In 1158 Frederick began the warfare that would be necessary if he was to reduce the Lombard cities to their former obedience. Some half of the cities acknowledged Frederick’s authority and allied themselves to him, while the others, having formed themselves into the ‘Lombard League’, now rose in open and armed defiance. Frederick was at first successful, and the subjection of the northern Italian cities was followed by
the triumphant Diet of Roncaglia, at which the Emperor was legally confirmed in his possession of the sovereign rights in Italy (the ‘regalia’), which had formerly fallen into abeyance.\textsuperscript{41}

In 1160 Hadrian IV died; and the election of his successor was disputed.\textsuperscript{42} Frederick proposed, as temporal head of Christendom and governor of the Church, to summon a general council, over which he would himself preside, to settle the matter.\textsuperscript{43} Frederick based his claim to this authority on the precedents of Constantine, Theodosius, Justinian, and Charlemagne, who had called and presided over councils of the Church,\textsuperscript{44} and on his responsibility as emperor not only to protect all the churches in his empire, but particularly to provide for the Roman see, “whose care and defence are believed to have been specially entrusted to us by Divine Providence.”\textsuperscript{45} In a letter to Hartmann, bishop of Brixen, Frederick argued that it pertained particularly to the Roman Empire to resolve and prevent schism in the Roman Church.\textsuperscript{46} As to how precisely that should be done, Frederick wrote:

\begin{quote}
We have found reliable evidence in the decretals of the Roman pontiffs and statutes of the Church that, when a schism arises in the Roman Church through strife between two popes, we should summon them both and decide the case in accordance with the judgment and advice of orthodox men.\textsuperscript{47}
\end{quote}

\textsuperscript{41} Gesta Frederici, IV, i-x (pp. 232-243); Bryce, p. 175; Heer, p. 69.
\textsuperscript{42} Gesta Frederici, IV. lli (p. 282), lix-lxxiii (pp. 287-299); Bryce, p. 167.
\textsuperscript{43} Gesta Frederici, IV. lxiv (p. 299); Bryce, p. 167.
\textsuperscript{44} Gesta Frederici, IV, lxiv (p. 299); IV, lxxiv (p. 308); Fuhrmann, p. 352.
\textsuperscript{45} Gesta Frederici, IV, lxv (pp. 299-300).
\textsuperscript{46} “Lest… the universal Church be imperiled by so disastrous a discord [as a papal schism], the Roman empire, which by divine clemency is ready to heal so baneful a malady, should solicitously provide for the welfare of all, and – lest such evils pervade the Church of God – wisely prevent such things in the future.” (Gesta Frederici, IV, lxvi: p. 301); see also Bryce, pp. 109, 167, 199.
\textsuperscript{47} Quoted in the Gesta Frederici, IV, lxvi (p. 301).
Frederick, exercising this authority, summoned, as he put it, “the archbishops, bishops, abbots, and pious and God-fearing men of all our empire and of other realms – namely, England, France, Hungary, Denmark”, 48 to Pavia to resolve the matter. This incident is significant as showing more of what Frederick himself considered his imperial role to be: it is also telling that his attempt to settle the disputed election failed. 49 The council at Pavia was attended only by churchmen loyal to Frederick, and predictably delivered a judgment in favour of Victor IV, the claimant chosen by a faction of cardinals well-disposed towards the emperor. It was, however, the other claimant to the papal throne, Alexander III, who won recognition by churchmen throughout the rest of Europe. 50 Frederick may have hoped to revive the old imperial prerogatives, but the Church outside the empire was not willing to accept a pope imposed by the emperor. “Who has subjected the universal Church to the judgement of one church in particular?” exclaimed John of Salisbury indignantly. “Who has appointed the Germans to be judges of the nations? Who has given authority to brutal and headstrong men that they should set up a prince of their own choosing over the heads of the sons of men?” 51 Despite Frederick’s failure to obtain widespread recognition for Victor, he for the meantime continued to support his own candidate.

48 Gesta Frederici, IV, lxv (p. 300); elsewhere (section lxvi, p. 301) he mentions Spain instead of Denmark.
49 Bryce, p. 167.
50 Bryce, pp. 167-168; Heer, p. 70.
In 1167 the rebellion of the Lombard cities was renewed, Pope Alexander and the rebelling cities making alliance. As the adherence of the Italian cities to the Guelph or Ghibelline cause was, more often than not, based ultimately not on principle but on expediency, many cities changed their loyalty as the fortunes of pope or emperor changed. In the end Frederick’s army was defeated by the League at Legnano in 1176, and Frederick was forced to accept the subsequent Peace of Constance, which left him ruler in name over northern Italy but with little or no actual power over the cities. Moreover, Frederick had realised that Pope Alexander III’s position was secure and that nothing was being gained by his supporting a rival pope whom few others accepted. In 1177 Alexander and the reluctant emperor met in neutral and independent Venice for a reconciliation. Frederick died when on the Third Crusade: later legend has made of him the sleeping ‘king under the mountain’, although the legend, which did not appear until centuries after his death, was in fact first related of his grandson, Frederick II.

Frederick did much to exalt the imperial dignity by the use of potent symbols. It was in his reign that the Empire was first referred to as the ‘Holy Roman Empire’. The description of the Empire as ‘holy’ was probably intended as a response to that exaltation of papal authority that contrasted the merely terrestrial, temporal authority of the emperor with the superior, spiritual, and heavenly authority of the pope, and as an indication that the Empire had a sanctity of its own, and its own God-given authority. From ruined Milan Frederick caused to be removed the relics of the three Magi, whom medieval legend described as both priests and kings, and had them transferred to the city of Cologne (the archbishopric of his chancellor, Rainald of Dassel) where they are...
enshrined to this day.\textsuperscript{58} Frederick had his predecessor Charlemagne canonised (albeit by Victor, whom most of the Church did not recognise as pope),\textsuperscript{59} and added to and adorned the coronation church at Aachen, which was transformed into a shrine for Saint Charles the Great, and to which he gave the massive candelabrum that still hangs from the dome.

**Henry VI**

Frederick was succeeded by his son Henry, for whom he had previously arranged a marriage to Constance, daughter of the Norman king Roger II of Sicily and heiress to his kingdom, which included not only the island of Sicily but also the whole of southern Italy. The Sicilian king William II died (in 1189) around the same time as the emperor, and so Henry not only succeeded to the empire but also claimed, and after some struggles obtained, the kingship of Sicily and southern Italy in right of his wife.\textsuperscript{60} The pope found this arrangement alarming. Whereas formerly the kings in the south of the Italian peninsula had been the reliable allies of the papacy against the German emperors ruling in the north, the emperor now ruled the whole peninsula and beyond the Alps as well. The pope, in the face of this great increase in imperial power within the Italian peninsula, feared both for his spiritual independence and for his temporal possessions.\textsuperscript{61}

Henry, however, had only a short reign, dying in 1197: he left as his heir a child of three years of age, the future Frederick II. Henry had sought to have the kingship (and thus the emperorship) made hereditary in the house of Hohenstaufen, but had failed, in part because of the acceptance of the principle that the king held his office

\textsuperscript{58} Heer, p. 73.
\textsuperscript{59} Bryce, p. 174; Heer, pp. 33, 68, 75.
\textsuperscript{60} Bryce, pp. 187, 201; Heer, pp. 70, 79.
\textsuperscript{61} Bryce, p. 205; Heer, pp. 70-71, 86-87.
‘through election by the princes’, which had already been invoked by Frederick Barbarossa.62

Henry had procured during his lifetime the election of this son as his successor in the rule of Germany; but when Henry died so soon afterwards and left a successor so young the German barons repudiated the election.63 At first Henry’s brother, Philip, tried to rule as regent for his young nephew. This task would be rendered impossible by the actions of Pope Innocent III, who, faced with the recent increase in the power of the house of Hohenstaufen, now used all his strength in the attempt to pull them down.

**Frederick II**

Innocent intervened several times in the settling of the succession following the death of Henry VI, on the grounds that it was the papacy’s prerogative to regulate matters pertaining to the succession to the Empire. Philip of Hohenstaufen, failing in his attempt to act as regent, obtained election in his own right; but at the instigation of the pope a party of nobles opposed him and elected against him Otto of Brunswick, a supporter of the papacy, the son of Frederick I’s old antagonist Henry the Lion, and a Welf. Philip was assassinated, and without a rival Otto of Brunswick was recognised as emperor. Otto, however, once elevated to the emperorship, was less willing to be subservient to the pope than the pope had expected, and he began to assert the traditional rights of an emperor, whereupon the pope declared him deposed and excommunicated him.64 The pope then gave his support to the opponents of Otto IV, and encouraged none other than the young Frederick, now in his ’teens, to lead them. Thus Frederick at the pope’s bidding dethroned Otto IV, and was elected emperor and

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62 *Gesta Frederici*, III, xi; Bryce, p. 202; Folz, pp. 105-106; Heer, p. 79. The occasion of this statement was the ‘Besançon Incident’, for which see the *Gesta Frederici*, III, viii-x (pp. 180-184, especially p. 182), xvi (p. 191); Bryce, pp. 166-7; Folz, pp. 84-85; Heer, p. 69.

63 Bryce, p. 202; Heer, p. 79.

64 Bryce, pp. 202-203; Heer, p. 80.
crowned. At that moment the accession of this member of the Hohenstaufen family looked like a victory for the papacy.

The unresolved difficulties between the Papacy and the Empire – difficulties only exacerbated by Frederick II’s possession of Sicily and southern Italy – soon reappeared. Matters were not helped by the fact that Frederick was very far from being a good Christian, and was in fact reputed to be an outright infidel. He answered the claims of the pope, whether in spiritual matters or temporal, by claiming not only secular but even ecclesiastical rights for himself; he won popular support by denouncing the corruptions of the Church, and declared that it was his own divine mission to reform the Church in spite of the protestations and obstructions of the clergy.65

Frederick turned the antagonism between Empire and Papacy into enmity, and thus provoked unprecedented opposition. Successive popes declared him deposed and excommunicated him as an apostate, preached crusades against him, and by encouraging the German barons raised up rivals against him, first Henry of Thuringia and later William of Holland.66 (This William managed to be crowned as king by his supporters, and outlasted both Frederick and his son, maintaining his claim to the crown until his death in 1256.)

Having as he did little interest in Germany, and eager only to obtain from Germany resources for the projects in the Italian peninsula which were his real concern, Frederick had alienated many of the German lands of his House to secure support, and had given to the German princes, both ecclesiastical and lay, concession after concession.67 These concessions contributed greatly to the independence which the

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65 Bryce, pp. 204-206; Heer, p. 83.
67 The most significant concessions are probably those made in 1220 with respect to the episcopal territories, and extended in 1232 to the territories of all the German princes. There were to be no new royal taxes in the princely territories, nor any building of cities or castles without the consent of the local
German princes would later enjoy, and to the weakened position in Germany of Frederick II’s successors.

The downfall of the Hohenstaufens and its aftermath

In 1250 Frederick died in Apulia. His son, Conrad IV, although he had been elected king in his father’s lifetime, did not now obtain full recognition. Promptly excommunicated by the pope, he took his troops into Italy, where they fought against the military forces both of the papacy and of the Italian cities. While Conrad was occupied in Italy, William of Holland obtained recognition through most of Germany. Conrad survived his father by only four years, dying in 1254. Given the weakness of his own position, Conrad had been unable to obtain the election of any intended successor to the throne.68

When Conrad died, the claims of the Hohenstaufen family to their hereditary territories in Germany and to the kingdom of Sicily passed to his two-year-old son Conradi, while the war against the Guelphs in southern Italy was taken up by Conrad’s half-brother, Frederick II’s illegitimate son Manfred, who continued the struggle for more than a decade. The pope, however, supported the Frenchman Charles of Anjou as a rival for the Sicilian crown, and in 1265 invited him to intervene in Italy as champion of the papacy’s temporal interests. In 1266 Charles defeated Manfred at the battle of Benevento, where Manfred was slain.69
After his uncle’s death, Conradin, by now a lad of fifteen, gathered an army in Germany and marched into Italy to claim his hereditary possessions. However, Conradin’s army was defeated by that of Charles of Anjou at Tagliacozzo, and Conradin, the last of the Hohenstaufens, was beheaded at Naples in 1268.\(^{70}\) Thus Sicily and southern Italy, after a brief interval in the possession of the German ruling house, passed under the rule of the House of Anjou,\(^{71}\) and the hereditary territories of the Hohenstaufens in Germany, also, passed into other hands with the demise of the line. (As a result of the War of the Sicilian Vespers, waged from 1282 to 1302, the Angevins lost the rule of Sicily to the House of Aragon, although they remained in possession of the southern half of the Italian peninsula. Confusingly, this mainland territory retained by the Angevins continued to be called the Kingdom of Sicily.\(^{72}\)

For the moment, the electors were in no hurry to choose any king at all: and in any case there was still a rival claimant, William of Holland, about. Only when William of Holland had died (1256), and the throne was undeniably vacant, did the electors get around to choosing a successor. Their choice showed their determination to use their electoral prerogative to their own advantage. At this election the Archbishop of Cologne first set forth the policy of choosing a candidate who had the resources to bear the expenses of the office, but who was not of so great power as to threaten the independence of the princes.\(^{73}\) (From this time until the imperial dignity settled with the Habsburgs, the electors would generally make full use of their free choice in the matter.) The other electors followed the archbishop’s advice and chose as their king a foreigner, Richard, earl of Cornwall, brother of King Henry III of England.\(^{74}\)

\(^{70}\) Bryce, pp. 207-208; Folz, pp. 129-130; Heer, p. 87.

\(^{71}\) Bryce, p. 187.

\(^{72}\) Norman Davies, *Vanished Kingdoms: the rise and fall of states and nations*, Viking (Penguin), 2011, pp. 192-193.

\(^{73}\) Bryce, p. 209.

\(^{74}\) Bryce, p. 209; Weiler, p. 1115.
Having been elected, Richard went to Germany and was crowned king at Aachen, becoming ‘King of the Romans’, and becoming entitled, should he happen to make the journey to Rome, to receive the imperial coronation.\textsuperscript{75} No sooner had these things happened than some of the electors, changing their minds, elected instead Alfonso X of Castile, called ‘the Wise’.\textsuperscript{76} Neither Richard of Cornwall nor Alfonso of Castile obtained recognition by the whole of Germany. Alfonso, seeing little likelihood of success, stayed in Spain.\textsuperscript{77} Richard was recognised in some parts of Germany, and indeed was crowned at Aachen; but, as he was compelled to return frequently to England, and as the existence of a rival called his legitimacy into question, he was unable to make secure his possession of the throne.\textsuperscript{78} He consequently never exercised effective authority in Germany; nor, in spite of several times making plans to do so, did he ever go to Rome to be crowned.\textsuperscript{79} Since there were two claimants for the title of ‘King of the Romans’, the prerequisite for the imperial office, that office, in the absence of an accepted candidate, went unclaimed.\textsuperscript{80} There would be no single recognised German king until the election of Rudolf in 1273, no crowned emperor until the coronation of Henry VII in 1312.

\textbf{The use of Roman Law to support the Imperial authority}

The use of Roman law outside the territories of the Empire raised the question of the Emperor’s authority in those lands in a new form. It was taken for granted not only by the imperial chancery and by imperialist students of law, but by most of the scholars, even outside the Empire, who spent their lives studying and applying the Roman law, that, in places that had been part of the Roman Empire in ancient times, Roman law was

\begin{itemize}
  \item \textsuperscript{75} Bryce, p. 210.
  \item \textsuperscript{76} Weiler, p. 115.
  \item \textsuperscript{77} Bryce, p. 210; Weiler, p. 1115.
  \item \textsuperscript{78} Weiler, pp. 1115-17, 1119, 1121.
  \item \textsuperscript{79} \textit{ibid}., pp. 1115-16, 1121.
  \item \textsuperscript{80} \textit{ibid}., pp. 1117-18.
\end{itemize}
still binding unless it had been revoked, altered or superseded by later legislation.\footnote{Folz, p. 103.}

There was thus a \textit{prima facie} case for ascribing to the contemporary Holy Roman Emperor those prerogatives that the Roman law had ascribed to the emperor in ancient times: the codes of Roman law presumed throughout, and clearly stated in places, the supremacy and authority of the emperor throughout the world.\footnote{Scales, \textit{German Identity}, pp. 210-211.} According to the Roman law, every human being was subject to the emperor. He personally embodied justice and law: he was the ‘living and breathing law’, \textit{viva et animata lex}.\footnote{Walter Ullmann, “The Development of the Medieval Idea of Sovereignty” (\textit{The English Historical Review}, Vol. 64 (1949), pp. 1-33), p. 3; Walter Ullmann, “‘This Realm of England is an Empire’” (\textit{Journal of Ecclesiastical History}, Vol. 30, No. 2, April 1979, pp. 175-203), p. 177; see also Bryce, p. 260.} The Roman law-codes gave him no less a title than \textit{dominus mundi}.\footnote{J.P. Canning, “Ideas of the State in Thirteenth and Fourteenth-Century Commentators on the Roman Law” (\textit{Transactions of the Royal Historical Society}, series 5, 33 (1983), pp. 1-27), p. 3; Franz Bosbach, “The European Debate on Universal Monarchy” (in David Armitage, ed., \textit{Theories of Empire}, Aldershot: Ashgate, 1998, pp. 81-98), p. 3; Frances A. Yates, \textit{Astraea: the Imperial Theme in the Sixteenth Century}, Routledge and Kegan Paul, London and Boston, 1975, p. 5.} His laws were binding everywhere – the consequence of which, in the Middle Ages, would be that the laws of a Holy Roman Emperor had as much force outside the Empire as within it. Likewise, since by Roman law all other officials were subject to the emperor, and his was the final court of appeal, it would follow that an appeal could be made to the Holy Roman Emperor against the sentence of a king.\footnote{Ullmann, “Development”, p. 3.}

The earliest attitude among the jurists was to take the statements of Roman law at face value, and to regard those rulers who refused to recognise the Emperor’s authority as having only a \textit{de facto} independence: this was, for instance, the position of Cynus da Pistoia.\footnote{Canning, p. 8.} The most distinguished of the Italian jurists of the fourteenth century, Bartolus (Bartolo di Sassoferrato) and his student and colleague Baldus (Baldo
degli Ubaldi), both stated that the Emperor was by rights lord of the world, thus applying the statement of the Roman law to their own times without change. Bartolus acknowledged that the greater part of the world no longer obeyed the Emperor, but said that this was not de jure but merely de facto. Although much of the world might not recognise the Emperor’s authority, nonetheless it was plain that he was by rights the dominus mundi, as the Roman law called him.

This verdict of Bartolus and Baldus was, characteristically of the period, based not only on Roman law but also on theological grounds. By their judgement, while the Roman empire began as a human institution, its authority had been confirmed by God, and it was therefore, after that confirmation, not merely a human but a divine institution, destined to last for ever, and with an authority from God that no human power could take away. Since Christ Himself and scripture had confirmed the authority of the emperor, to deny it was contrary not only to Roman law but to the Christian faith also. “If anyone should say that the lord emperor is not the lord and monarch of the whole world,” wrote Bartolus bluntly, “he is a heretic.” Likewise Baldus, having

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87 *ibid.*, p. 8.
89 Canning, pp. 9, 14.
90 The scriptural justifications for the imperial authority will be discussed in more detail in the analysis of the imperialist thought of Dante.
92 Si quis diceret dominum imperatorem non esse dominum et monarcham totius orbis, esset haereticus (Bartolus’s lecture on D. 49. 15. 24, quoted by Ullmann, “Development”, p. 6; Bryce, p. 273n; see also Gaston Zeller, “Les Rois de France Candidats a l’Empire: Essai sur l’Idéologie Impériale en France” (*Revue Historique*, 173 (1934), pp. 273-311, 497-534), pp. 303, 509. ‘Monarch’ here does not mean, as it does now, a king (or queen regnant): had it done so, the existence of the emperor (as monarch of all the world) would have precluded the existence of other kings. In medieval use the word ‘monarch’ more often than not meant a sole ruler, not only within a particular kingdom, but altogether, to whom other rulers were subject: a ‘monarch’ in that sense was intrinsically both unique and supreme.
stated that the emperor was *dominus mundi*, added that “to say to the contrary is sacrilege”.

No jurist went so far as to claim, on the basis of the Emperor’s being *dominus mundi*, that the whole world, or even the lands of the Roman empire at its greatest extent, ought to be a unitary state under the direct ordinary government of the Emperor; nor did they claim that the kings were mere usurpers, or deny that they had proper rights, and, ordinarily at least, full authority over their subjects. However, there were many who would give to the Emperor an authority over the kings which, while allowing them ordinary jurisdiction in their kingdoms, did not give them full independence. Huguccio of Pisa, for example, would write that “There be many provinces in the Roman Empire, with many kings, but only one Emperor, their suzerain”.

**The exemption from Imperial overlordship claimed for France**

Nonetheless, at the very beginning of the thirteenth century we find theorists giving much attention to claims that certain kings did not have, or did not recognise, any temporal superior. In 1202, Pope Innocent III had in the bull *Per Venerabilem*, while speaking of the king of France, mentioned that this king “did not recognise any superior in temporal matters”. The exact interpretation of this statement became a subject of some interest, there being two ways in which it could be taken. It might be merely a

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93 *Contrarium dicere est sacrilegium*. Ullmann, “Development”, p. 6; also John M. Headley, “Germany, the Empire and Monarchia in the Thought and Policy of Gattinara” (in Heinrich Lutz, ed., *Das römisch-deutsche Reich im politischen System Karls V*, Munich/Vienna, Oldebourg, 1982), p. 28-29. See, however, Canning, pp. 8-14, for a discussion of how Bartolus and Baldus accommodated the realities of non-imperial government in Italy.

94 cited by Yates, p. 5.


96 The context of this declaration was in fact rather trivial. The purpose of the Bull was to legitimise the French king’s illegitimate children: and the reason for the pope’s statement (that the French king did not recognise any superior in temporal matters) was to establish that no-one’s legitimate authority had been compromised by the matter’s having been submitted to the jurisdiction of the pope. (Heer, p. 86.)
statement about the willingness or unwillingness of the king of France to acknowledge a superior whom he did, by rights, have: the emperor might still be the king of France’s superior in temporal matters even if the king of France denied that this was so. On the other hand, the pope’s statement could be taken to mean that the king of France did not recognise a superior in temporal matters because he had no such superior to recognise.97

Canonists would disagree over the interpretation of the passage for the rest of the century: in France, at least, they tended to take Innocent III’s statement in the second sense, as indicating that the king of France did indeed have no temporal superior.98 However, even in France, and in spite of the French kings’ assertions of independence, there were jurists – particularly the two most important jurists of the school of Orléans, Jacobus de Ravannis and Petrus de Bellapertica – who considered the emperor to be sovereign de jure, the French king only de facto.99 With a splendid disregard for anything other than the indisputable Roman law, Jacobus de Ravannis could say definitively, “Some say that France is exempted from the empire. This is impossible de jure. You have it in C.1.27.2.2 that France is subject to the empire… If the king of France does not recognise this, I do not care.”100

The claim that the French monarchy was exempt from any sort of imperial authority was purely a claim about France:101 it was not based on a repudiation of supranational imperial authority altogether, nor on any generally applicable theory of the independence of sovereign states. Most of the French theorists left largely intact the

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99 Canning, pp. 7-8.
100 *Quidam dicunt quod Francia exempta est ab imperio; hoc est impossibile de iure. Et quod Francia sit subdita imperio habes… C. 1. 27.2.2. Si hoc non recogniscit rex Franciae, de hoc non curo.* (ad Digestum Vetus, Proem, f. 2r, MS Leiden, d’Ablaing 2; quoted by Canning, p. 8.)
idea of an imperial supranational authority, with the provision that France was exempted: and some went so far as to assert that France was uniquely exempted from imperial jurisdiction.\textsuperscript{102} For example, Durandus of Mende, while saying that the French king was \textit{princeps in regno suo}, could nonetheless also say that, with that exception, the Emperor ruled over the whole world and all the other countries were merely provinces ultimately under the Emperor's authority.\textsuperscript{103}

Even well into the fourteenth century we find the independence of France justified not by general principles of national independence but by this special exemption. The canonist Guillaume de Montlauzon says that by law (\textit{de jure}, not merely \textit{de facto}) the king of France does not recognise the emperor as his superior. Guillaume says that this is true also of certain others (\textit{et quidam alii}): while France is therefore not unique in his reckoning, the supranational authority of the Emperor remains the default position. Despite Guillaume’s acknowledgement that there are certain other rulers who are also independent, his explanation is still applicable only to the king of France: France is independent chiefly because Charlemagne, in whose person the empire was transferred to the Germans, had not willed that his own special patrimony, which was the kingdom of France, should be subjected to anyone else.\textsuperscript{104}

France had been, not only a constituent, but the principal part of the Carolingian empire, and it was not possible that it should be reduced to the status of a subject land. The attribution of the imperial title to the German monarchs could not, therefore, be taken to imply anything prejudicial to the sovereignty of the French monarchs.\textsuperscript{105}


\textsuperscript{103} Folz, p. 156.

\textsuperscript{104} Cited first in G. Post, “Two Notes on Nationalism in the Middle Ages,” \textit{Traditio}, IX (1953), 310, n. 66), and from there in Spiegel, p. 170n. For an example of the surprising way in which a pro-imperial theorist (in this case Alexander of Roes) could put to good use this idea of the kingdom of France as a special patrimony of Charlemagne’s, see Scales, “France and the Empire”, pp. 404-406.

\textsuperscript{105} Zeller, p. 282.
The case of kings ‘who recognise no superior in temporal matters’

Not only in France but also elsewhere (at least outside the Empire), the idea that certain kings had no temporal superior became established during the thirteenth century, was written into the legal text-books, and thereby became widely accepted. This recognition was merely a facing of facts. It was indisputable that certain kings did not recognise (in the sense of acknowledging) any temporal superior, and those whose task it was to explain and account for political realities (rather than arguing for political ideals) had to recognise that independence. It would take longer, however, for theories to be worked out that would satisfactorily explain the nature of such independence, and reconcile it with the statements of Roman law. Importantly, these cases of kings ‘who did not recognise any superior in temporal matters’ (the king of France being the most prominent example) were not yet developed into a general rule of the sovereignty of kings, and of their independence of the Emperor. On the contrary, these cases were treated as exceptions to a general rule of de jure subjection to the emperor, each having to be accounted for specifically.  

The kings who asserted that they ‘recognised no superior in temporal matters’ also took up the Roman law and put it to use for their own advantage. Uniform law in a kingdom was important for a monarch, and Roman law proved useful for this purpose, because it was assumed that everyone who could not be proven to be subject to some other law was to be judged by the Roman law. Kings who were trying to impose uniform administration and law over their kingdoms adopted Roman law to achieve this end.

There were, however, several problems with the application of Roman law, the most obvious being that the Roman law gave the authority to govern to the Emperor,
while making no provision whatever for the status of kings. Those whose job it was to apply the Roman law in the interests of their kings were not free simply to ignore its statements of the authority of the Emperor: yet accepting them outright would stultify their whole project. ¹⁰⁹

A further problem with this application of Roman law was that the Roman law was at odds with a substantial body of long-established customary and statute law. Insistence on Roman law to the prejudice of existing law would, practically, have been immensely problematic, and doubtless in some cases undesirable. What is more, where this law had already been enacted by royal authority, to reject it would have been to reject the legislative authority of the king. Such an attempt was never made. The jurists from the beginning assumed that Roman law could in fact be superseded – by alteration or abrogation – and that a state’s own legislative organs could do so. The question (pressing for them because of their professional commitment to Roman law) was how this authority could be accounted for in the terms of Roman law. ¹¹⁰

The jurists undertook to reconcile the Roman law (which they were, by the nature of their profession, compelled to uphold) with the realities of the contemporary political situation. The result of this attempt, by those trained in the tradition of the Roman law, to express contemporary political realities in the language and using the structures of Roman law was that the authority of the Empire was taken as the norm for political legitimacy. ¹¹¹

**The assimilation of the authority of kings to that of the Emperor**

The successful solution to the problem involved the assimilation of the king – though with respect to his kingdom only – to the position of the *princeps* in the Roman

¹⁰⁹ Canning, pp. 3-4.
¹¹⁰ Jones, p. 222
¹¹¹ Canning, p. 9; Scales, “France and the Empire”, pp. 412-413.
law codes. By treating the king as occupying the position of princeps, the jurists could explain in the terms of the Roman law how he was able to alter the law codes; they also made easier the use and application of the principles of Roman law by the royal court. That plenitude of authority that the Roman law ascribed to the emperor – that is, essentially, sovereignty – would now be accorded to the kings, although with one crucial difference. Whereas the authority of an emperor in the Roman law was unlimited, over all things and all people, the authority of a king (though now likened to that of the princeps) was limited by the borders of his kingdom.

Early in the thirteenth century (around 1210) the English canonist Alanus expressed this principle of the assimilation of the king to the princeps by saying that whatever was said of the emperor could be said of any king or prince who was not subject to anyone else: each one had such jurisdiction in his kingdom as the emperor had in the empire. While this statement affirms that the rights and authority of a king are equivalent to those of an emperor, Alanus does not go so far as to use the term ‘imperial’ for the rights of kings. Imperium remains the name for the realm and authority of the Holy Roman Emperor. Other jurists (and rulers) in the following years expressed the same principle in different words, saying that a king had the same authority as an emperor, though without explicitly calling that authority imperium. Alfonso X of Castile set out in his law code, the Siete Partidas, all the attributes of an ‘imperial’ plenitude of power as the prerogatives of the Castilian king – and indeed of

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112 Jones, p. 225.
113 Jones, p. 222; Ullmann, “This Realm of England”, p. 176.
115 Koebner, Empire, p. 36.
116 Ullmann, “This Realm of England”, provides a great many relevant quotations.
other kings also: “All those powers which… emperors have or should have over the peoples of their empires, those same, the kings must exercise in their own kingdoms.”

To put the king in the place of the princeps meant that no-one in the kingdom was exempt from his authority; that his subjects could not appeal from his court elsewhere; and that he had power to change the Roman law. Ascribing these prerogatives to the king allowed a workable theory of the territorial state to be developed, albeit a rudimentary one, and one expressed in the inapposite terms of Roman law. While this statement was not principally about the king’s relation to the emperor, but rather about the king’s relation to his subjects, and to the laws, in his own country, it indirectly diminished the imperial authority. To attribute the rights of an emperor to more than one person is to deny that universality and uniqueness were essential qualities of those rights. Thus, the extended application of these prerogatives changed their meaning and attenuated what they denoted. It reduced the emperor to being only one of a number of rulers, all of whom recognised no superior in temporal things, all of whom enjoyed identical rights, and each of whom had exclusive authority over a limited territory.

The effect of Aristotelian ideas on the conception of the Empire

New ideas, based on the newly-discovered writings of Aristotle, in particular, his Politics, were already having an influence even as the ideas based on Roman law were being developed and expounded. Ultimately, Aristotelian concepts would be found to provide a more satisfactory explanation of contemporary political reality, and a more easily understood theory of the state, than did the ideas of Roman law. While some

119 Jones, p. 221.
ideas from Roman law would survive, by and large concepts derived from Aristotle would displace the Roman law in providing the basic explanation of the state.\(^{120}\)

Very little of Aristotle’s work had been known in western Europe before the end of the twelfth century. From that time translations of an increasing number of texts became available, originally at third hand, translations into Latin of texts in Arabic, themselves translations of Aristotle’s Greek originals.\(^{121}\) The *Politics*, however, did not exist in Arabic translation. After the Fourth Crusade (1204) established ‘Latin’ rule in Constantinople, the original Greek text became available to scholars in western Europe, where Aristotelian political ideas had been unknown for centuries – indeed, since before the Carolingian revival of the imperial title in the west. At first the Greek text was still inaccessible, since few scholars in western Europe understood the language. It was not until 1260 that a Latin text of the whole of the *Politics* made the text accessible to all scholars. This translation was the work of the Flemish cleric William of Moerbeke, a friend of Thomas Aquinas, at whose encouragement he undertook the work.\(^{122}\)

The *Politics* was at once taken up with enthusiasm, given the esteem in which Aristotle himself was held. Aristotle presented a coherent theory of the state that did not take the authority of the Roman Empire as the norm for political legitimacy. Aristotle had, of course, written his *Politics* before there was a Roman Empire, before there was a Church or a papacy to be connected with the Empire, before there was a Roman law: so many of the preoccupying themes of earlier medieval political theory are absent from his theory of the state. (Although Aristotle had been tutor to Alexander the Great, maker of an intended world-empire, that idea too is absent from Aristotle’s political thought:


\(^{121}\) Tierney, pp. 159.

his thought is based rather on the *polis*, the independent, politically self-contained city-state, such as actually existed in the Greece of his time.) Medieval ideas about the state developed from the works of Aristotle had their basis predominantly in this world, rather than being based on theological premises.\textsuperscript{123} Perhaps the most telling sign of the change is not a rebuttal of the idea of universal empire, but a silence on the matter: Thomas Aquinas did not so much as mention the Empire in his political work.\textsuperscript{124}

Nonetheless, the application of Aristotelian ideas did not logically require the abandonment of universalist ideas, nor was there an intrinsic conflict or even incongruity between universalist and Aristotelian ideas.\textsuperscript{125} It was in fact possible to combine a general acceptance of Aristotle’s principles with an adherence to the imperial idea. Belief in the supra-national authority of the Emperor had never required a rejection of the existence of kingdoms and other forms of government, as if they were simply illegitimate. The idea of Empire had never been an ideal of a unitary state, nor had it implied that the other governments derived their authority from the Emperor. The existence of a perfectly workable theory of government in which the Empire plays no part does not in itself refute ideas of an overarching imperial authority, or preclude them if people have other reasons for holding them.

The two forms of government could be treated as existing on different planes, deriving their authority from different sources. The application of Aristotelian principles to the kingdoms and city-states could leave the Empire and the theoretical justifications for it untouched. Since many of the justifications for the Empire were theological, no-one expected Aristotle to know about them: and a pro-imperial theorist could argue (as


\textsuperscript{125} That there was is the position of Folz, who describes the idea of the state that sprang from the rediscovery of Aristotle as “a negation of the traditional theory of the Empire” (Folz, p. 138).
Marsilius of Padua in fact does, although in a different connection) that the Incarnation and the founding of the Church – or indeed any divine action – might have consequences that Aristotle could not have foreseen or taken into account. Certainly Dante, who refers to Aristotle and his ideas continually in the *De Monarchia*, shows no sign of an intrinsic contradiction between Aristotle’s this-worldly theory of (so to speak) ‘local’ government and the universal Roman Empire with its largely theological justifications.

Such a distinction between the authority of the Empire and that of the states discussed by Aristotle was, in fact, implicit in the translation of the *Politics* that medieval scholars used. In making his translation, Moerbeke had made a significant choice of words. To denote the function of government, Aristotle had used the noun arché (αρχή) and the verb archein (αρχεῖν). In classical Latin (such as would be used in later Latin translations of the *Politics*) the natural way of rendering these two Greek words is by imperium and imperare. These terms Moerbeke did not use, choosing instead the words principatus and principari. Richard Koebner has argued convincingly that Moerbeke’s choice of words was not the result of faulty Latin: rather, it came from an awareness that imperium would inevitably be understood to mean a specific polity, the Holy Roman Empire, and the authority of its monarch, and that therefore it could not satisfactorily be used to denote government in general.

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126 Marsilius was discussing the (as he saw it) ‘pernicious’ interference of the papacy in the affairs of the Empire and other states. Aristotle, according to Marsilius, had dealt with most political topics; but the papal claims were, so to speak, part of the “aftermath of the miraculous effect produced by the supreme cause long after Aristotle’s time; an effect beyond the power of the lower nature and the usual action of causes in things”, that is, the founding of the Church. Because the papal claims arose as a kind of unintended by-product of an unpredictable and extraordinary divine action, neither Aristotle nor any of the philosophers of or before his time could have predicted it (Marsilius of Padua, *Defensor Pacis* (translated as *The Defender of Peace* by Alan Gewirth, Columbia University Press, New York, 1956; Harper and Row, New York, 1967), I, I, 3; I, XIX, 3).

The result of this distinction was to perpetuate the idea that *imperium*, whatever else it might be, was at least a different sort of authority from the *principatus* exercised by all rulers (who were, in the Latin of the time, all alike *principes*). In Dante’s writing, the two forms of authority are clearly different. In Ockham’s writings, also, *imperium* always means rule over the whole world; and although Marsilius of Padua did not treat the Emperor’s authority as existing intrinsically in a separate category from that of other rulers, and although he did in fact treat the authority of the Emperor as a kind of *principatus* (which indeed it was), he nonetheless made the same distinction as Moerbeke in reserving the name *imperium* to the authority of the Holy Roman Emperor.¹²⁸

**The establishment of a theory of the sovereign state**

Attempts to reconcile Aristotelian and universalist political theories were less common, and ultimately less successful, than the integration of Aristotelianism with existing legal axioms concerning the independence of kings to produce a theory of the sovereign state that was both logically coherent and practically workable. A particularly lucid theory of the state was devised by jurists in the kingdom of Naples, and articulated most clearly in the writings of Marinus da Caramanico and Andreas de Isernia.¹²⁹

Marinus and Andreas were alike dismissive of any unique legitimacy or sacred status on the part of the Roman Empire. Asking rhetorically to what the Roman empire owed its existence, Marinus answered that it was evident from reading history that the Roman empire had been built up entirely by force. The ancient Romans had, unjustifiably and criminally, subjugated and oppressed other peoples: imperial power had only ever been based on military might, never on legal right. Even in ancient times,


¹²⁹ Canning, pp. 3-4.
therefore, Roman rule over other peoples had been only *de facto*, not *de jure*.\textsuperscript{130} The decline of the empire’s power, and the contraction of imperial territory, was no bad thing, as countries unjustly placed under Roman rule had now regained their independence and their proper, original rights.\textsuperscript{131}

Although the Roman law was commonly used, the ‘free kings’ were not bound to use it. It did not derive any force it may have had in the present day from having been imposed by the authority of Rome, or from any intrinsic perfection, but, in the kingdom of Naples at least, from the fact that it was accepted by custom and that its use had been to a large extent expressly authorised by the authority of the crown.\textsuperscript{132} Andreas said that that application of imperial laws simply meant that the king had considered them to be reasonable or useful laws to apply: it could not be inferred that they were applied because of their imperial origin.\textsuperscript{133} Roman law was therefore part of the common law of the kingdom – though only to the extent that it did not contradict, and was not altered or overruled by, new legislation.

Marinus, in the *Constitutiones Utriusque Siciliae* (c. 1275), took up a legal axiom by now familiar by saying that the Neapolitan king had in his own kingdom all the powers that an emperor had.\textsuperscript{134} He went further, however, saying that the authority of a king was no less than the authority of an emperor, and that the difference between a king and an emperor was a difference in nothing but name.\textsuperscript{135} The Neapolitan jurists thus stated unambiguously what had hitherto only been implied.

In spite of Moerbeke’s implicit distinction between *imperium* and *principatus*, and the writings of universalist theorists, it was only a matter of time before jurists (on

\textsuperscript{130} Ullmann, “Development”, p. 19.
\textsuperscript{131} Canning, pp. 4, 6; Ullmann, “Development”, p. 19.
\textsuperscript{132} Canning, p. 6.
\textsuperscript{133} Ullmann, “Development”, pp. 21-22
\textsuperscript{134} *ibid.*, pp. 18-19.
\textsuperscript{135} *ibid.*, pp. 19.
this point still adapting concepts from the Roman law) took to using the word *imperium* itself for the rights, equivalent to those of an emperor, to which they considered the kings to be entitled. It is towards the end of the thirteenth century, and, unsurprisingly, in France, that jurists are first found using the word *imperium* for the authority of the king. Of Philippe IV Guillaume Durand was able to say that the king should be emperor in his kingdom, and should be able to wield power (*possit imperare*) over land and sea, and that all the peoples of his kingdom should be governed by his power (*imperium*). From the fourteenth century, the principle was expressed in the apophthegm – which became axiomatic – *Rex in regno suo imperator est.*

**French interest in the imperial office, legacy, and lands**

We have already seen the insistence of the French kings and their jurists on French independence of the Empire. Nonetheless, there was a deep interest, within France and on the part of the French kings, in the imperial dignity: indeed, of the countries outside the territorial empire, none had so great an interest in the imperial authority and legacy as had France. There are several reasons for this French interest. Perhaps most importantly, while France was no part of the Empire now, she had been an integral part of the empire of Charlemagne: indeed, in those much-admired days, control of the empire had been in the hands of the Franks, whom the modern French regarded as being their kin in a way that they were not the kin of the Germans who now held the Empire.

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136 *Quod Dominus Rex sit imperator in regno suo et imperare possit terrae et mari et omnes populi regni sui ejus regantur imperio*: quoted by Koebner, *Empire*, p. 36.


138 This identification was not accepted in Germany. Alexander of Roes said that the French were not the same as the Franks, but at best merely some among the descendents of the Franks: if they were to be called after the Franks at all, their correct name would be the diminutive *Francigene*, or ‘Franklings’ (Scales, “France and the Empire”, p. 407; Scales, *German Identity*, p. 322). Alexander also said that the
Moreover, Charlemagne himself was also a French national figure of yet unrivalled fame. We find the emphasis in France placed heavily on Charlemagne as a French monarch.\textsuperscript{139} The \textit{chansons de geste} portrayed Charlemagne as such: indeed, in the most famous, the \textit{Chanson de Roland}, he is repeatedly called \textit{empereur des Francs} or \textit{Empereur de France}.\textsuperscript{140} If the Empire were considered at all in this connection, it could be considered with the observation that Charlemagne and his immediate successors, who were kings of France, had held the imperial title which had later passed to the kings of Germany. Thus Charlemagne’s being emperor suggested that other French kings might likewise obtain the emperorship.

