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66A

ROMANÆ HISTORIAE ANTHOLOGIA RECOGNITA ET AVCTA.

AN

ENGLISH EXPOSITION OF THE ROMAN ANTIquities, wherein many Roman and English offices are parralleld *and divers obscure phrases explained.*

For the vse of ABINGDON *Schoole.*

Newly revised and inlarged by the *Author.*

OXFORD,
Printed by *Iohn Lichfield* for *Henry Cripps.*
A.D. 1623.

AISSANU

VIRO COLENDISSIMO

D° IOANNI YOVNG SS· THEOLOGIÆ DOCTORI, & Ecclesiæ WINTONIENSIS *Decano Ornatissimo.*

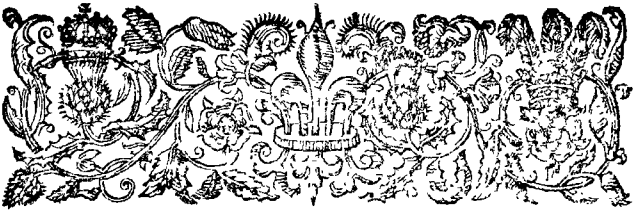
Εὐδαιμονέστατα διάγειν.

Vir Ornatissime,

ON liberi quàm libri pluribus exponi periculis solent, cùm primum prodeant in lucem: vtrisque pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit Anthologia hæc nostra primum edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfœtatione. Nacta igitur secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambu-

lanti prætulisti, & quem multum fuisse in studiis meis promovendis, palam, & sub Dio prædico Videbis me aliquoties alium à doctissimis viris, & ab illorum sententiis alienum Veritate enim præponderante; nullus apud me Plato, nullus erit Aristoteles, (nolo ego istiusmodi insaniam insanire, vtcunque splendidam & *autoritativam*:) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, raro admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adversario aliquo eximio commissa, gloriolæ nescio quos fumos sibi pollicentur. Hæc scribendi ratio si tibi placeat, alios non moror, quibus si simplex veritas non arrisseret, cum magnis nominibus deviare per me licebit. Vale, & meas Musas, vt soleas, ama; illæ, quod jam faciunt, te colent semper, & omni obsequio prosequentur. *Datum Abindoniæ* 14. *Calend. Decemb. Anno.* χριστογονίας. 1622.

Dignitati tuæ
multiplici nexu mancipatus,
THO. GODWYN.



BENEVOLO LECTORI

Εὐπράτλειν, Ἐυαρίνειν.

MIRARIS forſan & redarguis, quòd nondum deſtitum ab his elementaribus; quaſi vita mihi vitalis foret, in his minutijs integram meam ætatem eludere, & votum vnicum in his prævijs ſtudiis ſenium contrahere. Qui ſic ſentis, nec me ſatis, noris; nec ludi literarij (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miſerias quotidianas, & omnigenas. Sentio ego me in piſtrinum damnatum, & cogita tu hanc Anthologiam è piſtrino prodeuntem. Si minus placeat, illud dabis puerorum circumſtrepentium ſuſurris, inter quos nata eſt: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc ſtudia, quæ alias jamdudum juſſiſſem ſuas ſibi res habere; Sic me amet Theologia, ſacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ acceſſere, non vulgaria, aut obvia, nec quæ vulgus hominum aut docuit, aut didicit. Vale.

A short table shewing the Argument of every Booke and Section.

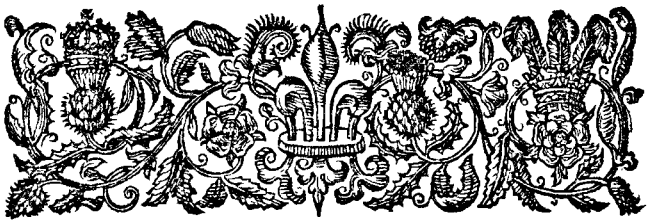
Lib.

1 Of the Roman city. Sect.
- 1. Of the chiefe parts thereof.
- 2. Of the generall divisions of the Roman people.

2 Of the Roman Religion. Sect.
- 1. Of certaine generall divisions of their Gods.
- 2. Of their Roman Priests with some particular Gods, together with their rites in marriages and burialls.
- 3. Of the Roman games, which endeth with their manner of taking meat.

3 Of the state politicall. Sect.
- 1. Of their assemblies called Comitia, which Section is begun with the Roman yeare, concluded with two chapters of Roman garments.
- 2. Of their civill Magistrates,
- 3. Of their civill punishments.
- 4. Of all those lawes which I haue obserued to be touched in Tully his orations.

4 Of the art military, as it was practised by the Romans. Cap.
- 1. Of their manner obserued in establishing their leagues.
- 2. Of the Roman Legion and the parts thereof.
- 3. Of the manner of besieging a city.
- 4. Of the punishments towards their enemies captiuated.
- 5. Of punishments towards the Roman souldiers offending.
- 6. Of certaine rewards after the performance of any noble exploits.



THE ROMANE ANTIQVITIES

Expounded in English.

LIB. I. Sect. I.

Of the chiefe parts of the City.

CAP. I.

De modo condendarum, delendarumq; Vrbium.

