Tolomeo Fiadoni A Treatise on the Origin, Translation, and State of the Roman Empire (ca. 1308)

Translated from:

Marius Krammer, ed. (1909). Determinatio compendiosa de iurisdictione imperii auctore anonymo ut videtur Tholomeo Lucensi O.P. Accedit: Tractatus anonymus de origine ac translatione et statu Romani imperii. Fontes iuris germanici antiqui 1. Hannover: Hahn, 66–75.

I have tried to be sensitive to James Blythe's translation of Tolomeo's longer (and more interesting) De regimine principum (On the Government of Rulers). Professor Blythe choose to translate many 'technical' words with one equivalent term (or terms in a few cases); as his choices mostly reasonable to me, I have followed his lead in order to make it easier to pinpoint key terms across the works more easily (any deviation is marked by including the Latin term in parentheses, but the presence of a Latin word does not necessarily mark a deviation from Blythe's list). Anyone interested in the list should consult Blythe's translation (1997, 57–59). Words enclosed in brackets ('[...]') mark editorial interventions; words enclosed in double brackets ('[...]') are additions of my own. Finally, cryptic references in the notes that lack a reference in the bibliography are taken (without verification) from Krammer's notes; over time I hope this list will be vanishingly small.

Since not only simpler men, but even prudent men sometimes fall into various errors regarding especially the origin, translation, and state of the Roman Empire due to an ignorance of ancient deeds (which are recited in approved writings and chronicles)—for indeed an ignorance of fact frequently deceives all prudent men—, so, because it is written in a canon that an error that is not resisted is approved, I therefore thought it worthwhile (as we are not able to bear the splendour of truth due to a lack of charity) to recollect briefly a few brief points about the many things about the state of the said Roman Empire, or to remark upon what I have seen more fully or seriously contained in the above-mentioned chronicles and ancient gesta, lest the errors grow in the manner of a cancer, which perhaps are sown in our times among some regarding the state of the aforesaid Roman Empire

2 Tim. 2:17

⁵⁻⁶ D. 83 c. 3.

through an inattention to ancient deeds; or they destroy, God forbid, the customs of those who hear them by producing schismatic or scandalous things, and [so that] errors of this kind completely vanish at the very origin of the pestiferous root. /67/

Consequently, having omitted the history by which it is clearly apparent that the Roman Empire remained at Rome without change for thirtythree emperors and 354 years and five months (counting from the Emperor Augustus Octavianus, according to the truth of the history), until the times of Constantine the Great,² it ought to be known that the aforesaid Constantine changed the imperial seat in the seventh year of his reign (imperii), transferring it to Byzantium, which is now called Constantinople. He, content with the lordship of the east,³ freely granted (libere disponendo concessit) Rome, all of Italy, and all western realms, with all imperial dignities, to blessed Silvester,⁴ at that time Roman pontiff, and to his successors; and thus he judged it useful on the counsel and approval of his satraps and optimates, either of the whole senate, or the entire people. And to the clerics serving the Holy Roman Church, to the most reverent men of the diverse order [s], he granted that pinnacle of singular authority (potencie) of even prime excellence, glory, and honour, with which the most distinguished senate of the city of Rome was previously adorned. And Jerome says this: that the church has the senate in 16 q. 1, Ecclesia, and these things are contained in D. 96, Constantinus, and in the chronicles,⁵ that blessed Silvester indeed first instituted clerics of diverse order s, or nominated cardinals of the sacrosanct Roman Church. However, the lordship of the east peacefully endured in the person of the very same Constantine or his successors until the twentieth year of the emperor Eracleus; in his time, all eastern peoples unanimously withdrew from the lordship of the Latins due to the tyrannical rule of the selfsame Eracleus, which he cruelly exercised after the great victory celebrated (habitam) regarding the Persians against the same Persians and other eastern nations. In addition, in his time, the son of malediction, Machometus, turned many people from the faith by

 $^{^1}$ Gaius Julius Caesar Augustus (63 BC-AD 14; born Gaius Octavius Thurinus). 2 Constantine I (ca. 272–337). 3 That is, the eastern half of the empire. 4 Silvester I (r. 314–335). 5 Krammer: not found.