Philip II (reigned 1180-1223), who is normally spoken of with the telling ‘imperial’ surname ‘Augustus’, was preoccupied with the legacy of Charlemagne. He saw in the achievements of Charlemagne something to emulate; and made his court a centre of the cultus of Charlemagne.\textsuperscript{141} Gerald of Wales tells the story of a time when a group of noblemen saw the king day-dreaming, and asked what he was thinking about: he answered that he was considering “whether at any time God might grant to me, or

\begin{footnotesize}
\begin{enumerate}
    \item[139] Jones, pp. 158-9.
    \item[141] Folz, p. 134; Spiegel, pp. 158, 164-5; Zeller, p. 279. It was in the reign of Philip Augustus that the pope gave the bull \textit{Per Venerabilem} in which he said that the king of France did not recognise any superior in temporal matters.
\end{enumerate}
\end{footnotesize}
another King of France, the glory of restoring to the realm of France the ancient breadth and greatness which it had at the time of Charles.”

Moreover, the French kings could be seen to have taken on an important task which ought to have been, but was not, performed by the emperor: that of leading crusades. Not only was the defence and extension of Christendom a particularly imperial duty, but the emperor’s supranational authority meant that it was he who could be expected to lead the common ventures of Christendom. In reality, however, the emperors often found themselves unable to lead crusades, being occupied by the difficult tasks of maintaining their authority in Germany and of both imposing and maintaining it on the other side of the Alps in Italy. Moreover, they were often involved in quarrels with the pope – a distraction which seemed particularly inappropriate in a ruler who was supposed to be the defender of the Church. As a result, the emperors had played not nearly so prominent a part in the crusading effort as had the French kings.

The difference between the Empire and the French monarchy with respect to the pope is illustrated most strikingly in the lives of two contemporaries, the emperor Frederick II and king Louis IX of France. Frederick was an open unbeliever, an enemy of popes, repeatedly excommunicated. Louis, on the other hand, was a very model of chivalry, justice, and piety; a patron and defender of the Church; a steadfast soldier who in crusade after crusade had been the champion of the Christian effort, and who after his death was numbered with the saints. Louis IX brought the prestige of the Capetian monarchy to its apogee, and left that prestige as a legacy to his successors: suddenly Charlemagne was equalled as an illustrious ancestor by the more recent French king.

143 Jones, p. 343; Scales, “France and the Empire”, p. 410.
144 Jones, p. 350; Scales, “France and the Empire”, p. 400.
146 see Zeller, p. 284.
From Louis’s time – at least, until the turn of the fourteenth century – the kings of France could be presented in contrast to the emperors as loyal sons of the Church.\textsuperscript{147}

Louis IX himself had had no ambitions either for the imperial crown or for imperial lands.\textsuperscript{148} In 1239 Pope Gregory IX, then in the midst of his troubles with the recalcitrant Frederick II, had offered to Louis the imperial crown for himself or for one of his relatives: but the king declined it, since he had previously made an alliance with Frederick and could not honourably now act against him.\textsuperscript{149} Louis’s successors would not be so reluctant.

In the decades following the fall of the Hohenstaufens, the actual power exercised by the German monarchs was reduced almost to nothing, while the power of the French kings both at home and abroad increased.\textsuperscript{150} By the end of the thirteenth century, France had taken over as the most powerful monarchy in western Europe.\textsuperscript{151} With that strength came ambition, not only for territorial expansion, but also for title and role of Emperor.\textsuperscript{152}

We have seen that the offices of German king and of Emperor were properly two quite distinct functions, albeit held in conjunction. In the decades following the death of Frederick II, as king after king of Germany failed to make the journey to Rome and receive the imperial crown, the claim that it belonged as a matter of course to the German monarchs became weaker. It is therefore quite understandable that the monarchs of another nation should have thought of themselves as potential emperors.\textsuperscript{153}

\textsuperscript{147} Jones, p. 338; Scales, “France and the Empire”, p. 410.
\textsuperscript{150} Jones, p. 353; Zeller, p. 285.
\textsuperscript{151} Scales, “France and the Empire”, p. 415.
\textsuperscript{152} Zeller, p. 285.
\textsuperscript{153} Folz, pp. 134-5; Jones, p. 332; Scales, “France and the Empire”, p. 415.
It was suggested that the pope ought to make another *translatio imperii*, analogous to that effected by the coronation of Charlemagne, this time transferring ‘the Empire’ from the Germans to the French. This proposed transfer would have meant that the French rather than the German king would have had the supranational authority of the emperor, and would have ruled the kingdoms of Italy and Burgundy. (Burgundy, the status of which as a kingdom separate from Germany was in practice merely notional, included many of those lands bordering France on which the French kings particularly had their eye.) These two territories were considered to pertain to the Empire *per se*, to be ‘imperial’ territories *par excellence* in a way that Germany was not, incorporated with the kingdom of Germany into a single polity by reason of the holding of the imperial title by the German monarch. Whichever came first, a transfer of the imperial office to the French and the wresting of these territories from German rule would be inseparable.

During the later middle ages the French monarchy had a policy of territorial expansion that saw the acquisition by the kingdom of France of lands formerly regarded as part of the territorial empire. Louis IX had restrained French encroachments on imperial territory, but they continued apace after his death, as French kings and their lawyers and officials took advantage of the weakness of the Empire, then without an effective ruler. The lawyers of the French crown advanced claims to territory after territory, moving toward the Rhine, claiming using historical documents and precedents that the territories were by rights French and that they had been taken over by the emperors unjustly. The French kings and their supporters did not consider these actions to be an annexation of territory or extension of royal authority at the expense of the Empire. On the contrary, they argued that these territories were by rights part of the kingdom of France, and that the French crown was merely regaining and consolidating

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its control over what was already rightfully part of the kingdom. If anything, it was the emperors who had in the past wrongfully held territories that belonged to France.155

**Changes in the actual power of the German monarch and in the manner of succession at the end of the Hohenstaufen period**

The collapse of imperial power in the middle of the thirteenth century left to both Germany and the Italian peninsula a legacy of political fragmentation. The rule of central Italy passed definitely to the pope, while northern Italy (where, in the absence of any effective imperial rule, the towns had successfully maintained their practical independence) was left a patchwork of *de facto* independent city-states. The strife of Guelphs and Ghibellines continued, although increasingly these names were merely the names of factions, without their original significance of allegiance to papacy or empire respectively.

The German kings’ involvements in Italy had prevented them from attending as well as they might have done to Germany and from consolidating their power there. In the kings’ frequent absences in Italy the German princes had become accustomed to acting independently. The popes’ encouragement of the German barons to revolt and to set up rivals of whom the popes approved, had both encouraged and legitimised these tendencies for baronial independence and for the lessening of the kingly power. The result of these factors, and of the long period in which there was no king accepted by all, was that effective power in Germany passed definitively from the king to the territorial princes. At a time when many other countries were developing centralised states, in which the royal authority was increased, and the ‘over-mighty subjects’ were brought under royal control, in Germany the princes acquired practical sovereignty over their own lands, and subsequent emperors’ effective authority was restricted to

155 Jones, pp. 291, 306.
their own personal and hereditary possessions.\footnote{Bryce, pp. 225-226.} The German princes, barons, and free cities would for the rest of the long life of the empire jealously retain this independence which the fall of the Hohenstaufens had allowed them to seize.

In Germany as in most other western European countries the succession had formerly been governed by something of a compromise between elective and hereditary principles, with the hereditary principle being ordinarily the stronger.\footnote{Bryce, p. 230.} In most countries it was the hereditary principle that ultimately prevailed, the ‘election’ either becoming a mere form (a ‘recognition’ of a pre-existing right), or being abandoned altogether. In Germany, however, the throne became, and remained, elective. By the latter part of the thirteenth century the right of a vote in the election, already restricted for a long time to the greater barons, was coming to be still further restricted to these six or seven princes – there was still some disagreement about who exactly they were – who enjoyed the title of ‘elector’.\footnote{Bryce, pp. 233-237, and p. 235n.}

After the death in 1271 of Richard of Cornwall, who had failed to impose his authority on most of Germany, the electors seemed quite content not to elect any king at all. (They ignored Alfonso of Castile, Richard’s rival, who despite having claimed the title had never set foot in Germany.\footnote{Weiler, pp. 1115, 1132.}) The electors acted only when the pope, Gregory X, told them they must choose a king, or he would choose one for them. Whether or not the electors believed that the pope had the right to choose a king himself, they evidently thought it possible that he would do so: acting, therefore, in response to the threat, they chose Rudolf, count of Habsburg, as king in 1273.\footnote{Bryce, p. 211.} With this accession there begins in the life of the Empire a new era, in which the German monarchs would have to cope
with a political situation and an understanding of their authority very different from those that had prevailed at the height of Hohenstaufen rule.
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From Rudolf I to Henry VII

Rudolf I

Rudolf’s reign – the first noteworthy appearance of a Habsburg in history – gave no indication of the future greatness of the dynasty. At the time of Rudolf’s accession, the Habsburgs had not yet gained their extensive territorial possessions, nor even the Archduchy of Austria which they would later make their home.¹ The reason for the choice of Rudolf was precisely that he had few territorial possessions and resources;² and another century and a half were to pass before the Habsburgs began their continuous occupation of the imperial throne. Nonetheless the election was not without its own importance. Since the time of Frederick II there had been no undisputed German king; and so, no one since him had been crowned as emperor. The election of Rudolf exemplifies the new arrangements concerning the succession mentioned at the end of the last chapter, and begins a new period in the life of the empire.

Rudolf was crowned king at Aachen: although an expedition to Italy was frequently discussed, he never went there and so never received the imperial crown.³ In the meantime, according to the now-prevailing papal view of the empire, Rudolf, while king in Germany, was only an administrator, by the pope’s grace, of the other lands, Burgundy and Italy.

² Bryce, p. 226.
The ruler of Austria at that time, Ottokar II of Bohemia, who had had imperial ambitions but had been passed over by the electors, refused to recognise Rudolf. (Austria, it should be noted, was a duchy within the German kingdom.) Rudolf waged war against Ottokar, who was defeated in 1278, and whose lands were conquered. Rudolf conferred Austria upon his son Albert, thus beginning the Habsburgs’ possession of that land. By acquiring what would become the centre of the family’s territorial possessions, and by being the first Habsburg to wear the royal crown, Rudolf may well be considered the founder of the later greatness of his house. He was unsuccessful, however, in obtaining the succession to the crown for his son, and on his death in 1291 the kingship (although not the duchy) passed out of the family.

**Alexander of Roes and Jordanus of Osnabrück**

Rudolf’s reign saw the greatest likelihood of a transference of the imperial office to the French, a possibility seriously contemplated during the pontificate of Martin IV (1281-5), a Frenchman and notoriously anti-German. In the last year of this pope’s reign Alexander of Roes, who opposed any *translatio*, wrote a strange allegorical poem, the *Pavo*, describing a council of the birds, at which the Peacock (the pope) tries, with the aid of the Cockerel, (the king of France) to depose the Eagle (the Emperor).

At this time also Jordanus of Osnabrück wrote his treatise *De Romano Imperio* in defence of the settlement of the imperial authority on the Germans. The familiar arguments

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5 It is worth noting that the attribution of this document is confused. Shortly after Jordanus had written the *Tractatus super Romano Imperio*, Alexander of Roes wrote the *Memoriale de prerogativa imperii Romani* (Grundmann and Heimpel, *op. cit.*, pp. 91-148), into which he incorporated Jordanus’s treatise,
Jordanus puts forward are of less relevance to our enquiry than is his account of those who would not have the imperial dignity remain with the Germans. Jordanus obviously did not think highly of these people – he dismisses them as “ignorant of the annals of princes and the deeds of old time, not knowing the origins of and the difference between Gauls, Germans, Franks and Franklings” – but his reference suggests that they were not few: he mentions both “clergy and laymen, subjects and prelates”. These people, “puffed up by a spirit of indignation”, as Jordanus puts it, had been questioning why the pope had, by the coronation of Charlemagne, transferred the empire from the Greeks to the Germans, a rude and inept people – people who, since they could not even comport themselves properly, by dressing well or showing good manners, could scarcely be trusted with the imperial authority. (While we must take into account Jordanus’s obvious editorialising, this sounds very much like an authentic anti-German taunt, one which Jordanus may well have heard himself.) These people, Jordanus goes on to say, claimed that either the Empire ought to have remained with the Romans, or, if it had to be transferred, it ought to have been transferred to the French (‘Gauls’, as Jordanus calls them), because Charlemagne had been king of the Franks and the French (again, ‘Gauls’ to Jordanus) deserved, all things considered, to be preferred to all other people.⁶

which thus makes up the greater part of the Memoriale. The name of Alexander as the author of the Memoriale is given in only a single manuscript of the fourteenth century: in various other manuscripts the treatise is either anonymous, or ascribed to Jordanus (since he was, in fact, the author of much, though not all, of it). Consequently, passages that were actually written by Jordanus and merely quoted by Alexander are occasionally attributed to Alexander; or passages written by Alexander are mistakenly attributed to Jordanus because the whole of the Memoriale later went by his name.

⁶ Sunt quidam hujus temporis clerici et laici, subditi et prelati, qui annales principum et gesta veterum ignorantes, et Gallicorum, Germanorum, Francorum vel Francigenarum originem et differentiam nescientes, spiritu indignationis inflati, hujusmodi vel in corde vel in ore faciant questionem, quare summus pontifex per manus magnifici Karoli Romanum imperium de Grecis transtulit in Germanos, populum tam rudem et ineptum, qui, sum se ipsos neque in ornatu vestium neque in foro compositone regere sciant, quomodo regnum totius ecclesia gubernabunt; et ideoque imperium remansisse debuit apud Romanos, vel, si transferendum fuit, tunc transferri potius debuit in Gallicos, presertim cum ipse rex Karolus fuerit rex Francorum et Gallici sint homines, que omnibus consideratis merito sint cunctis
Jordanus does not write as much about the possibility of the empire’s being transferred to the French as he does about the prospect of its being abrogated altogether, a prospect that genuinely terrified him. At the time Jordanus was writing, while there was again an undisputed king in Germany, there had been no emperor for decades. For Jordanus, having the office of emperor and the institution of the empire intact had an importance far beyond Germany. In Jordanus’s writings we see forcefully presented the old belief that the ‘taking away’ of the Empire was the necessary preliminary to the coming of Antichrist. While the Roman Empire stands and endures, Jordanus writes, Antichrist will not come: but when the Roman Empire is taken away, there will come upon mankind the unequalled tribulation of the last days.

Although the Empire had not been ‘taken away’, Jordanus saw in the events of his time a disturbing weakening of its power. He bade the Germans, to whom the Empire had been entrusted, to be wise and understand, and prepare for the last times. As the popes had been usurping territories in Italy, so the German princes were now usurping territories in Germany, in such a way that at length the empire would be divided and destroyed. Let therefore the princes of Germany beware, he warns grimly, lest by usurping the possessions of the empire, or by their ambition for temporal power, they bring on that dreadful fate. Let also the Romans and their bishops take care, lest it be by their wrongdoing that the Empire falls. Indeed, let all the German nation dread the removal of the empire and act to prevent that peril which will come when the Empire is taken away. It must be that the Empire, eventually, will fall, Jordanus says: but let all dread the judgment of God, and see that it be not by their fault that it falls!


7 Barraclough, p. 299.
8 For example, ch. 1, pp. 49-50.
9 Jordanus, pp. 51-52.
Adolf of Nassau

Although the imperial authority did remain with the German kings, the reigns of Rudolf’s successors Adolf of Nassau (1291-1298) and Albert of Habsburg (1298-1308) show the new precariousness of their position. The case of Adolf demonstrates the new-found power of the electors, and the case of Albert the power of the papacy. Adolf’s short reign was characterised by a policy of amassing territory and of gaining power for his own house, a policy which, whether inspired by ambition or by the desire to set the royal power on some securer footing, was objectionable to the German princes, who determined to remove Adolf.

As we have seen, to ensure the German king’s eventual ascension to the imperial dignity, the title ‘King of the Romans’ had been adopted, to indicate that the German monarch, though he had not yet received the imperial crown, was nonetheless the sole prospective emperor. The adoption of this title had an unintended consequence, evident in this case. Emphasising the prospective office of the emperor-to-be rather than the German kingship which he already held made somewhat provisional the position of any German ruler, even a crowned king, who had not been crowned as emperor. This was especially so once the papacy began to exercise the prerogative of approving or rejecting ‘prospective emperors’. The case of Adolf demonstrates this provisionality: since he had not been crowned as emperor, the electors (attending only to his status as a prospective emperor chosen by themselves) considered themselves competent to depose him, and in his place elected Albert of Habsburg. Adolf, however, did not accept the deposition: he and Albert went to war, and at the battle of Göllheim in 1298, Adolf was defeated and slain.¹⁰

¹⁰ Heer, p. 97.
Albert I and the triumph of the Papacy

The earlier fall and extinction of the Hohenstaufens had been a signal triumph of the Papacy over the Empire. This political victory caused the view of the empire held by the popes and maintained by their canon-lawyers to prevail also.\textsuperscript{11} When, therefore, Pope Boniface VIII at first opposed the election of Albert,\textsuperscript{12} this objection seemed likely to render the king’s position untenable. No pope ever asserted the claims of his office more forcefully than did Boniface, who even took to wearing imperial regalia himself, such as a purple cloak embroidered with the double-headed imperial eagles.\textsuperscript{13} When in 1298 Albert sent two ambassadors to the pope, to tell him of his intention to come to Rome to receive the imperial crown, Boniface replied that Albert had not been lawfully elected and that, moreover, he was unworthy of the Empire, having waged war on Adolf of Nassau, his overlord, and killed him. Sitting enthroned, with a crown on his head and grasping in his hand the hilt of the sword he was wearing, the pope exclaimed, “Is it not my duty to watch over the rights of the Empire? It is I who am Caesar, it is I who am emperor!”\textsuperscript{14} He sent the ambassadors away; and one chronicle recounts that he afterward commented on Albert: “Let him command in Germany; for our part, we shall reign over the Latin nations which are subject to our authority.”\textsuperscript{15}

Realising that the pope’s opposition was seriously impairing the establishment of his authority in Germany, Albert made peace with the pope.\textsuperscript{16} It shows the strong position of the Papacy relative to the Empire that Albert was willing to accept the pope’s terms and the papal interpretation of the Empire to obtain the papal approval of his election. Albert declared himself the pope’s liege-man and vassal; promised to

\textsuperscript{11} See Folz, p. 140.
\textsuperscript{12} Bryce, p. 217n.
\textsuperscript{13} Folz, p. 208; Heer, p. 99.
\textsuperscript{14} Chronicle of Francesco Pipino, reproduced in Folz, \textit{op. cit.,} Documents, XXII, (p. 207); quoted also by Bryce, p. 108n.
\textsuperscript{15} Chronicle of Ferreto of Vicenza, reproduced in Folz, \textit{op. cit.,} Documents, XXII, (p. 208).
\textsuperscript{16} Bryce, p. 216.
defend him; and, abjectly acknowledging that his predecessors had harmed the Church and the interests of the papacy, he promised to send no imperial representatives into Italy without papal permission.17

Although Boniface asserted his superiority to the emperor, his main concern was with the king of France, Philippe IV ‘le Bel’. Albert, by submitting to the pope and agreeing to all that he required, had become, in theory at least, the sort of emperor that the papal interpretation of the Empire envisaged: a ruler wielding the temporal sword at the pope’s bidding. Accordingly, Boniface, for his own purposes, exalted the authority of his loyal servant the emperor at the expense of his antagonist the king of France. Unfortunately for Boniface, his new ally had not strength to match that of his enemy.

Boniface’s beliefs about the relations between the papacy, the empire, and the kingdoms of Christendom are set forth in a remarkable (and seldom noted) sermon which he delivered to Albert’s ambassadors when he at last approved the election.18 In this sermon, Boniface asserted the supremacy of the papacy over the empire as strongly as it had ever been asserted; but he also, having reduced the emperor to being his representative in temporal matters, exalted him over all other rulers – making particular mention of the king of France.

Boniface began by reminding the ambassadors that God had created two great lights, a greater to rule the day, and a lesser to rule the night. He then mentioned that allegorical interpretation so common in papal claims:19 by the greater light, the sun, was

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19 See, for example, the letter of Pope Innocent III to the prefect Acerbus and the nobles of Tuscany (1198), quoted in Brian Tierney, The Crisis of Church and State: 1050-1300, Englewood Cliffs, N.J., Prentice-Hall, 1964, p. 132.
to be understood the spiritual authority; by the lesser light, the moon, was to be understood the temporal authority. As the moon has no light of its own, but only reflects the light of the sun, so no temporal ruler has any power except insofar as he receives it from the Church. Having given this interpretation – a commonplace, really – Boniface then said something remarkable. While it was customary to interpret the passage thus, he on this occasion would interpret it otherwise: Albert, the emperor who was to be, was the sun and the sole ruler.20

For this sermon Boniface had taken as his text a passage from the Second Book of Maccabees telling of the shining forth of the sun which before had been hidden by cloud. By these allegories Boniface explained Albert’s changed position. Albert had formerly shown himself ignorant and arrogant, refusing to recognise the pope’s authority: that was when the sun was hidden by cloud. Now that Albert had shown himself devoted, and prompt to do the pope’s bidding, the time had come for the pope to have mercy on him. Thus the sun had shone forth: and as long as the emperor remained subservient to the pope, the pope would exalt him gloriously. Indeed, the time had come, in which the pope would set him up over peoples and kingdoms, both to scatter and tear up, and to build and plant.21

Boniface reiterated that it was the pope, as vicar of Christ, who had transferred the imperial power from the Greeks to the Germans. Thus it was by the pope’s gift that the Germans – by which is to be understood the electors – had the privilege of choosing the king of the Romans, who was afterwards to be promoted to the office of emperor.22 Boniface thereby asserted that the empire was in the papacy’s gift, and by these statements clearly exalted the papacy above the empire.

20 “Allegacio Bonifacii”, paragraph 1.
21 ibid., paragraph 3. The last words are a quotation from Jeremiah i. 10, used again by Boniface in his bull Unam Sanctam against the king of France, but that time applied to himself, to illustrate his own role.
22 ibid., paragraph 2.
Having done so, Boniface then exalted the office of emperor: the emperor, who is of course made by the pope, is “the sole ruler of all the kings and princes of the earth.” Let not the pride of the French arise, he warned, saying that they recognise no superior. That claim he dismissed as a lie, saying that by rights the French – and, indeed, all Christians – were and ought to be under the emperor.²³ (Thus Boniface gave his answer to the debated question of the correct interpretation of Innocent III’s statement in the bull *Per venerabilem*, that the king of France did not recognise any temporal superior.)²⁴

The emperor, Boniface continued, was the king excelling all kings, to be feared and honoured by all; from his jurisdiction no one was exempt.²⁵ However, Boniface bade the Germans also take warning: just as the pope had transferred the empire from others to them, so he had power, as he willed, to transfer the empire from them to others.²⁶

Thus we can see that, in Boniface’s eyes, the emperor was indeed the foremost temporal ruler in Christendom, and indeed had a special role, but could not be considered in any way a counterpart – still less a rival – to the pope. On the contrary, if he was exalted above other temporal rulers, it was precisely because of his special connection with the papacy: he was the pope’s vicar, constituted to act at the pope’s bidding in temporal matters.²⁷ The emperor was the first of temporal rulers, all of whom alike received their authority from the pope.

The attempt to realise these principles provoked the reaction that pulled the papacy down from the heights to which it had been exalted. It was not, however, an

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²³ *ibid.*, paragraph 2, quoted also by Bryce, p. 258n, Scales, *German Identity*, p. 225.
²⁵ “Allegacio Bonifacii”, paragraph 7.
²⁶ *ibid.*, paragraph 5.
²⁷ Folz, p. 140.
emperor who revolted against the assertion of papal supremacy, but the king of France. The pope had claimed the right to judge and correct the king, whom he considered an errant and rebellious son:28 “As king you are like all other kings and stand beneath the Pope,” he said. “Whoever maintains the contrary is a fool and an unbeliever.”29

The bull _Unam Sanctam_ set out most clearly Boniface’s ideas. It declared it self-evident and undeniable that the spiritual authority was supreme over all others: as there is only one Catholic Church, wherein alone can salvation be found, so “of this one and only Church there is one body and one head – not two heads as if it were a monster”. As vicar of Christ, the pope was the source of all authority, temporal as well as spiritual: the secular rulers received their authority for him. It was necessary for salvation for all men – emperors and kings no less than anyone else – to be subject in all things to the pope.30

The pope had not realised to what actions his opponents, led by the king’s minister, Guillaume Nogaret, would resort. The change was swift and complete. The pope was first accused of a multitude of most improbable crimes. No longer safe in Rome, he withdrew to his native city, Anagni, where he was taken by surprise by troops led by Nogaret and Sciarra Colonna. Captured in his papal vestments, he was roughly treated and imprisoned for three days, an ordeal which almost killed him. The citizens of Anagni, loyal to the pope, managed to set him free, but the ill-treatment he had received broke the old man; a few weeks later he died (1303).31

Albert had been unable to help the pope.32 Neither the German king (whether emperor or no) nor the spiritual authority of the papacy was a match for the military

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28 Heer, p. 100.
29 The papal bull _Ausculta Fili_, cited by Heer, p. 100.
30 Probably the most easily accessible translation is in James Bruce Ross and Mary Martin McLaughlin, eds., _The Portable Medieval Reader_, pp. 233-236.
32 _ibid._, p. 97.
might of the king of France, who had risen to the pre-eminent place among the rulers of western Europe. Boniface’s successor, Benedict XI, left Rome for Perugia to escape the harassment of Nogaret and Colonna; after Benedict’s short pontificate, a Frenchman, Clement V, was elected as pope: he, rather than going to Rome, set up the papal court at Avignon. From its great triumph the papacy was now to enter its ‘Babylonian captivity’. The dominance of the French crown would be a major theme in matters concerning both empire and papacy over the next century.

In 1308 Albert I was murdered. Like his father, Albert had done nothing in Italy, and despite his alliance with Boniface, he had not been crowned as emperor. Dante was to see in his fate the condign punishment of his failure to come to Italy’s aid and his subservience to a pope Dante detested:

Thou, German Albert, who hast left this mare
To run wild and ungoverned, thou indeed
Shouldst now bestride her back\(^{33}\) – what dost thou care?

Let judgement fall, judgement on all thy breed
From the just stars! be it strange and manifest,
So that thine heir shall tremble and give heed;

Because thy father and thou, by greed possessed,
Lingering up there, have suffered this abuse
To lay the garden of the Empire waste.\(^{34}\)

\(^{33}\) Dante had in the *Convivio* used this metaphor of the Emperor as a horseman, writing that “if we wish to figure his office by an image,… [the Emperor] is the rider of the human will. And how that horse courses over the plain without the rider is manifest enough, and especially in the wretched Italy which, without any mediator at all, has been abandoned to her own direction.” (*The Convivio of Dante Alighieri*, translated by Philip H. Wicksteed, J. M. Dent and Co., London, 1903, Treatise IV, chapter 9.) In the passage quoted from the Divine Comedy, however, the horse is Italy alone.

In the deaths of Boniface and of his vassal Albert the ‘high papalist’ ideal of Empire came to an end. The triumph that the papacy had enjoyed after the fall of the Hohenstaufens had ended in catastrophe.

**Ptolemy of Lucca**

At the turn of the fourteenth century, probably in 1301, Ptolemy of Lucca wrote *De regimine principum* — the influence of which would be increased by its mistaken attribution to Thomas Aquinas. Ptolemy, quite surprisingly for the time, was a thorough-going republican, the first such of the Middle Ages, and considered kingship nothing but tyranny and despotism. He therefore neither admired nor recognised the legitimacy of the Roman Empire, whether in its ancient or its contemporary form: he praised republican Rome, but regarded Julius Caesar and his successors as tyrants.

Although this judgement would be common among the humanists of later periods, Ptolemy’s political theory was not at all humanist, but rather profoundly medieval. Ptolemy, who was writing at the time of Boniface VIII, was an extreme papalist. Although his particular juxtaposition of papalism and republicanism is idiosyncratic, there is a certain consistency in it if one takes papalism as the starting-point. During strife between the pope and the king of France, Ptolemy maintained the God-given authority of the pope in its plenitude, while denying that a king has any independent authority from God at all. (Extreme republicanism was, however, inconsistent with the pope’s exaltation of Albert: Ptolemy was therefore compelled, on occasion, to concede a role to the emperor, even if that role was only supporting the supreme authority of the pope.

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37 See the discussion by Blythe, pp. vii-viii, 36-37.

38 Blythe, p. 38.
Ptolemy (and in this again he is unlike any humanist) explains history and the succession of empires by the statue from the vision of the prophet Daniel. It will be remembered that this statue, with its four parts composed of four different materials, is in the Book of Daniel itself interpreted as representing four great empires: with the destruction of the fourth, a fifth monarchy will be established which will last for ever. Previous medieval interpretations of this prophecy had assumed that this everlasting kingdom would be established only at the end of history, and that therefore the fourth empire, the Roman, must remain in existence until then.\(^{39}\) Ptolemy, however, considered the world-rule of the Roman people, insofar as the prophecy was concerned, to have ended already, when Julius Caesar usurped power – quite a different matter from the Roman empire itself coming to an end. He considered the fifth and everlasting kingdom already to have been established – by Christ, who, as He said to His disciples after His resurrection, had received all power in heaven and on earth.\(^{40}\) (Ptolemy was the first to take the prophecy in this way.\(^{41}\)) Ptolemy’s was no spiritual interpretation, however, in which the fifth monarchy is ‘a kingdom not of this world’: on the contrary, the fifth monarchy is none other than the Roman Church, placed in authority over all temporal realms.\(^{42}\) Ptolemy’s identification of the universal empire of Christ with the temporal jurisdiction of the pope would also do away with any universal authority for the emperor as Roman emperor – although he might have some function as the pope’s chosen swordsman, wielding temporal power (in good papalist fashion) on the pope’s behalf, by the pope’s authority, and at the pope’s bidding.

Such an interpretation would do away with any idea of the Roman Empire lasting until the end of time, a change of great import for assessments of the

\(^{39}\) *ibid.*, p. 37.

\(^{40}\) Ptolemy of Lucca, Book III, ch. 10, 12, 13.

\(^{41}\) Blythe, p. 37.

\(^{42}\) Ptolemy of Lucca, Book III, ch. 10.
contemporary Holy Roman Empire. Those who believed that the Roman Empire would not disappear until just before the end of the world would, naturally, be quite prepared to accept that the contemporary Holy Roman Empire was indeed identical with the Roman Empire of ancient times, in spite of what seems to us the tenuousness of the connection. If, on the other hand, the necessary existence of the Roman Empire had come to an end around the time of Christ, any subsequent history and any possible continued existence of the Empire would be a merely human matter. If the continued existence of the Roman Empire is not something that can be taken for granted, one can assess freely whether the contemporary institution going by the name is indeed the same as the Roman Empire of ancient times. Ptolemy did not dispute this himself – he seems not to have been particularly interested in the matter – but he offered an interpretation of this crucial prophecy that would allow later theorists to do so.

**French candidatures for the Emperorship**

When Albert of Austria and Adolf of Nassau had been contending for the imperial crown, Boniface VIII had suggested that he might appoint an emperor by his own authority. On this occasion the French publicist Pierre Dubois had vehemently denied that the pope had any such authority. Some years later circumstances were much changed: instead of an Italian pope, an enemy of the French king, there was a French pope, Clement V, on good terms with that king. Dubois’s ideas, pragmatically, changed accordingly. When Boniface’s old ally, Albert I, was murdered, Dubois suggested to the king that he have the new pope appoint him (the king, that is) emperor – quite contradicting his previous argument.43 Philippe le Bel did not, in the event, take this

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advice: he avoided involving either the pope or himself directly and instead took steps to have his brother, Charles de Valois, chosen by the electors.\textsuperscript{44}

This was a more modest and more practical policy. The electors might be induced, by bribery or by clever manipulation of their rivalries and differing interests, to elect the French king or a close relation of his as ruler of Germany.\textsuperscript{45} In this case, the principle that the ruler of Germany was to become emperor would remain intact – except that that German ruler would happen to be French. The empire would thereby pass to the French crown by election, without disturbing the existing constitutional arrangement; and the two realms would be united in a territory as large as Charlemagne’s empire had been. This was the policy that the French kings would pursue.

The problem with such an arrangement – even after the difficulty of inducing the electors to choose a Frenchman, which in fact proved insuperable – was that such a polity would be particularly unstable. Although by a personal union of France and the Empire the king of France would acquire a greater territory than he would have gained by a \textit{translatio imperii} (which would not have included Germany), France and the Empire would remain separate states. The connection between them would be weaker even than that between two hereditary kingdoms in a personal union, since the union would cease on the death of the monarch who effected it, after which the electors would of course be free to choose another ruler. Nonetheless this became the policy of the French monarchs, and from the beginning of the fourteenth century their aspirations to the imperial title were confined to attempts to obtain election in the ordinary way.

The kings of France repeatedly presented either themselves or close relatives as potential emperors, not only when elections were being held, but also on other occasions when the effective power of an emperor was for some reason compromised.

\textsuperscript{44} Brandt, p. 8; Bryce, p. 227; Zeller, p. 297.

\textsuperscript{45} Folz, p. 134.
and it seemed that the right blow might bring about his fall. Already in 1273, Philippe III had put himself forward as a candidate in the election at which Rudolf of Habsburg was elected.\textsuperscript{46} Philippe IV put forward his brother, Charles de Valois, in the 1308 election, after the death of Albert I, at which Henry of Luxembourg was elected,\textsuperscript{47} and Philippe de Poitiers, the son of Philippe IV, was put forward in 1313, after Henry’s death.\textsuperscript{48} In 1324, when Ludwig of Bavaria had been excommunicated, Charles IV le Bel suggested himself as a replacement, though without result.\textsuperscript{49} Pope John XXII, nonetheless, still hoped to obtain the election of an emperor other than Ludwig: in 1328, when he made another attempt, he may have had in mind Philippe VI de Valois.\textsuperscript{50}

It is beyond the scope of this study to give any certain explanation of why plans for a \textit{translatio imperii} to the French monarchy were unsuccessful and eventually abandoned. It has been suggested that a transference of the empire to the French crown became less likely after Martin IV died in 1285, and after the War of the Sicilian Vespers halted Angevin territorial expansion in Italy:\textsuperscript{51} certainly the idea of a \textit{translatio} is more prominent in the late thirteenth century than in the early fourteenth, even with the papacy at Avignon. It is here tentatively suggested that, notwithstanding Pierre Dubois’s proposal after the death of Albert I, the authority of the pope had taken such a beating – ironically, at the hands of the French monarchy – that it was no longer feasible for the pope to effect such a transference. Furthermore, the French kings, having so long asserted their complete independence, may well have been disinclined to involve themselves in anything which would seem to subordinate them to papal authority – as

\textsuperscript{47} Heer, p. 101; Jones, pp. 119, 122.  
\textsuperscript{48} Jones, pp. 118-119.  
\textsuperscript{49} \textit{ibid.}, p. 119.  
\textsuperscript{50} Zeller, p. 302.  
\textsuperscript{51} Scales, “France and the Empire”, p. 410.
accepting a papally-effected *translatio imperii* would undoubtedly do – even if the pope involved was a Frenchman well-disposed towards the French monarchy.

The opportunity for a *translatio* lasted only as long as the French monarchy was particularly strong, the German monarchy weak, and the papacy particularly well-disposed to France. The imperial coronation of Henry VII may have reduced the likelihood of a *translatio* by reinforcing the old principle of the German king becoming emperor; and it seems unlikely that the German magnates would have acquiesced in a papal *translatio imperii*. In any case, France’s opportunity had passed once the Hundred Years’ War broke out: once war began the French monarchy was too distracted with defending itself to be concerned with such things.\(^52\)

**Henry VII**

Although the House of Habsburg was losing its grasp of its original territories (in modern-day Switzerland), it had secured possession of Austria and was now more powerful than it had been when Rudolf was elected. There were therefore those among the princes who considered the house too powerful; and in any case the electors were reluctant to let the crown remain with one family.\(^53\) After Albert’s death, the crown passed from the Habsburgs, without any indication that it would return. Over the next century and more, while rulers from other houses occupied the throne, the Habsburgs would occupy themselves with the task of expanding and securing their territorial possessions.\(^54\)

The electors in 1308 chose as ‘King of the Romans’ Henry, ruler of the tiny county of Luxembourg, who, as Henry VII, would be the last of the German kings to

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52 Zeller, p. 304.


54 Martyn Rady, *The Emperor Charles V*, London and New York, Longman, 1988, pp. 5, 11. Frederick ‘the Fair’ of Habsburg was, however, elected as a rival to Ludwig IV, and asserted his kingship for some time, albeit ultimately without success.
hold the high view of Empire which had been set forth by the Hohenstaufens. Once elected, Henry VII turned his thoughts at once to Italy and to the imperial crown, which none of the kings mentioned earlier in this chapter had received. As soon as he had secured his rule in Germany he set out on his mission of re-establishing the rule of the Empire in reality. In 1310 Henry sent ambassadors to the Italian cities to announce that he was coming to Italy to receive the imperial crown. The Ghibellines, who considered that the restoration of imperial authority would bring to Italy the peace and order that the land had long wanted, hailed this announcement with joy, and sent messages to Henry assuring him of a good welcome.

Of those who had high hopes of the approaching emperor none was more enthusiastic than Dante. Dante had reason to be pained by the division and strife of the country. In the last years of the thirteenth century, he had been much involved in the politics of his native Florence as a member of the Guelph party. In 1300 the Guelphs of Florence had split into two parties, the ‘White’ and the ‘Black’ Guelphs. Dante was a White Guelph, and had come into conflict with Boniface VIII, when the latter, intervening in the internal affairs of the city, had favoured the Blacks. When the Blacks triumphed in Florence, they immediately turned on their opponents, Dante among them. He was compelled to flee the city, and was sentenced to be burned to death if at any time he should come into the power of the Commune of Florence. Thus began the exile from his native city which lasted the rest of his life.

The career of Boniface VIII convinced Dante that papal interference in temporal matters brought only evils to both church and state. As is clear from his writings, Dante had great respect for the papacy as a spiritual institution and accepted its authority in spiritual matters. He was appalled, however, by the way in which the popes of his day compromised the purity of their office and brought it into disrepute by neglecting their

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55 Bryce, p. 274; Folz, p. 147.
spiritual duties and meddling in matters that were none of their business – temporal matters, for which God had appointed temporal rulers.\textsuperscript{56}

Well before Henry came to Italy, Dante had become convinced that the Roman Empire (which, to his mind, was the same institution in his own time as in antiquity) had been ordained by God for the establishment of peace and the happiness of men in this life, and that it had by rights a universal jurisdiction. We first find Dante discussing the matter in the fourth book of the \textit{Convivio},\textsuperscript{57} (in which he makes several points later developed fully in the \textit{De Monarchia}) probably completed in 1308, before Henry had announced his coming into Italy.\textsuperscript{58} It would seem that Dante had come to this conviction through reading the works of Virgil, the great Roman poet who in the days of Augustus had sung the praises of the Empire and declared its divine mission. (Significantly, it is Virgil, the poet of empire as well as Dante’s poetic ‘master’, who in Dante’s own great poem guides him through hell and purgatory to the gates of the earthly paradise.\textsuperscript{59})

Dante was thrilled when he heard that the new king was coming to Italy to receive the imperial crown. There had never been a crowned emperor in Dante’s lifetime, and it seemed that now the return of an emperor might bring the restoration of imperial authority, and with it the reconciliation of warring parties and the establishment of peace. In a series of letters Dante welcomed and encouraged Henry. He also exhorted the Italian people to welcome Henry, to rejoice in his coming, and to accept his authority:

\begin{quote}
And I urge you not only to rise up to meet him, but to stand in reverent awe before his presence, ye who drink of his streams, and sail upon his seas; ye who tread the sands of the shores and the
\end{quote}

\textsuperscript{56} Donald Nicholl, in his introduction to Dante’s \textit{De Monarchia} (translated by Donald Nicholl as \textit{Monarchy}: Weidenfeld and Nicolson, London, 1954), p. x.

\textsuperscript{57} Chapters four, five and (more obtusely and laboriously) nine.

\textsuperscript{58} Nicholl, p. 120n.

\textsuperscript{59} Heer, p. 2; Bryce, p. 268.
summits of the mountains that are his; ye who enjoy all public rights and possess all private property by the bond of his law, and not otherwise. Be ye not like the ignorant, deceiving your own selves, after the manner of them that dream, and say in their hearts, ‘We have no Lord’… Walk ye not therefore as the Gentiles walk, in the vanity of their senses, shrouded in darkness; but open ye the eyes of your mind and behold how the Lord of heaven and of earth hath appointed us a king.\textsuperscript{60}

Not all in Italy were as enthusiastic as Dante. While the difference between the Ghibellines and the Guelphs was degenerating into mere factionalism, there remained much of the sentiment of support for, and opposition to, the Empire on the part of the respective parties. Although the Guelphs were in theory supporters of the pope, their interest was less in maintaining papal authority than in using it to oppose any power that might infringe upon the independence of the city-states. The cities of northern Italy had enjoyed complete practical independence over the past half-century, in which there had been no emperor in Italy. Many of them – Dante’s own Florence foremost among them – therefore resented the coming of this foreign ruler to claim sovereignty over them, and prepared to oppose him with force.