Efore we handle the description of the particular places in the Romane Citie, it will not be amisse to premise some what concerning the ancient manner of building and raizing Cities. In the building of Cities, the founders thereof did vsually consult with their Gods in their *Augurall* obseruations; and [a] this course was obserued by *Romulus* himselfe, in the first foundation of *Rome*; After their *Augurall* obseruations, they marked out the place where the wall of the Citie should bee built, by plowing vp the ground, and because they left that space of ground vnplowed, lightly lifting the plough ouer it, where they appoin-

a M. Tullius lib. 1. de diuinat.

pointed the gate of the city, thence *à portando*, from cariyng and lifting the plough, they called the gate *Porta*. This custome is fully described by [b] *Cato*: *Captato augurio, qui vrbem nouam condebat, tauro & vaccâ arabat: vbi arâsset, murum faciebat, vbi portam volebat esse, aratrum tollebat & portam vocabat.* *Virgil* also alludeth vnto it,

Interea Æneas vrbem designat aratro,

The manner hereof was, that he who held the plough, did cast vp the skirt of his gowne on the right shoulder, and gird himselfe about, either because this was the vsuall habit of such who performed holy rites; in the number of which this present action was reputed; or that he might the more readilie addresse himselfe to the businesse; or lastly, that hee might symbolically by that pacificall habit intimate, that the flourishing estate of a Citie is not so mueh preserued by warre, as by peace. Hence *Ovid. lib.* 4. *Fastorum.*

Ipse tenens stiuam, designat mœnia sulco,
Alba iugum niueo cum boue vacca tulit.

The [c] like custome was vsed also in the razing or demolishing of Cities, when they had beene vanquished by the enemies, which obseruation giueth light to that of *Horace*. Lib. 1. Od. 16.

——— vrbibus vltimæ
Stetêre causæ, cùm perirent
Funditus, imprimeretque muris
Hostile aratrum exercitus insolens.

[b] M. Cato in fragm.

[c] Cæl. Rhod. antiq. lib. 26. cap. 5.

Cap. 2.

De monte Palatino.

TOuching the name of *Rome*, from what occasion the City should be so denominated, diuers authors conceit diuersly. [d] Some are of opinion, that this Citie was built long before *Æneas* came out of *Troy*, & was then called by the

[d] Vid. Anton. Constantium in Ouid. Fast. lib. 1.

the Latines *Valentia*, which was a name of strength, whence *Euander* comming into *Italy*, called it *Roma* from ῥώμη *Robur*. Others say, it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed vpon by most writers, that the Founders were *Romulus* and *Remus* & from *Romulus* it was called *Roma*, not *Romula*, because the diminitiue, *Romula*, might ominate lesse prosperity thereunto. [e] Some say, that they built it in forme of a quadrangle, vpon one onely hill, called *Mons Palatinus*. [f] Others say, that *Fabius* left *Rome* as it was first built, with the fields thereof, painted in the forme of a bow, the riuer *Tiber* being the string thereof. Vpon this *Palatine* hill was alwaies the seat of the Romane Empire, which from the hill tooke the denomination of a Pallace: & hence all [g] stately buildings which we call Pallaces, tooke their name, *Palatia*. This hill had his first appellation [h] *Balatinus à Balando*, from the bellowing of cattle pasturing there in former times, and afterwards the first letter being changed, it was called *Palatinus*: by the figure ἀπηοιχον. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus*, by *Euander* in remembrance of his grandfather, whose name was *Pallas*, according to that

---- Posuere in montibus vrbem,
Pallantis proaui de nomine Palanteum. Virg. Æneid. l. 8.

In processe of time six other hills by seuerall Kings of *Rome* were added; whereby the City, and the *Pomerium*, that is, the territories of the City were enlarged: and *Rome called Vrbs septi-collis, id est*, the City vpon seuen hills.

Sed quæ de septem totum circumspicit orbem
Montibus, imperij Roma deumq; locus. Ovid. Trist. lib. 1. Eleg. 4.

Vpon this *Palatine* hill also stood the *Asylum*, or sanctuary of refuge, which *Romulus* opened [i] in imitation of *Cadmus*, who at the building of *Thebes* was said to haue opened a sanctuary of refuge, whether whatsoeuer malefactor could escape, were he bōd or free, he was not to be punished. It was much

[e] Rosin. antiq. lib. 1. cap. 2.
[f] Sigon. de jur. Rom. li. 1. c. 2.
[g] Rosin. antiq. lib. 1. cap. 4.
[h] Vid. Seruium in Æneid. lib. 8.
[i] Alex. Gen. dier. l. 3. c. 20. vbi plura lectione digna de Asylis.

much like vnto a custome of the people in the Citie *Croton* who flying vnto the altars of their Gods, obtained the forgiuenesse of faults not voluntarily cõmitted. Whence these two phrases are expounded alike, *Ad te tanquàm ad Asylum*, and *Ad te tanquàm ad aram confugimus, id est*, we fly vnto thee as our only refuge.

CAP. 3.

De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill [k] from the heathenish God *Saturne*, who vouchsafed to vndertake the protection of that place. It was named the *Tarpeian* hill [l] from *Tarpeia* one of the Vestall Nuns, daughter to the chiefe keeper of the Capitoll, (this hill being the Castle of defence for the whole towne) For this *Tarpeia* betrayed the Capitoll into the enemies hands, bargaining to haue the golden bracelets vpon her enemies left hands, for this her treason. Now the enemies when they were admitted in, did cast not their bracelets alone, but their bucklers also vpon her, through the weight whereof she was pressed to death: vpon which occasion the whole hill was afterwards called, the *Tarpeian* mount; but more principally a certaine rocke of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitoll*, because when the foundation of a certaine Temple, built in the honour of *Iupiter* was laide; a mans head, full fresh and liuely, as if it had beene lately buried, [m] yea hot blood issuing out of it, was found there. [n] *Arnobius* saith, that the name of this man being aliue was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

k Rosin. antiq. lib. 1. c. 5.