^{35–36} *Hist. eccles.* 5.5 (Muratori 11.825), alleging C. 2 q. 4 c. 2. 36–42 *Hist. eccles.* 12.2 (Muratori 11.929) 43–44 *Hist. eccles.* 12.2 (Muratori 11.931)

²⁵ Cf. D. 96 c. 14. 33 C. 16 q. 1 c. 7 34 D. 96 c. 2

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means of his magic arts. When Eracleus had died and his empire forsaken in all things regarding the lordship of the east because of the said cause, /68/the imperial seat remained in Greece at Constantinople through thirty-three emperors until the time of Constantine V,⁶ or his son Leo⁷—counted from Constantine the Great through 457 years and twenty-one months (with the twenty-three years of the rule of Constantine included: for he survived for that much time after the seat was translated from Rome to Greece).

After these things, a serious disagreement arose between Pope Gregory III⁸ and Emperor Leo III,⁹ who damnably asserted that the images of Christ and the saints should not be venerated, which is an error reproved by a council of 1000 prelates and other venerable men; and coming into Rome from Constantinople, he took all the images of the saints he found there, and, taking them back to Constantinople, he burned them in a fire.

But after Leo [III] had died, Constantine V, even more impious than his father, fell into the very same error; about whom it is written from the serpent a basilisk has come forth, and from a father of wickedness a son of iniquity has emerged. And the aforesaid Constantine V oppressed the Church like the worst heretic. While Pepin¹⁰ was still living, Pope Stephen II,¹¹ who then presided over the Roman Church, ordered the empire to be transferred from the Greeks to the Franks. But he did not really complete this translation, as will become clear immediately below.

The story is omitted for the sake of brevity—how, in the time of Pope Zachary, ¹² the aforesaid Pepin, the son of Charles Martel, ¹³ a man strong in military affairs, catholic in religion, and famous for the universal honesty of life, arose, lifted up, from a greater house to the excellence of the kingdom of the Franks. About whom, it is read and noted in 15 q. 6 c. Alius. And so, returning to the purpose on the matter of the translation of the empire made from the Greeks to the Franks, it must be noted that, when Pope Zachary had died, Stephan II, a Roman by birth, was elected as supreme Pontiff due to the troubles that Astulphus, ¹⁴ king of the Lombards, brought

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cf. Is. 14:29

 $[\]overline{^{6}\text{r. }74^{1-775}}$. ${^{7}\text{That is, Leo IV (r. }775^{-7}80)}$. ${^{8}\text{r. }73^{1-7}4^{1}}$. ${^{9}\text{r. }717^{-7}4^{1}}$. ${^{10}\text{That is, Pepin the Short }(7^{14-768})$. ${^{11}\text{r. }75^{2-7}57}$. ${^{12}\text{r. }74^{1-752}}$. ${^{13}\text{ca. }688^{-7}4^{1}}$. ${^{14}\text{Presumably, Arechis II (d. 787)}}$.

 $^{53^-55}$ Cf. Hist. eccles. 12.34 and 14.1 (Muratori 11.965, 967), where nothing is written about this. 57^-58 Cf. Hist. eccles. 14.16 (11.975 C).

⁵³ Martinus, l.c., 425.40. 69 C. 15 q. 6 c. 3

⁵⁵ took] abstulit add. Krammer. 62–63 to be transferred] transferre ed. 68 house] domus ed.

upon himself and the Church; he came to Frankia /69/ to Pepin in order to regain the justice of Saint Peter, which the aforesaid king of the Lombards despoiled. Pepin twice overcame the King of the Lombards, Astulphus, in battle; and, with the rights and many other benefits restored, left to, and conferred upon the Church by Pepin, Pope Stephan II, considering these benefits carefully (or the low stature of the empire at at time), ordered, as alluded to above, the translation of the Roman Empire from the Greeks to the Germans, or rather a concession of the western empire, which was already his or wholly translated to the Church by Constantine. Hence, not Stephen, but Leo III transferred or conceded the empire, as will become evident below.

And so, with the history omitted, how, after Pope Stephen had died while was Pepin still living, and after Pepin had gone the way of all flesh after seventeen years of his reign, his son Charles [succeeded to the throne], 15 who is called 'Great' due to the magnitude of his virtues. 16 Through three intermediate pontificates—namely, Paul I, Constantine and Stephen III, Adrian I, a Roman by birth, was elected as supreme Pontiff in AD 772, or in the 1542th year from the founding of Rome, on account of the help of the Church against the Lombards, who were troubling the Church, through the same magnificent Charles the Great established as the most distinguished citizen of the city of Rome, just as these things and many others are recited at greater length in the histories, 17 both in the canon Adrianus of dist. 63, and in $In\ sinodo$. But it must be known that, after Adrian had died and Charles the Great was ruling, the defender of the Church, Leo III, 18 /70/ a

¹⁵Charlemagne (ca. 742–814; r. 768–814; crowned emperor in 800). ¹⁶This sentence, which continues for the length of the paragraph in the original, appears to be an example of anacoluthon. ¹⁷See Krammer 1909, 7n₃ and 26n₂. ¹⁸Cf. Martinus l.c., 427.5.10; Hist. eccles. 15.1 (11.987).