Henry’s other great opponent was King Robert of Naples, who not only ruled the southern part of the Italian peninsula, but had also come to exercise considerable influence in parts of Italy beyond his own borders. Any restoration of imperial authority in Italy would compromise that influence.\textsuperscript{61} He was, moreover, an Angevin, a member of the house responsible for the destruction of the Hohenstaufens, and with close


\textsuperscript{61} Folz, p. 147.
connections to the French monarchy. There was, of course, now no pope in Rome: this absence had left Rome to be contested by the nobles and the commune. The nobles at this time had the upper hand, and were fighting among themselves; but the common people resented their rule and were becoming rebellious. Robert controlled a powerful party in Rome: the noble Orsini family, leaders of the Guelphs, were his allies.

Towards the end of 1310 Henry crossed the Alps, and was welcomed by envoys from the Ghibelline cities of Italy; on the sixth of January 1311 he received the Iron Crown of Lombardy at Milan. “We have wept long by the waters of confusion,” wrote Dante to Henry,

and unceasingly prayed for the protection of the just king... But when thou, the successor of Caesar and of Augustus, o’erleaping the ridge of the Apennines, didst bring back the venerable Tarpeian standards, forthwith our deep sighing was stayed, and the flood of our tears was dried up; and like the rising of the long-awaited Sun, a new hope of a better age shone abroad upon Italy. Then many, going before their wishes in their joy, sang with Maro of the reign of Saturn and the return of the Virgin. ‘Maro’ is Virgil (Publius Vergilius Maro), the poet of empire from ancient times. The ‘reign of Saturn’ refers to the primaeval golden age in Roman mythology, while ‘the Virgin’ is Astraea, an embodiment of justice and peace, who in ancient legend had been removed to the heavens when the golden age came to an end and wickedness prevailed upon the earth.

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62 Heer, p. 102.
63 Folz, p. 148.
64 Dante, Epistola VII, (‘Immensa Dei dilectione testante’): To the Emperor Henry VII, in Toynbee, op. cit., pp. 82-105; paragraph 1.
Dante’s treatise De Monarchia

Henry’s expedition prompted Dante to write a treatise affirming the universal authority of the Emperor and arguing that imperial rule would bring peace and happiness to the world. The book, De Monarchia, was probably written in 1312, and was intended to help the success of Henry’s expedition and to encourage the establishment of effective imperial authority. Its importance as an exposition of high imperialist thought is such that it warrants a particularly close examination here.

*De Monarchia* consists of three parts. In the first, Dante discusses the nature and purpose of temporal government; whether it would be good for the world for there to be a single supreme authority governing all temporal things; and whether such a ‘world monarchy’ in fact exists. Having concluded that such a government would be for mankind’s benefit and that it does exist, Dante sets out in the second part to show that by rights that world monarchy belongs to the Roman people, and the office of world monarch to the Roman Emperor. In the third part, Dante argues that the Emperor has his authority directly from God and not from or through the pope – a particularly important point in the light of Boniface VIII’s recent attempt to establish the papacy as the arbiter of the imperial succession and the source of imperial authority.

Dante finds a reason for the single ultimate government of the world in the unity of mankind. Mankind was made for a common purpose, he writes, and to be brought to the fulfilment of that purpose mankind needs one ruler and guide. This ruler, ‘the Monarch’, will give that “quietude or tranquillity of peace [in which] mankind finds the best conditions for fulfilling its proper task”. His rule will establish concord, that is,

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65 Colin Hardie, “Chronology of Dante’s Political Works” (in Nicholl, *op. cit.*, pp. 117-121) establishes that the book must have been finished before June 1312 (p.119); see also Folz, p. 140.

66 Bryce discusses Dante’s *De Monarchia* quite briefly, on pp. 276-280.


68 Dante, *De Monarchia*, I. 2.
the movement of many wills in harmony, which can exist only if there is one will which rules all others and holds them in unity.\textsuperscript{69} Only if mankind is subordinate to one ruler can it obtain that unity which God intended, and reflect on the earth, governed and guided by one prince, that harmony that exists in the heavens, where all is guided by the one Mover who is God.\textsuperscript{70}

Dante sees the Monarch not only as a universal sovereign but as a perfectly just ruler.\textsuperscript{71} He argues that without a director the wills of mortals will be swayed by temptation,\textsuperscript{72} and ultimately enslaved: perverted forms of government will arise, hindering the pursuit of goodness. Only under the Monarchy, the rule of the one just ruler, “are perverted forms of government rectified, such as democracies, oligarchies and tyrannies”, which, according to Dante, “force mankind into slavery”.\textsuperscript{73} The Monarch alone can guide mankind into true freedom, which is the freedom and ability to do right.\textsuperscript{74} He, unswayed by temptation himself, will use his authority to lead others to goodness, and “to bring the best out of others”.\textsuperscript{75} As envisaged by Dante, the Monarch is distinguished not only by the universality of his rule but by his being endowed with the qualities that enable him to rule perfectly. Alas, Dante’s explanation of why the Monarch should necessarily possess these qualities is distinctly unconvincing.

The problems to which Dante found the solution in a universal monarchy are, however, both real and perennial. Consider, for instance, the problem of disputes between the rulers of different lands. If such a dispute arises between two princes,

\textsuperscript{69} \textit{ibid}, I. 15.
\textsuperscript{70} \textit{ibid}, I. 9; cf. Dante’s \textit{Epistola VI (‘Aeterni pia providentia Regis’): To the Florentines}, in Toynbee, op. cit., pp. 63-81, paragraph 1.
\textsuperscript{71} Dante, \textit{De Monarchia}, I. 11, 13.
\textsuperscript{72} \textit{ibid}, I. 15.
\textsuperscript{73} \textit{ibid}, I. 12.
\textsuperscript{74} \textit{ibid}, I. 12.
\textsuperscript{75} \textit{ibid}, I. 13.
neither of whom is subject to the other, “a judgment between them is indispensable”, lest the quarrel lead to violence. Neither of the two can judge the matter, since they are equal, neither subject to the other: therefore, “there needs to be a third person enjoying wider jurisdiction who by rights rules over both of them.” If there were the possibility of such a dispute with no one able to settle it, there would be an imperfection for which God and nature had provided no remedy — which Dante concludes is impossible. Therefore, if peace is to be preserved, there must ultimately be one, and one only, to whom all others are subject, “a first and supreme judge whose judgment will either directly or indirectly solve all disputes: he will be the Monarch, or Emperor.” A universal authority, Dante concludes, is not merely beneficial: it is altogether necessary. As he had already written in the Convivio:

needs must all the earth and whatsoever is given to the generations of men for a possession be a monarchy, that is one single principedom having one prince; who, possessing all things and not being able to desire more, shall keep the kings contented within the boundaries of their kingdoms, so that there shall be peace between them, in which peace the cities may have rest, and in this rest the districts may love each other, and in this love the households may receive whatever they need, and when they have received this, man may live in felicity, which is that whereto man was born.  

The rule of the Monarch does not mean that all government would be centralised. Dante recognises the ordinary authority of kings in their kingdoms, and acknowledges that the Monarch could not make ‘decisions concerning every township’. Giving as examples the Scythians who live in the far north in bitter cold and the

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76 ibid, I. 10.
77 Dante, Convivio, IV. 4.
78 Dante, De Monarchia, I. 5; cf. Folz, p. 141.
Garamantes who live in the hot equinoctial zone, Dante says that “nations, kingdoms and cities have different characteristics which demand different laws for their government”. What is needed is for the particular rulers to accept from the Monarch that law which deals with the things common to all mankind, by which law they might be directed towards peace.\textsuperscript{79}

Continuing his discussion, Dante enquires where a supreme government such as he has described might be found. He finds it in the Roman Empire. \textsuperscript{80} In discussing the Roman Empire, Dante speaks entirely of ancient times, but with the understanding that what was established then is still in force.

Dante describes how the Romans obtained the rule of literally the whole world, \textsuperscript{81} something in which he sees the hand of God. Though the will of God is itself invisible, Dante writes, it can be understood through the works of His providence; and Dante sees that providence guiding the course of events that led to the establishment of the Roman Empire. \textsuperscript{82} That the establishment of the empire was the will of God is confirmed by the testimony of sages and prophets, \textsuperscript{83} by miracles, \textsuperscript{84} and by those deeds that surpass human ability, but which God (as Dante writes elsewhere) “at times has wrought through man as though through new heavens”. \textsuperscript{85}

Dante argues that, since it was God’s will that the Romans obtain the rule of the world, they did so by rights: for the will of God is right itself. \textsuperscript{86} The Romans, moreover,

\textsuperscript{79} ibid, I. 14.
\textsuperscript{80} Dante had already expressed the substance of these ideas, though briefly, in Convivio IV, at the end of chapter 4 and in chapter V.
\textsuperscript{81} Dante, De Monarchia, II. 8.
\textsuperscript{82} ibid, II. 2; see also Bryce, p. 277.
\textsuperscript{83} Dante, De Monarchia, II. 2.
\textsuperscript{84} ibid, II. 4.
\textsuperscript{85} Dante, Epistola V, paragraph 8.
\textsuperscript{86} Dante, De Monarchia, II. 2.
were the noblest of peoples, and it was right for them to be the head of all peoples.\(^87\) Indeed, nature had ordained the Romans to rule, while others were born to be ruled and to serve.\(^88\) Moreover, the Romans’ rule of the earth had been meant for, and had indeed served, the common good.\(^89\) These arguments establish that the Romans ruled the world not by usurpation but by right. “There can be no doubt”, Dante concludes, “that nature has ordained a place and a people designed to rule over the whole world… What the place was, and which people it was, is obvious… Rome was the place, and its citizens the people.”\(^90\)

Crowning these proofs is the revelation made by Christ Himself, to which Dante refers in many of his writings. If we survey all the ages from the fall of our first parents, Dante writes, we find no time of universal peace except in the reign of Augustus Caesar. Christ had either awaited or had brought about that peace, and had chosen that time to become man.\(^91\) Not only had Christ chosen to Himself become a subject of the Roman emperor, He had chosen by the very time of His birth to show His assent to the edict of the emperor that the whole world should be taxed. Thus, Christ by His very incarnation attested to the validity of the Roman rule over the world.\(^92\) In His preaching He had recognised the authority of the emperor, when He bade His hearers render unto Caesar the things that are Caesar’s.\(^93\) Finally, in His passion, Christ had told Pilate, the Roman governor, when Pilate asserted his power to judge Him, that that power came from above; and by freely accepting the judicial sentence imposed upon Him by the Roman

\(^{87}\) *ibid*, II. 3.

\(^{88}\) *ibid*, II. 6.

\(^{89}\) *ibid*, II. 5; see also Bryce, p. 278.

\(^{90}\) Dante, *De Monarchia*, II. 6.

\(^{91}\) *ibid*, I. 16; see also Bryce, p. 277.

\(^{92}\) Dante, *De Monarchia*, II. 8, 11. Dante expressed this idea often in his other writings: *e.g.* Epistola V, paragraph 9; Epistola VII, paragraph 3. See also Bryce, p. 278.

\(^{93}\) See also Epistola V, paragraph 9.
governor as representative of Tiberius Caesar, Christ had again submitted Himself to the authority of the emperor.  

Dante, in short, considers that the empire of the ancient Romans had indeed been universal; and that, as it had been established by the will of God and for the good of all, nothing could have taken away its rights. Experience showed what disasters came when that right was not effectively exercised. To think, therefore, that the right itself could pass away, with the still greater injury that would be done to mankind thereby, is abhorrent: the thing is so bad that it simply could not happen. As Dante writes in his epistles, although violence had reduced the area over which Rome wielded real power, yet nothing could take away Rome’s rights: however much time may pass, however weakened the empire might become, even if Rome neglected her duty of governance, the right of the Roman Empire “must endure so long as time itself endures”. The rightful dominion of the Romans is not limited to Italy, nor even to Europe: by indefeasible right it stretches everywhere, “and scarce deigns to be circumscribed by the inefficual waters of Ocean.”

In the third book, Dante argues against those who hold that the Emperor receives authority from the Pope, and rebuts effectively a number of arguments for the temporal authority of the papacy and for its rights over the empire. These arguments include common ones, such as those based on the analogy of the two heavenly luminaries, or

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94 Dante, De Monarchia, II. 12; Paradiso, Canto VI; Epistola V, paragraph 10; see also Bryce, p. 278.
95 Dante, Epistola VI, paragraph 2.
96 Dante, Epistola VII, paragraph 3; quoted also by Bryce, p. 273n. The territorially uncircumscribed authority thus claimed, while it would allow the (admittedly subordinate) government of kings in the various kingdoms, would preclude exemptions from imperial authority such as those claimed by the kings of France and of Naples.
97 See also the discussion in Bryce, p. 279.
98 Dante, De Monarchia, III. 4
the allegory of the two swords;\textsuperscript{99} or on the principle that the ‘binding and loosing’
power given by Christ to Saint Peter and his successors includes power over the
Empire,\textsuperscript{100} or on the ‘Donation of Constantine’,\textsuperscript{101} or the fact that the pope crowned
Charlemagne.\textsuperscript{102} Other arguments are more far-fetched (and may have been introduced
by Dante precisely to make his opponents’ position seem ridiculous): he rebuts, for
example, arguments that the Church must come before the Empire in authority because
Jacob’s son Levi was born before Judah (they typifying priesthood and temporal
government respectively),\textsuperscript{103} or because King Saul was appointed and deposed by the
prophet Samuel;\textsuperscript{104} and the argument that the offering of frankincense and gold to the
infant Christ by the Magi signifies that He is governor of both spiritual and temporal
things, and that therefore His vicar, the pope, is so too.\textsuperscript{105}

The Church cannot be the cause of the Empire’s authority, Dante writes, because
the Empire existed and was flourishing before the Church was founded; and Christ, in
founding the Church, had bidden it attend to spiritual things, and not temporal ones.\textsuperscript{106}
Dante argues that, since human beings are composite creatures with both souls and
bodies, they have two ends or goals, one eternal and spiritual (“the happiness of eternal
life, which consists in the enjoyment of the divine countenance”), one temporal and
earthly (“happiness in this life, which consists in the exercise of his own powers”).
These two goals are reached by different means, and therefore God has appointed two
guides: the Pope, a guide in spiritual things, leads the human race to the spiritual goal,
while the Emperor, a guide in temporal things, leads it to the goal of temporal happiness.\textsuperscript{107}

Dante never deals with the question of how exactly any particular person comes to be emperor. He denies to the electors the right to such a title, since by his reckoning it is not they who choose: God alone, Dante writes, both chooses and confirms the emperor. The task of the so-called ‘electors’ is not to make a choice of their own, but rather to perceive the decision of divine providence and to proclaim to the world what God has decided. Thus the emperor receives his authority not from his election, nor from his approbation or coronation by the pope, but mystically and directly from God.\textsuperscript{108}

It is evident, from the way Dante talks about the Emperor as an individual chosen by God, that, ancient precedent notwithstanding, he does not think that the inhabitants of Rome in his own day themselves possessed the universal authority of ‘Rome’. However, he nowhere says that the authority has been transferred from them, that they have been deprived of it, or that it has been alienated. It would seem, rather, (although he does not address the matter directly), that Dante regards the authority of the Roman people as having been permanently invested in the Emperor, who (being by the fact of his office \textit{par excellence} Roman) embodies the authority of the Roman people and wields it on their behalf. From Dante’s implied denial that the pope had authority to transfer the sceptre of temporal government, it seems that he did not believe in a \textit{translatio imperii} effected by the pope. How he considered the office of Roman emperor, and with it the God-given rule of the world, to have been vested in the German kings we cannot tell, for the book contains no discussion of the matter.

Indeed, Dante nowhere in \textit{De Monarchia} makes any mention of the fact that the emperors for centuries past had been Germans, that they had lived most of that time in

\textsuperscript{107} ibid, III. 16; see also Bryce, pp. 279-280, and Folz, p. 143.
\textsuperscript{108} Dante, \textit{De Monarchia}, III. 16.
Germany, or that the princes who chose them were Germans. Reading the book without any other information one would assume that the emperor was a Roman living in Rome. Nonetheless it is clear, from Dante’s support for Henry VII, that he regarded the German emperors as Roman emperors indeed. That Dante did not even address the matter suggests that he was not particularly troubled by this arrangement – or, at least, that he was not troubled by it in the case of Henry, who was acting as Dante considered an emperor ought to act. It would seem that Dante did not think Henry any less Roman for his German birth or election. (He may, however, have recognised that, regardless of his own loyalties, the foreignness of the emperors was a contentious feature of the institution, and one for which he could not satisfactorily account – and may have therefore avoided discussing it.) For all Dante’s willingness to accept Germans as Roman emperors, for him Italy remained the most important part of the Empire, its homeland and place of origin – in his own phrase, *il giardin dell’ Imperio*, “the garden of the Empire”. As the emperor is above all a Roman, he ought to make Italy his particular care.

Although *De Monarchia* was written in response to the events of the time, the discussion is entirely theoretical, and abstract. For example, although it proved impossible to impose imperial authority even on Italy, Dante at times writes as if he expected the entire world to submit voluntarily to the authority of the emperor on the strength of his legitimist arguments. The vast difference between what Dante

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109 Dante was indeed angered at the neglect of Italy by German kings other than Henry – consider, for example, the criticism of Albert already quoted, or that of Rudolf in *Purgatorio*, canto VII, lines 91-96. However, a rebuke of this sort, for negligence, would be meaningless unless the German kings did indeed have an obligation to protect the interests of Italy by virtue of the connection between the German monarchy and the Roman emperors.


111 Dante, *Purgatorio*, canto VI, line 105; see Folz, pp. 148, 153n, and Bryce, p. 267.

112 cf. Folz, pp. 141, 144.
contemplates and what could actually be achieved suggests that he was being very naïve. Such a judgement might be mitigated somewhat by the consideration that, although Dante’s theoretical discussion applies to the whole world, it is the peace and unity of Italy which is his sole practical concern. Nonetheless his arguments, based on an idealistic conception of human affairs, have a fundamental flaw in his assumption that what ought to be, or what would be desirable, already by rights is. Thus Dante does not merely argue that a universal authority might be a good thing; his arguments that it would be good indicate to him that Providence must already have established it.

Dante’s writings on the Empire are nonetheless important for our enquiry because they contain the clearest, most coherent, and most widely-read presentation of the highest form of the imperial claims. Dante does not represent the opinions of any large school of political thinkers, nor are his assertions of the imperial rights and of the extent of imperial authority evidence of any great strength of the emperor at the time that he was writing. On the contrary, the strength of the empire was already greatly diminished, and a signal humiliation would come within a year of the writing of De Monarchia. That book is, in these respects, not a book of its time at all: it is rather the perfect expression of the imperialist ideas set forth in the time of Frederick Barbarossa. Those ideas, unworkable then, were even less workable by Dante’s time; and the prevailing trends in political theory were already in another direction entirely.

It would be incorrect, however, to think that De Monarchia, being ‘behind the times’, was ignored, either then or later. Its theoretical discussions raised questions of perennial interest and relevance, and Dante’s solutions, though impracticable, nonetheless have a certain appeal. De Monarchia would again be taken up and read in later years.\footnote{For example, it profoundly influenced the thought of Mercurino Gattinara, grand chancellor for the Emperor Charles V. In 1526, as part of a campaign to win support for the Emperor in his quarrel with Pope Clement VII, Gattinara asked Erasmus to produce a new scholarly edition of the treatise. Erasmus,}
The coronation of Henry VII and his coronation encyclical

In the meantime, let us return to Henry VII in Italy. If Henry was to succeed in establishing his authority and bringing peace, he would have to reconcile the Guelphs and Ghibellines, and hold his own against Robert of Naples in the south.\textsuperscript{114} While Henry declared that he was above parties, and indeed that he hated the mention of the names of Guelph and Ghibelline, the reality was that the Guelphs opposed him, and that it was from the Ghibellines that he received support. He was therefore in danger of becoming, in spite of himself, merely the head of the Ghibelline faction.\textsuperscript{115}

Advancing through Italy, Henry met with military opposition from the Guelph cities of northern Italy and from the supporters of Robert of Naples. When he finally reached Rome, he found it in the hands of Robert’s troops, and was obliged to attack to enter the city. Once Henry’s troops were inside, his men and his opponents fought in the streets: and, as Saint Peter’s basilica was in the hands of the enemy, Henry was crowned (by the pope’s representatives, since the pope was himself absent in Avignon) in the Lateran basilica, with battle raging in the city even as the ceremony was performed (29 June 1312).\textsuperscript{116} So great was the peril that Henry, once crowned, promptly left Rome.

Nonetheless, Henry’s confidence in his rights and his mission as emperor was undiminished, or even increased. On his coronation day, Henry published an encyclical to the rulers of Christendom in which he declared that, just as all the host of heaven were under one God, so God had willed that all men, though separated into divers

\textsuperscript{114} Folz, p. 148.

\textsuperscript{115} \textit{ibid.}, p. 148.

\textsuperscript{116} Bryce, pp. 275, 305; Heer, p. 102; Folz, p. 148.
kingdoms and provinces, should be subject to one prince, and thus receive the benefits of peace and unity.\textsuperscript{117} This encyclical, which expresses ideas very similar to those of Dante, was the most forceful declaration of the authority of the emperor over other kings to come from the imperial court itself (as opposed to being made for the emperor by others) since the time of Rainald of Dassel.\textsuperscript{118}

As might be expected, the letter was not taken well by the king of France. In his response, Philippe IV did not reject entirely the idea that the emperor might have authority over kings other than the king of France, but he insisted on France’s exceptional status: had the emperor kept in mind the position of that kingdom – which, Philippe added sharply, Henry well knew – he would have remembered to mention it as an exception from his general statement. It was common knowledge, Philippe continued, that the king of France alone ruled that kingdom, with no one over him except Christ, and that France had since the time of Christ neither had, nor recognised, any superior in temporal matters, no matter which emperor had been reigning.\textsuperscript{119} (This claim does not, as one might at first suspect, simply ignore the reign of Charlemagne and his immediate successors. As we have seen, they were reckoned as French kings who had, almost incidentally, held the Empire as well, rather than as emperors whose realm had included France.)

\textbf{The trial of Robert of Naples}

Meanwhile, the warfare between Henry and Robert of Naples continued. Finally, in response to Robert’s opposition, and exercising what he considered his imperial rights, Henry in September 1312 charged Robert with high treason and summoned him to stand trial. Robert, however, refused to recognise Henry’s authority to try him, saying

\textsuperscript{117} \textit{Monumenta Germaniae historica}, Const. IV. numbers 801-803, pp. 801 et seq.
\textsuperscript{118} Jones, pp. 219-220.
\textsuperscript{119} \textit{Monumenta Germaniae historica}, Const. IV, number 811, pp. 812-814. See also Jones, pp. 219-220; Zeller, pp. 282n, 299.
that, as a sovereign, he was no-one’s subject, and that he could not be tried by an equal. Accordingly, Robert refused to present himself before Henry’s court.\(^{120}\) (The Neapolitan jurist Andreas de Isernia had earlier argued that it was the prerogative of ‘free kings’ to wage wars, and that a war waged against the emperor by a ‘free king’ was not a rebellion, but simply a war between two sovereign rulers.\(^ {121}\))

Robert was therefore tried \textit{in absentia}. The grounds for the prosecution were that Robert had stirred up the emperor’s subjects to revolt, that he had conspired with the rebels, made leagues with them and helped them; that he with his allies had fought to prevent Henry from taking the imperial crown; and that he had invaded and illegally occupied the territory of the empire and had expelled imperial officials. Robert had striven to overthrow the power of the emperor, had threatened his life, and by his actions had brought death and destruction to the empire. These acts were treason, because Naples, like all realms, was subject to the empire, and because the king, like all men, was the emperor’s subject.\(^ {122}\) In April of 1313 the court found Robert guilty, and he was declared deposed and condemned to death. This sentence, however, could not be carried out, since Robert was not in the emperor’s hands.\(^ {123}\)

This trial, and the reactions to it, are significant for what they show about beliefs concerning the imperial authority. That Robert had indeed done the things attributed to him was not in question. What was debatable was whether they constituted treason, and whether the emperor had authority to try Robert for them. Just as the emperor thought that the answer to both questions was ‘yes’, Robert was equally confident that the answer was ‘no’. Robert’s opinion was also that of the jurists of the University of Naples. As we have seen, they had already settled to their own satisfaction the question

\(^{121}\) Ullmann, “Development”, p. 23.
\(^{122}\) The citation is in \textit{Monumenta Germaniae historica}, \textit{Const. IV. number 848}, pp. 855-856. See also Heer, p. 102; Ullmann, “Development”, p. 24, Koebner, p. 36.
of whether the emperor had any jurisdiction in the Neapolitan kingdom, having decided that he did not. With the support of his scholars, Robert was confident in the theoretical soundness of his position.\textsuperscript{124}

Seldom did any emperor attempt actually to impose his authority outside the imperial territories. Embarrassingly for Henry, his attempt to do so in the trial of Robert demonstrated that the Empire’s strength was insufficient for the success of such an undertaking. Be the \textit{de jure} situation what it may, the imperial position could not be maintained in reality: and, significantly, this was the last attempt to put the theory into practice.\textsuperscript{125}

Such a state of affairs left the theoretical question unresolved. Robert, however, submitted the matter to the pope.\textsuperscript{126} The nature of the case was such that a papal verdict on the soundness of Henry’s judgement of Robert could only either uphold the sentence against Robert on the grounds that he was indeed subject to Henry’s authority, or overturn it on the grounds that he was not. Therefore the papal verdict in this case was also a ruling on whether the emperor did or did not have authority over other kings and authority in their kingdoms.

\textbf{The Bull \textit{Pastoralis cura} of Clement V}

It is worth remembering here that merely some ten years before, Boniface VIII had told the king of France that all men, including kings, were subject to the Roman

\textsuperscript{124}Ullmann, “Development”, pp. 18, 24. I cannot agree with Ullmann’s statements (pp. 2, 18) that Robert would not have acted as he did had he not been satisfied of his independent legal status. Had he come into Henry’s power the capital sentence for high treason might well have been carried out, regardless of what the Neapolitan jurists might say. Equally, the reason that the sentence was not carried out was solely that Henry did not have it in his \textit{de facto} power to do so, even though he was satisfied that it was \textit{de jure} within his authority.

\textsuperscript{125}Ullmann, “Development”, p. 1.

\textsuperscript{126}Walter Ullmann, \textit{Medieval Political Thought}, p. 197.
emperor. Circumstances had, however, drastically changed.\textsuperscript{127} Firstly, Clement V, himself a Frenchman and by now settled in Avignon, was favourably disposed to the interests of the French king: and the authority claimed by Henry would, if recognised, apply as much to France as to any other kingdom. The legal arguments for the long-standing claim of the French kings to independence were little different from those of Naples. Accordingly, it was very much in the French monarchy’s interests for the pope to rule in Robert’s favour. Moreover, as Naples was a papal fief, the claim of imperial authority, applied in that particular case, presented acutely the recurring threat that the Empire had posed to the papacy’s temporal possessions.\textsuperscript{128}

The pope consulted a number of eminent jurists – foremost among them the famous Oldratus de Ponte\textsuperscript{129} – but it would seem that his decision was based not so much on legal theory as on the practicalities of papal and French interests.\textsuperscript{130} Clement gave his verdict in the bull \textit{Pastoralis cura} of 1313.\textsuperscript{131} In the bull, the pope rejected the idea that the Roman emperor had jurisdiction over the other kingdoms and rulers of the world, or that other kings held their kingdoms as fiefs from the emperor. Had Robert been captured committing his crimes in imperial territory, the emperor might have tried and punished him: but as long as he remained in his own kingdom the emperor could do nothing, for he could not validly send a citation outside his own territories. Consequently the pope ruled that the citation and trial had been without legal authority, and annulled the sentence imposed on Robert.

\begin{itemize}
\item \textsuperscript{127} Ullmann, “Development”, pp. 1-2, 26; \textit{Medieval Political Thought}, p. 198n.
\item \textsuperscript{128} Ullmann, “Development”, pp. 25-26.
\item \textsuperscript{129} \textit{ibid.}, p. 28; J. P. Canning, “Ideas of the State in Thirteenth and Fourteenth-Century Commentators on the Roman Law”. \textit{Transactions of the Royal Historical Society}, series 5, 33 (1983), pp. 1-27; p. 3.
\item \textsuperscript{130} Ullmann, “Development”, p. 25.
\item \textsuperscript{131} The text of the decree is in \textit{Monumenta Germaniae historica}, \textit{Const.} IV. number 1166, pp. 1211-1213; see also the discussion in Ullmann, “Development”, pp. 27-28; \textit{Medieval Political Thought}, p. 198; Scales, \textit{German Identity}, p. 216.
\end{itemize}
The pope’s verdict rejected entirely the idea of Empire as a universal temporal authority, instead insisting that the exercise of temporal authority is territorially limited. One king’s authority ends where another’s begins, and no ruler can exercise legal authority beyond the borders of his own realm. Since jurisdiction is territorially confined, no king can be summoned before the tribunal of any other king, even that of the emperor. Moreover, no sovereign ruler can commit high treason against another, because he is not a subject. In these respects the emperor was no different from any other king: his authority was confined to the territorial empire, outside which he could not exercise any authority. In other words, the limits of the territorial empire were the limits of empire altogether. Such a judgement rejects not only the imperialist arguments of, for example, Dante, who saw the Empire as an independent universal authority established directly by God, but also the papalist arguments enunciated by Boniface VIII, who had considered the emperor to have authority over other kings because he acted as the temporal agent of the supreme power of the pope.

In this verdict, Clement V went further than simply affirming the principles of the territorial limitation of authority: he treated those principles, as self-evident and unquestioned.\footnote{Ullmann, “Development”, p. 27.} (In this we may see the influence of the jurists whose opinions Clement had asked, for it has been noted that the bull closely follows the statements of Oldradus de Ponte in the \textit{consilium} that he gave to Clement in this connection.\footnote{ibid., p. 28.}) The papal decision, as well as the reasons given for it in the bull, gave official approval to ideas that had been maintained for some time now by jurists, and that were naturally agreeable to kings. The concept of territorial sovereignty, hitherto proven from a patchy collection of precedents and stray statements, had now been stated compendiously and authoritatively.
Although the verdict of Clement V entirely contradicted the statements made a decade before by his predecessor, this ruling had a finality that Boniface VIII’s statements had not had. Although belonging to a long-standing tradition, Boniface’s statements were no longer the prevailing opinion among jurists and scholars; nor were they at all agreeable to the king of France, or indeed to any rulers other than the emperor. The fate of Boniface VIII had shown that, be the theory what it may, the material power was in the hands of the rulers of kingdoms, France foremost among them. Boniface’s endorsement of imperial authority, with no imperial strength to back it up, was therefore discounted, and Clement’s ruling on territorial independence was treated as final. In any case, it was by now obvious that any claims to the contrary could not be made good.

The failure of Henry’s efforts against Robert was of course embarrassing. However, as emperors seldom called on the alleged imperial authority over other kings, its repudiation effected little serious change in the actual powers of the emperor. The most pressing consequence of the failure of the proceedings against Robert was that it left Henry still with a powerful enemy in the south of the Italian peninsula. Having obtained reinforcements Henry set out for Naples to continue the fight. While on the march he suddenly fell ill, and on 24 August 1313 he died near Siena.  

**Dante and the Empire’s desolation**

Henry’s untimely death was a crushing blow for his supporters, who had continued to hold high hopes of future achievements. The finest memorial for Henry may be found in Dante’s immortal poem. Although written after Henry’s death, the *Divine Comedy* is set in the year 1300, while Henry was still alive. In the *Paradiso*, Beatrice points out to Dante the place prepared for Henry in the heavenly rose:

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135 Heer, p. 103.
On that great throne whereon thine eyes are fixed
For the crown’s sake already placed upon it,
Before thou suppest at this wedding feast

Shall sit the soul (that is to be Augustus
On earth) of noble Henry, who shall come
To redress Italy ere she be ready.\textsuperscript{136}

We may set beside the glories that Dante foretold for Henry in heaven the bleak view he had of the state of Italy after the emperor’s death. When Clement V, the pope who had gone to Avignon, died, the conclave to elect his successor would also essentially be deciding whether the papacy would return to Rome or remain indefinitely in French hands. On this occasion Dante wrote to the cardinals, imploring them to elect a Roman.\textsuperscript{137} The city that was full of people now sat solitary, he wrote, quoting the lamentations of the prophet Jeremiah over Jerusalem; and she that was great among the nations had become a widow.\textsuperscript{138} Dante bade the cardinals keep before their eyes the condition of the city of Rome, now bereft of both her luminaries, the emperor and the pope, and sitting solitary and widowed, a sight that could not but move even her enemies to pity.\textsuperscript{139}

It was this sort of lament, rather than his exaltation of imperial authority, that would stir Dante’s countrymen. A new Italian consciousness was appearing, which would be roused by the sight of Rome ‘sitting bereft’ to contrast ancient glories with present disorder, and which would look for better days not to foreign emperors but to

\textsuperscript{137} Dante, \textit{Epistola VIII}, (‘Quomodo sola sedet civitas’), \textit{To the Italian Cardinals}, in Toynbee, \textit{op. cit.}, pp. 121-147.
\textsuperscript{138} \textit{ibid.}, paragraph 1.
\textsuperscript{139} \textit{ibid.}, paragraph 10.
Italy herself. In Germany, on the other hand – as we shall see in the next chapter –
thought would turn to how the institution of the Empire, by now having scarcely any
power beyond the Alps, might best serve as a constitutional form for the northern lands
alone.
The reign of Ludwig IV

The disputed election of Ludwig IV, and the beginnings of his conflict with the Papacy

After the death of Henry VII there was a disputed election, in which both Ludwig of Bavaria and Friedrich of Austria received some votes. Ludwig, having received the majority, was crowned at Aachen. However, the principle that a majority of votes was sufficient for a valid election had not yet been established: it was sometimes said that unanimity was necessary. Therefore, Ludwig’s right to the crown was disputed. The minority of electors who had voted for Friedrich refused to accept Ludwig’s election, and civil war ensued.

As well as the undefined status of what constituted a valid election, another factor complicated the succession. The confounding of the office of German king with that of Roman Emperor, far from adding to the power and authority of the ruler, had caused a degree of papal intervention in the succession that other countries did not have: no other king was required to submit his succession for the papal approval.¹ (The fact that the German king also ruled in northern Italy, adjacent to the Papal States, and that he would come with soldiers to Rome to be crowned doubtless also contributed to the popes’ desire for the ruler in question to be an agreeable one.) The claims of the pope in this respect were no longer instances of a general principle of the subordination of the temporal to the spiritual. Rather, they were legacies of a time when the imperial power had been much greater, and legacies which now increasingly seemed in Germany to be merely vexatious instances of papal interference.

¹ Walter Ullmann, Medieval Political Thought, Peregrine, Harmondsworth, 1975, p. 111.
Folz has argued that the principal concern for theorists of empire at this time was whether or not the coronation ceremony in Rome added to the emperor’s authority.\textsuperscript{2} However, it seems to me that the real concern among theorists of the Empire was not with the papal coronation but with the demand for papal approval – that is, the claim that, because the German ruler would in due course become Emperor, he had to obtain the pope’s approval before he could possess \textit{any} authority at all, even in Germany.

On the occasion of this disputed election, Clement V declared that it pertained to him to decide the succession (over which a war was at that time being fought in Germany), and that until a candidate who met with his approval sat on the throne he had the right to administer the imperial territories in Italy as ‘Vicar of the Empire’.\textsuperscript{3} His successor, John XXII, made the same claims.\textsuperscript{4} Both popes were Frenchmen, and under the influence of the French monarchy: both that monarchy and the papacy at this time had ambitions of putting an end to German power in the Italian peninsula and establishing French power there. John XXII was distinctly hostile to the Empire. This hostility was unsurprising: prior to his election to the papacy, he had been chancellor to the Angevin kings of Naples, and it was probably he who had drafted the manifesto denouncing the imperial authority that was published by Henry VII’s opponent King Robert.\textsuperscript{5} As pope, and exercising the rights he claimed during this supposed vacancy of the throne, he appointed none other than this same Robert, an implacable enemy of the emperors, as ‘vicar-general of the Empire in Italy’.\textsuperscript{6} John summoned both Ludwig and Friedrich to submit their claims to his judgement, but both refused to do so.\textsuperscript{7}

\textsuperscript{4} Bryce, p. 217.
\textsuperscript{6} Heer, p. 108.
\textsuperscript{7} Bryce, p. 217.
In 1322 Ludwig defeated Frederick at the Battle of Mühldorf and took him prisoner, and was subsequently acknowledged as king by all seven electors. He then sent an army under Berthold of Neiffen into Italy, whereupon the pope, offended by Ludwig’s refusal to submit to his authority, and being as he was somewhat over-awed by the power of the French king, planned to drive Ludwig from the throne and confer the imperial authority on Charles IV of France. Accordingly, he declared that Ludwig’s election was invalid, since he had not obtained papal approval, and required him to resign the crown; if he did not renounce his government of the empire within three months, he would be excommunicated. The pope declared all men freed from their oaths of loyalty towards him and forbade them to obey him.8

When Ludwig protested against this command and appealed to a General Council, the pope did excommunicate him.9 Ludwig, however, published his own charges against the pope in the Appeal of Sachsenhausen, in which he insisted that the person elected by the electors in concord, or by the majority of them, was, by that very fact, entitled to exercise all the rights of an emperor within the territories of the Empire, without needing the approbation of the pope.10 (This statement, with minor variations in wording, is repeated constantly in imperialist writings of the period.) Ludwig presented the claims of the pope as an assault on the liberties of the Empire and an attempt to destroy the rights of the electors, of the other German princes, and indeed of all Germany and of all the subjects of the Empire.11 The Appeal stirred up the patriotic feeling of the German princes and people against the claims of the pope. Enjoying widespread support in Germany, as he did for the time being, Ludwig did not back down.

9 Bryce, p. 218.
10 “The Appeal of Sachsenhausen” (May 22, 1324), Monumenta Germaniae historica, Constitutiones IV, number 910 (pp. 745-754), c. 12-13.
11 ibid., c. 13.
It is evidence of the ever-increasing identification of the office of ruler of Germany with that of Holy Roman Emperor that, in all the documents produced by Ludwig and his partisans, the existence of the Kingdom of Germany and the rights of the German king are forgotten, and we read only of the right of the one chosen to be emperor to exercise the imperial rights – although within the territories of the empire only – even before he has been crowned as emperor at Rome, and without needing the approbation of the pope. (Had Ludwig and his supporters had their history clearer they might have argued their case still more convincingly, by explaining that the government of Germany rested with the ruler in his capacity as king, and not, strictly speaking, as Emperor at all.) This argument alleges that the Roman coronation was unnecessary as far as the government of the territorial empire went, which was their only concern at that moment, but says nothing about any supranational authority which the Roman coronation might confer.

The supporters of Ludwig IV

During these years a number of controversial intellectual and religious figures who were opposed to the actions of the pope betook themselves to Ludwig’s court. Ludwig readily enlisted their help to justify his resistance to the papacy, and thus established a formidable centre of opposition. Ludwig had the support of the Minorites and of the Spiritual Franciscans, who opposed John XXII because he had formally rejected their principles of clerical poverty. They in turn maintained that the pope’s statements on the matter were heretical, an opinion with which many who disapproved of ecclesiastical wealth sympathised. Of the many scholars at Ludwig’s court and in his entourage the figures most significant for our enquiry are William of Ockham and Marsilius of Padua.12

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Marsilius, a scholar at the University of Paris, had written there in 1324 the controversial treatise *Defensor Pacis*.\(^{13}\) The anonymous publication of the book provoked controversy: “Never have I read a worse heretic,” the pope said.\(^{14}\) When in 1326 the identity of the author became known, Marsilius and his like-minded colleague Jean of Jandun (who was regarded, wrongly it seems, as a co-author), were forced to flee Paris, and joined Ludwig’s court at Nuremberg. (In 1327 the pope in the bull *Licet iuxta* condemned Marsilius as a heretic.) The king and the scholar would work well together: Marsilius wanted someone with the force to make his theories a reality; Ludwig needed someone who could defend his cause with intellectual arguments.\(^{15}\)

The case of William of Ockham is similar. A Franciscan friar from England, he had gone to Avignon in the mid-1320s.\(^{16}\) While there, he read the series of recent papal bulls on the poverty of Christ and the apostles, bulls which he, along with many other Franciscans, considered erroneous.\(^{17}\) Having expressed this opinion, he was afterward condemned implicitly (though not by name) as a heretic, and was detained in Avignon.\(^{18}\) In 1328 he fled in secret with several other Franciscans, among them

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\(^{16}\) Arthur Stephen McGrade, introduction to William of Ockham’s *Brevisloquium de principatu tyrannico* (published as *A Short Discourse on the Tyrannical Government over things divine and human, but especially over the Empire and those subject to the Empire, usurped by some who are called Highest Pontiffs*), edited by McGrade, translated by John Kilcullen, Cambridge, Cambridge University Press, 1992), p. xvi.

\(^{17}\) *ibid.*, p. xvii.