1 l Plutarch. in Romulo.

2

3 m Dion. Halicar. lib. 4. n Lipsius de magnitud. Rom. cap. 5.

CAP.

CAP. 4.

De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certaine *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made betweene the *Romanes* and the *Sabines*:) though some would therefore haue it named *Quirinalis*, because there was a Temple erected in the honour of *Romulus*, called also *Querinus*. It was called in the time of the Emperours *mons Caballus*, that is, the horse-hill, taking its denomination from two marble statues of *Alexander* taming his horse *Bucephalus*: which statues *Constantine* the Emperour brought to *Rome*, and placed them in the midst of certaine bathes, which he made vpon this hill. There doe appeare in this hill three risings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of [o] *Rosinus*.

o Antiq. Rom. l. 1. c. 6.

CAP. 5.

De monte Cœlio.

THis hill hath his name from a certaine [p] Captaine of *Hertruria*, which assisted *Romulus* against the *Sabines*. On this hill, King *Tullus Hostilius* erected stately edifices, which for a time serued at his Palace: but afterward they became the chiefe Councell-house, whether the *Senatours* assembled themselues, for the determining of State-matters: and because this *Curia*, did farre exceed all others, therefore Authors many times vse this word [q] *Curia* simply, without any adiunction, to signifie *Curiam Hostiliam*, as if there were no other. It much resembleth our Priuy-councell

p Alex. Gen. dier. l. 6. c. 11.

q Alex. Gen. dier. l. 1. c. 16.

Chamber, in respect that none might sit there, but onely *Senatours*; where as in the Court house, which *Pompey* built) being therefore called *Curia Pompeia*) [r] other City Magistrats were admitted amongst the *Senatours*: and in *Curia Iulia*, *id est* the Court-house which *Iulius* made, were examined [s] forreigne matters, as Embassages: but in *Curiâ Hostiliâ* domesticall matters onely were treated of, and that onely by the *Senatours*. [t] At this present time, this hill is beautified with many Christian Churches, as the Churches of S. *Stephen*, S. *Paul*, and S. *Iohn*, our Sauiours Hospital, &c. [u] It was also called *Mons Querculanus*, from the abundance of oakes growing there.

r Rosin. antiq. lib. 7. c 6.

s Rosin Ibid.

t Munster. in sua Cosmog. lib. 2. cap. 9.

u Alex. Gendier. l. 6. c. 11.

Cap 6.

De monte Esquilino.

[x] This hill was so named *quasi* [x] *excubinus ab excubijs*, *id est*, from the night watching, which *Romulus* did vndertake vpon that, some what distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillockes named, *Cispius*, *Oppius*, and *Septimius*.

x Rosin. antiq. l. 1. cap. 8.

Cap. 7.

De monte Auentino.

[a] The *Aventine* mount, tooke his name [a] from *Aventinus*, a certaine King of *Albanum*, which was there buried. Vpon this hill stood *Herculus* his Altar, and certaine Temples consecrated to *Iuno*, *Diana*, *Minerua*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the hill hath sometimes beene called *Diana* her hill, and *mons Murcius*. Vpon [b] this Mount, *Remus* would haue built *Rome*, and therefore it was called *Remonius mons*: but since it hath beene called *Mons Rig-*

a Alex. Gendier. l. 6. c. 11.

b Plutarch. in Romulo.

Rignarius, as it appeareth by *Plut.* in the same place. It had moreouer the name of the *Holy Mount*, being called in Latine *Mons sacer.*

Cap. 8.

De monte viminali.

BEcause of the abundance of wicker twigs, which did grow vpon this hill, it was called *Mons viminalis*, *vimen* signifying a twigge or ozier. I am not ignorant, that some would haue this hill to be named *Viminalis*, from *Iupiter Vimineus*, whereas *Iupiter* himselfe was named *Vimineus* from this hill, because he had here many altars erected in the honour of him. Both this hill, and *Iupiter*, were called *Fagutales*, from *sylua fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. Antiq. lib. 1. cap. 9.*

Cap. 9.

De tribus collibus adiectis.

THree [c] other hills there were, which in processe of time were added vnto the City; which partly because they were not included within the *Pomerium* so soone as the other, but chiefely because they were not of such note, therefore *Rome* retained the name *Septi-collis*. The first of those hills was called *Collis Hortulorum*, *id est*, the hill of Gardens, so tearmed because of the many gardens neere adioyning. [d] Here was the *Cirque*, or the shew-place of the strumpet *Flora*, which made the people of *Rome* heire to those goods which shee had gotten by prostituting her body to young Gentlemen, leauing also a certaine summe of mony to procure a celebration of her birth-day: which because of her infamie, the people shaming to doe, they feigned her to bee the

c Rosin. Ant. lib. 1. cap. 11.

d Barthol. Latomus in Verrin. Orat. 7.

the Goddesse of flowers, and that she must be first appeased, by sports and plaies, performed in the honour of her, before the trees and fruits of the earth would prosper; [e] and that they might gaine the better credit vnto this their fable, they adde farther, that she was once called *Chloris*, and was married vnto *Zephyrus*, from whom by way of dowry shee receiued power ouer the flowers. The second was called *Ianiculus*, from *Ianus* that two-faced God: who, as writers testifie, was there buried. It did lye beyond the riuer *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id est*, the Golden Mountaine. The third was famous for the many diuinations, and prophesies, vttered vpon it, and thence was it named *Vaticanus* from *Vaticinium*, in a fore-telling. [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

[e] Lactant, de fall. relig. lib. 1. cap. 20.