^{74–76} Cf. Hist. eccles. 14.14 (11.974B) 79–82 On the ordination of Stephen II, nothing is found in De iurisdictione imperii (see Krammer 1909, 25f. and 30), but he writes about it in Hist. eccles. 14.16–17 (11.975). Martin, following the gloss of Bernard Papiensis to X 1.6.34 (the famous Venerabilem), writes of Stephan II that 'he translated the empire in the last year of his pontificate to the person of the magnificent king Charles, then established in a youthful age.' On the contrary, Tolomeo says in Hist. eccles. 14.17 (14.975E) it was in the time of Stephen II, and afterwards that Pepin reigned, not Charles, and therefore that the pope did not then translate the empire to Charles, but ordered it to be transferred to him after the death of his father, Pepin.

⁹⁵ D. 63 c. 2 or 22 96 D. 63 c. 23 90 772 VIICLXXI, corr. Krammer

Roman by birth from his father Astulphus, was elected as Roman pontiff in AD 816,¹⁹ or in the 1575th year from the founding of Rome.

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And in a greater litany, he was taken in Rome, blinded and his tongue was cut out, but, with his members, namely the eyes and tongue, fully restored by divine virtue, he came to Charles in Frankia as to an especial protector of the Church; Charles received Pope Leo, as was appropriate, with all reverence and honour; and going with him to Rome, he avenged the injury of the said pope and holy Church of God with a mediating justice.

But Pope Leo on Christmas Day—namely after King Charles, a virtuous man, returning to Rome with the holy land recovered by Constantinople, had solemnly celebrated that birthday there with Pope Leo—on that day of the birth of the Lord, when, indeed, the same glorious Charles arose from a devout prayer in the mass before the altar of blessed Peter, he placed the imperial crown on his head with all things necessary for so great a solemnity prearranged; and it was proclaimed by the entire Roman people, 'May life and victory be given from heaven to August Charles, the great and peaceable emperor, crowned by the Lord!' In fact, all histories tell of this coronation by Pope Leo and imperial acclamation by the people; and he was called from that time on by the people after the custom of the ancient princes. Extra, On election, Venerabilem, makes mention of this translation or concession.

Now, Charles ruled the Roman Empire for fourteen years; before, he had also governed the kingdoms of Francia and Germania for thirty-four years. The translation of this empire made by the Church from the Greeks to the Franks endured for seven generations: that is, for 103 and more years, through seven emperors; for, the emperor Arnulf,²⁰ the last one of the line (generacione) of Charles, was effeminate and worthless: not only remiss in the defence of the Church, and apathetic regarding the tyrant Berengar²¹ (who was then /71/ attacking the Church of God in Italy), and others (who were troubling it in many places), but he even took part as a persecutor of the Church. [And] either the line of Charles completely failed with respect to the empire when the son of Arnulf,²² who had not yet

¹⁹Krammer suggests that VIIICXVIIII ought to be read since *Hist. eccles.* 15.1 (11.987) says Leo III was elected that year. However, he was made pope in 795. ²⁰Presumably, Arnulf of Carinthia (850–899; r. 896–899). ²¹Berengar of Friuli (*ca.* 845–924); became Beregar I of Italy in 887, and was crowned Holy Roman Emperor in 915. ²²That is, Louis the Child (893–911).

¹⁰⁷ Martinus, *l.c.*, 461.45; *Hist. eccles.* 15.3–4 (11.988) 117 X 1.6.34 122 Martinus, *l.c.*, 463.40ff.; *Hist. eccles.* 16.29 (11.1023)

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received the imperial blessing, was conquered by the same Berengar, or the tyrant Berengar began to exercise lordship in Italy and the Church began to weaken under the continual persecutions: first, because that tyrannt was troubling the Church; then, because a mercenary, rather than a true pastor, was in charge of the Church: namely, John,²³ the son of Alberic; and therefore, just as the bishop of Cremona, a great writer of history, Sicardus, hands down at that time, the cardinals wrote in mutual agreement to Otto,²⁴ Duke of Saxony—who was a man of great power: for he exercised lordship over the whole of Saxony, and he was a religious man, Catholic in faith, provident in counsel, just in judgement, trustworthy in enterprise, strong in war, famous for complete integrity in morals, and devoted to the Holy Roman Church with all veneration—that he protect and even help the Church of God, which was growing weak under the pounding gales.

cf. Jn. 10:12

Church of God, which was growing weak under the pounding gales.