\(^{18}\) *ibid.*, p. xxx.
Michael of Cesena (the General of the order), another critic of the papal teaching. They took refuge with Ludwig, who was then in Pisa.\(^1\) Having refused to return to Avignon when summoned by the pope, Ockham was excommunicated: he was to remain with Ludwig’s court for the rest of his life, which he devoted to political writings.\(^2\)

The pope was evidently concerned by the circulating imperialist material. As well as excommunicating Marsilius, Ockham and others, he encouraged the Dominican friar Guido Vernani to write an answer to the *De Monarchia* of Dante, *De Reprobatione Monarchiae*, in which Vernani accused Dante of Averroist heresy. The pope had the *De Monarchia* burnt as heretical in the market-place of Bologna: fortunately he did not act on the advice of those who suggested he have Dante’s bones dug up and burnt also.\(^3\)

The writings of William of Ockham and of Marsilius of Padua on the Empire reveal both the particular preoccupations, at that moment, of the supporters of imperial authority, and also which elements of the earlier imperial ideal remained important. The works of the two writers will here be examined together, to show the points on which they concur and on which they differ. In examining Marsilius’s ideas, we will look at his principal work, the *Defensor Pacis*, and his treatise *De translatione Imperii*:\(^4\) of

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\(^1\) *ibid.*, p. xxx. It is related that, when he was presented to Ludwig, Ockham spoke to him in the words often used in later years by scholars in similar situations: “Defend me with the sword, O lord Emperor, and I will defend thee with the pen.” (*Defende me gladio, domine Imperator, et ego defendam te calamo*.) *ibid.*, p. xviii.

\(^2\) *ibid.*, pp. xvi, xxx.

\(^3\) Donald Nicholl, introduction to Dante’s *De Monarchia*, (published as *Monarchy* by Weidenfeld and Nicolson, London, 1954), p. xii.

\(^4\) Marsilius of Padua, *op. cit.*; *De Translatione Imperii*, in Nederman, *op. cit.* pp. 66-81. Marsilius’s *Defensor Minor* is simply, as the name suggests, a more succinct presentation of the arguments set forth at great length in the *Defensor Pacis*: it need not be considered separately. The date of the composition of the *De translatione Imperii* is unknown: it was certainly written after the *Defensor Pacis*; Nederman (*op. cit.* p. xii) considers it most likely that it was written while Marsilius was still in Paris.
Ockham’s writings, we will examine the *Breviloquium de principatu tyrannico*\(^{23}\) and the treatise *De Imperatorem et Pontificum Potestate.*\(^{24}\)

**Marsilius of Padua and William of Ockham on the Empire**

A superficial reading of the *Defensor Pacis* would suggest to the unwary reader that Marsilius was simply a proponent of republican government, who might be expected to object to imperial institutions. In fact, Marsilius had no objection whatever to the Holy Roman Empire: he regarded the emperor as Italy’s rightful ruler, and indeed, like Dante, looked to the emperor to solve Italy’s perennial problems. It is evident, moreover, that Marsilius considered the Roman empire of his day to be authentically Roman: he never expresses any doubt that it is the same as the Roman empire of antiquity. He defends the rights of the emperor and the electors with obvious loyalty, neither making any slighting reference to their being German nor suggesting that there might be a conflict of interest in having a ruler of Italy who was himself a foreigner.

Marsilius’s quarrel was with the pope. (He dismissed John XXII, living as he did away from Rome, as the ‘so-called Roman bishop’.\(^{25}\)) Marsilius was strongly opposed to all papal claims of authority (in spiritual as well as in temporal matters), and to papal interference in politics, which he blames for all the disorders of Italy.\(^{26}\) His writings are full of arguments against papal authority and intervention in temporal matters, particularly in the Holy Roman Empire but also, to a lesser extent, in other places. The

\(^{23}\) William of Ockham, *Breviloquium de principatu tyrannico*, translated (as *A Short Discourse on the Tyrannical Government over things divine and human, but especially over the Empire and those subject to the Empire, usurped by some who are called Highest Pontiffs*) by John Kilcullen and edited by Arthur Stephen McGrade (Cambridge, Cambridge University Press, 1992.)


\(^{25}\) e.g. *Defensor Pacis*, I. iii. 14; II. xxi. 13; II. xxvi. 11.

\(^{26}\) See, for example, *Defensor Pacis*, II, xxiii, 11; II, xxv, 16; II, xxvi, 1, 15.
popes, he said, had shown in their dealings with the emperors their desire to obtain supreme authority. They were beginning with the empire in their efforts to gain this supreme power, and at the same time creeping up on other lands, not daring to attempt to usurp control over them all at once. It was the papacy, Marsilius claimed, that was the cause of Italy’s problems: “by its hateful action it has for a long time distressed the Italian state, and has kept and still keeps it from tranquillity or peace, by preventing with all its force the appointment or institution of the ruler, the Roman emperor, and his functioning in the said empire”. Marsilius addressed the Defensor Pacis to Ludwig, whom he called upon to act to end papal interference in temporal matters and thus to restore peace to Italy. It is in fact Ludwig who is the ‘Defender of Peace’ of the book’s title.

To support his argument for the authority of the emperor, Marsilius went back to what he considered first principles of government. Marsilius considered the foundation of legitimate government – though not the necessary form of government at all times – to be republican. Marsilius believed that political authority resided originally and ultimately in ‘the Legislator’, his term for the community of people who would be subject to that authority when it was exercised: that is, the authority of the government came from the consent of the governed. However, Marsilius did not insist on the authority being exercised by the people directly: on the contrary, he was content with a derivation of authority that is in fact quite indirect and roundabout. The choice of ruler must be made by the authority of the people, but does not need to be made by the people itself. For example, Marsilius discusses the possibility of authority being vested in a line of kings with hereditary succession, which he treats as perfectly proper, even though he

27 Defensor Pacis, I. xix. 11; II. xxvi. 1, 15, 18.
28 ibid., I. xix. 12.
29 ibid., I. i. 6.
30 ibid., I. xii. 3; I. xv. 2; III. ii. 6. See also Gewirth, pp. 240-241, 248-250.
considers it to be a method inferior to the election of each monarch individually. \(^{31}\) Even in the latter case, he clearly does not expect any sort of general election, since he takes it for granted that there will be electors to whom the choice is entrusted. \(^{32}\) Overall, it is enough that the original source and ground of authority was the people, and that it could revoke that authority to itself if it so desired. The case of the Roman empire, as presented by Marsilius, illustrates his opinions well. While Marsilius was in favour of the empire, he was compelled by the internal logic of his arguments to make a theory of the empire rather different from that of previous imperialists.

For Marsilius, the Emperor’s authority comes originally from the people of the Empire. For the purpose of his discussion, ‘the Empire’ is simply the name of the state in question, as it existed in his time. He was concerned simply to establish how the ruler of that state obtained his authority, not with the question of how the ruler of Germany obtained a universal authority or laid hold of the rights of ancient Rome. The Emperor had his authority from the people of the Holy Roman Empire of the day, through the electors, by a kind of social contract made by their consent to, or acquiescence in, the constitutional arrangements in place. In that respect, the whole grant of authority was contemporary, effected by a social contract made in the present day: authority was not something bequeathed from ancient times. There was for Marsilius no requirement that the people of the Empire be everyone in the world, for example, or the residents of the city of Rome. As the boundaries of the territorial empire changed, so the constituent people of the empire changed.

Ockham, like Marsilius, rejected all papal claims to any jurisdiction in temporal matters. He insisted that the role of the ecclesiastical hierarchy is purely spiritual – although, unlike Marsilius, he did acknowledge papal jurisdiction over spiritual

\(^{31}\) _Defensor Pacis_, I. xv. 3; I. xvi. 11.

\(^{32}\) _ibid_. , I. xvi. 5.
matters. In his arguments Ockham generally discusses the Empire simply because it is the case in point: but many of his arguments are not specifically about the Empire, but about relations of church and state in general, and are therefore not particularly relevant to our present discussion. Nonetheless in Book IV of the *Breviloquium* the Emperor is discussed as a special case as well as among rulers in general. The Empire was a matter of particular concern because the papacy claimed a particular right over the Empire which it did not claim over other kingdoms. Although of course rejecting all papal temporal jurisdiction, Ockham considered this claim particularly injurious, and writes at some length of why no such special right could be maintained.

Throughout the *De Imperatorum et Pontificum Potestate* Ockham argues that the papacy is being vexatious, and injuring the Empire, by making of it demands from which other states are free. Clearly the independence that other countries enjoyed, and which France, the Empire’s enemy, flaunted, was noted, and the involvement of the papacy in the affairs of the Empire was felt as a grievance.

Both Marsilius and Ockham maintained that the Roman Empire was once truly universal. However, they differed on how it came to have legitimate authority over the whole world, and whether it still did so. Consistent with his first principles of government, Marsilius maintains that in each place authority rested originally and ultimately with the general population. In ancient times, he continues, these self-governing communities transferred their authority to the Roman people in recognition of that people’s superior virtue and ability. Of right, therefore, the Roman people possessed authority over the world; and the Roman people then transferred that authority to the emperor, who thus likewise possessed universal authority. In the time of

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33 *Breviloquium*, Book II, chapters 3, 16.
34 e.g. in *De Imperatorum et Pontificum Potestate*, chapter cvii. 2; xix; xx; cf. *Breviloquium*, IV. 14.
35 *Defensor Pacis*, I. xix. 10; *Breviloquium*, IV. 12.
Christ, therefore, “the Roman ruler was monarch over all lands everywhere”. It should be noted that in Marsilius’s thought this establishment of a universal government is a human process, not part of any divine plan.

Ockham, asking how the Romans came to have “a true empire over the whole world”, first raises the possibility that “the Romans oppressed others and subjugated them to their empire by force,” and that “their empire was therefore from the outset usurped, tyrannical, and unjust.” Against this, he sets the accepted belief that by Christ’s time at least the Roman Empire was definitely a true and legitimate empire, as was proven from scripture. Even if it began illegitimately, Ockham concluded, it was undoubtedly later legitimate. Unlike Marsilius, however, he has no certain explanation of how the Empire obtained its legitimacy:

But when and how it began to be a true empire, I admit I do not know.

For I doubt whether, when the Romans began to rule in fact, they merely usurped dominion over others tyrannically, and I am therefore not certain whether they had a true empire from the beginning or afterwards. For although we know from Christ and the apostles that in their time it was a true empire, they did not say when it began to be a true empire, and I do not presume to define what they did not define.

Ockham suggests ways in which it might have become legitimate (which need not concern us here), concluding that “perhaps God alone knows, and those to whom he has revealed it.”

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36 Defensor Pacis, I. xix. 10.
37 De Translatione Imperii, passim.
38 Breviloquium, IV. 9; p. 121.
39 ibid., IV. 9; p. 121.
40 ibid., IV. 10.
41 ibid., IV. 10, pp. 123-4.
42 ibid., IV. 10.
43 ibid., IV. 10.
Throughout his writings Ockham is closer to the traditional imperialist idea than is Marsilius. As we have seen, he bases his claim for the universal authority of the emperor, in Christ’s time at least, solely on scripture.\textsuperscript{44} Like Dante, Ockham maintains that a universal monarchy is the best form of government. He refers to the \textit{Politics} of Aristotle as establishing that monarchy is the best constitution, and argues from that principle that the whole world would be best governed under the lordship of a single monarch. “He is therefore not a true lover of the common good,” Ockham concludes, “who does not desire and work as much as is permissible in his station to make the whole world subject to one monarch.”\textsuperscript{45}

Ockham would not recognise any exemption or secession from the authority of the Empire, or any lapse in its \textit{de jure} universality. Having been established over the whole world, as he was satisfied it legitimately had been, the imperial authority could not be destroyed or diminished. No lordship legitimately established, Ockham argues, ought to be destroyed without the strongest reason, least of all one supremely beneficial as a universal monarchy would be. Since Ockham considered a universal monarchy the best form of government, the Roman Empire was “useful and expedient to all mortals” and could not legitimately be curtailed.\textsuperscript{46}

Enquiring rhetorically whether anything could have happened (say, by the withdrawal of people’s assent to being governed by the Roman Empire) that would have made the Empire, legitimate in Christ’s day, no longer legitimate, Ockham concludes that it would be impossible.\textsuperscript{47} “After people have willingly subjected themselves to someone’s lordship,” he writes,

\textsuperscript{44} \textit{Breviloquium}, III. 3; IV. 7.
\textsuperscript{45} \textit{ibid.}, IV. 12.
\textsuperscript{46} \textit{ibid.}, IV. 12.
\textsuperscript{47} \textit{ibid.}, IV. 12-13.
they cannot withdraw from it against his will, because a lord should not be deprived of his right without some fault on his part. Therefore, since the Roman Empire was a true and legitimate empire, its subjects could not by right deny the subjection due to it... 

By an express act of will alone one can subject oneself to the lordship of another, and yet one cannot dissolve the lordship by an act of will alone.48

Marsilius’s opinion was quite different. Ockham, as we have seen, did not present any clear notion of the origin or foundation of legitimate government. In Marsilius’s opinion, legitimacy depended not only originally but continuously on the consent of the governed. Therefore, just as the self-governing communities of the world had (according to Marsilius) at one time conceded their authority to Rome, so many of them had at other times revoked that concession and seceded from the Empire (as was their right) and accordingly were now independent. Marsilius did not, therefore, believe that the authority of the emperor was still, or intrinsically, universal. He discusses the multiplicity of states and rulers, and treats the Empire and the emperor as being among them.49 Moreover, just as his explanation of the establishment of the Empire is naturalistic, so he explains its subsequent history only in human terms.

Nonetheless, states that have not seceded remain under the Roman imperial authority: Marsilius evidently regards this subjection, rather than independence, as the

48 *Breviloquium*, IV. 12. Ockham mentions in passing the possibility of the Romans “commit[ting] such a fault that others could reasonably withdraw from their lordship”, as when a lord is deprived of his lordship over a vassal, but he does not develop the idea, evidently because he does not consider any such fault to have been committed.

49 Marsilius defines a ‘state’ in a way that shows that there are many of them (*Defensor Pacis* I. ii. 2). Both because Marsilius was an imperial subject, and because the popes (against whom his work was written) were involved particularly with the Empire, Marsilius often speaks of the Roman emperor explicitly and other rulers in general: for example, his mention in *Defensor Pacis* II. i. 3 of “the Roman ruler and all other governments, communities, groups, and even individual laymen”. Marsilius consistently discusses the emperor with and among the other rulers, not over them, and the Empire among the states (see, for example, *Defensor Pacis* I. xix. 10, 11, 12; II. i. 5).
default form of government. Thus in *De translatione Imperii*, even while discussing secessions from the empire, he is nonetheless able in a careless phrase to define the Roman Empire as “a universal or general monarchy over the whole world,” before adding the significant qualifying words, “or at any rate over the majority of the provinces”. Ultimately, however, what remained of the Empire was held together not by an intrinsic natural order, or by divine authority, but by the common consent of the different communities to being governed by a single authority, the Roman emperor, even if that consent was merely acquiescence in the *status quo*.

There remained the question of how this authority of the ancient Romans and their emperors – whether over the whole world or only over certain parts of it – had come to be vested in a German ruler chosen by certain electing princes. On this point Ockham, who avoids directly addressing the matter, is extremely uncertain. Given that he adhered to and supported Ludwig, it would seem that he did not doubt his authority. However, when in passing he mentions the matter, he reveals his uncertainty about the process, or at least how indefinite his ideas were. The Empire, he writes,

> arose from the people; they transferred to the emperor the power of making laws and doing other things pertaining to the administration of the Empire; they gave (or someone by their authority and in their name gave) to the electors power to elect, correct, and depose the emperor (if they have it), if it was not given to them by some emperor…

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50 Breviloquium, VI. 2. I assume that “if they have it” applies only to the clause immediately preceding, and not to all three functions of electing, correcting, and deposing; and that we should understand the passage to mean that Ockham was unsure whether the electors had the power to depose the emperor (a matter that was indeed constitutionally uncertain). It is most unlikely that he meant to cast doubt on the power of the electors to elect, which would have called Ludwig’s authority into question. His attitude to the middle function, of correcting, cannot be inferred. The general clumsiness of the passage is telling, showing Ockham’s uncertainty on the whole matter.
In Ockham’s eyes, the contemporary electors were the equivalent of the Romans of old: he says that one can call “Romans” those who manage and regulate the Empire, such as the electors, “who seem to have succeeded in place of the Senate”.

Just as he refuses to other peoples a right of secession from the Empire, so Ockham (in both cases unlike Marsilius) makes no provision for the revocation of the imperial authority by the Roman people. Once established, the authority of Rome over the world, or of the Emperor over Rome, or of the electors to elect the Emperor, in the present depends only on God, whatever its historical origins. Nonetheless Ockham does recognise a right of deposing individual emperors for misconduct, vested in the electors as the successors to the Roman Senate, or failing them, the Roman people.

Marsilius had a clearer, albeit idiosyncratic, conception of how the authority to choose a ruler for the Empire had come to reside with the electors. This process, like the Romans’ acquisition of authority over the world and the secession of various regions from that authority, was historically contingent and could be explained by natural causes. Marsilius argued that the electors had their authority to elect the emperor entirely from the people of the Empire. This authority had been several times transferred, resting in Marsilius’s own day with the German princes; but it was always only a delegated authority. Marsilius insisted that such a transfer of authority could have been effected only by the consent of the people, and not by the pope. It was because these transfers of authority had been effected by the will, or at least with the consent, of the people that they were valid and that the emperor was the legitimate ruler of the Empire.

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51 *Breviloquium*, VI. 2.
52 *ibid.*, IV. chapters 2-7, especially 6 and 8.
53 *ibid.*, VI. 2.
54 *Defensor Pacis*, II. xxx. 7-8; III. ii. 9, 10.
Marsilius touched on this matter of the transfer of imperial authority first in the *Defensor Pacis*, in the course of his argument against papal temporal authority within the Empire.\textsuperscript{55} Since the *translatio* had, to all appearances, been effected by papal authority, it had been used as a proof of the pope’s authority over the emperor, and indeed used to good effect, as an emperor could not deny the pope’s authority in the matter of the *translatio* without denying his own legitimacy. To refute the claim that the *translatio* was proof of papal authority over the emperors, Marsilius had either to say that, the popes having no such authority, the *translatio* was invalid (which he was unwilling to do, as it would nullify the emperors’ authority), or to somehow explain the *translatio* without relying on the action of the pope.

In the *Defensor Pacis*, Marsilius assumed for the purposes of his argument that the *translatio* had indeed been effected in some way that did not depend on the pope’s authority, but did not specify how. He simply said that, since the authority to appoint the ruler is with ‘the legislator’, it ‘must be’ the case, whenever one hears or reads of a translation or appointment effected by others, that they had some sort of delegated authority, or that the translation or appointment was made “not in an unqualified sense, but in some special sense, as, for example, that they proclaimed or announced… that the transfer or appointment had been made”.\textsuperscript{56} Marsilius put aside the task of explaining how the historical *translatio imperii* had in fact occurred, to return to it later in the separate treatise *De translatione Imperii*.

In the *De translatione* Marsilius gathered historical ‘evidence’ for his assertion that the transfer of imperial authority was legitimate because (despite appearances to the contrary) it was effected not by the pope but by the people. The ‘history’ that Marsilius recounts is very garbled, and even if all the facts were correct (which they are not) it could not be said that the argument is particularly convincing. Its significance is that

\textsuperscript{55} *Defensor Pacis*, II. xxx. 7-8.

\textsuperscript{56} *ibid.*, II. xxx. 8.
Marsilius reworks the theory of the *translatio imperii* so that, instead of being an exercise of papal authority or an action of divine providence, it becomes a process whereby the people of the Empire, albeit by delegation and at a remove, from time to time changed their government.

Against the papal claim to the right to approve or reject a prospective emperor, Marsilius argued that it is nothing to do with the pope: it is the expressed will of the people of the Empire that the electors should choose the emperor, and it is with the people of the Empire that the decision rests, and from them alone that authority can come. If the electors, by authority delegated by the people, choose some one as emperor, then emperor he is. Any papal limitation on the rights of the electors, or any papal claim to confer authority, thus becomes an insult to the self-governing action of the people. If the emperor had no authority until he received the pope’s approval, the office of the electors would be nullified: their action would have in itself no effect, but would be a mere nomination of a man to receive something from the pope. Yet “this much authority,” Marsilius says, “could be granted to the Roman king by seven barbers or blind men. I say this not in contempt of the electors,” he adds, “but in derision of the man who wants to deprive them of their due authority.”

Just as Marsilius considered the pope’s approval unnecessary, so he considered the coronation of the emperor by the pope a merely ceremonial, rather than a constitutive act. While conceding that emperors had in the past been crowned by popes, he argued that such an action was performed simply to solemnize and herald their inauguration and to obtain more of God’s grace… But who will say that such coronation gives any greater authority to the Roman pontiff over the Roman ruler than to the archbishop of Rheims over the king of the Franks? For such solemnities do not bestow

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57 *Defensor Pacis*, II. xxvi. 5.

58 see Folz, p. 160.
authority; they only signify that authority is had or that it has been bestowed. 59

Thus Marsilius insisted that the authority of an elective ruler, such as the emperor, was entirely and only dependent upon election by those with authority to elect, which election is the expressed will of ‘the legislator’. The practical consequence of this judgement was that Ludwig, having been elected, even though he had not been approved by the pope, nonetheless had authority to exercise all imperial functions, as he, quite within his rights, was already doing. 60

As we have seen, Marsilius’s ideas were quite consistent with the existence of other completely independent states. Ockham, while asserting that the universal rights of the Empire could not validly be diminished, did not deny (any more than Dante had done) the existence of other kingdoms, the right of their rulers to succeed according to law, or their right ordinarily to attend independently to their own affairs. 61 Ockham does seem to claim for the emperor a right of intervening in other kingdoms, though he does so only in passing. For example, he concedes to each kingdom the right of deposing its king, if he has been guilty of some defect or crime, “at least when there can be no fitting recourse to a temporal superior, namely to the emperor or some other secular ruler”. 62

What is more prominent in Ockham’s writings, however, is something that is only incidental to his arguments: his frequent references to other kingdoms show to what an extent their claims to independence – those of France above all – had been

59 Defensor Pacis, II. xxvi. 4. Thus also William of Ockham: “It is no objection that some kings [in the Old Testament] were anointed as kings by priests, because such anointing does not imply that the anointed is the anointer’s inferior, especially in temporal matters. Some kings are anointed by archbishops or bishops who are subject to them in temporal matters.” (Breviloquium, V. 7).
60 Defensor Pacis, II. xxvi. 11.
61 McGrade, note to the Breviloquium, p. 129n.
62 Breviloquium, VI. 2.
accepted.\textsuperscript{63} For example, Ockham writes that the papacy injures the Roman Empire by asserting that it is held from the pope, whereas in fact the pope has no greater right over the Empire than over France or the other kingdoms, which, it is established, are not from the pope – and, he reiterates, especially France.\textsuperscript{64}

Several times Ockham uses the case of France in a \textit{reductio ad absurdum}: if in this respect or that the Empire is subject to the pope, then the same is true of all kingdoms, even France: and that is evidently regarded as sufficiently absurd to prove the point. For example, if the Empire is held from the pope,

It would also follow that all the kingdoms of the world were from the pope, because the rights of the Roman Empire were not granted to the pope more than the rights of all kingdoms: if, therefore, the Empire is from the pope, and the emperor should acknowledge that he holds his empire from the pope as his vassal, it follows that every other kingdom is from the pope and that every king is bound to acknowledge that he holds his kingdom from the pope as his vassal.\textsuperscript{65}

However, Ockham continues, it had become an undisputed principle that there were kingdoms which do not recognise a superior in temporal matters, a state of affairs that was recognised by law, and by papal law at that. If rulers were vassals of the pope, the king of France would have a temporal superior, but the papal bull \textit{Per venerabilem} said that he did not recognise any such.\textsuperscript{66} In this instance Ockham uses both a papal decree and the independence of another kingdom to make a pro-imperial point.

Similarly, Ockham refers to the fact that the kings of other countries succeeded according to their own laws, and that they were not required to obtain papal approval

\textsuperscript{63} e.g. \textit{Breviloquium}, IV. 1.
\textsuperscript{64} \textit{De Imperatorum et Pontificum Potestate}, chapter xix.
\textsuperscript{65} \textit{Breviloquium}, VI. 1; see also VI. 2.
\textsuperscript{66} \textit{ibid.}, VI. 1.
before using the title or exercising the rights of a king. Arguing that there is no good reason for the Empire being a special case, Ockham concludes that the one chosen to be emperor can succeed simply according to the laws of the Empire, holding the dignity and exercising the office at once, without needing to be admitted or approved by the pope. In the course of making this point, Ockham incidentally shows that he accepts the succession of other kings according to the laws of their own kingdoms. Whatever the over-arching universal authority of the Empire might be, it was evidently consistent with a very wide measure of practical independence for the other kingdoms.

At one point in the Defensor Pacis, Marsilius does argue against the existence of several governments, using an argument very similar to Dante’s: if there were several governments, and they were not brought under the rule of one supreme government, the result would be dissent and fighting, and finally destruction. The difference between Marsilius’s argument and Dante’s is that Marsilius is simply discussing the internal affairs of a state. When he writes about the existence of more than one government, he means the existence of independent civil and ecclesiastical governments within the same state. The dissent and fighting are dissent and fighting within the state; the destruction to be avoided is that of the state.

Throughout the Defensor Pacis the state alone is Marsilius’s concern. Accordingly, the question of the relations between states and of whether there ought to be a single universal ruler is ignored: Marsilius dismisses it with the statement that it “merits a reasoned study, but it is distinct from our present concern”. It seems to be a matter to which Marsilius did not give particularly deep thought: the best he can offer is the suggestion, laughable in the context of a discussion ostensibly about how to preserve peace and justice, that the existence of multiple states may be part of the order of nature,

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67 De Imperatorum et Pontificum Potestate, xx. 6.
68 Defensor Pacis, I. xvii. 2.
69 ibid., I. xvii. 10; quoted also in Gewirth, pp. 126-127.
since it leads to war and war serves to prevent the population from becoming too numerous for the earth to provide for it.\textsuperscript{70} Later in the book, Marsilius in passing denies that the existence of a universal authority is necessary or expedient, saying that “in order that men may live together in peace, it is sufficient that there be a numerically single government in each province”.\textsuperscript{71} It is not a statement that stands up long to serious consideration: but the subject of universal government is not Marsilius’s main concern and his statements on the matter are not fully thought out.

For Marsilius, therefore, if not for Ockham, the Empire is strictly territorial and limited. That Marsilius’s ideas, in which the Empire has no superior authority over other states, could be accepted – as they were – by Ludwig, without any expressed reservations on this point, suggests an acceptance of the effective independence of other states.

There is, however, one point at which Marsilius was compelled (clumsily and with embarrassment) to admit some sort of universal authority, and that was in the case of an ecumenical council.\textsuperscript{72} Having rejected the universal authority of the pope even in spiritual matters, Marsilius encountered the problem of how the Church, an indivisible and universal body, was to be governed, and how its doctrine was to be defined. Marsilius repeatedly asserted – he even claimed to “show with certainty” – that no one could make universally binding ecclesiastical ordinances except an ecumenical council – or the ‘supreme faithful legislator’.\textsuperscript{73} This ‘supreme faithful legislator’ ought logically to be an important figure in Marsilius’s argument. Even granted that supreme ecclesiastical authority was vested in an ecumenical council, there were still questions that needed answering – questions of who was to call the council; of who was to order

\begin{itemize}
\item \textsuperscript{70} \textit{Defensor Pacis}, I. xvii. 10.
\item \textsuperscript{71} \textit{ibid.}, II. xxviii. 15; quoted also in Gewirth, p. 129.
\item \textsuperscript{72} Gewirth, p. 129.
\item \textsuperscript{73} \textit{Defensor Pacis} II. xviii. 8.
\end{itemize}
the observance of its judgements; of who was, with coercive power, to see that its decrees were carried out and to punish transgressors. These functions Marsilius ascribed to this supreme faithful legislator or the ruler whom it might appoint.\textsuperscript{74} However, although he repeatedly alluded to this ‘faithful human legislator’,\textsuperscript{75} this ‘supreme faithful legislator’,\textsuperscript{76} this ‘faithful human legislator which lacks a superior’,\textsuperscript{77} Marsilius did not carry out the crucial task: he did not identify this legislator.

The ‘supreme faithful legislator’ cannot be the ‘legislator’ of elsewhere in Marsilius’s writings: that legislator is the people in each state, whether Christian or not, whereas this legislator is both universal and Christian. It would seem, by analogy with the other ‘legislator’, to refer to the whole body of Christians, although how that body is to act Marsilius does not say. The ‘ruler acting by the authority of the legislator’ is more likely to be the Holy Roman Emperor than anyone else, but Marsilius does not say so.

In another chapter he had written of “the general monarchy and coercive power which the people and ruler of Rome once exercised over all the rulers and peoples in the world, so that they alone had the power to make coercive commands binding on all men with respect to the observance of the faith and of the decisions of general councils, and to punish transgressors of these commands wherever they might be”\textsuperscript{78} he spoke, however, in the past tense. It seems most likely that Marsilius, when using these phrases, was grappling for a solution to a potentially intractable problem; and that he either did not have anything definite in mind, or was thinking of the emperor but knew

\textsuperscript{74} Defensor Pacis, II. xxi. 1, 4, 7.

\textsuperscript{75} ibid., II. xxi. 1.

\textsuperscript{76} ibid., II. xviii. 8.

\textsuperscript{77} ibid., II. xxi. 4.

\textsuperscript{78} ibid., II. xxii. 8; p. 304.
that the attribution to the emperor of such an authority would not sit at all well with the rest of his argument.\textsuperscript{79}

There is one last and curious statement of Marsilius’s that ought to be noted. It shows that, for all his seeming rationalism and even reductionism, Marsilius shared some of the eschatological expectations of a coming world-ruler that recur throughout the later Middle Ages. In the second book of the \textit{Defensor Pacis}, Marsilius calls up the picture of the great statue from the Book of Daniel, inventively reinterpreting its different parts, made of different materials, as uncomplimentary symbols of the papacy and curia. This statue is to be destroyed, he concludes, when the falsity of the claims of pope and curia is exposed, their power curbed, their maledictions silenced, their avarice suppressed: for

the prophet Daniel also predicted that “a stone cut out of the mountain without hands” was going to fall upon this statue, meaning by “stone” the king who has been elected by the whole body of men and whom God through his grace will arouse by bestowing power upon him, and whose kingdom will not be surrendered to anyone else.\textsuperscript{80}

In the meantime, Marsilius’s hopes for the freedom of the state and the abolition of the papal powers would depend on the king chosen by the German electors. Having examined the theoretical justifications for Ludwig’s independence, and for his right to rule without needing the approbation of, or coronation by, the pope, we now turn to how that theory played out in practice.

\textsuperscript{79} Gewirth writes tentatively that “[t]his \textit{supremus legislator fidelis} seems to refer to the universal authority of the Holy Roman Empire” (\textit{Defensor Pacis}, p. 272n). I do not think the emperor could himself be the legislator, though he might be the ruler appointed by its authority: in any case, Gewirth is right to find Marsilius’s statements unclear.

\textsuperscript{80} \textit{Defensor Pacis}, II. xxiv. 17.
Ludwig’s expedition into Italy

On the appeal and recommendation of his Ghibelline supporters in Italy, Ludwig, with Marsilius in his company, in March of 1327 led an army into Italy, to secure control of the Empire’s Italian territories, and, somehow or other, to obtain the imperial crown. In May Ludwig received the Lombard crown at Milan. In spite of the staunch opposition of the pope, Ludwig had gained one advantage in Italy: in April an uprising of the Roman people had expelled from Rome the officials of Robert of Naples (acting for him as ‘Vicar-General of the Empire in Italy’ by the appointment of the pope), and had installed as dictator Sciarra Colonna, whom we last saw leading the attack on Boniface VIII. This reassertion of the political freedom of the Roman people, coinciding as it did with the coming into Italy of the claimant to the imperial throne, brought the idea of the Empire as something specifically Roman suddenly into an unusual prominence. Accordingly, the civic government of Rome sent delegates to Ludwig in Milan, inviting him to come to Rome and there receive the imperial crown from the representatives of the Roman government. For Ludwig, this arrangement would make it possible to receive the crown in a plausibly justifiable manner while not only avoiding but in fact pointedly repudiating the involvement of the pope. For the rest of his stay in Italy, Ludwig was to go along with the idea that the imperial crown was in the gift of the Roman people.

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81 Folz, p. 150; Gewirth, p. 22.
82 Folz, p. 150.
83 ibid., pp. 150-151; Gewirth, p. 22.
84 Folz (p. 151) attributes Ludwig’s openness to this Roman initiative to his being influenced by the ideas of the Defensor Pacis. I cannot agree with this interpretation. Although Marsilius – in fact quite inconsistently – went along with Ludwig’s programme in Rome, his writings nowhere attribute to the Romans the right of conferring authority upon an emperor: rather, as we have seen, he emphasises the decisive character of the election, in which the electors act by the authority of the whole body of the subjects of the empire.
In January 1328 Ludwig entered Rome to the enthusiastic greeting of the Roman populace. The Romans had sent messages to the pope in Avignon, summoning him to return to his see: since he had not done so, they authorized Colonna, the Prefect of the City, and three other syndics, to perform the imperial coronation in the pope’s absence as delegates and representatives of the Roman people. This was duly done; and for the first and only time an emperor received his crown from the hands of laymen. The only bishops in Italy willing to take part, the bishops of the obscure sees of Castello and Almeria (both of whom were already excommunicated), performed the anointing and the other specifically religious rites. This arrangement was consistent with the contention that it pertained by rights to the Roman people to confer the crown, and that it was the office of the clergy only to perform the sacring.

By this coronation Ludwig and the Romans were, so to speak, reinforcing one another’s authority. While the pope might deny and others might reasonably question the validity of these proceedings, they were nonetheless the application of a theory maintained by a current of thinkers since at least the time of Arnold of Brescia. For those who would accept this reasoning, the Roman coronation gave Ludwig the full status of Emperor, a valuable asset. Ludwig’s acceptance of the crown at the hands of the Romans also authenticated, in the eyes of his supporters, the right of the Romans to confer it. Ludwig said afterwards that,

In this town, by the grace of Providence, we have lawfully received the imperial diadem and the sceptre from our Roman people, who are

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85 Bryce, pp. 218, 293; Gewirth, p. 22.
86 Bryce, p. 218.
88 Bryce, p. 218n.
particularly dear to us, and, thanks to the invincible power of God and to
our own power, we rule over this town and the world. Ludwighas thus gave, in both word and deed, an impressive endorsement of the ‘Roman’
idea of the Empire – that the imperial authority was not simply derived historically from
the Roman people, but that it remained, ultimately, theirs in the present also; and that
the Roman people had still the right to rule the world. Emboldened by this reciprocal
endorsement Ludwig and the Romans began an ambitious programme of reform.

A series of parliaments was held in Rome, making drastic changes by the
common authority of the emperor and of the senate and people of Rome. (Like the
coronation, these actions were of debateable validity.) Ludwig and the Romans first
proceeded against John XXII, under the name of Jacques of Cahors: they pronounced
him guilty of heresy; denounced him as a ‘Destroyer of Peace’ (a term in which the
influence of Marsilius is evident); and declared him deposed from the papacy. They
then chose Peter of Corbara, a Spiritual Franciscan, as pope: and he was crowned by
Ludwig himself. A further decree required all future popes to live in Rome.

Here, again, the importance of Rome and its inhabitants is evident. Although
Ludwig played a prominent role in these proceedings, it was not the emperor deposing
one pope and appointing another by his own authority, as an Ottonian emperor might
have done, or as Frederick Barbarossa had tried to do. The action was performed by a
council (of both clergy and laymen) representing the Roman people, who were (it was
claimed) simply exercising their ancient right to choose their own bishop, just as they
had the right to choose the emperor. Although neither right had been exercised of late, it
nonetheless (on this theory) remained the right of the Roman people to choose both their

89 Quoted by Folz, p. 151.
90 Bryce, pp. 218-219, 219n; Folz, p. 151; Gewirth, p. 22; Heer, p. 110.
bishop and their ruler, and thereby to give to the world both its spiritual and its temporal head.  

There had not been emperors residing in Rome for centuries, and the popes had been absent for some years. Now – provided one accepted the validity of all these irregular goings-on – a wonderful restoration had given back to Rome those two lords, the two luminaries whose absence Dante had mourned. In reality these proceedings were not widely accepted. For example, the alleged deposition of one pope and the appointment of another provoked no schism, as all but those involved in the appointment of Peter of Corbara deemed him an antipope.

Meanwhile, Ludwig was fighting the king of Naples, and other Italian nobles who opposed his rule in the peninsula. Increasingly short of both money and provisions, Ludwig was forced to require them of the Romans, thus making himself unpopular with those who had been his strongest supporters. The Romans soon turned against both Ludwig and the pope he had appointed. Ludwig lost his control of Italy, and was compelled to leave Rome, returning to Germany (with Marsilius in his company) in 1330. Destitute of support, Peter of Corbara submitted to John XXII. Ludwig’s Italian expedition had been a failure, and he never returned to Italy.

**Ludwig’s defence of German independence**

Ludwig thereafter confined his attention to the territories north of the Alps, and based the legitimation of his authority on principles of German independence, making no allusion to his controversial coronation at the hands of the representatives of the Roman people. It would seem that Ludwig had resorted to that expedient as an *ad hoc* solution to his problems with the pope, without fully realising the complications in

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91 Bryce, p. 220.
92 Folz, p. 151.
93 Bryce, p. 220; Gewirth, p. 22.
94 Bryce, p. 220.
which it would involve him. To accept the crown from the Romans, thus acknowledging a right on their part to grant it, was essentially to attribute the imperial power to a source from which it did not come. In reality, imperial power in Germany – the only place where any imperial power could be maintained – came from the choice of the electors. Only a legitimising theory based principally on that fact would be successful, and it was precisely such a theory that would be asserted in the later years of Ludwig’s reign. Meanwhile, the Romans, who had long entertained the idea that it was their right to give the world a ruler, and who had recently seen that right ostensibly made good, held on to that memory: their theory of Empire, thus given new prominence, would be reasserted in the career of Cola di Rienzo.\footnote{Folz, p. 151.}

For Ludwig, now returned to Germany and putting the Italian debacle behind him, the main problem was still the pope, of whom he had made a bitter enemy. The pope was intriguing to raise up a rival to Ludwig in Germany, and those of the German princes who for whatever reason opposed Ludwig had united behind the claims of the pope. This danger compelled Ludwig to seek a reconciliation, but John XXII would not be satisfied with anything but Ludwig’s absolute submission. (He also called for the punishment for heresy of Marsilius of Padua and John of Jandun, whom he called “two beasts from the abyss of Satan”.)\footnote{Bryce, p. 220.} Ludwig refused to accept such terms, and the writers who supported his cause continued their work in his defence. After John died, in 1334, his successor, Benedict XII, was more conciliatory, but was prevented from effecting a reconciliation by the hostility of the king of France towards Ludwig. Ludwig therefore in 1337 made an alliance with Edward III of England, just as those hostilities began between England and France that would become the Hundred Years War. This alliance is an instance of a widespread tendency, which would culminate in the papal schism, for the states of western Europe to align themselves either with the dominant

\[95\] Folz, p. 151.
\[96\] Bryce, p. 220.
French monarchy and the papacy at Avignon, or with the opponents of that connection – such as the Empire and England.

Clement VI, the next pope, took up the policies of John XXII. He again demanded Ludwig’s submission and again excommunicated him. Going further, he called on Ludwig to acknowledge the Empire as being a fief held from the Holy See. This claim was rejected resoundingly in Germany. The electors took offence at it as an attack on their very function, and, in a meeting at Rhens in 1338, repudiated both the claim that no one could truly be king of the Romans whose election had not received papal approval, and the claim that no one was truly emperor who had not been crowned by the pope; they declared that, on the contrary, it was by their election and not otherwise that the emperor acquired his rights.\(^97\) Similarly, the German Estates, meeting at Frankfurt in 1338 and 1339, solemnly declared that the imperial dignity and power were from God alone, and that as soon as anyone had been chosen by the electors he was at once truly king and emperor-to-be, needing neither the approbation of the pope nor that of anyone else.\(^98\)

Of particular interest for our enquiry is the decree *Licet Juris* which Ludwig gave in connection with these diets (at Frankfurt in 1338).\(^99\) In this decree, Ludwig claims again that the person chosen by the electors has the right to rule the territories of the Empire without needing the approbation of the pope or the coronation in Rome; that this sovereign does not rule by the grace of the pope; that he recognizes no temporal


\(^98\) *Imperialis dignitas et potestas est immediate a solo Deo; et de iure imperii et consuetudine antiquitis approbata postquam aliquis eligitur in imperatorem sive regem ab electoribus imperii concorditer, vel maiori parte eorum statim ex sola electione est rex verus et imperator censendus... nec Papae sive sedis apostolicae aut alicuius alterius approbatione indiget*. Quoted by Bryce, p. 221n; see also Folz, pp. 158-9; Heer, p. 111.

superior, and so forth. Moreover, he says explicitly that “the emperor is made true emperor by the election alone of those to whom it pertains”. This is a quite different claim: never before had anyone claimed the title of emperor *per se* simply by reason of election. Whatever a ruler’s authority to govern the imperial territories, none had before Ludwig’s time been reckoned an emperor without being crowned in Rome by the pope. Ludwig’s own coronation had already been a novelty of doubtful validity: but he had nonetheless gone to the trouble of obtaining a Roman coronation of sorts – even if a highly irregular one – to make him an emperor indeed. Now, however, it was said – and this with the agreement of the electors and the other princes gathered in the diet – that “after any one is chosen as emperor or king by the electors of the empire concordantly, or by the greater part of them, he is, in consequence of the election alone, to be considered and called true king and emperor of the Romans, and he ought to be obeyed by all the subjects of the empire.”