[f] Munster in sua Cosmogr. lib. 2. cap. 8.

Cap. 10.

De Foro Romano.

FOrum hath divers acceptions: sometimes it is taken for a place of negotiation, or marchandizing, which wee call a **market-place**: and being taken in this sense, it hath commonly some adiectiue ioyned with it, as *Forum boarium*, the beast-market, *Forum piscarium*, the fish market, *Olitorium forum*, the hearb-market: other times it is taken for any place, wheresoeuer the chiefe gouernour of a Prouince doth conuocate his people together, there to giue iudgement according to the course in law: whence a man is said, *Forum agere*, [g] when he keepes the Assises, and *Forum indicere*, when he appointeth the place where the Assises shall be kept. Thirdly, it is taken for a place, where controuersies in law are iudicially determined, & Orations are had vnto the people. At first, of this sort were onely three, *Romanum Iulium*

[g] Hubertus in Cip. lib. 3. epistolam. 6.

um, & *Augustū*, as is clearly evidenced by that of *Martial*,

Atq; erit in triplici par mihi nemo foro.

Afterward the number was increased to sixe distinct *Forums:* one called *Forum Iulium*, because it was built by *Iulius Cæsar*. A second was added by *Octauius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitory *Forum*, because there was *Transitus*, *id est*, a way or passage through it into three seuerall market-places. The same *Martial* calleth it sometimes [h] *Forum Palladium*, because in the middle thereof a Temple was erected in the honour of *Minerua*. A fourth was added by the Emperour *Traianus*, wherein was erected a stately columne or pillar 140 cubits high, hauing all the noble exploits performed by *Traianus* engrauen in it: another was called *Salustij forum*, because *Salust* bought it with diuers Gardens adjoyning, which since haue bin called *horti Salustini*: The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we must vnderstand, that as often as *Forum* is vsed in this latter sense, namely for a pleading place, it is so vsed figuratiuely, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell, or great building, which they called *Rostra*. [i] Round about this *Forum Romanum*, were built certaine trades-mens shopps, which they termed *Taberna*, and also other stately buildings called *Basilica Pauli*. Here was the *Comitium*, or Hall of Iustice; the *Rostra*, *id est*, the Orators Pulpit; *Saturnes* Sanctuary, or the common treasure-house; and *Castors* Temple: of all which in their order.

[h] Lipsius de magnitud. Rom. l. 3. c. 7.

[i] Henr. Salmuth. in Panciroll. lib rerum deperdit. cap. de basil. & taber.

Cap. 11.

De Basilicis.

B*Asilicæ* where vpper buildings, of great state and much cost, being supported with *Pilæ, id est*, flat-sided pillars; and hauing vnderneath them walkes, much resembling our Cloisters, sauing that the *Intercolumnia*, or spacé betweene the pillars lay open vnto the very ground. That they were vpper buildings may be collected by the custome of many men, which were wont to walke vnder these Basilicall buildings, and therefore were called, *Subbasilicani* by *Plautus*. The vse of these were principally for the [k] Iudges to sit in judgement: but in their absence it was lawfull for Marchants to deale in their businesse. Those of chiefe note were three, thus named, *Pauli*, *Porcia*, and *Iulia*.

[k] Sigon de iudicijs lib. 1. cap. 28.

Cap. 12.

De Comitijs.

C*Omitium* [l] was a part of the *Forum Romanum*, being a great large hall of justice, which for long time was open at the top, hauing no couering, and for that reason the assemblies were often dissolued in rainy, or vnseasonable weather. In it stood the *Tribunall*, being a place erected vp on high in forme of our pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, *id est*, the Ivory chaire, frō whence the chiefe Magistrate administred justice; other inferiour Magistrats sitting on bēches on each side, which were called *Subsellia*, because they were lower thē the Tribunal. Those which sate vpon these benches had power *cognoscere*, but not *pronunciare*; much like to our Iustices at Assises, which may examine or informe against a male-

[l] Sig. de iud. lib. 1. cap. 7.

malefactor, but not condemne him. Where wee may obserue the difference betweene *Comitium* signifying such an edifice, or building, and *Comitia*, signifying the Romane assemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by [m] some. That in this *Comitium*, *Actius Navius* did once with a razor cut in two a whetstone, and in memory thereof, his statue was erected, with an hat vpon his head, for *Puteal*, properly doth signify the couer of a well, but in a large acception, it signifyeth a broad brimmed hat, as *Calius Rodiginus* noteth in the same place.[n] *Cicero* toucheth this. *Cotem illam, & nouaculam defossam in comitio, supraq; impositum Puteal accepimus*. But why it should be called, *Puteal Libonis*, is yet doubtfull, except happily *Libo* was the first erector of this statue. That it was a common court, & knowne place of justice, *Horace* witnesseth, *Roscius orabat, sibi adesses ad puteal cras*.

m Cæl. Rhod. lib. 10. c. 17.

n Cic. de diuinat.

Cap. 13.

De Rostris.

NExt to the *Comitium* stood the *Rostra*, a goodly faire edifice, in māner of the body of a Chathedrall Church: In it stood an Orators Pulpit, deckt & beautified with the stemmes of many ships, which the *Romans* got from the people of *Antium*, in a memorable battaile vpon the Sea: And [o] hence from those ship-beakes, called in Latine *Rostra*, hath this place taken its name. It may be Englished, the great Oratory, or place of Common-plea.

o Hubert, in Cic. ep. lib. 1. ep. fam. 1.