Fortifying himself with the sign of the cross, Otto, who was most prompt in devotion, prepared a great army with painstaking care; crossing into Italy, he fought with the tyrant Berengar;²⁵ and he killed that tyrant. And, in the end, with Pope John (the son of Alberic) [deposed, Leo VIII was then made pastor of the universal Church] who, quickly considering the benefit conferred upon the Church by Otto, the Duke of Saxony, granted the same dignities to Otto that Adrian had conferred upon Charles. In addition, he established him as emperor with no preceding election, which was instituted forty years later. Regarding Otto, or the oath of fidelity /72/ that he offered the pope, it is contained in 63 dist. In sinodo and c. Tibi domino. And so the translation of the empire from the Gauls to the Germans was done.

After these events, [and] after the death of Otto III²⁶ without heirs, Gregory V²⁷ (known previously as Bruno), by birth a Teuton²⁸ from Saxony on Otto's side, was taken up as high pontiff. In his time as pontiff, it was

 $^{^{23}}$ Pope John XI (r. 931–935), often said to be the son of Alberic, the Duke of Spoleto (d. ca. 925), but likely the illegitimate son of Pope Sergius III (r. 904–911). 24 Otto I the Great (912–973): Duke of Saxony (r. 936–973). 25 Berengar II (also: of Ivrea; ca. 900–966); a grandson of Berengar I. 26 r. 996–1002. 27 r. 996–999. 28 The adjective T(h)eutonicus is usually taken to refer to 'German', but because Tolomeo also uses Germanicus, I have opted to transliterate the former to mark the distinction.

 $_{134^{-1}35}$ Rather, Martinus, *l.c.*, $_{465.5}$; *Hist. eccles.* $_{17.15^{-1}6}$; cf. *De iuris. imp.* $_{12}$ (Krammer $_{1909}$, $_{27}$). See Krammer for discussion of the apparent confusion of the sources. $_{151}$ D. $_{63}$ c. $_{23}$ $_{151}$ D. $_{63}$ c. $_{33}$

^{145–146} deposed . . . Church | Supplied from Landulf, l.c., 295 153 III | II corr. Krammer

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providently and usefully ordained for the good state of the Church and the Christian people so that an ordination of such great imperial sublimity—which was owed not to blood, but to virtue—proceeded not by way of succession, but election (as in 8 q. 1 Moyses), so that one not just noble, but worthy, be elected, so that the sublimity of imperial dignity be most worthily given through seven princes, the officials of the empire, who might elect the Roman king by means of the Roman pontiff confirming [him], or crowning him with the imperial crown: namely, through [1] three prelates, who were and are chancellors of the emperor: the Archbishop of Cologne, who is chancellor of Italy; the Archbishop of Trier, who is chancellor of Gaul, and the Archbishop of Mainz, who is the chancellor of Germany; and [2] four barons: the Marquis of Brandenburg, the Duke of Bavaria, and the King of Bohemia.²⁹

This ordination occurred in 1004, as the *Deeds of Germany*, the *Chronicles* of Martinian and others manifestly declare. And this election still perseveres today, and the canons should be soundly understood in this way, as noted [by] the doctors speaking less fully about the actions of the time of Otto, and the matter of the translation, neither paying attention to variation of the times nor duly noticing the change of the state of the empire.

With all these things carefully considered, which can be found in writing—namely the Chronicles of Martin Polonus, Aymund's Deeds of the Kingdom of the Franks, and Sicardus, the bishop of Cremona, a great writer of history, and in the same's /73/ Deeds of Germany, as well as in many canons of the Decretum—it is manifestly clear that there were three translations of the empire: [1] first, from Constantine, who [transferred] the western empire to the Roman Church in the person of blessed Silvester; [2] a second translation of the empire from the Greeks to the Franks; and a third from the Franks to the Germans. These were made by the Roman Church on the basis of the aforesaid reasons; and of the two translations of the western empire that the Roman (as it is predicted) Church made, out of (in) devotion for those by whom their devotion (for whom the translation was made), additional rebellions, and inobedience by the evil against the church was attacked. From all of which, it can be concluded that, the greatest power is

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²⁹Only three figures are listed in the text.