This claim takes much further the assertion of the German monarch’s independence of the pope with respect to the government of the Empire. The identification of German king and Roman emperor is here complete: more than once the expression ‘emperor or king’ is used, as if the two were synonymous; and it is dismissed as a falsehood that “he who is elected emperor is not true emperor or king unless he be first confirmed and crowned through the pope or the apostolic see.” The imperialists of previous centuries would not have made such a claim. They might have insisted that the German king had an inalienable right to be crowned emperor, but they never claimed that he was an emperor until he had been thus crowned. The distinction

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100 *Licit Juris*, (in Henderson) p. 437.

101 Marsilius, it so happens, had addressed the yet-uncrowned Ludwig as ‘Emperor of the Romans’ at the beginning of the *Defensor Pacis*, (I. i. 6.) although he uses the traditional terms elsewhere in the text.

102 It may be noticed that the claims in *Licit Juris* are inconsistent with the legitimising claims made by Ludwig in connection with his Roman coronation.


104 *ibid.*, p. 438.
between emperor and king had always been clear. Even the expression “he who is elected emperor”\textsuperscript{105} is remarkable: previously it was understood that the function of the electors was to choose the German king, or the ‘King of the Romans’, who was to become emperor in due course – by his Roman coronation.

As it happens, after Ludwigs reign this terminology would be abandoned. The Golden Bull of his successor Charles IV would return to the old way of speaking; and still later, as we shall see, Maximilian I, unable to go to Rome to be crowned, was to adopt the new title of Emperor-elect. The significance of the claims made by Ludwig, the electors, and the two diets is not really terminological. That these expressions could be used is evidence of a new way of looking at the empire: and that new way was to last, even though the terms expressing it did not. In fact, the old terms could remain in use precisely because they were becoming a mere formula rather than the expression of a real and significant arrangement.

There is in these declarations something different from earlier claims by emperors with respect to the popes, which had emphasized the superiority or at least the independence of the emperor on the grounds that he was the Roman emperor, the temporal head of Christendom chosen by God. There can now be found an assertion of particularly German independence from the papacy, based on national principles and analogous to similar assertions in, for example, England and France. The influence of the French crown on the Avignonese papacy was resented in England, now engaged in the Hundred Years War with France: it is partly for this reason that the English parliament made around this time the act of Praemunire and the Statute of Provisors.\textsuperscript{106} France’s assertions of independence we have seen already.

\textsuperscript{105} \textit{ibid.}, p. 438.

It may be asked why, given the evident weakness of imperial rule in Italy and its deleterious effect on German political stability, the German monarchs did not decline the office of ‘emperor’ and remain simply kings of Germany, thereby removing all grounds for this papal involvement in the succession. Several things, it seems, prevented them from taking such a step. Although imperial rule in Italy was very weak, there remained the hope that, in favourable circumstances, it could be asserted: the claim to a right to rule Italy would be a useful thing to have in reserve, even if it could not be made good at the moment. If the German kings were not emperors, the title would almost certainly go to the kings of France, naturally an objectionable thought; and with it would go the claim to possession of Italy, which the French might make good where the Germans had failed. Moreover, it would seem that the offices of German king and of Roman Emperor had been so confounded that the institutions of ‘the Empire’ had become indispensable for holding together the German state. We see here a foreshadowing of the Empire as a particularly German institution. At this stage, it is an institution which retains other, non-German aspects: but they are becoming increasingly peripheral.

The reign of Ludwig IV therefore sees a continuing divergence between the Empire’s constituent parts: on one side Italy, from which the empire had derived its ‘Roman’ character, and which the Italians regarded as the natural heartland and sine qua non of Empire; on the other the lands north of the Alps, where the Empire’s centre of gravity really was. The idea that the Holy Roman Empire was essentially German would ultimately be successful, with the emperors abandoning efforts to control Italy, and altogether neglecting their predecessors’ universal claims. From this time onwards the defence of Germany’s ‘having the Empire’ is not concerned with the Emperor’s jurisdiction over other rulers, with the papal connection, or with German rule in Italy: the theorists now treat ‘the Empire’ as a constitutional device for holding the German
states together. Their concern is with the emperors’ independence; with the freedom of elections from papal intervention; with the emperors’ prerogatives within Germany. In other words, their concern is with the integrity of the German constitution, such as it was: and their arguments for imperial authority are no continuation of the old struggle to be lord of Christendom, but rather the distinctively German form of that effort to establish national sovereignty which was at this time occurring through much of western Europe.
The reign of Charles IV

The election of Charles as a rival to Ludwig IV

Charles of Bohemia was the grandson of the emperor Henry VII, and the son of King John of Bohemia, who had obtained the Bohemian crown for the House of Luxemburg through his marriage to the Czech princess Elizabeth, the sister and heiress of Wenceslaus III, the last king of the Přemyslid dynasty.¹ Their son, the future emperor, had as a boy been sent to the live at the court of the French king, Charles IV, whose queen was the boy’s aunt.² It was there that he was received the name Charles (he had been baptised Wenceslaus), after the French king, and perhaps also after Charlemagne, whose memory was particularly celebrated at the French court.³ The boy’s education in the French court and at the University of Paris affected him considerably, giving him a good will towards France and a commitment to the authority of the Church that would remain with him for life.⁴ Charles became close friends with a young abbot of great learning, Pierre Roger de Rosières,⁵ who would later become pope,

² Walsh, p. 5.
⁴ The University of Paris was at the time renowned for its orthodoxy: it had recently expelled Marsilius of Padua and William of Ockham. (Walsh, p. 8.)
⁵ Walsh, p. 7.
and whose arguments convinced him that Ludwig of Bavaria was not a legitimate emperor.\(^6\)

In Charles’s youth his father began a military campaign to conquer territories in Lombardy. No sooner had he begun, however, than John was recalled to Bohemia and entrusted the leadership of the campaign to his son, who was only fifteen years old.\(^7\) Charles was ultimately unsuccessful in this undertaking,\(^8\) but he learned much from it.\(^9\) It gave him a realistic understanding of the political situation in Italy, an understanding which ensured that he would later be unswayed by the visionary but altogether impracticable proposals of Cola di Rienzo and of Petrarch.\(^10\) It also suggested to him that the imperial office, exercised diplomatically, might yet bring some peace and unity to Italy, while making it clear that any imperial rule based only on German might would be unsuccessful.\(^11\)

As relations between the pope and Ludwig of Bavaria worsened, John of Bohemia and his son visited the papal court in Avignon, where Charles met again his old friend Pierre de Rosières, now a cardinal.\(^12\) It is unlikely that their visit was coincidental, and it seems that John (who was, after all, an emperor’s son) had in his mind the return of the imperial crown to the House of Luxemburg.\(^13\) It was too late now to seek it for himself, for already his blindness had compelled him to entrust the government of Bohemia to Charles;\(^14\) but he might yet obtain it for his son.\(^15\)

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\(^6\) Walsh, p. 8.  
\(^7\) Jarrett, pp. 36-43, 45, 75; Walsh, p. 11.  
\(^8\) Walsh, pp. 11-12.  
\(^9\) Scales, p. 216; Walsh, p. 12.  
\(^12\) Heer, p. 114; Walsh, p. 16.  
\(^13\) Walsh, p. 16.  
\(^14\) Jarrett, pp. 59, 62-63, 90; Walsh, p. 15.  
\(^15\) Walsh, p. 16.
As Ludwig’s election had never been approved by the pope, and as his irregular imperial coronation at the hands of laymen was reckoned as invalid, the papacy did not consider Ludwig an emperor. There were accordingly suggestions in the papal court that, the imperial throne being vacant, and with the elected candidate having proven himself altogether unsuitable, the pope might bid the Germans elect someone more suitable. Cardinal de Rosières was foremost among those suggesting Charles as an alternative to Ludwig.16

Although Benedict XII was less forthright than had been Ludwig’s greater antagonist, John XXII, a reconciliation had proven impossible. Relations between the pope and Ludwig were beginning to worsen when Benedict died, and Cardinal de Rosières was elected to succeed him, taking the name of Clement VI.17 The new pope acted decisively, and so brought matters to a head. As Ludwig was an excommunicated heretic, the pope refused outright to negotiate or compromise with him.18 Conscious of the danger in which the pope’s condemnation placed him, Ludwig sought for reconciliation, but in vain. The pope required Ludwig’s unconditional submission; and when Ludwig failed to present himself, the pope, having convinced the electors that Ludwig was not a legitimate emperor, called on them to proceed to choosing a new ‘King of the Romans’.19 It was understood by all that the pope had Charles in mind.20 (To ensure that the electoral college would indeed carry out what he was contemplating, Clement deposed the Archbishop of Mainz, Henry of Virneberg, an elector and a

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16 Walsh, p. 19.
17 ibid., p. 19.
18 ibid., p. 19.
19 Jarrett, p. 68; Walsh, p. 20.
supporter of Ludwig’s, and replaced him with a loyal supporter of his own, Gerlach of Nassau.\textsuperscript{21})

For his part, Charles declared his willingness to take on the office. He also made in writing a number of significant promises concerning his actions if he were elected. Essentially, Charles renounced those imperial prerogatives which most threatened and were most objectionable to the popes. He promised to renew the oaths of fidelity that his predecessors had made to the popes;\textsuperscript{22} he renounced all claims to jurisdiction over the Papal States and papal fiefs, thus assuring the temporal authority and personal security of the pope in these territories;\textsuperscript{23} and, while by no means renouncing imperial sovereignty over the north of Italy, he promised to exercise no authority in Italy until he had been approved by the pope,\textsuperscript{24} thus sparing the pope the threat of a political antagonist in the north of the peninsula.

With the renunciation of imperial jurisdiction over the Papal States, it would seem that Rome, whither the kings went to be crowned as emperors, was no longer in imperial territory. Nonetheless, tradition required that the emperor be crowned in Rome, and that tradition was to be maintained. Mindful, however, that many popes had resented or dreaded having a German king march on Rome with an army to claim his crown, Charles undertook to leave Rome the day after he had been crowned.\textsuperscript{25}

These undertakings might be criticised as a surrender of rights for which previous emperors had fought;\textsuperscript{26} but while it is true that previous emperors had fought for those prerogatives, it is also true that their fighting had been to no avail. Seldom had an emperor effectively exercised the imperial prerogatives with respect to the papacy:

\textsuperscript{21} Wood, p. 245.
\textsuperscript{22} Walsh, p. 22.
\textsuperscript{23} Bryce, p. 224; Walsh, p. 22.
\textsuperscript{24} Walsh, p. 23.
\textsuperscript{26} As, for example, they were criticised by Bryce, p. 224.
and even when one had done so, it had not brought any benefit fit to be compared with the cost of obtaining papal submission. The emperors who had fought for these prerogatives had left to their successors not the secure possession of a right, but only a claim to a right. It was a claim that inevitably caused recurring and immensely damaging conflicts with the papacy, and a claim, moreover, which could be made good – if at all – only by the continuation of the same struggle, a struggle which experience had taught would be indefinitely protracted but was unlikely ever to be conclusively won.

Charles renounced no right that the emperors actually possessed: all he did was to undertake not to fight for a claim that neither he nor any other emperor was likely ever to make good. It will be seen, therefore, that Charles in fact renounced very little, while he gained much in return through the good will of the pope. It is seldom appreciated that Charles’s accession marks the end of the long-running antagonism between empire and papacy.

Ludwig, at this crucial point, lost the support of the German nobles. As the election called for by the pope was being prepared, the German nobles took oaths to reject Ludwig, and to accept the new king chosen by the electors. Charles was elected as Rex Romanorum, and at once sent to the pope for his approbation. (It was at this point that Philippe VI of France asked John of Bohemia and Charles to join him in fighting Edward III of England. John fell at the Battle of Crécy, and with his death Charles became by succession count of Luxemburg and King of Bohemia.)

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27 Walsh, p. 24.
28 Jarrett, p. 68; Walsh, pp. 16, 24.
The failure of Ludwig and the success of Charles

All was not yet secure for Charles. Although Charles was accepted by the pope, the electors, and the nobles, many of the free cities continued to support Ludwig.\(^{30}\) The citizens of Aachen refused to open the gates of the city for Charles to be crowned.\(^{31}\) It seemed that the matter would come to warfare; and indeed Charles was already preparing an army when Ludwig died.\(^{32}\)

One would think that the death of Ludwig would have removed any plausible opposition in Germany to the legitimacy of Charles’s rule: his predecessor had died and he had the support of the electors. Yet even as the remaining lords and free cities recognised Charles, there remained a party that adhered to Ludwig’s cause.\(^{33}\) A group of them – though not the traditional electors – proclaimed the election of Edward III of England as Rex Romanorum:\(^{34}\) but the English parliament would not hear of any such suggestion, and Edward swore friendship with Charles and sent messages to Germany with his definitive refusal.\(^{35}\) The dissenting party elected, one after another, a series of obscure candidates who declined the offer. Having failed to find a convincing alternative, Charles’s opponents at length gave in: he was then crowned at Aachen.\(^{36}\)

The ‘Tribunate’ of Cola di Rienzo

While this was happening north of the Alps – while the pope, and the German electors, and the German people were settling among themselves who would wear the imperial crown – in the city of Rome itself there occurred a revival of the imperial idea

\(^{30}\) Walsh, pp. 24-25.

\(^{31}\) Walsh, pp. 24; Scales, p. 329.

\(^{32}\) Walsh, p. 26

\(^{33}\) \textit{ibid.}, p. 27.

\(^{34}\) \textit{ibid.}, p. 27.

\(^{35}\) Bryce, pp. 185, 227; Walsh, p. 28. \textit{Pace} Bryce, p. 185, I cannot see in this election any “implication that England was still in a certain sense a part of the Empire.”

\(^{36}\) Walsh, p. 29; Scales, p. 329.
in an altogether different form. This, the tribunate of Cola di Rienzo, can be seen as the continuation and culmination of the line of thought which had been expressed earlier by the Arnoldists\(^{37}\) and in the Romans’ speech to Frederick Barbarossa, and which had been stirred up by Ludwig of Bavaria when he, unable to be crowned by the pope, had called on representatives of the Roman people to perform the coronation.\(^{38}\) According to this line of thought, whatever customs may have grown up of the pope conferring the imperial title, or of its being conferred on the German kings, ultimately the rule of the empire and the choice of the emperor resided with the people of Rome. Cola di Rienzo was to take this argument further than his predecessors had done.

The documents from antiquity in which Roman emperors had based their authority on rights conferred by the *populus Romanus* had been incorporated into the Roman civil law which was codified by Justinian and taken up in the twelfth century. The so-called *lex regia*, according to which the Roman people had the right to choose or remove the emperor, had been invoked, though without success, in the conflict between Rome and Frederick Barbarossa.\(^{39}\) As long as men were going about calling themselves Roman Emperors, they were susceptible to this claim.

Opinion differed, even among legists, as to whether the *lex regia* still held good. Bartolo di Sassoferrato had denied that the Roman people had renounced their sovereignty by the simple act (*concessio*) of entrusting its exercise to an emperor for the time being. However, he went on to say, with the passage of time and the failure of the Roman people to exercise their sovereignty, their right had lapsed, and sovereignty had passed definitively to the German rulers in possession, who now held it in their own right: that is, there had been a permanent *translatio*. Bartolo’s pupil Baldo degli Ubaldi,

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\(^{37}\) Bayley, pp. 324-5

\(^{38}\) Bryce, p. 293.

on the other hand, had argued that the grant of power by the Roman people remained always a mere *concessio*, and that the Romans retained the right absolutely.\(^{40}\)

The Romans had never made much use of their rights under this alleged *lex regia*. Through the early and high middle ages, there had been (as in Cola’s time) no possibility of the Romans’ imposing on other lands an emperor of their choosing, and little possibility even of their successfully repudiating a German monarch of whom they disapproved. The best they could hope for from the *lex regia* was to make a show of electing an emperor whom in fact they could not resist, and perhaps to obtain from him material benefits of some kind as the price of their co-operation. As we have seen in the case of Frederick Barbarossa, they were unlikely to get even that.

The claim of the Romans to the right to approve the emperor had hitherto taken for granted that the *imperium* would be wielded by an emperor, who would most likely be a foreign ruler with other resources to back up his authority. Cola would go well beyond claiming merely to approve an emperor: he sought to restore the imperial power to the city of Rome itself.

The theory behind such an attempt is not without sense. Given that the authority of the ‘Roman emperor’ was still accepted, it was not unreasonable for the Romans to wonder why this Roman authority should be in the hands of a German ruler, and not in the hands of actual Romans. It was not unreasonable for the Romans to feel some resentment at the grand claims made for the emperors by virtue of their Roman connection while the Romans themselves were ignored and powerless. Nor was it unreasonable for them to wish to turn into reality the grand things that were still being said about Rome. The Romans were, moreover, conscious of the oddity that the two greatest authorities in Christendom, the Roman emperor and the Roman pope, both claimed a particular connection with Rome while neither of them lived in the city. The

\(^{40}\) Collins, pp. 45-46.
coronation of Ludwig and his strife with the pope had brought these ideas and feelings to the fore. The beginning of proceedings for a new election, at the instigation of the pope and entrusted to electors beyond the Alps, would have reminded the Romans that they had no say in the business of electing a Roman emperor.

Rome was, as so often in those centuries, in some political disorder. As in many other Italian cities, in Rome rival noble families competed with one another for power, even as the city’s popular municipal government, the commune, strove against the nobles for dominance. Yet Roman politics was even more turbulent than that of other Italian cities: for besides being the scene of the merely local strife of the commune and the noble families, Rome was also the seat of the pope, who claimed temporal jurisdiction over the city and the Papal States; it was in a sense the seat of the emperor also. Rome’s status as the ‘capital city of Christendom’ had introduced unique complications into municipal politics that made communal government less successful than elsewhere in Italy. The commune and the noble families alike had resisted the temporal jurisdiction of the popes when they had been resident in Rome. Now that the pope was in Avignon, although he continued to claim temporal jurisdiction over the papal states, his direct influence was rather less.

Among the officials of the commune was a notary, Cola di Rienzo. Already, while a member of the communal government, Cola had opposed the power of the noble families and supported popular government. As a lawyer, he was familiar with the ancient Roman law; and he was also a scholar and antiquarian of sorts, with an interest

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41 Bryce, p. 313; Collins, p. 17.
42 In Collins’s appropriate phrase (p. 28).
43 Collins, pp. 34, 132.
44 *ibid.*, p. 17.
45 *ibid.*, p. 45.
in the monuments of antiquity and the deciphering of old inscriptions. Cola was to combine these interests and aims with the skill of a demagogue to become for a time ruler of Rome, and to put in place a strange, though for our purposes highly relevant, programme of political reform.

In 1346 Cola had discovered at the Lateran basilica a bronze plaque recording the grant of imperial power by the Roman people to the emperor Vespasian. In an early demonstration of his dramatic skill, Cola set the plaque in a prominent place, called the Romans to see it, translated and explained it to them, and told them of the power that the Romans had once had. They had once ruled the world, or at very least chosen an emperor to rule on their behalf; but this inheritance, rightfully theirs, had been misappropriated by others. Cola’s instruction of the Romans in their right to rule the world was not without a purpose of his own, as we shall see.

In 1347, Cola, at the head of the militia, seized power in a coup, and revived for himself the office of Tribune from the ancient Roman republic, in the constitution of which tribunes had represented the Roman plebs. By assuming this office, Cola set himself up as the representative and agent of the Roman people, whose rights were
about to be reclaimed by him – or, perhaps, in his person. He subsequently adopted also the title of ‘Liberator of the Sacred Roman Republic’.

Cola treated the contemporary commune as identical with the ancient res publica Romana (which had indeed originally been a municipal government much like a commune). Now, Cola declared, he would revive that ancient republic. He would restore Rome’s independence, and return to her the power she had once had, which had with the passing of time fallen into the hands of foreign emperors and popes. He would impose again the primacy of Rome over the lands which had fallen away from her rule, and thus restore Rome to her rightful place as mistress of the world.

In Cola’s reckoning, Rome’s legal status was affected neither by the long possession of the imperial title by the German kings, nor by the fact that the city had not for centuries exercised rule over the other lands of the ancient empire. He considered those lands by rights still subject to the sway of Rome, and the imperium of Rome by rights still in the gift of the Roman people. The present state of affairs Cola attributed simply to Rome’s neglect of her authority: his conduct indicates that he seriously expected Rome’s ancient rights to be acknowledged dutifully once they were reasserted with pomp and pageantry. That Rome could only with difficulty impose her rule even on the neighbouring towns seems not to have dampened Cola’s enthusiasm.

Upon taking power in Rome, Cola set out to effect, by a mere statement, a complete restoration of the political arrangements of ancient times. He declared that, on the advice of the Roman judges and the learned men of all Italy (although he does not say who these learned men were), and by the authority of the Roman people,

Revoking all authority, jurisdiction, power and all alienations of the dignity of imperial power and authority, we have reconfessed the

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51 Vita di Cola di Rienzo, I. 10 (p. 47); Collins, pp. 17, 29; Folz, p. 152.
52 But see Collins, p. 34.
53 Collins, p. 29.
ancient legal rights of the same Roman people upon ourselves and on
the people.\textsuperscript{54}

Having conveniently established the rights of the city of Rome, Cola presently claimed
that the people of Rome had conceded those powers to him.\textsuperscript{55} For all his republican
rhetoric, Cola’s rule was entirely autocratic; and the rights that he claimed for the city of
Rome elsewhere were always, it was understood, to be exercised by him on the
Romans’ behalf. In other words, Cola was setting himself up in the role that, according
to his theory, had been filled by the emperor.

Cola never laid claim to the title of ‘Emperor’ itself. He did perform ceremonial
actions with imperial connotations, as we shall see, and certainly gave the appearance of
one arrogating to himself some of the trappings and prerogatives of emperorship.
Nonetheless, he spoke plainly of the right of Rome to appoint an emperor,\textsuperscript{56} showing
that he was not ignoring the imperial office or expecting that his own Tribunate would
replace it. One might conjecture that Cola mentioned the right of ‘Rome’ to appoint the
emperor only in anticipation of conferring the title on himself, and that this was
prevented only by his downfall.

It has been pointed out, significantly for our enquiry, that Cola’s actions in
taking power followed closely those of Octavian Augustus when he became the first
emperor.\textsuperscript{57} Octavian had announced the restoration of the republic after the civil wars,
and had exercised his power through republican institutions: he too had taken the office
of tribune.\textsuperscript{58} That Cola might have contemplated some sort of imperial dignity for
himself is suggested by the fact that, within a few months of becoming Tribune, he had

\textsuperscript{54} Quoted by Collins, p. 47; see also Bryce, p. 294; Folz, p. 154.
\textsuperscript{55} Collins, p. 44.
\textsuperscript{56} Bryce, p. 294.
\textsuperscript{57} Collins, p. 29.
\textsuperscript{58} In his case, because it came with a useful power of veto in the Senate (Collins, p. 40).
added to his title the significant adjective *augustus*. This appellation was not simply a classical allusion (though such an allusion would be telling in itself): in contemporary use, *augustus* was a title reserved to the Emperor.

Cola devised several curious ceremonies to celebrate the new constitutional arrangements, significant for our enquiry as illustrations of his attitude towards the emperorship. Cola first arranged a ceremony of ‘knighting’ for himself. It began with his taking a ceremonial bath, a common feature of knightings: Cola took his bath, however, in the porphyry font in which, according to (an entirely incorrect) legend, the emperor Constantine had been baptised and miraculously cured of leprosy. In a ceremony the following day Cola appeared before the people and announced that he was summoning the pope to return to his diocese in Rome, and the College of Cardinals likewise. He also summoned the deposed Ludwig (this ceremony taking place shortly before the election of Charles), and the Electors, of whom he said, “I want these men to come to Rome; I want to see if they have the right to elect the Emperor.” Then letters were prepared, and sent off at once with messengers; and Cola, drawing his sword from its sheath, brandished it ‘toward the three divisions of the world’, saying, “This is mine; this is mine; this is mine”.

Particularly in the light of that grand gesture, we may conclude that Cola’s enquiry as to whether the electors really had the right to elect the emperor was rhetorical. This is borne out by his edict revoking all alienated powers and returning them to Rome (and thus giving them to himself), which is inconsistent with any such electoral right. (Unsurprisingly, neither Ludwig nor any of the electors appeared in Rome to plead their cause.)

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61 *Vita di Cola di Rienzo*, I. 26 (p. 72); see also Bryce, pp. 294, 519; Collins, pp. 18, 45; Folz, pp. 153-4.
Cola’s plans may be placed into three categories: those relating to Rome and the Papal States, to the rest of the Italian peninsula, and to the whole of Christendom. Cola’s plan for Rome, expressed in terms of a restoration of the Roman republic, included putting control of the city firmly in the hands of the municipal government, and breaking the power of the rival noble families. Cola also declared Rome’s independence from those two ‘foreign’ powers – the pope in Avignon and the emperor in Germany – who claimed authority of some sort in the city. He set out to end the temporal power of the pope in Rome and the Papal States, and the exercise of any jurisdiction over the Romans by a German ruler who turned up claiming to be their emperor. Cola asserted moreover the jurisdiction of the city of Rome over the Papal States. This claim was, at least temporarily, made good: it was practicable (though only scarcely) for Rome to impose her rule on the towns nearby.

Cola’s plans, however, extended beyond the city of Rome. It was not enough to restore Rome’s independence and stability: Cola wanted to regain Rome’s ancient power. He now sent out embassies to rulers near and far, making grand claims to jurisdiction on behalf of the city. In sending ambassadors to the other city-states of Italy, Cola’s intention was to establish Italian unity under the primacy of Rome. He considered that the unification of Italy under Roman primacy would end the internecine fighting of the city-states, of the noble families and of the Guelphs and Ghibellines; and, by uniting the Italians, would enable them to resist invasions and foreign interference.

Beyond Italy, Cola wrote to many of the other rulers of western Europe. He not only set himself up as an equal of other rulers, but also claimed that the city of Rome had jurisdiction over all the princes of Christendom. That was, of course, the claim that

\[\text{62 Collins, p. 18.}\]
\[\text{63 ibid., p. 18.}\]
\[\text{64 ibid., p. 144, 145; Folz, p. 154.}\]
had long been made for the emperor, whose authority, by Cola’s theory, was simply
delegated by Rome. Cola attempted to exercise that jurisdiction by summoning the
kings of England and France, then fighting the Hundred Years War, to appear in Rome
for arbitration. 66 Like Ludwig and the electors, the two kings did not turn up. While
Cola’s ambitions may have been a legitimate cause for concern in the Italian
peninsula, 67 his further-reaching claims were not taken seriously beyond the Alps.

Petrarch as a supporter of Cola di Rienzo and of the ‘Roman’ idea of Empire

One person who did take Cola di Rienzo seriously was the foremost man of
letters of his day, the poet Petrarch. Like other great thinkers of the Middle Ages,
Petrarch gave much thought to the idea of the Empire. His experiences as he tried to
turn the ideal of the Empire into a reality caused him to reassess that idea entirely, and
to work out a new way of looking at the Empire and its history which was characteristic
of a new era. Petrarch is often reckoned as the first proponent of the ideals of Italian
humanism and the Renaissance; as we shall see, his life and work constitute an
important turning-point in the theory of the Empire also.

Petrarch’s parents had been Ghibellines – which may have influenced Petrarch’s
later opinions – and had been sentenced to perpetual exile from Florence. Petrarch had
spent his early years sharing this exile, moving from place to place. 68 This frequent
movement meant that he never established that loyalty to a particular town or city that
was so common in the Italy of his time. Petrarch’s loyalty was to Italy, which he, almost
alone, saw as one land. Petrarch admired the civilisation of ancient Rome, and thought
that things had been better when Rome ruled the world and Italy was at peace under
Roman rule.

66 Collins, p. 18.
67 ibid., p. 18, 145-146; Folz, p. 154n.
68 Bayley, p. 325; Yates, p. 15.
Before the time of Cola di Rienzo’s tribunate, Petrarch had already been crowned as Rome’s poet laureate on the Capitoline Hill (1341), on which occasion the municipal authorities had also conferred Roman citizenship upon him. Petrarch evidently thought of this status as being the same as the Roman citizenship of antiquity. Thereafter he considered himself a Roman: and he reckoned the Romans of his own time (including himself) to be the same people that had achieved such great things in antiquity.

Petrarch’s attitudes to the Empire will become clearer if we understand that his concern, throughout his career, was not with the Holy Roman Empire as it existed in his own day, but with the good of Italy and with the recovery of the glories of ancient Rome. Petrarch considered the Roman Empire still to exist, but thought that it was in a miserable state. In Petrarch’s reckoning, the significant dividing line between ancient splendour and the barbarism of later ages was not the ‘end of the Roman empire’ in the fifth century (an historiographical notion not yet developed); nor was it the end of the Republic. It was when emperors who were not Roman by birth began to take power. The decline of the empire thus began as early as the first century.

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70 For example, in Letter IV, to the Roman people (in Coogan, op. cit., pp. 53-64), Petrarch says, “it is a Roman citizen who speaks” (p. 61); writing to Cola di Rienzo, he refers to the Parthians of ancient times “who mutilated Crassus and scattered our legions” (Letter II, to Cola di Rienzo (in Coogan, op. cit., pp. 49-53) p. 52.) In the Letter to the Roman people Petrarch writes at length, encouraging the Romans to rescue the imprisoned Cola di Rienzo from captivity: “While you may, free your fellow-citizen from injury – you, who, at the price of great danger, protected the Greeks from injury by the Macedonians, the Sicilians by the Carthaginians, the Campanians by the Samnites, and the Etruscans by the Gauls… And you, who with a small legation in a former age freed the king of the Egyptians from the siege of the Syrians, now free your fellow-citizen from an unmerited punishment!” (in Coogan, op. cit., pp. 63-64)

Petrarch presents his interpretation of the later history of the Roman Empire incidentally in the second book of his epic poem *Africa*, which describes events of the second Punic war. In the poem Petrarch puts into the mouth of the elder Scipio a speech in which (in good epic fashion) he predicts the future of Rome. The Emperor Augustus is praised, but after his death degeneration begins to set in: Augustus’s immediate successors are a ‘herd’, “the shame of their forebears and to the world a laughingstock”. Scipio (or Petrarch) then checks himself, having spoken too soon: he has praise for Vespasian and Titus. After them, however,

It pains me to continue; hear but this:

the rule and glory, fruit of all our toil

to build an empire, alien hands will hold,

Spaniards and Africans – ah, who can bear
to think that mankind’s dregs, the base and vile

survivors of our sword, shall come to reign?

This theme is taken up again later in the speech, where Scipio foretells that later still there will be as emperors Syrians, Gauls, Greeks, Illyrians, and finally northerners – people from the lands of Boreas. Although this speech expresses Petrarch’s poor opinion of the later, non-Roman emperors, it nonetheless confirms the validity of the imperial succession down to his own day. Petrarch considered the emperors of many

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72 Translated (as Petrarch’s *Africa*) by Thomas G. Bergin and Alice S. Wilson, Yale University Press, New Haven and London, 1977. The poem was most likely begun in 1338, or perhaps in 1339, and mostly finished in 1343 (Bergin and Wilson, pp. ix-xii). For the reference to this passage in *Africa* I am indebted to Mommsen, pp. 234-6.

73 Mommsen, p. 234.


75 *ibid.*, II. 338-340.

76 *ibid.*, II. 344-46.

77 *ibid.*, II. 347-354.

78 *ibid.*, II. 359-364: quoted also by Mommsen, pp. 234-5.

79 *Africa*, II. 377-383, quoted also by Mommsen, p. 236n.
centuries past to be barbarians, and their holding of the imperial office a disaster for Rome: nonetheless, he did not deny that they had been real emperors.  

This succinct presentation of a succession of emperors of different nations resembles closely that set out by the theory of a *translatio imperii*. There are two crucial differences. Firstly, unlike those who found in this continuity a sign of the dignity of the contemporary emperors, Petrarch saw the whole process as contemptible. That ‘barbarians’ had been able to seize the emperorship was proof of the profound degradation of Rome. Secondly, Petrarch (as we shall see more and more) did not believe that any transfer of the imperial authority from Rome to any other place had taken or ever could take place. Petrarch considered these later, ‘barbarian’ emperors only as individuals who had taken the imperial office, an office which was inalienably associated with the city of Rome.

Despite speaking reproachfully of these emperors of non-Roman birth, and indeed of the whole course of Rome’s history from their time onward, Petrarch did not consider Rome herself to have lost her unique dignity and command. Although a Roman might not always grasp the rein, Petrarch has Scipio say, the might of Rome would always have renown. Petrarch’s Scipio, in fact, speaks at length of the continued dignity of the city of Rome. Looking into the dim future, he foretells that Rome will never truly be vanquished – a unique privilege granted to Rome and the Romans. Rome will decline, decay, weaken with age; she will be forever troubled by war and discord; her Roman stock will diminish, and may ever disappear for ever: but be that as it may, Rome herself shall endure. Even “in her time of wretchedness to come”, Scipio says, Rome “shall still be the world’s queen, if but in name alone. This title shall

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80 Mommsen, pp. 235-6; Yates, pp. 15-16.
81 *Africa*, II. 377-380; quoted also by Mommsen, p. 236n.
82 *Africa*, II. 386-395.
83 *ibid.*, II. 394-408.
she never lose.”\textsuperscript{84} Indeed, Rome shall live “until the end of time, and she shall see the last of centuries, dying on the day the world dies.”\textsuperscript{85}

In Scipio’s speech, Petrarch had alluded to the possibility of a “chief above all others strong, of ancient virtue,” coming forth “with forceful will to intervene” to save Rome from utter ruin.\textsuperscript{86} The indefinite nature of this reference, combined with its position in the speech (between the last definite historical references and the predicted destruction of Rome at the end of the world) suggests that Petrarch was not alluding to an historical character, but had in mind either some particular person of his own times or the sort of person that he hoped would arise in the future. Certainly, Petrarch throughout his life was looking for the person in whom the ‘ancient virtue’ had reappeared, who would restore Rome to her proper state.

Petrarch had already met Cola di Rienzo in Avignon in 1343.\textsuperscript{87} When he heard of Cola’s taking power in Rome, and of his plans, which seemed to correspond closely with Petrarch’s hopes, Petrarch supported Cola enthusiastically:\textsuperscript{88} he saw in the first successes of Cola’s regime the beginning of a new golden age.\textsuperscript{89} To Cola he sent letters of encouragement:

You, illustrious man, have pity on our condition, uplift the rising fatherland, and show to the unbelieving nations what Rome can now be. In regard to the rest of Italy, who can doubt but that it can do what it formerly did since it lacks neither counsel, power, wealth, nor courage. Unity alone is lacking. Were we united I would predict in this letter the immediate downfall and ruin of those who mock the

\textsuperscript{84} Africa, II. 411-413.
\textsuperscript{85} ibid., II. 421-424.
\textsuperscript{86} ibid., II. 401-408.
\textsuperscript{87} Bayley, 325.
\textsuperscript{88} ibid., 325, 326; Yates, p. 14.
\textsuperscript{89} Bayley, 326.
name of Italy. I say that you, whom the fates have appointed the
leader in this great enterprise, should pursue what you have begun…
You have entered the lists gloriously – go bravely and confidently to
the goal.  

Despite Petrarch’s enthusiasm, those who lived under Cola’s rule were less certain.

Cola di Rienzo’s fall and years in the wilderness

Cola di Rienzo’s government did not last long. Rome’s political factions, whose
strife had caused the turmoil of previous years, now resisted Cola and his increasingly
dictatorial rule. After only a few months the Tribunate was overthrown, and Cola
abdicated (December 1347).

After his abdication, Cola went into hiding. For some time he lived in secret in
the Castel Sant’Angelo; then, in early 1348, he undertook a roundabout journey that
ended in the Abruzzese mountains. There Cola spent several years withdrawn not only
from public life but from the world altogether, living, his identity unknown, with a
community of hermits in the wilderness. It was then that he was discovered by Fra
Michele di Monte Volcano, an enigmatic visionary monk (apparently in the Joachimite
tradition) who was known as ‘Fra Angelo’ or ‘Brother Angel’. Fra Angelo saw through
Cola’s disguise, and startled him by announcing that Cola had a new mission from God.
According to Fra Angelo, the time was drawing near for the long-awaited reform of the
world and the beginning of a new age; it was Cola’s task to seek the help of the
emperor, and of the ‘angelic pope’ who would shortly appear, to bring about that
transformation.

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91 *Vita di Cola di Rienzo*, I. 38 (pp. 92-93); Bryce, p. 294; Collins, pp. 86; Folz, p. 154.
92 *Vita di Cola di Rienzo*, I. 38 (p. 93); Collins, pp. 21, 86-87.
93 Collins, p. 21.
94 ibid., p. 21, 86-87; Folz, p. 164-5.
Cola travelled in disguise to Prague, to the court of Charles of Bohemia, where, again his identity unknown, he began to preach of the great changes to come (1350). It was not long before Charles discovered who the preacher was. Despite Cola’s infringements on, and usurpations of, imperial prerogatives during the time he had been ruling Rome, Charles assured him that he would not be punished. That Charles could treat Cola with such magnanimity shows that Cola’s grandiose actions in Italy had not been considered any real threat by Charles or his advisors. Cola tried to encourage the unwilling Charles to take on his supposed mission from God to reform the world. Charles was unconvinced, and, doubting the doctrinal soundness of what Cola was saying, had him repeat his ideas before theologians, who judged him a heretic. The pope asked that Cola be sent to Avignon; but Charles was reluctant to do so, and left him imprisoned in Bohemia.

At first, Cola considered his imprisonment merely one of the temporary afflictions predicted by prophecy. In a letter to Charles from this time he could still claim with confidence that, just as Saint Francis had been the buttress of the Holy Roman Church when it was tottering, so he, Cola, was to be the buttress of the Holy Roman Empire. Yet time passed; and still Cola languished in the cold dungeon. At length his dreams gave way to a bitter understanding of the realities of his situation.

**Petrarch and the Roman Empire**

Meanwhile Petrarch, who had had such high hopes of Cola di Rienzo and the Roman people, was also discouraged when he learnt that the Romans had turned against

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95 Collins, p. 21; Folz, p. 165.
96 Collins, p. 22.
97 see Collins, pp. 141, 145.
98 Bryce, p. 294; Collins, p. 22; Folz, p. 165.
99 Collins, p. 22.
100 *ibid.*, p. 23.
Cola and driven him out of the city. Nonetheless, Petrarch did not yet give up on his ‘fellow-Romans’.

During Cola’s captivity, Petrarch wrote an open letter addressed to the Roman people.\textsuperscript{102} In it, Petrarch sets out to expose a serious problem in the world, privately, as he puts it, to the Romans.\textsuperscript{103} All things in the world, he says, are disturbed and confused; those who are the rightful leaders (by which we may understand the Romans) are reduced to an ‘unbecoming subservience’, while those who ought properly to be submissive (by which we may understand the ‘provincials’ of Rome’s empire) exercise an unjust leadership. If the rightful leadership of the world were established, things would be much better. For when were things so good “as when the world had one head and that head was Rome?”\textsuperscript{104} Like Dante, Petrarch mentions that it was in that time that Christ chose to be born.\textsuperscript{105} Petrarch takes it as a commonplace that unity of government is best, and that God Himself has shown that it is Rome that is to wield that one government.\textsuperscript{106}

Thus far, Petrarch’s argument is much the same as Dante’s.\textsuperscript{107} However, Dante had set out all his arguments without ever questioning that the authority of the Romans resided in the (German) Emperor. It is striking that in Dante’s whole discussion he never so much as touched on how or why this might be so. Petrarch, on the other hand, took the matter up, going so far as to claim that the reason for Cola’s imprisonment was that “he dared to affirm that the Roman Empire is at Rome and its power resides in the Roman people”\textsuperscript{108}. Petrarch argues:

\textsuperscript{102} Petrarch, \textit{Letter IV (to the Roman People)}, pp. 53-64.
\textsuperscript{103} \textit{ibid.}, p. 53.
\textsuperscript{104} \textit{ibid.}, p. 55; quoted also by Bryce, p. 266.
\textsuperscript{105} Petrarch, \textit{Letter IV (to the Roman People)}, p. 55
\textsuperscript{106} \textit{ibid.}, p. 56.
\textsuperscript{107} For the comparison of Dante and Petrarch, see Yates, pp. 15-16.
\textsuperscript{108} Petrarch, \textit{Letter IV (to the Roman People)}, p. 54.
Who can accept with unoffended ears those learned men who question whether or not the Roman Empire is at Rome? If the kingdoms of the Parthians, the Persians, and the Medes are rooted among the Parthians, Persians, and Medes, shall the Roman Empire be a wanderer?... If the Roman Empire is not at Rome, where, I ask, can it be? Indeed, if it is elsewhere, it is not the empire of Rome but that of those to whom inconstant Fortune has disposed it. For although Roman generals often for the defence of the Republic fought in the distant East and West, often led armies far to the North and the South, the Roman Empire meanwhile remained at Rome.\textsuperscript{109}

Petrarch goes on to claim that even after the time of Caesar, Roman emperors sought permission from the Senate and the Roman people before they acted, and either acted or not depending on whether the permission was granted or denied. “Emperors, therefore, may wander;” Petrarch concludes, “the empire is always fixed and stable.”\textsuperscript{110}

Petrarch’s belief that the Roman empire could only be at Rome does not require a belief that the Roman empire will necessarily continue to exist anywhere. In that respect, Petrarch differs from the prevailing medieval opinion. The idea that the Roman empire must of necessity continue in existence until the last days, and that therefore if it could not be found at Rome it must be sought elsewhere, had long strengthened the identification of the German rulers with the Roman emperors. Petrarch, however, would have none of it.