Cap. 14.

De templo Castoris.

p Suet. In Iulio Cæsare.

ANother part of the *Forum* was a sanctuary built in the honour of *Castor* and *Pollux*: the reason thereof was because they appeared vnto the *Romans* in the Latine warre, in the likenesse of two Angells sent from heauen to lead the *Roman* army, and to assist the Romans against the *Latines*: who being vanquished, they suddenly were departed out of the field, none knowing how, & even in the same moment they appeared vpon their sweating horses vnto the *Roman* Cittizens in the *Forum*, who taking them for souldiers, demanded what newes they brought home from the campe: they replied that the *Romans* were conquerors: which newes being deliuered they suddenly vanished and were seene no more. Vpon this occasion did *A. Posthumius* being at that time *Dictator*, built a temple in that place of the *Forum*, where they were seene in honour of them both. Although in the after Ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow Consull *Iulius Cæsar*, saying; it fared with him, as it did with *Pollux*; *id est*, as this temple which was erected in the honour of both the brethren, carried the name only of *Castors* Temple; so the great expences in exhibiting shewes in the time of their Consulshippe, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the thankes, and credite. In so much that the people being wont to subscribe the names of both Consuls at the end of their Deeds, and Charters, for a remembrance of the yeare; that yeare they wrote, such a thing done nor *Bibulus* and *Cæsar*, but *Iulius* and *Cæsar*, being Consuls.

Cap.

CAP. 15.

De æde Saturni.

S*Aturnes* sanctuary [q] was the common treasure-house, wherein the subsidy mony which the commons paid vnto the treasurers called *Quæstores*, was to bee laid vp: whereof divers coniecture diversly. *Alexander Neop.* [r] saith that *Saturne* found out the vse of brasen mony: and therefore this Temple might be thought the fittest place for the treasury. *Plutarch* thinketh rather, that the making of the treasury in that place did allude to the integrity of time, wherein *Saturne* raigned, being the Worlds golden Age. [s] But the most receiued opiniõ, is the strength of the place, whereby it was the safer from theeues. The temple by reason of the vse it was put vnto, was called *ærarium* from *æs*, *id est*, Brasse: which name now is common to all treasure-houses: for that the first mony vsed by the *Romans* was of that mettall, vntill the yeare of *Rome*, 485. (as *Pliny* witnesseth lib.3.cap.33.) [t] Some are of opinion, that before the vse of brasse, they made mony of leather: whence *Numa Pompilius* is said to haue giuen leather mony in a dole vnto the people. Touching their order obserued in the treasury, we must vnderstand that their care in providing against sudden dangers was such, that they laid aside the twentieth part of their receipts, which they [u] called *aurum vicesimarium*, *Incensimarium*, and *Cimiliarchium*, into an inner Chamber or more sacred roome, named in Latine *ærarium sanctius*. [x] Wee may read also of a third treasury called *Erarium militare*, wherein *Augustus* had appointed that the twentieth part of certain legacies should be laid vp to defray charges in extraordinary wars: where it lay so priviledged, that it was a capitall crime to vse any of it, but in extreame and desperate necessity. Notwithstanding, howso-

[q] Plutarch in Publicola.

[r] Alex. Gen. dier. l.4.c.15.

[s] Alex. Gen. dier. l.2.c.2.

[t] Alex. Gen. dier. l.4.c.15.

[u] Alex. Gen. dier. lib.2.c.2.

[x] Seruius l.2. Virg. Georg.

x Alex Gen. dier. lib. 2. c. 2

ever it was vſed as a treaſure-houſe x yet divers Authors teſtifie that the Acts of their ſenate, the bookes of records, together with ſuch bookes, as were for their immeſurable bigneſſe, called *libri Elephantini*, wherein all the names of their Cittizens were regiſtred, and alſo their millitary Enſignes, were contained there, y And from thoſe ſtature bookes called *tabulæ publicæ*, this treaſury was alſo called *Tabularium*, becauſe they were laid vp there.

y Plutarch in ſuis proble. mat. vid. Franc. Sylvium in Catilinar. 4.

Cap. 16.

De campo ſcelerato.

z Munſter. in ſua Coſmog.

Campus ſceleratus, the field of execution z lying within the Citty, joyned to the gate *Collina*. It was the place where the Veſtall Nunnes, if they were deflowred, ſuffered punishment after this manner. There a was made a Vault vnder the earth with a hole left open aboue, whereby one might goe downe; and within there was a little couch with a burning lampe and a few victualls whether the defiled Votary was to be brought, through the market-place, in a litter ſo cloſed vp with thicke leather, that her mournings might not be heard to the mouing of pitty. Shee being thus brought to the place of execution, was let downe by a ladder into the hollow Caue, & the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kind of death was becauſe they thought it not fit, that ſhee ſhould be burnt with fire, which kept not the ſacred fire with greater ſanctity. And it was thought vnlawfull to puniſh them by laying violent hands on them, becauſe they had in former time ſerved in ſo holy a function.

a Plutarch. in Numa.

Cap.

CAP. 17.

De Campo Martio.