¹⁶¹ Cf. De iuris. imp., 13 (Krammer 1909, 29ff.)

¹⁵⁹ C. 8 q. 1 c. 6 169 Scheffer-Boichorst, Archiv. 12.463, n. 2, and De iuris. imp. 13 (31)

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found in the Roman Church regarding the translation of the western empire, which now is or resides (as said above) in Germany as far as the right of the election of the emperor is concerned.

For, the last two transfers (reformaciones translacionis) were done by the Roman Church (to which the political power [imperium] belongs) for reasonable causes as a useful action for the Church and the whole Christian people. And the first translation made from the Greeks to the Franks had so much strength of force that it endured for 103 years and more, through seven generations. The second translation, made from the Franks to the Germans, proved to be so powerful that Otto I, and his son and nephew succeeding to the empire, who proved to be most devoted to the Church, held the empire peacefully for many years. Therefore, since the Roman church can, on the basis of reasonable causes, transfer the empire from people to people for the good state of the Church and Christian people, just as it was accustomed to do in times past, and it was expressly stipulated in the ordination made by Gregory V, a Teuton by birth from the family of Otto, that the emperor is to be elected in Germany by the aforesaid electors [and] to be confirmed or approved, and crowned with the imperial crown, by by the Roman pontiff; therefore, let the princes of Swabia (Alamanie) and especially the faithful of the Roman Church, who are known to possess the right of election from a unique concession of the Roman Church, and on whose right they rely, asserting /74/ that the present western empire had so proceeded from God alone without the help of the Roman pontiff that the one elected as emperor does not need a preceding nomination, confirmation, coronation, or any sort of approbation of the sacrosanct Roman Church. Regarding the empire which now is, these things cannot be said: for, having supposed the translation or donation most fully done from the western empire by Constantine the Great to the Church and to the command of the Church, about which we are discussing (agitur), and which now resides among the Germans, it proceeded immediately from that very sacrosanct Roman Church by a divine motion, and it exists as translated among the Germans through its concession by cause, just like that which was in the lordship or free disposition of the Church.

Indeed, in his comparison, he properly introduced a certain law, form, mode, or condition for electing emperors, which are to be inviolably observed,

210-213 Cf. Dante, Monarchia 3.15.13-15

212 preceding | Reading prelibata for prelibate

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as in a tradition of his own affairs (rei). In what way [it is] very often said about the universal beginning of the empire (and of all things), that it is God from whom all proceed, and [that] in the same way there was an empire before the aforesaid translation: and regarding the mediated and singular beginning of the empire that now is, its beginning is the Holy Roman Church? For the ones asserting such things, who seem, through sly assertions, to try in a certain way to call back from a pious devotion, which they had for the Roman Church, and to induce into other errors (may God notice it) the Germans, or princes of Swabia, and those adhering to [them]—especially laymen, simple men, and others thinking (extimantes) from their own nature—by strenuously attacking and resisting the attackers. Hence it could reasonably happen that, with the devotion ceasing, by what cause there was for the imperial translation of dignity to the very same Germans, the Roman Church may deprive the same people, ungrateful for so great a benefit, of such a dignity, and transfer that imperial dignity to a devout catholic nation, since, $\frac{75}{}$ by law, it can and is accustomed to revoke conferred benefits due to the fault of ingratitude, just as is clearly apparent from the aforesaid and many examples placed in both laws; and he who abuses the power granted to him deserves to lose the privilege.

It is also written in sacred scripture that a kingdom is transferred from people to people due to injustice and frauds, and that God overturns the cathedrals of proud princes and makes the mild sit down. For these, therefore, let such people strive to exhibit due reverence and obedience to the highest pontiff, our lord pope, spiritual father of all people, their benefactor, and holy mother of all catholics, the Roman and universal Church, having scorned their own ends, and avoided their schismatic errors, such that they persevere always in his grace, and that the by promoted by this not only for temporal honours; but, finally, due to this they both reward other virtuous works, and be elevated to heaven, who by no means would desert [him]—who edified and most firmly established that very church of his on the rock, that is, on himself, and consecrate it with his own most precious blood; who is the creator and redeemer of all people—the lord Jesus Christ, who lives with the Father and Holy Spirit and reigns forever. Amen.

cf. Ecc. 10:8 cf. Ecc. 10:17

cf. Mt. 16:18

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²³⁹⁻²⁴¹ Cod. 8.55.10; X 3.24.19

^{231–232} may God notice it] Krammer suggests avertat (may God overturn it) for advertat 235 by what] Reading qua for que

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