It is clear from the whole tenor of Petrach’s writings that he did not consider the Roman Empire actually to have ended – an historiographical idea that would not appear until after his time. Nonetheless, he was aware that the Empire had deteriorated

\textsuperscript{109} \textit{ibid.}, p. 56.
\textsuperscript{110} \textit{ibid.}, p. 57.
seriously since antiquity.\textsuperscript{111} He writes that all things that are still enduring must nonetheless grow old, decay, and fall; and there is no exception, not even for the Roman empire, which has already suffered grievously:

\begin{quote}
With continuous motion capricious Fortune turns her wheel and casts spinning kingdoms from one people to another. As she turns, she makes, as she will, kings out of servants, servants out of kings; and she has exercised her ineluctable power against the city and the empire of the Romans… [I]n order to prove her absolute mastery over human affairs, she has not feared to strike the very head of the world.\textsuperscript{112}
\end{quote}

Yet even as he acknowledges the power of Fortune over Rome – admitting that “she can completely lay waste with equal effort and with greater ruin the queen of cities as she has done already” – Petrarch insists that there is something she cannot do: “She will never be able to effect completely that the Roman Empire would be anywhere but at Rome. Once it is accepted elsewhere it ceases to be Roman.”\textsuperscript{113} He goes on to say that

no matter how small, the Roman Empire – although now long afflicted and oppressed variously by Spaniards, Africans, Greeks, Gauls and Germans – is still at Rome and not elsewhere. It will remain the same although nothing may wholly stand of that great city except the bare rock of the Capitol. And it can be shown that, when we were not yet subjected to foreigners’ hands and when the Roman

\textsuperscript{111} ibid., p. 59. Petrarch’s belief that Rome was the \textit{sine qua non} of Empire meant that he could not use the theory of \textit{translatio imperii}, as others had been doing for centuries, to argue that the Empire was robust but ‘elsewhere than Rome’.

\textsuperscript{112} ibid., p. 59.

\textsuperscript{113} ibid., p. 60.
Caesars governed, the right of ruling was not in them but in the power of the Senate and the people of Rome…

Thus, Petrarch argues that the imperial power in the Roman Empire must be at Rome. Although one might infer that, as the imperial power has in fact passed from Rome, the Roman Empire has ended, Petrarch does not himself say so. His argument is still that as the imperial power resides de jure with Rome it ought so to reside de facto as well.

**Petrarch and Charles IV**

Although Petrarch still had hopes of the Roman people, he cannot have been altogether sure of them, for as a revival of Roman greatness at their hands came to seem less likely, Petrarch had begun to entertain hopes of help coming from elsewhere. Even before he wrote his Epistle to the Roman People, Petrarch had started writing to Charles, hoping that the restoration of Roman authority might yet be achieved by the ‘Roman’ Emperor. This attitude is quite consistent with Petrarch’s Ghibelline upbringing.

Petrarch sent his first letter to Charles in 1351. In this letter, Petrarch wrote of the hopes he had had of Charles, whom he was expecting to come to Italy to ‘restore the Roman Empire’, and of his disappointment that Charles, detained in his native land by

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114 ibid., p. 61.

115 Pace Bayley (p. 326) it cannot have been Cola’s fall in 1347 that convinced Petrarch of “the inability of the Roman people to become the architects of their own future greatness”, since he was to write to the Romans several years later (to encourage them to rescue the imprisoned Cola), that while he was aware that their power was diminished, “believe me, if any drop of the ancient blood remains, your majesty is not lacking nor is your authority weak…” (Letter IV, to the Roman People, pp. 63-64.)

116 Bayley, 326; Koebner, p. 40; Yates, p. 15.

transalpine affairs, was showing himself forgetful of ‘his Italy’. Strenuously Petrarch urged Charles not to delay when the Roman empire, in a perilous state, was calling him to come. He depicted Rome as a grave lady, miserable and in mourning but with unbroken spirit, who called to Charles, her ‘Caesar’. ‘Roma’ told how her armies had marched over Europe and Africa and Asia; how they had fought battles, won victories, and conquered peoples; and how they had made wars that there might be established an eternal peace, and that for him, Charles, who was to come, there should be established an empire. Yet when all her wishes had been accomplished, she continued, when she had seen all lands under her feet, gradually, she knew not how, decay had set in, and she had been reduced to the low estate in which Charles might see her now. Therefore she called to him, asking him why he delayed, when never had she been in greater need, when never the time had been more opportune. At length Petrarch presented even Charles’s grandfather calling on Charles to come to Italy and take up the work which he in his own time had begun.

Petrarch’s call to Charles is not as inconsistent with the ideas of his Epistle to the Roman People as it might at first seem. Petrarch’s desire was not some particular form of government, but the restoration of Italian unity and Roman greatness. If the Roman people would bring this about, so be it: if an emperor would be more effective, then an emperor there should be. If the Holy Roman Emperor were willing to leave his native land and make his seat in Rome, Petrarch as much as says that he would not hold his ancestry against him, but be prepared to accept him as a Roman, and as a Roman emperor indeed. Petrarch later expressed this appraisal of the situation directly to

118 ibid., para. II
119 ibid., paras III-IV
120 ibid., para. VI; see also Mommsen, p. 235.
121 Petrarch, Epistola I. para. VII
122 ibid., para. VIII
Charles, rather undiplomatically revealing his poor opinion of the emperor’s homeland and ancestry: “Never mind where you were born;” he wrote, “what matters is for what you were born.”

Petrarch (even while identifying the contemporary Emperor as the inheritor of the Roman legacy) focussed only on ancient Rome. In Petrarch’s reckoning, the city of Rome was the *sine qua non* of empire, and the heartland of the Empire was Italy. Charles was the *Roman* emperor, and his rightful place was at Rome: restoring the empire to its former glory meant putting Italy and Rome back in the centre.

However, Petrarch had picked the wrong person with Charles. While both men were concerned about the state of Italy, their plans were different, and Petrarch was to be deeply disappointed by Charles. Throughout his reign, Charles strove for peace. His efforts were founded on an awareness of what was possible and what was not, and his policies began by taking into account certain things that could not be changed. We have seen this already in Charles’s agreements with the pope. Petrarch’s ambitions, though expressed in inspiring language, could never have been realised, and Charles knew it. He wrote back to Petrarch, explaining that his proposals would not work; but Petrarch was as little convinced by Charles as Charles by Petrarch.

**The end of Cola di Rienzo**

When Charles sent Cola di Rienzo to Avignon, Petrarch commented bitterly on the fate that had befallen one for whom he had had such hopes: “He was being sent to the Roman Pontiff by the King of the Romans: strange traffic indeed!”

124 Nequo vero magni interest ubi sis natus, sed ad quid: quoted by Bayley, p. 330.
125 Bayley, pp. 328-9; Scales, p. 216. Charles, doubting whether his Latin (or that of his Bohemian secretaries) was good enough for writing to the greatest man of letters of his day, gave his reply to be edited by none other than Cola di Rienzo, who was still imprisoned in Bohemia (Bayley, p. 329). If Cola had any illusions left about Charles’s plans, it is unlikely that they would have survived this experience.
126 *Vita di Cola di Rienzo*, I. 38 (p. 93); Bryce, p. 294; Collins, p. 25; Jarrett, p. 147.
127 Collins, p. 25.
Clement VI died, and was succeeded by Innocent VI, under whom Cola was ‘rehabilitated’. Probably disillusioned by the failure of his prophecies, Cola renounced all unorthodox opinions, and the pope absolved him and lifted his excommunication. At that time the pope – who though in Avignon still claimed authority in the Papal States – sent an army to restore papal control there (1353). The general in charge of the mission, the Spanish cardinal Gilles Albornoz, had in Avignon become acquainted with Cola, and, at Petrarch’s urging, gave him control of a company. No sooner had Cola returned to Rome than his old ambitions seized him again. Some at least among the Romans welcomed him enthusiastically, and he could not resist another attempt at power. Cola successfully took control of the city once more: like Nebuchadnezzar, he said in a speech, he had spent seven years in exile from his home; now, by the will of God, he had returned to his former place, set in his senatorial seat by the bidding of the pope. Once more he declared his intention of reforming the government of Rome and restoring the city.\footnote{Vita di Cola di Rienzo, IV. 6 (p. 135); Bryce, p. 294; Collins, p. 26; Jarrett, pp. 147-148.}

Cola was even less successful this time at retaining power. His rule did not last six weeks, nor did he survive his fall from power: he was overthrown, and killed by a mob.\footnote{Vita di Cola di Rienzo, IV. 13 (pp. 146-152); Bryce, pp. 294-295; Collins, p. 27; Jarrett, p. 148.} I would suggest that it was the murder of Cola that convinced Petrarch of the impossibility of any revival of ancient Roman greatness which depended on the Roman people. Certainly, Petrarch became permanently disillusioned about such plans, and, undeterred by Charles’s evident unwillingness, turned his hopes for Italian revival definitely from republicanism to monarchy.
Charles IV’s expedition into Italy

Once matters were settled in Germany, Charles’s thoughts turned towards Italy and his imperial coronation in Rome. The situation in Italy looked unpropitious. The Italian cities had long shown their dislike of the presence of the Germanic emperors in Italy, and experience had shown that efforts to subdue them by force of arms were doomed to failure. It would seem, though, that the Italians were not unwilling to acknowledge the overarching authority of the emperor, as long as it did not curtail local autonomy. Charles therefore prepared for his Italian expedition not by amassing military forces, but by diplomatic negotiation with the Italian city-states.

In previous expeditions, many emperors had earned the hostility of the cities by insisting on their rights to the full. They had sought to revive prerogatives that had fallen into abeyance; they had not only insisted on taxes that the Italians considered to have lapsed but also demanded back-payment; they had exacted retribution for acts of resistance to imperial authority. All too often emperors had relied on the Ghibellines, who seemed their natural supporters, only to find that doing so estranged other groups for reasons unrelated to the imperial authority.

Charles succeeded in his Italian enterprise by doing the opposite. His good relations with the pope had already removed that cause of strife. With regards to the Italian cities, Charles resolved to be above parties, opening communications with all and not merely some of the cities. He did not set out until he had made the Italian cities and rulers amenable to his visit. He did so by guaranteeing rather than disturbing the constitutional status quo, and by finding ways to make his visit advantageous rather than detrimental to the Italian cities. He would forgive the cities their offences against his predecessors, Henry VII and Ludwig IV, rather than exacting retribution. Far from depriving the cities of the liberties to which they had become accustomed, he would use

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130 Walsh, p. 41.
131 ibid., pp. 43-44.
his imperial authority to confirm them, and he would confirm *de facto* possessors in their offices and rights. This legitimation of arrangements hitherto unofficial was valuable to the cities, and they accordingly showed themselves willing to recognise the authority by which such legitimation would be made.

In the end, Charles went to Italy with three hundred men. Had he depended on force he would not have gone far with so small an army: his action demonstrates that he was depending rather on recognised authority backed up by good will. Moreover, he kept a firm hand on his soldiers, prohibiting them from the violence that had caused resentment in many previous expeditions.

A truce was proclaimed in the fighting of the leagues of states for Charles’s time in Italy. The cities to which he came received him with honour; the other cities sent their envoys to pay their respects. In each place Charles received generous payments of tribute. In Mantua he was received by Petrarch, who had resumed his letter-writing when Charles headed towards Italy, and who greeted the expedition as an answer to his requests. On the feast of the Epiphany, 1355, Charles received the Iron Crown of Lombardy in Milan.

In Holy Week Charles arrived at Rome. At the end of the mass on Easter Sunday the cardinal-bishop of Ostia, representing the absent pope, crowned Charles with the golden crown of the Empire. (It is significant that, while traditionally the imperial coronation was performed by the pope in Rome, it was evidently more important that it be performed in Rome than that it be performed by the pope.)

By this time Charles’s train had increased with the addition of companies from each of the Italian cities to some fifteen thousand soldiers. In spite of this great number

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132 Walsh, p. 44.
133 *ibid.*, p. 85.
134 Bayley, pp. 329-331; Walsh, pp. 44-46, 48; Scales, p. 215.
135 Heer, p. 117; Walsh, p. 47.
of armed men, there was no bloodshed.\footnote{Walsh, p. 47.} Charles’s Roman visit was, in the circumstances, a remarkable achievement: the emperor was in concord with the pope; he had come to Italy, secured peace, and been recognised as sovereign; and he had come to Rome as to his capital and there obtained the imperial crown without strife.

Not everyone was happy, though. Petrarch, who had known nothing of Charles’s agreement with the pope to leave straight away, was taken by surprise when he did so: and, since he had wanted the emperor to come and live in Rome and start ‘restoring the Empire’, was appalled.\footnote{Bayley, p. 331; Koebner, pp. 40-41; Scales, p. 215; Walsh, p. 47.} He wrote bitterly to Charles:

\begin{quote}
What thy grandfather and numberless others have striven for with so great sacrifice of blood and with so much labour, thou, O Emperor, hast attained without difficulty and shedding of blood. Italy was peaceful and open, accessible to the threshold of Rome, the sceptre easy to wield, the Empire calm and tranquil, thy crown bespattered with no blood. But, ungrateful for such great rewards, or incapable of rightly estimating their value, thou dost abandon it all and return again to thy barbarous kingdom. I dare not tell thee clearly what my heart and the matter bid me, lest I should sadden thee with my words, thou, who hast saddened myself and the world with thy deed.\footnote{Quoted by Bayley, p. 332.}
\end{quote}

Charles ignored Petrarch’s reproaches, and slowly and triumphantly headed north.\footnote{Walsh, p. 48.} He knew, if Petrarch did not, that so enthusiastic a welcome would not have lasted had he chosen to stay.
The beginnings of the reassessment of Empire in Italy

For some time after Charles’s departure from Italy, Petrarch continued to write reproachful letters to him. When his letters failed to change Charles’s mind, and as the realities of the contemporary political situation in Italy at last became clear to him, Petrarch realised the unlikeliness, perhaps impossibility, of a revival of authentic Roman rule.\(^{140}\) Thereafter, he and other Italians would completely reassess the imperial legacy in Italy.\(^{141}\) The title of Roman Emperor, they realised, was of little value for their purposes, and there was little to be gained from keeping alive or restoring to vigour a political institution that they considered debased. To restore Italy to her former glory what was needed was the restoration not of institutions but of the character and the culture of the ancient Romans at their best.

The career of Cola di Rienzo, and Petrarch’s varied writings on imperial matters, stimulated thought about the history of the ancient Roman empire and its relation to the contemporary Holy Roman Empire. In the Epistle to the Roman People Petrarch had credited Cola with finding an altogether new way of looking at the imperial legacy: he had “awakened in the world a great and useful question which for many ages has lain asleep and buried”.\(^{142}\) One might say that the question, as Cola had posed it, had been, ‘If there indeed be a Roman Empire, ought not Rome to rule it?’ Cola had thought that the logical deduction from the existence of the Roman Empire was that Rome ought to rule it: that right he had set out, unsuccessfully, to realise. Petrarch had asked a question of his own: ‘If the Roman Empire is not at Rome, where is it?’\(^{143}\) When Petrarch wrote the Epistle to the Roman People, the implied answer was that the Empire was of course

\(^{140}\) Bayley, pp. 332-6.

\(^{141}\) Yates, p. 16.

\(^{142}\) Letter IV, to the Roman People, p. 63.

\(^{143}\) ibid., p. 56.
at Rome, and the point of the rhetorical question was to inspire the hearers to make real the logical consequences of the fact.

These questions might, however, have other and unintended answers. Realising the impossibility of restoring ‘the Empire’ to its ancient state, the Italian writers who followed Petrarch did answer those questions differently. If Rome does not rule ‘the Empire’, they argued, then that Empire is not the Roman Empire at all. If the Empire is not at Rome, it is nowhere. As it is not at Rome, therefore it is indeed nowhere. Italians began to see the Emperor’s absence, the fact that he had little power in Rome, and the fact that Rome had no power in the Empire, as a fatal defect in the imperial title. For the first time, it began to be said that the Roman Empire had ended – and not recently either, but a thousand years before. This realisation corresponds closely with the new view of antiquity – as something separated from the present by a great gulf, but now being brought to light again – that characterises the Renaissance.

**The Golden Bull**

Returning north of the Alps, Charles applied himself to ensuring lasting stability there. Foremost in his plans was a constitutional settlement. The need for a defined procedure for electing an emperor was particularly pressing. Disputed elections had long been the cause of much of the discord in the Empire: settling the matter so that disputed elections were not possible would do away with one of the things most disturbing the peace.\(^{144}\) In making a constitutional settlement, Charles had to take into account the new national consciousness in Germany, Italy, and his own land of Bohemia, the constitutional position of the electors, and the freedom of the cities.\(^{145}\)

Charles called a diet at Nuremberg to deal with all the issues disturbing the peace and stability of the country. For weeks they worked diligently, putting out decree

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\(^{144}\) Bryce, pp. 230, 235, 244-245; Walsh, p. 53.

\(^{145}\) Walsh, p. 50.
after decree, the most important of which were put together in the Golden Bull, which remained the ‘constitution’ of the Empire until its dissolution.

The Bull is significant chiefly for settling who was entitled to vote in an imperial election, how an election was to be carried out, and what constituted a valid election. It also contains a number of articles dealing with other matters which at first seem irrelevant to its main subject, for instance, laws relating to tolls, or governing the relations of lords and vassals. All of the articles, however, relate in some way to the Bull’s overall purpose, the establishment of peace. The Bull does not attempt, simply from reasons of political theory, to alter drastically any constitutional arrangements that are not in themselves objectionable. In terms of the Empire’s constitution its significance is not so much in making changes as in recognising changes by now already established, and in removing uncertainty by establishing existing arrangements with force of imperial law.

Firstly, the Bull settled who the electors were. There were seven, three great churchmen and four secular princes, each of whom held a ceremonial office in the imperial household. The sacred number suggested all sorts of allegorical analogies – the electors were likened to the seven golden candlesticks in heaven mentioned in the Book of Revelation – but, more practically, having an odd number prevented a deadlock between supporters of two candidates. The three spiritual electors were the Archbishop of Mainz, who held the office of ‘Arch-chancellor of the Holy Empire for Germany’; the Archbishop of Trier, the ‘Arch-chancellor for Gaul and Burgundy’; and the

146 Walsh, pp. 51-52.
149 Golden Bull, II. 2.
150 ibid., I. 10.
Archbishop of Cologne, who was oddly enough the ‘Arch-chancellor for Italy’. The four temporal electors – each of a different degree – were the King of Bohemia (the imperial cup-bearer); the Duke of Saxony (the imperial marshal); the Margrave of Brandenburg (the imperial chamberlain); and the Count Palatine or ‘Palgrave’ (the imperial seneschal or steward). The offices of the electors are set out in the famous rhyme:

From Mainz and Trier and eke Cologne
Come chancellors for Caesar’s throne.
A steward, the palgrave serves his lord;
And Saxony doth bear the sword.
As chamberlain a marquis bends;
Bohemia’s king the wine cup tends.
On whom these princes’ choice doth fall,
He reigneth overlord of all.

It was laid down that when an imperial diet was held, one or other of the bishop-electors was to preside at the church services, according to the province in which the diet met; and that the Margrave of Brandenburg was to present water for the washing of the emperor’s hands, the King of Bohemia to offer him drink, the Count Palatine to serve

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152 ibid., I. 8.
153 ibid., I. 12.
154 ibid., I. 12.
155 ibid., I. 11.
156 Moguntinensis, Trevirensis, Coloniensis,
Quilibet imperii sit Cancellarius horum;
Et Palatinus dapifer, Dux portiter ensis,
Marchio praepositus camerae, pincerna Bohemus,
Hi statuunt dominum cunctis per saecula summum.
Quoted by Bryce, p. 239n, Scales, p. 276n; the English translation that I have used is E. M. Thompson’s, from his translation of the Chronicle of Adam of Usk, in which the rhyme is quoted.
him his food, and the Duke of Saxony to “perform the office of marshal, as has been the
custom from of old.”\textsuperscript{157}

To prevent disputes over succession to the electoral dignity itself, it was declared to descend in the case of each lay elector to his oldest legitimate lay son.\textsuperscript{158} If an electoral line died out the right devolved to the emperor (who could reassign it), save in the case of Bohemia: that country, as a kingdom in its own right with a clear sense of nationhood – and Charles’s own kingdom, what is more – was granted a greater degree of autonomy.\textsuperscript{159}

In laying down the procedure for the election, the Bull ordained that at the death of an Emperor or of a Rex Romanorum the Archbishop of Mainz should send letters patent summoning the electors. The election was to take place at Frankfurt on the Main – an appropriate historic place whose very name recalled the Franks who first of all Germanic peoples held the imperial title – and thither the electors were to come within three months.\textsuperscript{160} The persons of the electors were to be inviolable, while going to the election, while there, and while returning. All, whether fellow electors, noblemen, cities or guilds, were bound to allow them free passage; none might ambush them, or hinder them in going or returning.\textsuperscript{161} Even those who were at war or strife with an elector were bound nonetheless to lay the quarrel aside; to let the elector pass unharmed; and even to render him assistance.\textsuperscript{162} During the election the citizens of Frankfurt were not only to

\textsuperscript{158} Walsh, pp. 52-53.
\textsuperscript{159} \textit{ibid.}, pp. 52-53, 58.
\textsuperscript{160} Golden Bull, I. 15; Bryce, p. 239; Heer, p. 117.
\textsuperscript{161} Golden Bull, I. 1-3.
\textsuperscript{162} \textit{ibid.}, I. 4-5.
defend the electors in general, but, if need arise, to defend any one of them against any other.\textsuperscript{163}

The election was to begin with the electors attending the singing of the votive mass of the Holy Ghost.\textsuperscript{164} Each was then to take an oath to elect the person he genuinely thought would be most suitable, giving his vote “without any pact, payment, price or promise.”\textsuperscript{165} If within thirty days the electors had not made a choice, they were to be fed on bread and water.\textsuperscript{166} To prevent any disagreement it was established that the vote of the numerical majority of the seven electors sufficed for a valid election.

The idea of the emperor’s office that was in the minds of the framers of the Bull can be seen in the titles that the Bull uses of him. In describing the task of the electors the Bull says in various places that they are choosing a temporal ruler of all the faithful, indeed, “a temporal head for the world and for the faithful Christian people – a king, namely, of the Romans and prospective emperor”.\textsuperscript{167} The distinction made throughout the document between a King of the Romans and an Emperor indicates that the coronation by the pope was still considered to be what made someone an Emperor:\textsuperscript{168} the electors were choosing the man who was to be emperor, and their election constituted him King of the Romans, but they did not by themselves make him emperor. However, although the verbal distinction was still made, it is hard to see what other difference was by now made by the imperial coronation.\textsuperscript{169}

\begin{footnotes}
\item[163] Golden Bull, I. 19.
\item[164] ibid., II. 1.
\item[165] ibid., II. 2.
\item[166] ibid., II. 3.
\item[167] ibid., II. 3; Scales, p. 228.
\item[168] Walsh, p. 60.
\item[169] It was the case in subsequent years that a designated heir could be elected Rex Romanorum during the lifetime of the reigning monarch (as was often done) only if the latter had received the imperial coronation - that is, if he had become ‘Emperor’. Until that time the monarch was strictly only Rex Romanorum himself, and there could not be two kings at the same time. This requirement would have been an incentive for the monarch to have the imperial coronation performed, but it would seem that there
\end{footnotes}
The Golden Bull has been quite harshly criticised by some historians. Bryce’s damning verdict – that Charles “legalised anarchy and called it a constitution”\textsuperscript{170} – has been often and uncritically repeated. Such analyses of the Bull, and indeed of the whole history of the Empire in this period, tend to focus solely on Germany, and to see in this settlement the confirmation of German disunity, with disastrous results.

In this connection several points must be made. The focus on the importance of the German national state is anachronistic. Even in Germany itself, the consciousness of belonging to the Empire (which was bigger than Germany) and to various regions (which were smaller than Germany) was just as strong as the consciousness of belonging to the German nation. In any case, by that time, it would not have been possible to turn Germany into a national state even if anyone had set out to do it. Charles IV was not going to do so: he was, after all, king of Bohemia. As such, he had a stronger awareness than many other emperors had had of the Empire consisting of various nations with different manners and customs that must all be respected. As emperor, Charles necessarily had a responsibility for the non-German parts of the Empire equally with Germany. Charles was, moreover, conscious of the Emperor’s supranational role, and of his special relation with the papacy, and had to preserve peace and harmony in those roles.

The Bull, in fact, did altogether the opposite of legalising anarchy. Subsequent generations may have disliked aspects of the settlement, but it was nonetheless effective, and remained in place for centuries.\textsuperscript{171} Many of the decrees of the Golden Bull are specifically aimed at imposing order. As an hereditary emperorship could not have

170 Bryce, p. 246.

171 Wilson, p. 18.
been established, the best that could be done to give stability to the Empire was to settle the method of choosing an emperor so that elections could not be disputed. This the Golden Bull did: there were no disputed elections after that time.\footnote{Jarrett, p. 193.} The Bull can therefore be considered to have removed a recurring and serious cause of warfare in the Empire. Finally, Charles’s settlement of matters with the pope removed another cause of strife and in fact substantially disentangled the parts of the Empire north of the Alps from a number of troublesome Italian commitments and quarrels.

Charles’s formal reassertion of imperial sovereignty over the Kingdom of Burgundy

Although the kings of France had largely abandoned their ambitions of becoming emperors themselves, they nonetheless sought to extend eastward the area subject to the French crown. This French expansion came at the expense of imperial territories: most of it took place in the ‘Kingdom of Burgundy’.\footnote{Geoffrey Barraclough, *The Origins of Modern Germany*, Basil Blackwell, Guildford and London, 1946, 1988, p. 286; Norman Davies, *Vanished Kingdoms: the rise and fall of states and nations*, Viking (Penguin), 2011, pp. 123-128; Scales, pp. 202, 218-219.} The territories were sometimes taken *de facto* by the French crown but with a recognition that they were held from the emperor, in which case they remained part of the Empire; or it was alleged that they were in fact integral parts of the historic kingdom of France, which had in the past been encroached upon by the emperor (in his capacity as German king) and were now being regained by France.\footnote{Chris Jones, *Eclipse of Empire? Perceptions of the Western Empire and its Rulers in Late-Medieval France*. Brepols Publishers, Turnhout, 2007, pp. 291, 306, 307.} As an explanation of the *status quo*, the former argument was more agreeable to the emperor, the latter to the king of France.

Despite these French encroachments, Charles’s relations with France remained good.\footnote{Walsh, p. 71.} He recognised that the possession by France of some of the more distant
territories of the Empire was by now long established and could not be undone. In any case, while the emperor might exercise little or no power in these border territories, the same was true of other territories, held by German princes, which were unambiguously within the Empire: so it made little difference. Had an emperor been trying to reassert immediate and actual control of the territories of the Empire he would have had greater priorities than arguing with a powerful foreign monarchy over a border territory.) Charles insisted, however, on being recognised as overlord of these territories. Such a recognition would make the state of the French-held territories the same as that of the territories held by German princes, and would affirm that they were indeed part of the Empire and not of the kingdom of France.

A particularly important case was the territory called the Dauphiné, which had become an appanage assigned by the French king to his heir-apparent (called, from these territories, the Dauphin). The emperor was willing to confirm the Dauphin as his ‘Vicar of the Arelate’ if the Dauphin would recognise him as overlord in respect of these territories. The agreement was beneficial to both: the confirmation legitimised and thus stabilised the Dauphin’s possession of the territories, a possession hitherto only de facto, while his homage recognised that the territories were indeed part of the Empire. For his part, Charles in 1365 showed his ultimate sovereignty over these territories by availing himself of the right of the German monarch (not exercised since the reign of Frederick Barbarossa) to be crowned at Arles as King of Burgundy.

Charles’s coronation at Arles took place in the course of a journey to Avignon, where the emperor was received with great honour at the papal court. Pope and

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176 Walsh, p. 72.
177 ibid., p. 72; see also Bryce, p. 352.
178 Davies, pp. 118, 127.
179 Scales, pp. 218-219; Walsh, p. 72.
180 Walsh, p. 72; Heer, p. 117.
181 Walsh, p. 74.
Emperor, the foremost spiritual and temporal rulers in western Christendom, were not only seen to be, but in fact were in complete harmony. On Pentecost Sunday, they attended mass together, each wearing the full regalia of his office, and sitting on thrones of equal height.\textsuperscript{182} The occasion may well be regarded as a high point in the long life of the Holy Roman Empire, for in it was shown fully the reconciliation of the two powers, at odds so long.\textsuperscript{183}

**The beginning of the Papal Schism**

In 1376, Pope Gregory XI set out from Avignon on the long and protracted journey that would end with his return to Rome – a return which Charles had long encouraged.\textsuperscript{184} The return of the pope to his see gave great happiness to the emperor: but unfortunately it was to end in disaster.\textsuperscript{185} Gregory died less than two years after his return: the cardinals elected as his successor an Italian, Urban VI, who was resolved to stay in Rome. Some time after the election a group of French cardinals withdrew from Rome and, claiming that they had elected Urban only under compulsion, repudiated the election. Having returned to France, they at the instigation of Charles V of France proceeded to elect as pope a Frenchman, Clement VII, who took up residence in Avignon.\textsuperscript{186} Thus, in 1378, the year of Charles’s death, began the Papal Schism, a schism precipitated mainly by the designs of the French monarchy to retain a papacy subservient to French policy such as it had enjoyed during the papacy’s sojourn in

\textsuperscript{182} Jarrett, p. 206; Walsh, p. 74; see also Folz, p. 161.

\textsuperscript{183} However, I cannot go so far as to endorse Walsh’s claim (Walsh, pp. 74-75) that “Dante’s dream had come true”, and that Charles had “translated into practice” the doctrine of the supremacy of the pope in spiritual and of the emperor in temporal matters.

\textsuperscript{184} Jarrett, p. 206-8.

\textsuperscript{185} Walsh, p. 80.

Avignon.

The Schism was to do irreparable damage to the idea of a united community of Christendom, one of the principal presuppositions of the theory of the imperial office. Nonetheless, as we shall see, it was also to occasion the last significant exercise of the Emperor’s supranational authority.

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The last period we are examining sees the almost complete severance of German and Italian notions of Empire. The successors of Charles IV until the end of the Middle Ages followed his example in avoiding any antagonism in the Italian peninsula, whether with the papacy or with the Italian city-states. The visits of Sigismund and of Frederick III to Rome to receive the imperial crown were uneventful, marked neither by displays of military strength nor by the assertion of imperial authority over the city-states. In Italy, humanists reassessed both ancient Rome and the contemporary Empire and concluded that the empire of ancient Rome had ended long ago and that the contemporary ‘Roman Empire’ had no right to the name.

In Germany, with the loss for practical purposes of both Italy and Burgundy, the Empire was increasingly identified with Germany, a process completed at the end of our period by Maximilian’s adoption of the name ‘Holy Roman Empire of the German Nation’. This contraction of the territorial rule of the Empire to the Germanic lands in the end made possible the establishment of the principle that the German monarch did not need the pope’s approbation, and was ‘emperor’ even without the coronation in Rome.

Nonetheless, the period saw, in connection with the Great Schism and the conciliar movement, a last assertion of imperial supra-national authority. When it became apparent that the Schism could be resolved only by a general council and that the ecclesiastical authorities were not in a position to call one, it seemed natural that it should be the Emperor, as protector of the Church, who should act to summon a council. Sigismund would take the leading role in organising the Council of Constance which met to resolve the schism and to reform the Church. Sigismund’s involvement, although
clearly extraordinary and not altogether successful, demonstrates that there was still considered to be a unique role specifically for the Emperor in the common affairs of Christendom, albeit quite apart from territorial rule and ordinary government, limited to extraordinary cases, and not such as would infringe on the sovereignty of other rulers.

Two significant political theorists, Nicholas Cusanus and Aeneas Sylvius Piccolomini, also argued for a unique role for the emperor. Cusanus did so on a modest scale, providing a thoughtful rationale for intervention on certain limited occasions. Aeneas presented a remarkable assertion of the ordinary supreme temporal jurisdiction of the emperor, an assertion altogether out of the main current of political thought, but warranting examination because of the prominence of the author and as a demonstration that markedly imperialist views could still be held.

Given the divergence in attitudes to the Empire north and south of the Alps and the separateness of the issues involved, we will in this chapter first consider the attitude of the Italian humanists to the Empire separately. Then we will examine the role Sigismund played in the Council of Constance; and then examine in detail the writings first of Nicholas Cusanus (De Concordantia Catholica) and then of Aeneas Sylvius Piccolomini (the Epistola de Ortu et Auctoritate Imperii Romani). Aeneas’s work must be considered in several respects an anomaly. Himself Sienese, at the time he wrote the De Ortu Aeneas was employed by Frederick III at Vienna. His opinions are typical neither of Italian humanism nor of the German ‘national’ interpretation of the Empire; and the treatise De Ortu seems to have had no effect on Frederick’s policy or on political theory.

Before beginning our close examinations (in which Sigismund, Frederick III and Maximilian will be discussed in detail) we can here briefly review the German monarchs between Charles IV and Sigismund. Charles was succeeded by his son
Wenceslaus, already *Rex Romanorum*:¹ but in 1400, a majority of the electors deposed Wenceslaus as King of the Romans (although he remained king of Bohemia), and chose as his replacement the Wittelsbach Rupert, count palatine of the Rhine.² Having been crowned in Germany as ‘King of the Romans’, Rupert set out on an expedition to Italy (1401-02), but was altogether unsuccessful and had to turn back at Padua. (He was never crowned as emperor.) Rupert died in 1410, and was succeeded by another son of Charles IV’s, Sigismund of Luxemburg (1411-37).³

**The humanist reassessment of the Empire**

For most of the Middle Ages, there was not in the minds of learned men that idea of a marked break between classical antiquity and the medieval period which would become so prominent in ‘Renaissance’ historiography. Medieval people knew that the world had changed since the Roman Empire was at its height, but its decline was considered as continuous, without abrupt changes, and ongoing.⁴ As the Italian humanists learned more about ancient times and developed a real science of history, they began to reassess the history of the Roman Empire. They came to consider that there had been a significant change at what we, following the structure they developed, call the end of ancient and the beginning of medieval times: at this point ancient civilisation and culture had, according to the humanists, been all but destroyed by invading barbarians (that is, ‘barbarous’ foreigners). In the humanists’ judgement the

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³ Heer, p. 118.
difference between the esteemed classical period and the ensuing ‘dark ages’ was stark.\(^5\) The humanists also tended to praise the Roman republic and to regard the rule of emperors (many of whom, even in ancient times, were not of Italian birth) as a tyranny with disastrous effects, correlated to a decline in Roman (for which read, Italian) character, a loss of *virtù*.\(^6\) This pride in the Roman legacy was no longer confined to the inhabitants of the city of Rome, as it had been in the time of Arnold of Brescia or of Cola di Rienzo. Humanists throughout Italy considered themselves heirs of Rome: they took pride in the achievements of ancient Rome as Italian achievements.\(^7\) Italian patriotism, however, was not easily reconciled with part of the peninsula being under a German emperor, or with any non-Italian ruler claiming the title of ‘Roman Emperor’.

In this regard, we again see a difference between Dante and Petrarch. Although Dante paid special attention to Italy and had a particular concern for it – not only as his own homeland but also as the proper seat of the Empire – his vision is fundamentally universal. In the writings of Petrarch, that universal vision has disappeared: Petrarch’s concern is solely with Italy. Petrarch wanted an end to the internecine wars of the Italian city-states and to bring the peninsula under a single government which would bring back the glory of ancient days. (Already in that desire for ancient glory to be restored, and in the belief that it could be restored, we can see much of the spirit of the ‘Renaissance’.)

Nonetheless the distinction should not be made too sharply. Petrarch was still prepared (albeit somewhat pragmatically) to support the rule of the Holy Roman Emperor, when it looked as if the Emperor might achieve the establishment of Italian

\(^5\) Yates, p. 13.


unity and peace. That Petrarch acknowledged a *translatio imperii* of sorts is shown, as we have seen, in his poem *Africa*: nonetheless, as is also evident, he regarded this *translatio* (to his eyes rather a seizure of the imperial power by foreigners than a legitimate transfer of authority) as a disaster; and he viewed the Empire of later centuries with scorn, as barbarous.\(^8\) Petrarch wanted a genuine return of the Empire to Rome, politically as well as geographically, and the restoration or rebirth of genuine classical culture.\(^9\)

The political unification of the peninsula did not happen. The city-states continued their accustomed particularism; many, though notionally republican, were falling into the hands of autocrats. As there was no political unification, let alone a restoration of a genuinely ‘Roman’ (that is, Italian-based) Empire, the movement for restoration and rebirth became perforce focussed on cultural matters: there was to be a revival of the culture of the classical period in spite of the continuing political fragmentation of Italy.\(^10\)

If in Petrarch’s writings we find the beginning of the humanist reassessment of the Empire, with the uncertainty to be expected of such a beginning, an unequivocal and unambiguous reassessment may be found in the writings of Leonardo Bruni. The earliest of Bruni’s extant works is a poem, *De Adventu Imperatoris*, written (c. 1397-8) in response to the projected Italian expedition of Wenceslaus of Luxemburg. In 1395, Wenceslaus began to enquire among the Italian city-states as to the possibility of his coming to Italy to be crowned. Had Wenceslaus made such an expedition, he would certainly have provoked the customary hostility of the Guelph city-states: Florence, leader of the Guelph cities, and the other cities prepared to close their gates against him and to resist his progress through Italy. The young Bruni, fired by memories of the

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\(^8\) Yates, pp. 13-14.
\(^9\) *ibid.*, p. 16.
\(^10\) Folz, p. 147, Yates, p. 16.
stirring deeds of ancient Rome, wrote a poem in the classical style, addressed to ‘Roma’ herself, the city personified. We have seen this rhetorical device used by earlier authors, but in the case of Bruni’s poem there is a significant difference. Absent is any suggestion that the king who might soon be marching through Italy at the head of an army, coming to be crowned at Rome, was Rome’s rightful ruler. On the contrary, he is an enemy, an invader, coming upon Rome like Hannibal; and Rome must remember her ancient deeds and resist him. Bruni encourages this Roman resistance with words which remind us both of those of Dante, and of those of Petrarch to Cola di Rienzo, but with a different purpose again: “War is now coming, ye Roman citizens. Lift up the shining ensigns of the bird of victory; fulfil your duty towards the fatherland!”

Throughout his writings, Bruni continues the glorification of republican Rome and the condemnation of the rule of the emperors, whether of ancient or of more recent times. Bruni argued that the struggle of the Ghibellines and the Guelphs in recent centuries had been, essentially, a renewal of the conflict between Caesar and his successors and the defenders of the Roman Republic. In ancient times, Caesar had prevailed, ending republican freedom: he had instituted a long-lasting tyrannical rule, which, by taking away liberty, had ultimately degraded Roman character and destroyed Roman virtue. (Bruni did not reject the idea that the contemporary emperors were the successors of those of antiquity: in fact his argument presupposes continuity. He regarded all emperors, whether Roman or German, as a succession of tyrants; such succession could not confer legitimacy or lawful authority.) Bruni argued that there had come, at last, a change for the better, in those times when the emperors had been weak

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11 Quoted by Baron, pp. 294-5.
12 Baron, p. 44.
13 ibid., pp. 44, 49; Yates, p. 18. Bruni (in the Dialogi ad Petrum Paulum Histrum) and other Italian humanists (such as Cristoforo Landino in his Commentary on the Divine Comedy) were troubled by the decision of Dante, whom in most respects they admired, to depict the murderers of Julius Caesar in the depths of hell: they considered Caesar to have been in the wrong, and his murderers in the right (see Baron, pp. 39-41).
and absent, and therefore not wielding their tyrannical power over Italy. In those times the spirit of freedom had stirred again in the northern cities.\(^\text{14}\) The struggle between the ‘Caesars’ and the champions of republican liberty had in ‘modern’ times been renewed: the city-states had resisted the emperor, shaken off his tyrannical rule, and, at last, obtained their independence.\(^\text{15}\)

Guelph Florence had been foremost among them, and to Bruni (his earlier poetry notwithstanding), Florence was the real inheritor of the virtue of republican Rome. It did not really matter that the free republic so important to his story had in antiquity been Rome, and in modern times was Florence. There was nothing intrinsically special about Rome: what mattered was the freedom of the city-state, the presence and nurturing of authentic classical culture. By reason of her cultivation of literature and the humanities, Florence now occupied the leading place among the free cities of Italy – equivalent to the place (to use another republican analogy) that Athens had occupied among the cities of ancient Greece.\(^\text{16}\)

In his *Vita di Petrarcha*, Bruni connected this fall and revival of the Italian city-state with the fate of literary culture. Considering the free city-state the natural home of culture, Bruni argued that the fortunes of the city-states had determined the fate of Latin culture. It had flourished in the days of the Roman Republic, but when the emperors took power and the Roman people lost their liberty, culture declined as a consequence. (Bruni, unlike his medieval predecessors, rejected the idea of a golden age under Augustus.\(^\text{17}\)) As Italy came under the rule of barbarous foreigners (by which may be understood not only the Goths and so forth of the invasions, but also the German

\(^{14}\) Yates, p. 18.