THe[b] *Campus Martius*, otherwise called *Tiberinus*, (because it was neere the riuer *Tiber*) was giuen vnto the Roman people, by *Caia Tarratia*, a Vestall Virgin: but *Tarquinius Superbus*, the last king of *Rome*, did take it from the people, converting it to his owne private vse: insomuch that he sowed corne there; which when he was deposed, the *Romans* did cast into the river *Tiber*, judging it vnfit that any man should reap any commodity frõ so holy a ground. In processe of time, the sheaues of corne being stopped in a shallow foard of the river became firme ground, and was called, *The holy Iland*, or *Æsculapius his Iland*, & presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored vnto its former vse. Beside the naturall pleasantnesse of the place it selfe, it was beautified with many ornaments brought out of the *Capitoll* (the *Capitoll* being too full) as likewise with divers images of well deseruing men. Hither did the younger sort of *Romans* come to exercise Chivalry, namely the horse-race, the foot-race, wrestling, fencing, casting the bowle, the sledg, the dart, vsing the sling, the bow, vaulting, with such like; and vpon this occasion it was dedicated to *Mars*, & called by *Strabo*, the **Romans great schoole of defence.**[c] The manner of vaulting, was in riding, to leape from one horse-backe vpon another, their custome being for their horse-men in warre, to lead a spare horse in their hands, besides that whereõ they did ride, that when the one did sweat, they leaped vpon the others backe, *à desliendo*, those horses were called *Equi desultorij*: whence an vnconstant, wauering, and vnsetled mind, which *Seneca* calleth *Volaticum ingenium*, others haue called *Desultorium ingenium*. In this field were men of best note burned, when they died. Here were the kings, and other Magistrates,

b Rosin antiq. lib. 6. cap. 11.

c Cœl. Rhod. l. 21. c. 29. 30.

giſtrates at firſt created. In this [d] field of *Mars* alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ovilia*, or *ſepta*; but afterwards it was mounted with Marble ſtone, beautified with ſtately walkes and Galleries, and alſo with a Tribunall or ſeat of juſtice, within which precinct the people oftentimes aſſembled to giue their ſuffrages toward the election of Magiſtrates. The meanes of aſcending vp vnto theſe *Ovilia* was not by ſtaires, but by many bridges made, for that time, every pariſh in the aſſembly of pariſhes, & every Tribe, or Ward in the aſſembly of the Tribes, & every hundred in the aſſembly of Centuries hauing his Bridge: whence this proverbe was occaſioned, *de ponte deijciendus, id eſt*, hee is to bee barred from giuing his voice. [e] Theſe bridges were not made over any river but over the dry land: whence men were ſaid to be caſt, *Non vt periclitarentur de vita, ſed ne ſuffragarentur in comitijs.*

[d] Seruius in Bucol. Eclo. 1.

[e] Ioan. Saxonius in Orat. pro S. Roſcio.

CAP. 18.

De Circo Maximo.

AMongſt other places where the Romans exhibited their plaies vnto the people, the moſt remarkable was the great Cirque, or ſhew-place, called in Latine *Circus Maximus*. It was a large peece of ground, lying neere that part of the *Aventine* Mount, where *Dianaes* Temple ſtood. It was built by *Tarquinius priſcus*, with diverſe galleries round about it, from whence the *Senators* & Gentlemen of the Citty did behold the running with great horſes at liſts, the fire-workes, tumbling, the bayting and chaſing of wild beaſts, &c. In former time, all did ſtand on the ground, being ſheltred frō the raine by the helpe of boards vpheld with forkes in manner of houſe-pentices: and this cuſtome continued vntill the aforeſaid *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them

them, allotting euery ward or company their seuerall quarters, all the seats being able to containe one hundred fiftie thousand parties. [f] Vnder these places were cels, or vaults, where women did prostitute their bodies, and would buy stolne goods, and for this reason *Horas* calleth it *Fallacem circum, id est*, the deceitfull shew-place. There was at the one end of their cirque certaine barriers, *id est*, places barred, or railed in, at which place the horses began the race; and at the other end was the marke, whether the horses ran it was called in Latin *Meta*, and the barriers *carceres, à coercendo*, Whence we say *à carceribus ad metam, id est*, from the beginning to the ending.

[f] Rosin. antiq. lib 5. c. 4.

CAP. 19.

De Theatro.

THe Theatre [g] hath his name from the Greeke verbe θεᾶσθαι, *id est*, to behold: because the people flocked thither, to behold plaies and shewes exhibited to them. The custome [h] first sprang from the sheepheards, who leading a contemplatiue life, were wont to compose dialogues in meetre, & at their leasure to recite them vnder the trees pressed downe in forme of an arbor; whence this theatrall tearme σκηνὴ, hath beene deriued from σκιὰ, a shaddow, but afterward learned Poets composed Comedies, and Tragedies, which were publiquely acted in the Citie vpon a stage: and although at the first it was counted infamous to frequent them, yet afterwards the Senatours themselues, yea the Emperour, and all the chiefe of *Rome* assembled thither. [i] Neither for a long continuance were there any seats built, but Commons, and Nobles, promiscuously one with another, all stood on the ground: in somuch that those which stood behind, raised vp places with turfes of earth, which gaue the people occasion to call the place betweene those

[g] Ioach. camerar. in orat. pro L. Flaceo.
[h] Servus lib. 2. Virg. Georg.
[i] Alex. Gen. dier l. 5. c. 16.

turfes and the scaffold, *Cauea, id est*, a caue or denne: yea the people that stood there, were so called frō the place. Though the Theatre be now taken only for the stage; yet then by it was vnderstood the whole roome, where these playes were acted: and it had diuerse parts, some proper to the actors, some to the spectators. To the actors first belonged the *proscenium, id est*, the house, whence the players came: where they apparelled themselues, though sometimes it is taken for the scaffold, or stage it selfe: secondly, the *pulpitum, id est*, the stage or scaffold vpon which they acted: and thirdly, the *scena*, that is, the partition which was commōly made of wood not of hangings. Now that they might change their Scene according to their pleasure, they made it [k] *Versatilem, id est*, so that with enginnes it might vpon the suddaine be turned round, and so bring the pictures of the other side into outward appearance: or otherwise *ductilem, id est*, so that by drawing aside of some wainscot shuttles (which before did hide the inward painting) a new partition might seeme to be put vp: and I thinke because those sheepheards did act no more at a time than one of our *Scenes*, hence haue we distinguished our playes into so many parts, which wee call *Scenes*. The places which were proper to the spectators were distinguished according to their degree & ranck; for the remotest benches were for the Commons, & called *popularia*; the next for the Knights and Gentlemen of *Rome*; and called therefore *Equestria*, the others wherein the Senators did sit were commonly called *Orchestra*: this may be collected out of [l] *Lipsius*, [m] *Cœl. Rhodiginus* saith, that the *Orchestra* was that place ioyning to the stage, where *Chorus* spake to the people at the end of euery act. Diuerse authors are of *Cœl. Rhod*: his opinion, deriuing the word *Orchestra*, from the Greeke ὀρχέομαι, to dance: but it seemeth more probable, to haue bin a peculiar place, allotted for the Senators. *In. Sat.* 3.

Æquales habitus illic similemq; videbis
Orchestram, & populum... id est, optimates & plebem. The whole

[k] Seruius, l. 3. virg. Georg.

[l] Lipsius de amphith. c. 14.

[m] Cœl. Rhod. lib. 8. cap. 8.

whole building made for entertainment of the spectators, resembled a triangle or wedge, sharpe towards the stage, and broad behind: whence the whole was denoted by the name *Cuneus*; when *Cuneus* signified any particular place about the theatre, then by it we are to vnderstand that which formerly we call *popularia*, the place for the meaner sort of people, [n] whence when we would point out a base and ignoble person, *Inter cuneos residere dictitamus*. There was also another kinde of scaffold, built quite round, made as it were of two theatres ioyned together, it was called *Amphitheatrum*, and differed from the Theatre, onely as the full moone doth from the halfe, or a compleat rundle from a semi-circle: it [o] resembled an edge. Vpon this kinde of scaffold did the Masters of defence play their prizes, and wild beasts were baited [p] *In Amphi-theatro gladiatorij ludi, & conclusarum ferarum venationes exhibebantur*. The *Amphitheatre* it selfe in the judgement of [q] *Lipsius* was tearmed *Cavea, ab interiore parte quæ concave erat*; And *Arena* because it was strowed with grauell & sand, that the blood of such as were slaine in the place might not make the place too slippery for the combatants. Hence cometh that phrase, *In arenam discendere*, to go into the field: and the combatants were thence called *Arenarij*. Here we must note, that howsoeuer the *Amphitheatre* was strowed commonly with common & ordinary grauell, yet sometimes in their extraordinary shewes that grauell was couered & as it were new coated, with the scrapings & dust of some extraordinary stones, to adde the greater lustre vnto it: thus much [r] *Pliny* intimateth. *Inuenere & alium vsum eius lapidis, in ramentis quoq;, Circum maximum sternendi, vt si in commendatione & candor.* Againe, sometimes the hollow places or dennes vnder the *Amphitheatre*, in which the wild beasts were kept, and likewise men to be committed with wild beasts, out of which these were let loose by the lifting vp of trap-dores to be hunted or baited vpon the *Amphitheatre*, were called *Cauea*. For we must

[n] Cæl. Rhod. lib 8. cap. 8.

[o] Turneb. ad. verf. lib. 5. c. 5.

[p] Hosp. de. o. rig. fest.

[q] Lips. de Amphith. c. & 3.

[r] Plin. lib 36.

know that the *Amphitheatre* was full of hollow passages for many reasons, as for the conuenient keeping of wilde beasts, and beastiaries; so sometimes for the better conueying of waters thither, by the meanes whereof [f] reall ships and sea-skirmishes were often times exhibited vpon the *Amphitheatre*.

[f] Sueton. in Domitian.

Cap. 20.

Moreouer for the better vnderstanding of classicall authors it will not be impertinent to point at the generall names, by which the religious places were called: and to declare the proper acception of each name, the names being these, *Templum, Fanum, Delubrum, Ædes sacra, Pulvinar, Sacrarium, Lucus, Scrobiculum, Ara, Altare, Focus.*

De Templo.

This word *Templum* doth sometimes signifie those [a] spaces, and regions in the aire, & earth, which the *Augures* did quarter out with their crooked staffe at their south-saying. Sometimes it doth signifie a sepulchre or graue, [c] because in old times, men did superstitiously pray, and worship at the toombes and monuments of their deceased friends, as if it had beene in *Temples* or *Churches*, and in this sense may *Virgil* be vnderstood;

[a] Rosin. Ant. lib 2. cap. 2.

[c] Lilius Gyrald, de diis gentil. syntag. 17.

[d] *Præterea fuit antiquo de marmore templum.*
Coniugis antiqui. ---

[d] Li. 4. Ænead. v. 457.

Most commonly it doth signifie a Church, or *Temple*: in which sense as often as it is vsed, it is [e] said a *templando*, from beholding; because when we be in the Church by lifting vp our hearts by a diuine contemplation, we doe, as it were behold the great maiestie of God.

[e] Fr. Silvius in orat. pro Muren.

De Fano.