\(^{15}\) Baron, p. 44.

\(^{16}\) Bruni still took the trouble to discover an ‘authentic’ ancient heritage for Florence and for the Tuscan cities generally, arguing that the cities of Tuscany had derived their institutions not only from their foundation by republican Rome but also from ancient Etruscan ancestors (Baron, pp. 52, 361).

\(^{17}\) Yates, p. 18.
emperors, who were mere barbarians to Bruni), culture had become rough and coarse. Only when the cities of northern Italy succeeded in resisting imperial rule did culture revive. The cities of Tuscany had revived the study of classical culture; and in recent times, with Dante and Petrarch, that level of culture that had existed in antiquity had been regained.  

Although he praised republics and deprecated the Empire, Bruni did not himself repudiate the idea that the contemporary emperors were the successors of the emperors of antiquity. That idea was, however, repudiated by Flavio Biondo, who said that the true Roman empire had long ago ceased to exist, having been destroyed by the ‘barbarians’. Lorenzo Valla, similarly, said that the later emperors had had no right to be called ‘Roman’, since they had not wielded empire in Rome itself.

The Italian humanists set out to restore Latin to its classical ‘purity’ and to revive the use of Latin as it had been used in ancient times. They pored over the classics to determine what exactly each word had meant to the ancients, how each had been used, and what its connotations had been; any word not found in the classics was considered a barbarism.

By this linguistic purism and interest in the recovery of ancient vocabulary the humanists would still further change the way that the Empire was perceived. Hitherto, in the context of a discussion about states, the Holy Roman Empire was simply ‘the Empire’ without needing any further qualification. As the name of a state, ‘Empire’ was still practically a proper noun, the adjectives ‘holy’ and ‘Roman’ describing rather than

18 Baron, pp. 52, 363.
21 Koebner, Empire, p. 43.
22 ibid., p. 45.
23 ibid., pp. 43, 45.
defining it. While other kings might claim ‘imperial’ powers over their own kingdoms, and even on occasion call their sovereign authority *imperium*, there was still implicit in the use of such words some understanding that the Roman Empire, whether ancient or modern, provided the norm for political authority, and that the independent authority of the kings had descended from that empire by the lapse of time. Now the humanists’ determination to use Latin words exactly as the ancient Romans had used them would change the implications of the word *imperium* also.

The humanists considered Moerbeke’s Latin translation of the *Politics* of Aristotle, which was in common use, to be seriously defective. In dealing with the specialised vocabulary of Aristotle’s subject, Moerbeke had often simply taken Aristotle’s Greek words and given them a Latin form in which they might be used as Latin words. To the humanists this was unacceptable. Words such as *monarchia, democratia*, and *politia* were Greek words, and should not be in a Latin text. (The crucial words αρχέ and αρχειν, as we have already seen, had been rendered indeed by Latin words, but by Latin words not used in classical times, *principatus* and *principari*.)

In response to this dissatisfaction, Leonardo Bruni undertook (1435-7) a new translation of the *Politics*. In Bruni’s translation, the ‘inauthentic’ terms used by Moerbeke would be replaced by the words that would actually have been used by an ancient Roman. When it came to Aristotle’s αρχέ and αρχειν, the elementary terms for government of whatever variety, Bruni would not use Moerbeke’s *principatus* and *principari*. He used the ‘authentic’ Latin words, *imperium* and *imperare*. 24

Bruni’s choice of word was a drastic change from accepted word use. Nonetheless he used *imperium* consistently. 25 Such was Bruni’s influence, and the confidence with which he used the word, that other humanists followed his example. 26

24 Koebner, *Empire*, p. 46.
25 *ibid.*, pp. 46–47.
26 *ibid.*, 45.
By doing so, they stripped the word *imperium* of its connotations of, and associations with, the Holy Roman Empire and made it a common noun, meaning any large and powerful state, or any authority that had come to great power by force. This humanist use of *imperium* to designate certain states, combined with its use to designate sovereign authority (a use already adopted with reference to kings), meant that the word would henceforth be more generally applicable than before, and that the Holy Roman Empire had lost yet another of its unique characteristics.

**The exercise of Imperial authority in convoking the Council of Constance**

The French character of the Avignon papacy, though valued by the French monarchy, had been less popular elsewhere. It was particularly hated in the Empire, and in England, which was engaged in the Hundred Years War against France and which felt with resentment the influence of the French crown on the papacy. When, therefore, Gregory XI had decided to return to Rome, the decision had been welcomed in the Empire and in England; but the French king had been furious, foreseeing as he did the loss of a valuable advantage.

Consequently, when the election of a rival Avignonese pope split western Christendom ecclesiastically into two ‘obediences’, each having its own pope, the question of adherence to one or the other was decided, country by country, by whether the government supported or opposed the political predominance of France. France and those countries aligned to French policy – the Spanish kingdoms, Naples, Flanders and Scotland – supported Clement VII, the Avignonese pope. The Empire, under Charles IV, was foremost in support for the Roman pope, Urban VI, around whom other

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29 Jarrett, p. 211; Powers, p. 177.
countries opposed to that French predominance also rallied.\textsuperscript{30} The Emperor, champion of the Roman pope, was able to take the lead of those who supported the Roman pope, and to become the preeminent temporal ruler of the Roman obedience.\textsuperscript{31}

The Schism presented a seemingly intractable problem. The two popes created cardinals from among their supporters, and, as each of the popes died, these cardinals elected another to succeed him, thus perpetuating the schism. Neither side was willing to give in; nor was either pope willing to abdicate in the interests of unity. Proposals that the two colleges of cardinals should meet and together elect a commonly-acceptable pope broke down because neither side would recognise the cardinals on the other as legitimate cardinals with any right to take part in an election at all. Proposals were frequently made for a general council: but it was taken for granted that a general council, to be legitimate, must be convoked by the pope, and of course the two sides could not agree on who was pope.\textsuperscript{32}

William of Ockham had earlier suggested (although not with reference to the present case) that in an emergency, if those who ordinarily had the responsibility for religious leadership were unwilling or unable to exercise it, other people – such as the temporal rulers – could step in.\textsuperscript{33} Such ideas were now taken up and applied to the solution of the schism.\textsuperscript{34} It is a sign of a continuing belief in a supra-national imperial authority of some sort that it was the Emperor who was consistently spoken of first in this connection, and apart from the Christian princes in general: he was still regarded

\textsuperscript{32} Mundy, p. 7.
\textsuperscript{33} Alan Gewirth, \textit{Marsilius of Padua and Medieval Political Philosophy}, Columbia University Press, New York, 1951, p. 177; Mundy, p. 8.
\textsuperscript{34} Mundy, p. 7.
not only as the foremost Christian ruler, but as having a particular responsibility for Christendom as a whole.

The canonist Franciscus Zabarella (1360-1417) took this line in his tract *De schismate* (written 1403-1408).35 If there were a dispute between two claimants to the papacy, only a general council would be competent to decide the matter. It would fall to the cardinals in such a case to summon the council: if they did not, the emperor ought to do so.36 The emperor had a right, and indeed an obligation, to act in such circumstances, because he was the ‘advocate’ of the Church and had sworn to defend it.37 Zabarella argued that it was not really how a council was convoked that mattered, but that it was truly ‘general’, that is, representative. If it was, then once summoned it had the right to act, and whether it was convoked by the pope, by the higher churchmen, or by the temporal rulers, did not matter.38

In 1409 the cardinals (to whom, according to Zabarella, the responsibility first devolved) had finally come to an agreement and convoked a council at Pisa, which attempted to settle the schism by deposing the popes of both obediences (Gregory XII and Benedict XIII) and electing another (Alexander V).39 However, the Council of Pisa only made matters worse. Neither Gregory’s supporters nor Benedict’s accepted their depositions, and there were now three rival popes, rather than two.40

In the light of his important role in the Council, it is worth noting that Sigismund had not yet been crowned as emperor (which would have been problematic, given that there were three claimants to the papacy). If Sigismund was not emperor, how are we to

36 *ibid.*, pp. 361, 357.
37 *ibid.*, pp. 357, 361.
38 *ibid.*, pp. 312-313.
39 Mundy, p. 10.
40 *ibid.*, pp. 10-11.
explain his being able to take such a prominent role by virtue of his ‘imperial’ office as defender of the Church?

There are two possible solutions. One is that he was considered to have this role simply by being lawful ruler of the territorial empire, properly chosen by the electors, regardless of his status with respect to the Roman coronation. (This was evidently Zabarella’s opinion, for once Sigismund had been elected Zabarella began appealing to him to act to resolve the schism, that is, to fulfil a specifically imperial function as defender of the Church.\textsuperscript{41}) This view is consistent with that assessment of the imperial office which considered the imperial powers, such as they were, to belong to the German ruler as German ruler, and which treated the Roman coronation as a formality (although this assessment is more often associated with an assimilation of the Empire to the status of the other kingdoms, with a corresponding neglect of supra-national functions.)

The other possible solution is that Sigismund was able to take on this role not because it was an imperial prerogative, but simply because no-one else, whether prelate or prince, was in a position to do so. In particular, France, whose predominance had precipitated the crisis, was now troubled by the growing hostility of two factions of nobles, the Burgundians and the Orleanists (or Armagnacs), which soon turned to civil war, and by the resumption of the war with England, whose outstanding early victories left France prostrate and put an end to that pre-eminence she had until recently enjoyed. The decline in French power put Sigismund in a position of relative strength.\textsuperscript{42}

Whether prompted by Sigismund’s traditional imperial role or by his temporary position of advantage, these appeals to Sigismund to intervene in the ecclesiastical crisis could not but bolster his authority and the prestige of his title. Sigismund was determined to make good use of the opportunity. If the community of Christendom was

\textsuperscript{41} Morrissey, “Sigismund”, pp. 345, 354n, 357.

\textsuperscript{42} For this paragraph see Morrissey, “Sigismund”, pp. 353, 354n; Mundy, p. 4; Powers, p. 197.
prepared (albeit in an extraordinary situation) to concede to him the exercise of a distinctly imperial and supranational authority, and if he was able by the exercise of that authority successfully to bring the schism to an end, and better still to effect a reform of the Church, Sigismund could (with the eclipse of France) regain for the emperorship the position of pre-eminence in western Christendom which it had once held.  

The new Pisan pope, John XXIII (Baldassare Cossa), who was taken as legitimate by the majority of the Church, had come to rely entirely on Sigismund to protect him from Ladislaus of Naples, who had taken advantage of the situation to invade the Papal States, ostensibly in the name of the Roman pope. The co-operation of Sigismund and John XXIII made possible the convocation of a council and ensured that Sigismund would play a prominent part in both the choice of location and in the proceedings themselves. By doing so Sigismund took the leading role in this common enterprise of Christendom, pushing to the side the French, who had sought to be leaders of the movement for reform: the university of Paris, for example, had appealed to John XXIII to convene a council in French territory. There is not space here to recount the skilful diplomatic manoeuvres by which Sigismund managed to get everyone to agree to come to a council. It suffices to say that he did, and that, moreover, he arranged for the council to be held in a favourable location, the city of Constance – central, comparatively safe and, most importantly for Sigismund, not on French soil, but within the Empire.

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43 Powers, p. 197-8.
46 Powers, p. 199.
47 ibid., p. 199.
It was John XXIII who convoked the council, but he did so in co-operation with Sigismund, who at the same time sent out an imperial edict ordering all those concerned in the matter to come to Constance for the council.\textsuperscript{48} Even at this early stage Sigismund’s actions met with opposition from his fellow monarchs. His letters to the royal courts calling all those concerned to come to Constance had said that this summons was made ‘per imperiale officium’, and kings who had for a long time now been claiming to have no superior in temporal matters took offence at the phrase. (For example, the king of Aragon, reiterating that he “\textit{et alres reys de Spanya non regonexen per superior al emperador}”, denounced Sigismund’s attempted exercise of imperial power as “\textit{molt preiudicial}” to his sovereignty.)\textsuperscript{49}

**The exercise of Imperial authority in the course of the Council of Constance**

The Council began in late 1414.\textsuperscript{50} Sigismund himself, occupied with other matters (including his coronation as king at Aachen) did not arrive until the night before Christmas, when his company rode in procession through the streets of Constance amid a blaze of flaming torches.\textsuperscript{51} At Christmas mass, in the presence of those assembled for the council, Sigismund fulfilled an ancient tradition by singing the gospel of the day, with his crown on his head and his drawn sword in his hand. The reading was an appropriate one, beginning as it did with a text beloved of Dante and the other proponents of imperial authority: “And it came to pass in those days that there went out

\textsuperscript{48} The edict (“Summons to the Council to be held at Constance”, October 30, 1413) is in Loomis, \textit{The Council of Constance}, pp. 70-71. See also Powers, p. 199.

\textsuperscript{49} Hüglin, pp. 17-18.

\textsuperscript{50} Powers, p. 202.

a decree from Caesar Augustus that all the world should be taxed” (Saint Luke ii. 1). Sigismund thus intimated that his involvement in the council was not an intrusion by a merely temporal ruler into ecclesiastical matters: he was himself a sacred figure, with an authority given by God, and was the successor of that Augustus to whose authority the Son of God had subjected Himself. Here, at the very beginning of the council, Sigismund showed the unique and sacred authority he intended to exercise.

Before Sigismund’s arrival, the members of the council had been unsure what exactly his role was to be. In ordinary circumstances there would have been little justification for the involvement of an Emperor, or of any king, in a council, except perhaps in providing for the security of the council fathers. However, these were no ordinary circumstances. Sigismund had acted in response to appeals based on a well-accepted premiss that in this urgent case he had the duty, and therefore, obviously, the right, to summon a council. By taking the initiative in arranging the council and by securing its meeting, Sigismund had made good the old claims of emperors to be protectors of the Church, and had given new life to that imperial function. John XXIII repeatedly addressed Sigismund as ‘Advocate and Defender of the Church’, and Sigismund would use the same words for himself. It was clear, therefore, to all at the council that Sigismund had come in that capacity. The pressing question, which remained a subject of discussion as long as the council sat, was what exactly this office entailed. That Sigismund would play a prominent part was certain: the fear of the council fathers was that he intended to wield more power than they were willing to concede.

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52 Yates, p. 3.
54 Powers, p. 199n.
Zabarella had long argued that, if the ecclesiastical authorities had failed to summon a council when it was needed, it fell to the emperor and the other temporal princes to do so: acting on this principle, Zabarella had exhorted Sigismund to summon a council, and had helped him in doing so. In Zabarella’s eyes, however, such extraordinary intervention was justified only to the extent that it secured the holding of a council. Zabarella argued that, by whatever means it had been convoked or assembled, a genuine ecumenical council, once sitting, was not only legitimate but was itself an absolute and independent authority. Once the council was assembled, therefore (though Zabarella did not yet put it as bluntly as this), the emperor had done his job and had no further say in its proceedings.\textsuperscript{57}

Sigismund, however, did not want only to summon the council and to act only as its protector: he saw it as his role to direct its deliberations and its decisions, evidently considering that, by taking a decisive role himself (and presumably reducing the role of the council fathers to a giving of assent), he could settle matters himself quickly and easily, thus saving all the tedious discussions and arguments.\textsuperscript{58} Such an attempt was never going to be popular with the churchmen at the council: and before long Sigismund, faced with their opposition, resorted to threats of violence.

Although most of those present agreed that John XXIII was the legitimate pope, many thought that the only way really to resolve the schism was for all three popes to abdicate voluntarily and for a new pope to be elected about whose legitimacy there was no doubt. John was unwilling to make a commitment on the matter, and became increasingly suspicious of the council, especially after it resolved to vote by ‘nations’ rather than by head to overcome the numerical dominance of the Italian bishops, his chief supporters.\textsuperscript{59} The majority of the ‘nations’ then demanded that John abdicate for

\textsuperscript{58} ibid., pp. 361, 364.
\textsuperscript{59} Hüglin, p. 18.
the good of the Church, and agreed that if he refused he should be removed by the authority of the council.60

Sigismund’s actions at this point and over the following months brought on a crisis that almost broke up the council. Fearing that John would abandon Constance, Sigismund posted guards at the city gates, thereby alarming the council fathers, who began to fear for their independence and liberty. Consequently, many who would ordinarily have opposed John came to support him, rather than see a pope in the hands of a temporal ruler and Sigismund dominating the council. The increase in support encouraged John, who continued to defer any steps towards abdication. This persistence grieved Sigismund and his allies: by March of 1415 the ‘English nation’ was pressing for John to be taken and held prisoner. When Sigismund and his supporters broke into a meeting of the French ‘nation’, it became apparent that he intended to coerce the council into following his directions.61

John succeeded in fleeing Constance in secret by night.62 The council thereupon took an uncompromising line, declaring in the ‘Articles of Constance’ that it had authority from God over every Christian, and that every Christian, including a pope, was bound to obey it, and, failing to obey it, would be liable to ecclesiastical and, if necessary, civil sanctions.63 Thereupon they proceeded against John, who was apprehended and imprisoned. As the council prepared to try him, John realised that all was lost; and rather than go through the trial, he submitted unconditionally to the decision of the council, and was thereupon deposed.

The Roman pope, Gregory XII, who had already promised to abdicate for the good of the Church, did so: but Benedict XIII remained intransigent, even when his

61 For this paragraph, see ibid., p. 364-5.
62 ibid., p. 365.
63 Mundy, p. 12.
supporters were reduced to a tiny group. With so few supporting Benedict, the council
simply declared him deposed and thereafter paid him no attention; he, however, would
hold on to his claims until he died, ignored, in 1423. Sigismund was for a long while
absent from Constance, while he arranged the capture and return of John, while he
treated with Benedict (who had insisted on dealing personally with Sigismund and other
deleates from the council) at Perpignan, and while he attended to some other political
toubles of his own (irrelevant to our enquiry) in the territories of the empire. He
returned to the council at the beginning of 1417, as it prepared to elect a new pope.64

The council had already (in 1415) reserved the election of the pope to itself.
Fatefully, having done so before Sigismund’s heavy-handedness had become apparent,
it had in its decree said that it relied in the election on the help of Sigismund, acting as
the council’s protector and defender.65 Thereby the council had given to Sigismund a
prominent though ill-defined role in the process of choosing a new pope: Sigismund not
only held the council to this commitment, but interpreted it in the sense that accorded
him the most influence, essentially taking it to mean that he was to have charge of the
election.66 Such an intervention by a temporal ruler was objectionable to many of the
churchmen as a matter of principle: and the whole arrangement was objectionable to the
cardinals, who resented seeing their prerogative of electing a pope taken over by the
council.67 Various compromises were proposed, but all failed through the intransigence
of Sigismund, who demanded a power of veto over the council’s choice of pope.68 (It
should not be thought, however, that Sigismund was claiming the right to veto a papal
election as an ordinary imperial prerogative: he was able to make this demand only

65 ibid., p. 366.
66 Thomas E. Morrissey, “The Call for Unity at the Council of Constance: Sermons and Addresses of
because the council had, exceptionally, accorded a role in this particular election to him personally.)

This demand turned many at the council, some of the most influential council fathers among them, against Sigismund.\textsuperscript{69} Seeing opinion turning against him, Sigismund attempted a coup, by which he would have excluded those who disagreed with his policies. The crisis came when the cardinals, aggrieved and losing patience, made ready to leave Constance, an action which threatened a renewal of the schism.\textsuperscript{70} When the cardinals were persuaded to stay, it was clear that Sigismund’s coup had failed: the protests from all quarters were strong; and the parties that had accepted Sigismund’s leadership deserted him. Sigismund’s position was consequently untenable, and he had to give in.\textsuperscript{71} Finally, having been delayed in the election for almost a year by Sigismund’s intransigence, the council near the end of 1417 elected as pope Odo Colonna (Martin V) whose legitimacy was accepted by all, and who in the following year closed the council.\textsuperscript{72}

The experience of the Schism had given support to the idea, expressed quite clearly by many at Constance, that supreme authority within the Church ought to be in the hands not of the pope but of general councils meeting at regular intervals. In its thirty-ninth session the Council of Constance had passed the decree \textit{Frequens} (9 October, 1417) providing for regular councils. The Council of Basel (1431-1449), held in accordance with these stipulations, ultimately degenerated into a débâcle: nonetheless, it is important to our enquiry because it occasioned significant works on

\textsuperscript{69} Morrissey, “Sigismund”, p. 367.

\textsuperscript{70} The danger was that the cardinals might elect a pope according to the ordinary principles of canon law, while the council elected a different pope in accordance with the exceptional provisions by which it had reserved the election to itself. (Morrissey, “Sigismund”, p. 368, “Call for Unity”, p. 317n.)

\textsuperscript{71} Morrissey, “Sigismund”, p. 368; “Call for Unity”, p. 317.

\textsuperscript{72} Morrissey, “Sigismund”, p. 370.
the subject of the imperial authority by two influential figures, Nicholas Cusanus and Aeneas Sylvius Piccolomini, both of whom took a prominent part in the proceedings.

The Imperial authority in the work of Nicholas Cusanus

Relations between the council and Pope Eugene IV, always bad, deteriorated until the pope dissolved the council, which remained assembled in spite of him. Eugene declared the council schismatical; whereupon the council, declaring itself superior to the pope, summoned him to appear before it, and (when he refused) declared him contumacious and began proceedings of censure against him. Meanwhile, Sigismund made his expedition to Rome and received the imperial crown. The emperor urged both sides in the dispute not to do anything to make the matter worse, and helped to effect a temporary reconciliation.

It was at this point, at the end of 1433 or the beginning of 1434, when pope and council were in apparent concord, and when the newly-crowned emperor Sigismund had successfully acted as protector of the unity and peace of the Church, that Cusanus presented to the council of Basel his aptly-named book, *De Concordantia Catholica*, on which he had been working since his return to Basel early in 1433. In this work, Cusanus presents a view of the Empire that takes into account the contemporary reality of independent states but still affords the emperor a significant (and in the circumstances highly relevant) role in the common affairs of Christendom.

Reading *De Concordantia* one notices at once how many of the old commonplaces of imperialist thought it contains. Cusanus often writes as if he considered the Empire and the Church to be coterminous, or as if he considered the Emperor’s authority to extend absolutely over all Christendom or even over all the

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73 Nicholas Cusanus, *De Concordantia Catholica* (translated as *The Catholic Concordance* by Paul E. Sigmund, Cambridge University Press, 1991). For the date, see the introduction by Paul E. Sigmund, p. xviii.
world. Cusanus says, for instance, that the Holy Empire is the body of the Church. He also says that there is a hierarchy within the Church, arranged in order by God – a hierarchy not in spiritual things only, but also in temporal things. The body of the faithful, Cusanus writes, “is organized in a graded hierarchical order up to the one Ruler of all, as anyone can easily understand, from the lowest of the simple laity who are like the feet, through the governors, counts, marquesses, dukes, and kings, up to the emperor as the head”. Cusanus does not say merely that this is the order in the Empire, but that it is the order in the Catholic Church – which of course included countries not in reality subject to the emperor.

Moreover, Cusanus writes that the emperor “is one lord over the world who rules over the others in the fullness of power”, the equivalent in the temporal hierarchy of the pope in the spiritual. The emperor has received directly from Christ, whose Vicar on earth he is, power over everyone and everything; he “follow[s] the example of Christ in His rule over all nations”, and is invested with an imperial majesty which “is independent, first in rank and supreme”.

It is rather surprising to find such statements still made in the fifteenth century. Before long, however, it becomes apparent that few of them play any important part in Cusanus’s argument, and indeed that they are not only at odds with the general argument but explicitly contradicted by other statements developed at greater length.

For example, having claimed for the emperor a supremacy derived directly from God over all nations, Cusanus in the next chapter writes quite matter-of-factly, “We should note that his power to command does not extend beyond the territorial limits of

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74 De Concordantia Catholica, Preface, para. 3.
75 ibid., III. I. 292.
76 ibid., III. I. 293.
77 Cusanus does indeed use the papal title ‘Vicar of Christ’ for the Emperor (Book III, Chapter V title), and says that the emperor “acts as the vicar of Jesus Christ on earth” (III. V. 341).
78 De Concordantia Catholica, III. V title.
79 ibid., III. V. 340.
the empire under him”. How, then, could the emperor be considered ‘lord of the world’? Cusanus’s answer to this question nullifies his previous statements. The emperor has inherited the title of ‘lord of the world’ from the ancient Romans, because he rules the same empire as they did. The ancient Romans, in their turn, were considered to have an empire over the whole world because they had the greater part – but not, admittedly, all – of the world under their rule.

“But now we see what has become of that famed empire”, Cusanus adds pathetically. Far from minimising the difference between the title and reality, Cusanus seems now rather to draw attention to it. The emperor could be ‘lord of the world’ only if the ancient Romans did have a legal right to rule the world which they might bequeath to him: but it seems, as Cusanus argues elsewhere, that they had no such right after all. Therefore, if Cusanus is right in his argument that authority is only rightly possessed through the consent of the subjects, “then [the emperor] is only lord over those who are actually subject to him and we should conclude that the emperor is lord of that part of

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81 De Concordantia Catholica, III. VI. 343-344. Even so, what Cusanus presents as an acknowledgement that the ancient Roman empire did not cover quite the whole world ends up instead telling how little of the world it did actually cover. The Romans, he writes, “did not rule all of [the world] for they did not gain control of the Caspian Mountains and the gates of Alexander in northern Scythia, and Norway, and the areas beyond the Caspian Sea and the Himalayan Mountains, and the Kingdom of China, as well as the Persian desert towards India and the East, Arachosia and the parts of India located beyond the Indus and Ganges Rivers, and Ceylon, the largest island of all, and southern Arabia beyond the Persian Gulf towards the Indian Ocean, and the region of the Troglydyes, and Nubia, a very large area, and others located beyond the great desert of Libya and Mauritania. ¶ These regions, it appears to me from the Cosmography of Claudius Ptolemy, make up no small part of the world – in fact, almost half of the inhabitable land” (III. VI. 343-344). Cusanus then makes matters worse by adding (while arguing that Europe is, if nothing else, the most densely populated part of the world) that Europe “is not one fourth as large as Asia nor half as large as Africa” (III. VI. 346). See also Nederman, “Empire”, p. 11.
82 De Concordantia Catholica, III. VI. 347.
83 Nederman, “Empire”, pp. 11-12.
the world over which he exercises effective authority.”

Having written that the Empire is coterminous with the Church, Cusanus in another place can conclude that the Empire consists of the Kingdom of Germany, the kingdom of Italy and the Lombards, and the kingdom of Burgundy. It seems, therefore, that we must regard Cusanus’s assertions of the emperor’s universal power as a sort of respectful commonplace which he was willing to use, but to which he attached little real significance.

When Cusanus deals at length with the source of an emperor’s authority, his discussion is entirely grounded in the realities of the contemporary empire and takes up the arguments from the time of Ludwig IV. He says that an emperor derives his authority ultimately “from the common consent of all those subject to the empire”, who have by both divine and human law the right to establish an emperor over themselves.

According to Cusanus these subjects of the empire have appointed the electors to choose a ruler for them, although he does not discuss how or when they did so. It is by the common consent of the subjects that the electors have their authority to elect, and therefore from that election alone an emperor receives the fullness of his authority, the reason being “that having been elected he has received the submission of all and therefore he has the power to command which is the essence of imperial rule.”

Therefore, Cusanus continues, the one elected does not need any confirmation by the pope. The anointing and coronation of an emperor at the hands of the pope “in no way add to imperial authority”, nor are they any evidence of papal supremacy over

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84 *De Concordantia Catholica*, III. VI. 347; quoted also by Nederman, “Empire”, p. 11.
85 *De Concordantia Catholica*, III. XXVI. 483-4; see also Nederman, “Empire”, p. 12.
86 Cusanus rejects, *inter alia*, the claims that the pope effected any translatio (III. III); that the choice of an emperor, or the right of the electors to choose an emperor, depends on the pope (III. IV. title and para. 332); or that the pope can depose an emperor (III. IV).
87 *De Concordantia Catholica*, III. IV.
88 *ibid.*, III. IV. 332, 338.
89 *ibid.*, III. IV. 334.
90 *ibid.*, III. IV title.
the empire.\textsuperscript{91} Cusanus does acknowledge that “the title is changed when the pope crowns the emperor – he is called king beforehand and emperor afterwards”: but he does not consider this change to be evidence of any additional authority being conferred. It is purely a matter of a name: the title of emperor “is reserved for this solemn occasion, so that the ruler may desire to be crowned.”\textsuperscript{92} Taking to its logical conclusion the principle that the chosen ruler has full authority from the fact of his election, Cusanus writes that the one elected, since he has full power to rule, is really emperor even if he does not carry the title.\textsuperscript{93} Thereby Cusanus foreshadows, as Ludwig IV’s decree \textit{Licet Juris} had done, the change to the imperial title that would be made by Maximilian in 1508.

Although Cusanus did not really attribute to the emperor universal temporal sovereignty, he unambiguously assigned to the emperor a special task of defending the Christian faith, and, in keeping with that task, an authority over the common affairs of Christendom:\textsuperscript{94} he writes that “the highest responsibility entrusted to the Emperor – that by virtue of which he is over the others – is his role as guardian of the orthodox faith.”\textsuperscript{95} Cusanus considers this responsibility and authority to extend beyond the imperial territories: he writes, for example, that just as every king should care for his own kingdom, so the emperor should care for the whole Christian people.\textsuperscript{96} In explaining how the emperor does so, Cusanus says that the emperor “exercises his responsibility of guardianship first over those immediately subject to the empire, after that over those subject to him through princes directly under him, and then over those subject through

\textsuperscript{91} \textit{De Concordantia Catholica}, III. IV. 335-6.
\textsuperscript{92} ibid., III. IV. 336.
\textsuperscript{93} ibid., III. IV. 336.
\textsuperscript{94} Nederman, “Empire”, p. 10.
\textsuperscript{95} \textit{De Concordantia Catholica}, III. VII title.
\textsuperscript{96} ibid., III. VII. 349; quoted also by Nederman, “Empire”, p. 9.
kings and princes not properly under him who claim parallel places for themselves but recognize him as first of all."

Cusanus immediately applies this principle to ecumenical councils, which are not only the matter at hand but also, in Cusanus’s argument, the foremost instance of the exercise of the imperial office. (Cusanus draws our attention to the fact that emperors presided over the ecumenical councils of the first millennium.) First, Cusanus points out that the Church is one, transcending the boundaries of kingdoms, and that an ecumenical council, as a council of the whole Church, makes decisions which are binding on all Christians, in whatever kingdom they live. As there is (so Cusanus argues) an obligation on governors to enforce the decisions of provincial synods, and on a king to enforce the decisions of a synod of the clergy of a kingdom, so, by analogy, there must be someone with responsibility for enforcing the decisions of an ecumenical council. That person is the emperor: and because he has this task of enforcing the laws of the whole Church and defending the orthodox faith, the emperor is rightly called the Advocate of the Universal Church.

As the emperor has this responsibility, so he has the corresponding authority. Cusanus is clear on this point: because the emperor “is the guardian of the universal faith and the protector of universal statutes which could not be effectively executed without one ruler over all, and since the universal statutes respecting the Catholic faith bind all faithful Christians to maintain and apply them, all are subject to the emperor’s

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97 De Concordantia Catholica, III. VII. 349.
98 ibid., II. II. 73; III. XIII. 380; Sigmund, introduction to De Concordantia Catholica, p. xxii; see also Bryce, p. 348.
99 De Concordantia Catholica, III. VII. 355.
100 That rulers did have this responsibility – which perhaps does not go without saying – is argued by Cusanus in II. VIII; III. VII. 350; and III. IX. 364.
101 De Concordantia Catholica, III. VII. 350.
102 ibid., III. VII. 351.
rule insofar as he is established to maintain those directives."\textsuperscript{103} Therefore, if an emperor should, in the exercise of this office, make laws to ensure that the decrees of an ecumenical council were observed, those laws would bind all Christians – even those outside the territories of the empire, who would not be bound by laws that the emperor might make on other matters.\textsuperscript{104}

Cusanus also affords the Emperor an important role in the convocation and holding of a council. Again he argues that the emperor has, in the exercise of this function, an absolute authority (which he does not have in his ordinary capacity) – for “everyone, including those otherwise not subject to him, is under him in the council because of his role as protector of the council. Therefore he has jurisdiction over all of them.”\textsuperscript{105}

The emperor’s role, with respect to an ecumenical council, is the same as that contemplated by Cusanus for a king with respect to a synod of the clergy of a kingdom.\textsuperscript{106} “He should not convene it by force but by persuasion”: he draws the attention of the ecclesiastical authorities to the need for a council, and suggests the holding of a council to the pope.\textsuperscript{107} Normally, the actual convoking of the council is the responsibility of the pope, who has power to require the attendance of all faithful Christians, especially the clergy: while the emperor may command the laity, he respectfully only ‘exhorts’ the bishops to attend.\textsuperscript{108}

It is not so much the case that only the pope can call a council, as that a council (at least ordinarily) may not meet without his authorization. When a council is warranted, the emperor may call for it, but in doing so he begins by requesting the

\textsuperscript{103} De Concordantia Catholica, III. VII. 355; quoted also by Nederman, “Empire”, p. 9.
\textsuperscript{104} De Concordantia Catholica, III. VII. 356.
\textsuperscript{105} ibid., III. XVI. 406; quoted also by Nederman, “Empire”, p. 11.
\textsuperscript{106} De Concordantia Catholica, III. XIII title and para. 381.
\textsuperscript{107} ibid., III. XIII. 382.
\textsuperscript{108} ibid., III. XV. 399.
authorization of the pope and the involvement of all the bishops.\textsuperscript{109} Cusanus will allow of exceptions to this requirement of papal approval. If, “in a case involving great imminent danger of disturbance to the church”, the pope neglects or refuses to order a council, the emperor himself can do so, “since the responsibility to keep the faith has also been entrusted to the holy empire”.\textsuperscript{110} In such a case convocation by the Emperor acquires the force of a command. A similar rule obtains if the emperor requests the pope’s participation and the pope neglects to come or to send representatives, while others have “obeyed the urging of the emperor”. Ordinarily, the council should be delayed: but if “the necessity of the church – which has no law – should demand quick action”, they should proceed with the council, even without the pope.\textsuperscript{111} Indeed, in case of urgent necessity a council may be held even against the pope’s will: while ordinarily it is the pope who is to be obeyed if he opposes a meeting called for by the emperor, there may be cases in which “the necessity of the church demonstrates persuasively that it is rather the emperor who is to be obeyed.”\textsuperscript{112}

These provisions for extraordinary cases are Cusanus’s applications of a general principle. Normally, the clergy and the religious matters which are their concern are not in the power of the emperor. That rule, however, was established for the preservation and well-being of the Church, and does not hold when it would be to the Church’s detriment: therefore “when the reasons for which this holy arrangement was established do not apply – since everything was established for the preservation of the holy church – we resort then to methods appropriate for the times to attain that same end”.\textsuperscript{113}

Once a council is assembled (whether it was convoked by the pope or gathered otherwise), Cusanus suggests that the emperor, being present, ought to preside: in this

\textsuperscript{109} De Concordantia Catholica, III. XV. 400. \\
\textsuperscript{110} ibid., III. XV. 402. \\
\textsuperscript{111} ibid., III. XV. 401. \\
\textsuperscript{112} ibid., III. XV. 402. \\
\textsuperscript{113} ibid., III. XV. 402.
matter Cusanus follows the example of the early ecumenical councils, held in a time in which he considers the Church to have been at her best. Nonetheless, Cusanus lays down that laymen present at the council, the emperor not excluded, should not speak on, or make decisions on, matters of faith. That aside, the emperor has an important role. He sets the time and place of meeting; he gives advice on what business should be transacted, and presses for any necessary measures to be adopted; he guarantees the council’s freedom, protects it against oppression and intimidation, and prevents any disturbance. His representatives are to oversee the sessions and organise the speeches; and he has authority to expel from the council “those who deserve to be expelled” and to punish those who disturb the council fathers. Finally, Cusanus says, the emperor “ought to see that the statutes and definitions of the holy councils are observed by also adopting laws that inflict penalties on those who do not observe them.”

We can see, therefore, that in the treatise De Concordantia Catholica Cusanus not only suggested a meaningful role for the Holy Roman Empire of his own time, but also found a plausible means by which the conciliar movement might in better circumstances have been taken in hand and directed towards necessary reforms. Such was not, however, to be the case with the Council of Basel. The council having resumed its wonted opposition to the pope, the pope at length declared the council dissolved. Yet while most of the participants then left, a remainder continued sitting in defiance of the pope: this rump council proceeded first to elect an antipope of its own, and then to fall out with him in turn. After much internecine squabbling the council concluded with the participants’ reluctant and shame-faced submission to the legitimate pope. The ignominious end of the council of Basel was a clear demonstration that the cause of

114 De Concordantia Catholica, III. XVI. 403.
115 ibid., III. XVII. 408; III. XVIII title and paragraphs 415-417; III. XXI. 431.
116 ibid., III. XIV title and paragraph 394.
117 ibid., III. XXII. 435; see also III. XXIII. 448.
118 Mundy, pp. 13-14.
conciliarism had failed dismally: and this failure also brought to an end the prospect of
the Empire holding a place of distinction within Christendom by reason of its having a
unique role with respect to general councils.

Frederick III and Aeneas Sylvius Piccolomini

Sigismund died in 1437, the line of the house of Luxembourg thereby coming to
an end. The electors chose as his successor his son-in-law Albert, Duke of Austria, a
member of the house of Habsburg.119 Although it had given the Empire two ‘Kings of
the Romans’ in Rudolf I (1273–91) and Albert I (1298–1308),120 the house of Habsburg
had since the early fourteenth century been devoting its efforts to the consolidation and
expansion of its own dynastic lands, leaving the imperial sceptre in other hands.121
Although Albert reigned only a year, it was he who began the long succession of
Habsburg emperors;122 when he died after so short a reign, the electors, seeking stability
and continuity, chose as his successor Frederick, another member of the same family.123
Thereafter, with one insignificant exception, every emperor until the end of the Holy
Roman Empire in 1806 would be a Habsburg.124

The Habsburg emperors of the fifteenth and sixteenth centuries would have
ambitions of universal rule: Frederick III adopted for the house of Habsburg the cryptic
motto of the five vowels, A E I O U, the initials of the sentence ‘Austriae est imperare
orbi universo’, which he wrote in his own note-book.125 Nonetheless a significant

119 Bryce, p. 349; Heer, p. 121.
120 Or three, if one counts Frederick ‘the Fair’, elected as a rival to Ludwig IV.
122 Heer, p. 121.
123 Bryce, p. 349; Peter H. Wilson, The Holy Roman Empire, 1495–1806, New York: St. Martin's Press;
124 Bryce, p. 243; Heer, p. 121; Wilson, p. 19. However, that this would be so was not known at the time,
nor was such a succession yet by any means assured.
125 Heer, p. 123; Rady, p. 5; Earl Rosenthal, “The Invention of the Columnar Device of Emperor Charles
V at the Court of Burgundy in Flanders in 1516”, (Journal of the Warburg and Courtauld Institutes, Vol.
change had taken place, for the first loyalty of the Habsburgs was neither to the Empire nor to any particular realm, but to their house. Whereas former emperors had claimed and striven for universal authority as emperors, the Habsburg emperors would strive for universal rule as Habsburgs: in Frederick’s proverb it is the house of Austria, not the Roman Emperor, which is to rule the world. It was but fitting, of course, that the head of the House should wear the imperial crown: but the dominion was the dominion of the ‘House of Austria’.

Frederick’s expansionist (and, it must be admitted, rather fanciful) motto must not be taken as a summary of his policy. Frederick’s government was in fact characterised by a distinct reluctance to act without necessity. In the event, this policy, by which Frederick refused to be drawn into conflicts and remained aloof from crises, did not serve him badly: he was to enjoy a long and stable reign.\(^\text{126}\) He was, however, to disappoint those who hoped for an emperor who would put the affairs of Christendom to rights.

One such was Aeneas Sylvius Piccolomini, one of the foremost humanists of his day, and eventually pope. Aeneas had begun his career at the Council of Basel: the quarrelling at the council, and the way in which its conduct damaged rather than fostered the unity of Christendom, had shown him the shortcomings of conciliarism.\(^\text{127}\) In 1437, the year in which the final break between the council and the pope would come, Aeneas had turned to the emperor, asking Sigismund to rescue the council, and with it all of Christendom.\(^\text{128}\) When at length he realised that no good could be any

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\(^{36}\) (1973), pp. 198-230), p. 222. The different interpretations of the vowel-motto were all variations on this theme: *Austria erit in orbe ultima; Aquila Eius Iustae Omnia Vincet; Alles Erdreich ist Österreich underthan.*

\(^{126}\) Heer, pp. 123-124.


\(^{128}\) ibid., p. 473.
longer expected of the council, now a remnant sitting in defiance of the pope and with scarcely any support, Aeneas left Basel, and took a job with the Emperor Frederick at Vienna. “You will find me here with this prince, cast here by the storms raging within the church”, he told a friend. “I am happy to have found a safe harbour where I can now live far from the disputes of the clergy.”

Still troubled by the disunity of Christendom, both ecclesiastical and political, Aeneas came to see a possible centre of unity in the emperor. This idea led him to a belief in an ideal, overarching imperial authority, a belief essentially very similar to that of theorists of the high middle ages. Aeneas, by then Frederick III’s secretary, was frustrated by his master’s inactivity, having not yet realised that this reluctance to act was Frederick’s permanent policy. Partly to encourage Frederick, Aeneas wrote two tracts, the Pentalogus in 1443, and in 1446 the De Ortu. The Pentalogus (which need not detain us long) contains a detailed though scarcely realistic programme for the emperor, encouraging him, having first obtained possession of Italy, to establish the unity of Europe in a Christian commonwealth with one spiritual head, the pope, and one temporal head, the emperor: the establishment of such unity would then allow the emperor to reconquer the Holy Land. Unsurprisingly, Frederick did not take up this programme, a failure which caused Aeneas considerable (though temporary) disillusionment with the imperial office, and with Frederick in particular.

In his conciliar days Aeneas had based his theory of government on the idea of a consensus communis, which he had considered, at the time, to be embodied in the

129 Toews, p. 474.
130 ibid., p. 478.
131 ibid., p. 474.
132 ibid., p. 478.
council of Basel. When he saw that council failing, he reconsidered the matter, and evidently found the embodiment of the *consensus* in the Empire.\(^{135}\) Now, Aeneas’s experiences of Frederick made him doubt whether someone so reluctant to fulfil the duties urged on him really justified such a confidence:\(^{136}\) but finding no plausible centre of unity elsewhere, he reaffirmed his belief in the Empire’s special role, while considering the responsibility for it to be in the hands not of the emperor only but also of the princes.\(^{137}\) Here, too, Aeneas was to be disillusioned, for the discord and selfishness of the electors and other princes that he witnessed at the Diet of Nuremberg in 1444 convinced him that they too were unworthy of such a role.\(^{138}\)

Despite several years’ direct experience of the realities of the imperial government leaving him disillusioned both by Frederick and by the larger council of the emperor and the princes, Aeneas still saw the Empire as an institution capable of giving religious and political unity to Christendom. Nonetheless the direction of his thoughts underwent a surprising change: for he turned from his disillusionment with the princes to an adherence to absolute monarchy, embodied in Frederick.\(^{139}\) The supreme power, he would write, loves unity and of its own accord flees from the many to the one:\(^{140}\) Aeneas’s thoughts seem to have taken the same course. He abandoned the idea of the *consensus communis*, and in *De Ortu* makes no mention of it, even in his abstract discussion of the origins of civil government.

\(^{135}\) Toews, p. 475.

\(^{136}\) ibid., pp. 478-9.

\(^{137}\) ibid., p. 479.

\(^{138}\) ibid., pp. 479-80.

\(^{139}\) ibid., p. 480.

Likewise, Aeneas repudiated any notion of the emperor sharing any of his authority with the princes, or of his having any greater authority with them than on his own. Aeneas writes that there are some (though he does not mention that he was once among them) who would appeal to the emperor and the electoral princes together, as if the emperor were greater in the company of the princes than he is alone. Aeneas argues that if that were true, then one might appeal from the emperor and the electors together to a larger group, in which the other princes were included also; and so on indefinitely. He dismisses such a claim, saying that the emperor has as much power without the princes as with them; for in the emperor is supreme power, and to supreme power nothing can be added.\textsuperscript{141}

Aeneas now hoped that the conflicts between the German princes, which so disturbed the peace and unity of the empire, might be resolved if Frederick were induced to assert his authority forcefully. It was to encourage Frederick to do so that Aeneas wrote the treatise \textit{De Ortu}.

\textbf{The Imperial authority in the \textit{Epistola de Ortu et Auctoritate Imperii Romani}}

Evidently hoping thereby to inspire his master to action, Aeneas in \textit{De Ortu} set forth the power and authority of the emperor in the most expansive terms.\textsuperscript{142} The treatise contains nothing less than a full theory of civil government, in which Aeneas argues that the very nature of good government itself requires the existence of a universal ruler. Aeneas begins with a discussion of the origins of government, taking an explanation made by earlier medieval theorists such as Thomas Aquinas and John of


\textsuperscript{142} Burns, p. 115; Toews, p. 480.
Paris, but drawing from it conclusions that they had not drawn. After our first parents were banished from Eden, Aeneas writes, the people of early ages lived in the wilderness after the manner of wild beasts, having nothing to do with one another. With time, it became apparent how many benefits would come from their co-operation: living together as neighbours and friends increased the wellbeing of all. It was on this mutual association and co-operation for the common good that society itself was (and is) founded. Yet though much good comes from society, there is also in it a danger to the common good because of human wickedness. When it was found that some people broke faith, disturbed the peace, and did evil to others, destroying the common good for the sake of which people lived in society, government was instituted to protect that good. Thus there came to be kings.

Thus far Aeneas is not saying anything particularly new. He differs from his predecessors in carrying this line of argument further than they had done. John of Paris, for example, considered the kingdom, or even the city, the logical conclusion of the process of establishing government. He argued that while a household or small village does not provide everything needed for a full life, a city or a kingdom does. Co-operation for the common good must, therefore, reach that level: but he saw no need to carry it further, once ‘everything necessary for a full life’ had been supplied. Aeneas looked at the matter from a different perspective. Although kingdoms had been instituted to serve the common good, he argued, they could not be the end of the process

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144 De Ortu, p. 54; see also Nederman, “Empire”, p. 503.
145 De Ortu, pp. 54, 56; see also Nederman, “Empire”, p. 508.
146 Indeed he argued that not only was it impossible for one ruler to govern the whole world, it was undesirable, because different nations with their different circumstances and cultures needed to be governed differently, and thus needed their own sovereign rulers. (Walter Ullmann, “The Development of the Medieval Idea of Sovereignty”, (English Historical Review, Vol. 64, 1949, pp. 1-33), pp. 16-17.)
of political co-operation, since, despite the intentions with which they were established, there was to be found in them a threat to that common good which they were meant to ensure. Aeneas argued that there was an intrinsic fault in the existence of kingship itself, insofar as it had been instituted not in one place only, but in many places and among many peoples. Thus there had come to be many kings, ruling over many kingdoms: and these kings inevitably came into conflict because the interests of their kingdoms were different. Such conflicts were caused not only by wrong-doing: they were the inevitable result of the world’s having many kings. Since no king was subject to another, there was no way to put an end to their quarrels but by the sword. The strife between kingdoms hindered that common human society which ought to exist between cities, provinces and peoples, as well as between individual men and women.\footnote{147}{De Ortu, pp. 56, 58; see also Nederman, “Empire”, p. 508.}

However well kings might govern their own territories, Aeneas argues, the existence of a plurality of governments ultimately harms mankind as a whole. By obstructing and militating against the mutual association of people for common benefit, it defeats the purpose for which government is instituted.\footnote{148}{See also Nederman, “Empire”, pp. 503, 510.} By Aeneas’s theory of politics, therefore, the existence of a multiplicity of independent states is irreconcilable with the grounds of legitimate government. Only a universal empire can really exercise legitimate government, since only a universal empire is able to do the job for which government is instituted, not only ensuring internal peace in one place, but ensuring complete peace for the whole world and the whole human race. As nature had disposed that the deeds of private men should be regulated by the just moderation of kings, so, Aeneas concludes, one prince was needed to do likewise with these same kings.\footnote{149}{De Ortu, p. 58.}

Aeneas then tells how ‘benign providence’ was pleased to reduce the multiplicity of independent states to one principate. He writes of the Assyrian empire, of
that of the Medes and Persians, of that of Alexander the Great.\footnote{De Ortu, p. 58; Burns, p. 116.} But as none of these empires, Aeneas says, was able to subdue the whole world, and thus give universal peace, it pleased nature, or nature’s lord and master, God, to raise up the Roman empire.\footnote{De Ortu, p. 58.} This empire came to dominate all nations, “neither was there any people in the whole world, who did not bow the neck to the empire”.\footnote{ibid., p. 66.} When a time came when neither the people nor the senate nor the other magistrates were sound enough to govern the provinces and the city, it became necessary to put government into the hands of one man, Julius Caesar, through whom the rule of the commonwealth was transferred to the emperors for ever.\footnote{Per eum namque regimina rei publice ad imperatores perpetuo sunt translata. (De Ortu, p. 60; quoted also by Burns, p. 116.)} By the \textit{lex regia} the people had conferred upon the emperor not only all their empire, but also whatever supreme power was in their possession.\footnote{De Ortu, pp. 66, 84; see also Burns, p. 116.} Thus to the sole government of the world was given the best possible form of government, Aeneas argues, since “neither a popular regime, which is called ‘politic’, nor one by the best citizens, called ‘aristocratic’, was able to be as just and peaceable as the monarchic, which we recognise in the Roman prince.”\footnote{De Ortu, p. 66; Burns, p. 116.} In the establishment of the universal Roman monarchy, that form of government had at last been instituted that would truly serve the common good and fulfil the purpose for which governments were founded.

Aeneas’s argument takes up all the commonplaces and familiar proof-texts of the high medieval imperialists. Not only was the authority of the emperor introduced by nature for the public good, Aeneas argues, but was approved by Christ Himself, who chose to be born at the time of the universal census; who bade His hearers pay taxes to Caesar; and who recognised the authority of the emperor when He said that Pilate could
not have any authority over Him, unless it were given him from above.\textsuperscript{156} Aeneas uses even the allegories of the two swords and the two luminaries – normally employed in arguments for papal supremacy over temporal rulers – to show that there are ultimately two authorities only, and that the Empire is the sole authority in temporal things.\textsuperscript{157} Aeneas concludes this section by saying that while the Empire stands, Antichrist will not come.\textsuperscript{158}

Aeneas discusses only perfunctorily how the imperial authority came to the German kings. He tells that this universal, monarchical, Roman government was wielded sometimes by men of different nations, and was for a long time held by the Greeks, having its seat at Constantinople, during which time the succession was “now by the election of the senate, now by the calling of the people, now by the favour of the military, now by the ordination of the prince.”\textsuperscript{159} At last, when the Greeks had become negligent of Rome, the Roman people, “who by their blood obtained such empire, and who by their own virtues founded the monarchy of the world”, acclaimed Charlemagne as emperor, “with the consent of the supreme pontiff concurring.”\textsuperscript{160} Thus the Roman empire came to the Germans, coming at last to Frederick III, who now held it by lawful election.\textsuperscript{161}

To Frederick, then, the supreme power in temporal things is committed from on high: to his empire all peoples, all nations, all kings and princes, ought freely to submit themselves. Just as in spiritual matters all are subject to the pope, so in temporal matters all princes and peoples are to be subject to the emperor, who is lord of the world.\textsuperscript{162}

Reason itself shows that there ought to be one prince, who keeps the peace, puts an end

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\begin{enumerate}
\item De Ortu, pp. 60, 62.\textsuperscript{156}
\item ibid., pp. 62, 64; Toews, p. 481.\textsuperscript{157}
\item De Ortu, p. 64.\textsuperscript{158}
\item ibid., p. 66.\textsuperscript{159}
\item ibid., pp. 66, 68.\textsuperscript{160}
\item ibid., p. 68.\textsuperscript{161}
\item ibid., p. 68.\textsuperscript{162}
\end{enumerate}
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to quarrels, administers justice, and is at the head of all temporal things: and it is manifest that this one prince is the Roman emperor, since this dignity has so long remained in his possession. Indeed, although some might refuse to submit to the Roman empire, since the time of Augustus no one would dare to lay claim to being lord of the world except by virtue of being Roman emperor.  

Aeneas rejects altogether the possibility that anyone could have become exempt from the Empire’s jurisdiction. Intrinsically, any exemption is impossible and invalid, since it would be incompatible with the purpose of government (at least as Aeneas understood it). According to Aeneas, those who claim to be exempt do so on the grounds either of having been granted independence by imperial authority, or of having won or earned their independence by their own virtue or strength. Aeneas denies the validity of both reasons.

Though the emperor has power over all lands and all people, Aeneas argues, he has not the power to part with any of his jurisdiction, for doing so would defeat the purpose for which his authority was established. If the emperor could grant independence to other rulers, that disorder would reappear which had made a universal empire necessary, and which it had been established to prevent. The multitude of independent powers would come into conflict – Aeneas writes as if these things had not in fact happened – and, there being no supreme authority who could reconcile all strifes, there would be discords, rapine, murders, and wars. Aeneas concludes that no emperor could validly use his authority, given him for the preservation of peace, to do anything

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163 De Ortu, pp. 68, 70.
165 De Ortu, pp. 70, 74.
that would destroy that peace: therefore, any grants of independence by an emperor would be void.\textsuperscript{166}

Aeneas likewise rejects the argument that some rulers gained their independence lawfully for themselves. The argument in this case (at least according to Aeneas) is that certain territories, once provinces of the Empire, had been occupied by barbarians and thus lost. The ancestors of the present kings had wrested the kingdoms from these invaders by their own arms, and had thus rightfully taken them for their own. Aeneas dismisses this argument: if the territories had belonged to the emperor and been unjustly taken away, they ought to have been returned to the emperor, not kept by those who regained them. Nothing founded on injury or wrong-doing can confer any lawful right.\textsuperscript{167}

More importantly, anything which would set up beside the Empire another similar power, recognising no superior, would deprive all human society of that concord which only a universal monarchy can give. To claim independence therefore selfishly sets one’s private good over the good of the whole human race – which cannot be lawful or right. Since the purpose of government (which it obtains its legitimacy from fulfilling) is to maintain human association and co-operation for the common good, no form of government could be legitimate that hindered the attainment of that end – which any government claiming independence from the empire would be doing.\textsuperscript{168}

Aeneas did not on this account argue that the rule of kings was itself illegitimate, but only that any claim to independence on their part was illegitimate. He willingly recognised their possession and ordinary authority, but as vicars or representatives of the emperor, not as independent sovereigns. He insisted that the other kings were under the emperor, and must recognise that subjection; that the emperor was to correct them if

\textsuperscript{166} De Ortu, pp. 70-74.
\textsuperscript{167} ibid., p. 74.
\textsuperscript{168} ibid., p. 74.
they became tyrants; that the emperor was to settle disputes between them; indeed, that in all matters pertaining to the common good they were to refuse nothing which he commanded, but rather to render to him, their lord, all that they would demand of their own subjects.¹⁶⁹

Aeneas ascribes to the Empire the universal, absolute, all-encompassing authority ascribed to it by Dante or any of the staunchest imperialists of the high middle ages. Most of the arguments in De Ortu are familiar: they are the commonplaces of highest imperialism. For this very reason one is astounded to meet them in a work of the fifteenth century. The arguments made, for example, in De Monarchia were already being dismissed or ignored in the thirteenth century, and the impossibility of such proposals being realised was already evident then: yet here the same arguments and the same proposals are made again some two-and-a-half centuries later.

Moreover, these high imperialist arguments were indeed being made again: they were not simply still being made. Even pro-imperial theorists had been obliged over the previous centuries to temper their assertions of imperial authority to a considerable degree, as we have seen, for example, in the work of Aeneas’s contemporary Cusanus. None of those concessions can be found in De Ortu. It not only goes far beyond anything that might really be obtained, it also revives claims of universal imperial authority long abandoned by the imperial court – claims which Frederick III was not making, and which no emperor of that century would make. In this respect, perhaps the most fitting comment on the treatise is the fact that Frederick III completely ignored it. Aeneas’s doctrinaire adherence to the Empire is strange enough in these circumstances. It is stranger still when one considers that he came to his opinions as an adult, having worked as an imperial secretary and an international diplomat, and therefore having had

¹⁶⁹ De Ortu, pp. 74, 76, and also p. 96; and see also the discussion in Nederman, “Empire”, p. 512.
considerable personal experience both of the imperial government and of European politics.\footnote{Toews, p. 472.}

**Aeneas as Pope Pius II**

As we have seen, Aeneas’s opinions had changed several times before he came to his conviction that supreme and universal authority was invested personally in the emperor. Once he had come to that conviction, however, there was no significant change in Aeneas’s opinions.\footnote{ibid., p. 482.} Indeed, his belief in the Emperor’s universal authority was part of a coherent view of a Christendom united under one spiritual and one temporal head.\footnote{See for instance *De Ortu*, pp. 92-94; Toews, pp. 476, 481.} Such a belief naturally led Aeneas to emphasize the singular authority not only of the emperor but also of the pope.\footnote{Toews, pp. 481-2.} In ecclesiastical matters, therefore, Aeneas supported a centralized government, with supreme authority in the pope’s hands, rather than the decentralized government sought by conciliarists. (In this respect, too, Aeneas’s opinions had changed considerably from those he had held as a conciliarist supporter of the Council of Basel.)

In 1458 Aeneas succeeded Calixtus III as pope, taking the name Pius II.\footnote{ibid., p. 471.} This name was chosen, not on account of the previous Pius (a second-century martyr), but because *pius* is the epithet used so often by Virgil to describe the original Aeneas, already the new pope’s namesake. The unusual choice of a papal name honouring a legendary pagan is often taken as a sign of the new pope’s continuing humanist interests. In the light of his adherence to the imperial idea, we can see that the name also has an imperialist dimension. The original *pius Aeneas* was the legendary ancestor of
the imperial Roman people; while Virgil, from whose works the name is taken, was the imperialist poet *par excellence* of ancient times.\(^{175}\)

In former times, even a supporter of the Empire, if he became pope, would necessarily be involved in maintaining the interests of the papacy, and consequently could not be an unreserved advocate of the Empire. Such was not the case now, and Aeneas seems as pope to have held unchanged the view of the Empire he had held before his election.\(^{176}\) He need not fear that Frederick III would compromise the rights of the papacy in asserting those of the Empire. On the contrary, the pope’s chief problem was Frederick’s neglect of the imperial functions which he thought he ought to be fulfilling – in this case the leadership of a projected crusade against the Turks. Disappointed, the pope increasingly chided the emperor for his negligence.\(^{177}\) even as pope, Aeneas was more of an imperialist than the emperor was.

That someone such as Aeneas could argue for the universal authority of the Holy Roman Emperor shows that, even in the last decades of the middle ages, the imperial idea could still captivate the minds of intelligent people – despite the extreme unlikeliness, as good as impossibility, of its realisation. That it did so indicates that its appeal by this time was no longer to the intellect but to the imagination.

**Maximilian I, *Imperator electus of the Holy Roman Empire of the German Nation***

In 1486 the electors had, in a *viva imperatore* election, chosen as *Rex Romanorum* Frederick’s twenty-six-year-old son Maximilian, who succeeded to the rule of Germany on his father’s death.\(^{178}\) Maximilian would be responsible for two significant changes to the imperial office, which together bring to a close the period we are examining.

\(^{175}\) Heer, pp. 7, 124.
\(^{176}\) Toews, p. 486.
\(^{177}\) *ibid.*, p. 486.
\(^{178}\) Heer, p. 126.
We have seen how, over the preceding centuries, the Empire had not only contracted but had also gradually lost its international character. Maximilian, recognising this change, altered the name of the Empire to indicate its basic equivalence to Germany: to the words *Sacrum Imperium Romanum* he added *Nationis Teutonicae*, making the empire the ‘Holy Roman Empire of the German Nation’.\(^{179}\) In this change was recognised and finalised the Empire’s transformation from an international to a national authority.

The second significant change was occasioned by the renewal of warfare in Italy, with the French kings invading the country (over which the imperial authority existed only in name). Pope Alexander VI had communicated with Louis XII of France, offering to crown him emperor. Hearing of this offer, Maximilian proposed to go into Italy with a military force to prevent the French king from reaching Rome, and to take the imperial crown for himself. When, in 1507, he was ready to set out, the Republic of Venice (which had never been subject to any western emperors\(^{180}\)) denied him permission to cross its territory. While in Trent, unable to reach Rome to claim the imperial crown, Maximilian, already *Rex Romanorum*, made sure of his grasp of the imperial office by assuming the title of *Imperator Electus* (February 1508).\(^{181}\)

This title can be interpreted as *emperor-elect*, in the sense of an emperor-to-be, a person chosen to be emperor but not emperor yet; but it can also be understood to mean ‘elected emperor’, an interpretation that seems to me more likely. We have already encountered the theory that the German monarch received all his authority from his election and that the one elected had all the authority of an emperor even if, being yet uncrowned, he did not enjoy the title. It is a logical step from holding such opinions to


\(^{180}\) Bryce, pp. 187-188.

\(^{181}\) *ibid.*, p. 365; Folz, p. 161; Heer, p. 139.
calling the one elected ‘emperor’ at once, regardless of the lack of an imperial coronation. In such a case the adjective *electus*, rather than qualifying the title and diminishing its significance, reinforces the principle that the emperor derives his authority from election and, by drawing attention to the fact that he had been elected, reinforces his legitimacy. That this is so is suggested also by the fact that Maximilian, after his adoption of this title, wrote to the estates of the Empire concerning the forms of address to be used from then on: formally, and in writing, he was to be *imperator electus*, but in speech, for the sake of convenience, he might simply be called ‘emperor’.\(^{182}\) Such usage suggests that *electus* is a descriptive epithet, not a qualifying adjective necessary to define the exact nature of the title.

Maximilian simply informed the pope of this unilateral change, and never did make the trip to Rome to be crowned:\(^{183}\) the new title was subsequently recognised by Pope Julius II,\(^{184}\) and used by all of Maximilian’s successors.\(^{185}\) Thereafter, with the exception of Charles V, none of the Holy Roman Emperors (as we may now call them, whether crowned or not) was to take the trouble to go to Italy to seek the imperial crown at the pope’s hand.\(^{186}\)

That this change of title could be made without disturbance may be attributed to the fact that the German monarchs were not at this time claiming imperial rights in the Italian peninsula, which had always been what gave the popes a reason to insist on their personal approbation of German monarchs and prospective emperors: Julius II was willing to recognise the title because he was glad not to have the German monarchs coming to Rome. The change also recognises the transformation in the constitution of

\(^{182}\) Heer, p. 139; see also Bryce, pp. 365, 531.


\(^{184}\) Bryce, pp. 365, 531; Heer, p. 139.

\(^{185}\) Bryce, p. 535.

\(^{186}\) Folz, p. 161.
the Empire, whereby the Empire becomes merely an institution for the government of Germany: the emperors succeed automatically by virtue of their recognition in Germany, without needing the approval of or coronation by the pope. Ultimately the Empire’s independence was obtained by its contraction to Germany and its assimilation to the status of other polities.
Conclusion

We have seen in this thesis that the concept of Empire existed in the later middle ages in several distinct forms, with differing ideas as to the source, nature, and extent of Imperial authority.

When the Empire enjoyed its greatest power – that is, in the time before the investiture controversy with the papacy – it would seem that no clear theory of Empire had been worked out, inasmuch as the Empire had no need to justify either its existence or its authority. Moreover, as the Empire’s actual power was vast, no further claim to universal authority was pressed. It was the investiture controversy, with its assertions of papal authority over emperors and the subsequent deposition of the emperors from the foremost position in Christendom, that impelled the emperors and their supporters to develop a coherent alternative theory of the imperial authority. It is therefore in the subsequent era, that of the Hohenstaufens, that we find the emperors themselves most definitely asserting their authority, even though it was not the time of the Empire’s greatest power.

This period also saw the articulation of a concept of Empire that might be called specifically ‘Imperialist’. To rebuff the popes, who contrasted the sanctity of their own office with the mundane character of temporal rule, the Empire was called ‘holy’, the *Sacrum Imperium Romanum*. In the words and deeds particularly of Frederick Barbarossa and his court, we see an idea of Empire in which the imperial authority was vested in the German monarchs, not by the gift of the pope, nor subject to papal approval, but by God’s will; in which individual emperors had their authority directly from God; and in which the Emperor had both charge of the Church, and a duty of guardianship, even of correction, toward the Papacy.
Beside this emphasis on the Empire’s sanctity was a new conception of its universality, based largely on Roman law. The Roman law had called the emperor \textit{dominus mundi}, and had ascribed to him supreme authority throughout the world; to him, it said, ‘the people’ had in ancient times granted the fullness of authority and power; whatever he would was law. Imperial supporters argued that the Holy Roman Emperor enjoyed the same prerogatives as his ancient predecessors: he had supreme and universal temporal authority, and his was the court of final appeal. According to this conception of the Empire, all other kings were, in the last resort, subject to the Emperor; they could even be described, as they were by Rainald of Dassel, as mere \textit{reguli} or \textit{provinciarum reges}.

Beside this ‘imperialist’ concept may be set the specifically ‘Roman’ idea of the Empire – in a sense the oldest, since it was simply the contemporary application of principles from ancient Roman times, although in its medieval form it was first clearly enunciated by Arnold of Brescia. We find this understanding of the Empire expressed by the delegates whom the Roman people sent to Frederick Barbarossa. The Roman idea of Empire considered the imperial authority to reside ultimately with the people of Rome, who, according to the theory, conferred it on the Roman emperor. The continued line of ‘Roman’ emperors and the continued existence of a political entity called the ‘Roman Empire’ had given the Roman people cause to think that they ought logically to enjoy the same status and authority as their predecessors in ancient times. By rights, it was argued, the Roman people ought to rule, whether directly or by proxy, all the lands they had ever ruled – even the whole world, since by one reckoning the jurisdiction of the ancient Roman empire had been world-wide. In one manifestation of this Roman idea, it sufficed that the Romans were recognised as the ultimate source of the authority of the emperor, German though he was. In another, the Romans sought to exercise a
right to choose, reject, or depose the emperor, or even to revoke the supreme authority from the emperors to themselves, and once again to rule the world directly.

The ‘Papal’ idea of the Empire held a special place in a general conception of supreme papal authority. The earlier justification of papal temporal authority by an appeal to the Donation of Constantine gave way in the central middle ages to the idea that the papacy had been endowed by Christ with *a plentitudo potestatis*, complete authority over all things spiritual and temporal. The papal conception of the Empire, however, was not simply the application thereto of a general theory of papal supremacy, which was applied equally to other realms: the Empire was subject to particular and unique papal intervention. No-one could be Emperor unless he had been crowned at Rome by the hands of the pope. It was the German monarchs who, as a matter of course, received the imperial crown: this settling of the imperial dignity with the Germans had in itself been effected by the popes. Because the German monarch was a prospective emperor, he could be German monarch only subject to the pope’s approval. Whereas other rulers might succeed according to the laws of their own kingdoms (subject, the popes said, to papal intervention if necessary), the popes claimed the right to examine, and to approve or reject, each German monarch in particular, or even to choose the German kings themselves. They did so on the grounds of the Empire’s specific role as protector of the Church, and took the fact that the papal authority had ‘transferred the Empire’ in the case of Charlemagne as proof of the authority of the popes over the Empire. Finally, the popes maintained that they could – and on occasion threatened that they would – again transfer the imperial authority, and with it the non-German territories of the Empire, from the German monarchy to some other monarchy altogether.

The papal idea of Empire, however, was not always concerned only with the subordination of the Empire to the Papacy. If the conception of the Emperor as defender
of the Papacy was most often invoked to require submission and obedience, it could also concede to a submissive emperor a special role as temporal executor of the papacy’s supreme power. It is in this sense that the arch-papalist Boniface VIII, even while insisting on his own supremacy over all people, could, once Albert I had pledged his loyalty, insist that all temporal rulers were subject to the Emperor and that there could be no exemption from his authority.

We can also distinguish a peculiarly French conception of the Empire: it is characterised by a combination on the part of the French kings of the assertion of French independence with a long-held desire for the imperial dignity. The kings of France, in arguing for their independence from the imperial authority, did not repudiate outright the idea of a supranational imperial authority: rather, they postulated a unique exemption for France on the grounds of her status as part of the Carolingian empire. Meanwhile, they conceded to the Empire jurisdiction over all other kingdoms.

Their doing so was not disinterested: the French monarchs long contemplated the possibility of another translatio imperii, by which ‘the Empire’ would be transferred by papal authority from the German monarchy to the French. ‘The Empire’ here meant both the supranational ‘imperial’ authority then held by the German monarchy, and, going with it, the rule of the non-German ‘imperial’ territories of Italy and Burgundy, which were ruled by Germany as part of Germany’s ‘having the Empire’.¹ This ambition on the part of the French kings, as well as indicating a desire for territorial expansion, also indicates the continued importance of the imperial authority even

¹ Very little attention is given in the existing scholarship to the constitutional history of the Kingdom of Burgundy or Arles, presumably because the kingdom disappeared and is not the predecessor of any modern state. Norman Davies has given a useful and interesting account of its general history in his Vanished Kingdoms (Viking, Penguin, 2011): however, a full-length scholarly work is sorely needed. In relation to the questions discussed in this thesis, for example, it would be useful if future research could tell us more about how Burgundy, alongside Italy, came to be considered an especially ‘imperial’ territory held by (and thus distinct from) Germany, especially as Burgundy was largely assimilated to Germany in other constitutional respects.
outside the territorial empire. The role of protector of the Church and, still more, the position of pre-eminent temporal ruler of Christendom were sought by French monarchs as a fitting accompaniment to their greater power in the later middle ages and as part of the legacy of Charlemagne. It has not been within the scope of this thesis to give to the suggested *translatio imperii* from the German to the French monarchs the detailed and close examination that could conceivably be given to it. There is still much that is unclear about the extent to which a *translatio imperii* was contemplated by both the papacy and the French monarchy, and about how the idea came to be abandoned: this is a subject that would abundantly reward further research.

After the prospect of another *translatio imperii* became unlikely, the French kings for centuries made a policy of putting either themselves or their close relatives forward as candidates for election to the German kingship. If the imperial dignity was not to be transferred to the French monarchy *per se*, French monarchs sought nonetheless to take advantage of the Holy Roman Empire’s elective monarchy to put a Frenchman on the imperial throne.²

Just as the French monarchs had done, so other kings and their spokesmen argued for the independence of their several kingdoms from the Empire. In doing so they created what might be considered an ‘imperial’ idea of their own. At first, the authority of the Emperor was still regarded as normative and as the default position. Claims of independence in general were long advanced in terms of special exemptions or due to a lapse of the imperial authority through its not having been exercised. (The general acceptance of these piecemeal assertions of independence would fatally damage the conception of the imperial authority as intrinsically universal, since nothing can be

² It has not been my intention in this thesis to examine individual French candidatures in detail. The interested reader is referred to Gaston Zeller, “Les Rois de France Candidats a l’Empire: Essai sur l’Idéologie Impériale en France” (*Revue Historique*, 173 (1934), pp. 273-311, 497-534), which discusses the matter at length.
genuinely universal if there are numerous exemptions from it.) Even after it became axiomatic that the emperor’s authority extended only to the territories under his actual rule, elements of the normativity of the imperial authority long survived – for example, in the definition of sovereignty by the dictum that ‘a king is emperor in his own kingdom’.

The rediscovery of the political works of Aristotle provided a way of discussing politics that did not appeal to Roman law or to theological premises – and, moreover, that did not include the Empire. The Aristotelian conception of the state, coupled with the assimilation of the kings to the position of the princeps in the Roman law-codes, allowed for the establishment of a sound theory of the sovereignty of kingdoms, and so of their independence from the Empire. But Aristotelianism, while ignoring the Empire, did not in itself preclude it: nor was it irreconcilable with imperialism, if one believed in the Empire’s universal authority on other grounds. Political theorists writing after this revival of Aristotelian thought, particularly Dante, would be able not only to reconcile Aristotelian ideas with imperialism, but even to use Aristotelian premises in arguing for the imperial authority.

After the long-lasting welter following the fall of the Hohenstaufen, the reign of Henry VII (the first actual emperor since Frederick II) saw the last great assertion of the ‘Imperialist’ idea of the Empire. Henry himself insisted in no uncertain terms on his own supremacy and international authority, as we see both in his Coronation Encyclical and in his prosecution of King Robert of Naples for treason. It is, however, in the writings of his supporter Dante that we find the clearest presentation of the Imperialist idea, and in its fullest and highest form. Dante’s De Monarchia is the epitome and the locus classicus of imperialist thought, not only because of the character of the book itself, but because its composition was so closely involved with a genuine assertion – and indeed the last such – of these imperial claims by an emperor himself.
The reign of Henry VII saw also the ruling by Clement V, in the bull *Pastoralis cura* occasioned by the matter of Robert of Naples, that temporal authority is territorially limited. The ruling gave undisputed papal sanction to an already existing situation, that is, that kings would no longer recognise imperial overlordship, and that prevailing political thought recognised their legal independence. Subsequent emperors, it would seem, acquiesced in the independence of their fellow kings: thereafter we find the claim to universal rule only seldom, and then as a mere formality, in the mouths of German rulers, although not necessarily so on the part of their supporters.

In the first half of the fourteenth century, as the power of the Empire over its non-German lands decreased apace, the fact that Germany ‘had the Empire’ had ceased to give the German monarchy any real advantage. Rather, it constituted a severe abridgement of its independence, since the Empire was subject to papal interventions, made on the basis of its unique status, from which other states were free. Correspondingly, we see theorists arguing for the independence of the Holy Roman Empire by treating it as a state like any other. We may identify this as the beginning of a particularly German conception of the Empire, inasmuch as it treats of the Empire as it existed as a territorial state, consisting predominantly of German lands, and in which the right to choose the monarch was vested in German princes.

The distinctive features of this conception of the Empire are the claims that the authority of each German monarch is given to him by the fact of his election ‘by the electors in concord or by the greater number of them’; that he does not require confirmation by the pope or by anyone else; and that from the time of his election he possesses full authority within the territories of the Empire, even if he has not been crowned emperor by the pope. There is a corresponding neglect of any supranational dimension to the imperial office. It is not over Christendom or the world, but ‘within the territories subject to the Empire’ that the one elected automatically has authority: and
for present purposes that sufficed. We have seen this conception of the Empire being put forward particularly in the reign of Ludwig IV: in his refusal to submit to the papal approval; in his ‘Appeal of Sachsenhausen’; and in the declarations made, firstly by the Electors at Rhense, and later by the Diet at Frankfurt.

This is not to say, however, that other conceptions of the Empire disappeared. When in Rome, Ludwig himself gave credence to the ‘Roman’ idea of the Empire: to obviate the necessity of coming to an agreement with the pope, he received his imperial crown from representatives of the Roman people. Not only by that action but on other occasions during his Roman sojourn, Ludwig said that rule ‘over the City and the world’ had been given to him by the Roman people. This appeal to the ‘Roman’ conception of Empire did Ludwig no good: his Roman expedition was a débâcle, and when he returned to Germany he also returned to the more sober and practicable ‘German’ theory. His actions, however, gave new life to the ‘Roman’ idea of the Empire, which was presently reasserted in the career of Cola di Rienzo.

Cola’s ‘Tribunate’ was both the culmination of the Roman form of the Imperial idea and its last appearance. In earlier applications of this conception of Empire, the Roman people had claimed various rights with respect to the emperor, and alleged that his authority came from them: but all the while the emperor in question had still been the Holy Roman Emperor come to Rome from Germany, a monarch whose power was really derived from elsewhere entirely and whom the Romans could not in reality resist. Cola di Rienzo alone attempted to realise the Roman idea of Empire without the German emperor. He did not simply claim that the Roman people could, if they wished, resume the universal authority which they had delegated to the emperors: he attempted actually to do so, and to restore to Rome the rule of the whole world. The Roman conception of the Empire had at no time had any credible prospect of realisation, and the career of Cola di Rienzo was its reductio ad absurdum. It had in fact depended for
such life as it did have on the Empire’s being a flourishing institution in Italy: only if the Emperor actually wielded power (at least in the part of the world that the Romans could see) was there any point in the Romans claiming to be source of his authority. As the Empire’s power retreated beyond the Alps, the Roman idea inevitably waned, and after the death of Cola no more is heard of it.

Petrarch, who had supported Cola during the Tribunate, stands at a crucial turning-point in the history of Italian attitudes towards the Empire. Petrarch’s concern was not with preserving or justifying an existing institution, nor with establishing a perfect universal government, but with reviving the glories of ancient Rome. Petrarch still identified the contemporary Holy Roman Empire with the empire of ancient Rome: but he believed it to have deteriorated appallingly, and throughout his life he sought for some power which would return the seat of Empire to Rome and restore the Empire to its ancient state. Petrarch’s conception of the Empire was ‘Roman’, insofar as he regarded Rome as the *sine qua non* of Empire: a Holy Roman Empire that was fundamentally German would, in Petrarch’s judgement, have had no right to the name. Unlike his predecessors, however, Petrarch was prepared to contemplate the possibility of the Empire’s ceasing to exist. It was he who began that reassessment of the Empire characteristic of Renaissance humanism, when he asked, “If the Empire is not at Rome, where is it?” The implication of his question was that if the Empire was not at Rome, it was nowhere at all.

Ultimately, it would become evident to Petrarch that neither the Roman people nor the Roman emperor would effect the revival for which he hoped. After his time, the character of the humanist desire for a restoration of ancient glories changed: the hope of restoring universal jurisdiction to Rome, or even unity to Italy, was abandoned, and the attention of the humanists was given wholly to the more practical task of reviving the culture and letters of antiquity.
This change corresponded to a reassessment of the Empire, in both its ancient and its contemporary forms. In the historical judgement of Flavio Biondo and Lorenzo Valla, the Roman Empire had ended centuries before, and the later emperors had no right to the name of ‘Roman’. For Leonardo Bruni, the German monarch approaching Rome for his customary coronation was not a rightful sovereign coming to his capital, but a barbarian invader whom true patriots should resist. Bruni reassessed also the ancient empire, which he deprecated: his praises, rather, were for republican Rome in the past, and for the republican city-states of Italy in the present.

The imperial title had not, however, lost all its power, even outside the territories of the Empire. The extraordinary circumstances of the papal schism allowed the Empire briefly to occupy a unique place in the common affairs of Christendom, albeit playing a much more restricted role than that envisaged a few centuries before. Marsilius of Padua had intimated the need for such a role when he alluded to a ‘supreme faithful legislator’ who would have authority over all Christians, in whatever country they lived, in implementing the decisions of an ecumenical council. The schism made a council necessary even as it precluded the normal methods for convoking one: when it was evident that the ecclesiastical authorities were in no position to call a council, it was argued that it fell to the temporal princes, and in the first place to the Emperor, to do so. In the event, Sigismund, the Rex Romanorum, would play a crucial part in the convocation of the Council of Constance: his not entirely successful involvement in that council was to be the last significant exercise of imperial authority in international affairs.

In this context of the conciliar movement, Nicholas Cusanus (in the treatise *De Concordantia Catholica*) proposed an interpretation of the imperial authority which would gives the Emperor a special role within Christendom with respect to the ecumenical councils – which would be the foremost instance (one might say the only
remaining instance) of the exercise of a supranational imperial authority. Since all Christians, and all Christian nations, were bound to accept the decisions of ecumenical councils, there needed, Cusanus reasoned, to be a temporal authority that could impose that acceptance if Christendom were to remain a single body. Cusanus therefore argued that, in respect of the ecumenical councils and the imposition of their decisions, the Emperor had authority over all Christians. This is rather a pared-down version of the Imperial role, though a thoughtful one: it was relevant to contemporary problems and gave the Empire a distinct role other than universal suzerainty.

The period we have been examining ended with two significant alterations of title which indicate how the nature of the Empire had changed. Firstly, the Empire became (paradoxically) the ‘Holy Roman Empire of the German Nation’. This change was not only a concession to national sentiment: it was also a recognition of the fact that, despite its historical associations with Rome, the Empire was now primarily a constitutional device for governing the German lands. Secondly, the German monarch became ‘Imperator Electus’ from the time of his election. The use of this title consolidated the principle that the ruler derived his authority from the fact of election, and that he enjoyed by that fact all the authority within the territories of the Empire that other kings had in their kingdoms. In these developments we may see the triumph of the ‘German’ conception of the Empire, which at the end of the middle ages had outlasted all others.

Beside these developments in practical politics, however, we must also recognise a continuing, albeit abstract and theoretical, ‘Universalist’ conception of the Empire, which argued from philosophical premisses and understood the Empire principally as a world government. Deliberate philosophical argument along these lines is found first in Dante’s treatise *De Monarchia*: it continues in the works of William of Ockham later in the fourteenth century, and in the *De Concordantia Catholica* of
Nicholas Cusanus in the fifteenth. Finally, we see it in the *Epistola de Ortu et Auctoritate Imperii Romani* of Aeneas Sylvius Piccolomini – an anomalous work in many ways, but one which demonstrates both the enduring appeal of the universalist idea, and the versatility with which writers of various schools of thought were able to accommodate it.

Among the often tedious commonplaces of these works, and tendentious arguments advanced for narrowly political purposes, there is to be found much valuable thought about the nature and source of political authority; about the existence of a community of nations; about how peace might be preserved in such a community, and about how conflict between rulers and states could be resolved; about what an ultimate political authority might be, and about the potential of the Holy Roman Empire to fill this role. Although the ideas of the universalist theorists were not, and never could have been, put into practice, their discussions were nonetheless of no small importance in the history of political thought, and indeed involve questions of perennial relevance.

The Holy Roman Empire never realised the claims to a unique place in Christendom which were made for it over so many centuries. We should not for that reason disregard those claims as insignificant. The various views of the Empire in their different ways represented some of the most significant themes of medieval thought: the idea of a Christian society; the inheritance of a tradition from ancient Rome; the crucial role of the Papacy; the idea of God-given authority; the revival of ancient thought; and the developing idea of the existence of sovereign monarchies. Precisely because the grand – and therefore simplifying – ideas of imperial government were never made real, the history of the Empire in the later middle ages exemplifies the changes, complexities, and contradictions of that period. Understanding the history of the Holy Roman Empire is thus essential for a proper understanding of later medieval history, and indeed of
medieval history as a whole. It is hoped that this thesis will do something to restore the history of the Empire to its rightful position of importance.
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