It is also called *Fanum, à fando*, from speaking: not from the speaking of the Priest, but because the people doe there speake vnto God, and God againe to the people. [f] Some are of

[f] Turneb. ad, verl. lib. 3. c. 9.

of opinion that *Fanum* in proprietie of speech signified the Church-yard, or court before the Temple: *Templum* signifieth the edifice, or Church built.

De Delubro.

Thirdly, a Church was called, *delubrum Synecdochicõs*, because it was the principall part of the Church, namely the place where their Idol-God stood; & it was called *delubrum* from *Deus*: as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward forme of the Churches, some were vncouered because they counted it an hainous matter to see those Gods confined vnder a roofe, whose doing good consisted in being abroad; other some couered; some round, some otherwise: but within they much resembled our great Churches. They had their *prondon*, or Church-porch, whereabouts they were wont to haue the image of the beast *Sphinx*, which was so famous for his obscure riddles: so that by this Image was signified, that the oracles of the Gods, which were treated of within the Church, were darke and mysticall. They had certaine walks on each side of the body of the Church, which they called *porticus*: & in these places it was lawfull for them to marchandize, make bargaines, or conser of any worldly busineſſe; as likewise, in the *basilica* or Body it selfe. But their Quire called *Chorus*, was coũted a more holy place, set a part only for diuine seruice. The manner of hallowing it, was as followeth. [h] When the place where the Temple should bee built, had beene appointed by the Augures (which appointing, or determining the place they called *Effari templa*, and *sistere Fana*) then did the party, which formerly in time of need vpon condition of helpe from the gods had vowed a Temple, call together the *Aruspices*, which should direct him in what forme the temple should be built: which being knowne certaine ribbands, and filiets were drawne about the *area*, or plot of ground with flowers, and garlands strowed vnderneath, as it was probable to distinguish the limits of this

g Rosin Antiq. lib. 2. c. 2.

h Rosin. Ibid.

ground now to be hallowed. Then certaine souldiers marched in with boughs in their hands, and after followed Vestall Nunns leading young boyes, and maids in their hands who sprinkled the place with holy-water. After this following the Prætor, some Pontifie going before, who after the *area* had beene purged by leading round about it a sow, a ramme and a bull, sacrificed them, and their entralls being laid vpon a turfe, the Prætor offered vp prayers vnto the Gods that they would blesse those holy places, which good men intended to dedicate vnto them. This being done the Prætor touched certaine ropes, wherewith a great stone being the first of the foundation was tyed: together with that, other chiefe Magistrats, Priests, and all sorts of people did helpe to pluck that stone, and let it downe into its place, casting in wedges of gold, and siluer, which had neuer beene purified, or tryed in the fire. These ceremonies being ended, the *Aruspex* pronounced with a loud voice, saying, *Ne temeretur opus, saxo, auroue in aliud destinato, id est*, Let not this worke be vnhallowed by conuerting this stone, or gold, into any other vse.

De Ædes sacrâ.

Fourthly, a Church was called *Ædes sacra*, an holy house, because of the sacrifices, prayers and other holy exercises performed therein. Although (as *Gellius* hath long since observed every holy house was not a Church. For the proper note of distinction betweene a Church, & a religious house was this, that a Church beside that it was dedicated vnto some God, it was also hallowed by the Augures, without which hallowing the edifice was not called a Church but a religious house: of which sort was the Vestall Nunnery, & the common treasurie, called *Ædes saturni*. We may adde hereunto this word *Puluinar*, [i] which doth often signifie a Church: the reason being taken from a custome amongst the *Painims*, who were wont in their Churches to make certaine beds in the honour of their Gods, and those beds they called

[i] Barthol. Latomus in Philippic 4 *am.*

Pulvinaria

Puluinaria from *puluis*, because they were filled with dust or chaffe.

De Sacrario.

Sometimes [k] *Sacrarium* signifieth a temple, though properly it signifieth a Sextry or Vestry, nempe [l] *Sacrorum repositorium.*

De Lucis.

Neere vnto diuerse Temples stood certaine groues dedicated to some of the Gods: they were called in Latine *Luci à non lucendo*, as diuerse say, by the figure *antiphrasis.* But others are of a contrary opinion, giuing it that name, because of the exceeding light it had in the night time by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places vpon which they sacrificed either in their religious houses, or their groues, were of three sorts, which we in English terme altars; but the Romans distinguished them by three seuerall names, *Scrobiculus*, *Ara*, and *Altare.*

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit containing an altar in it, into which they powred downe the blood of the beast slaine, together with milke, hony, and wine, when they sacrificed vnto an infernall God.

De Ara.

The second kinde of altar was called *Ara*, either *ab ardendo*, because their sacrifices were burned vpon it: or from their imprecations vsed of that time: which in Greeke they called ἀρὰς. It was made foure-square, not very high from the ground, or as some say, close to the ground: and vpon this they sacrificed vnto the terrestriall Gods, laying a turffe of grasse on the altar: and this gaue *Virgil* occasion to call them [n] *Aras gramineas, id est*, grassie altars.

De Altari.

The third sort was called *Altare*, either because it was exalted, and lifted vp some-what high from the ground; or because

[k] Cic. pro Milone.
[l] Franc. Syluius in orat. pro L. Mutæn.
[m] Alex. Gen. dier. l. 5. c. 26.
[n] Virg. Æn. 12.

cause he that sacrificed (by reason the altar was so high) was constrained to lift vp his hands *in altum*, on high: and vpon this they sacrificed vnto their celestiall Gods onely.

o Serv. in Bucolic. eclog 5.

De Foco.

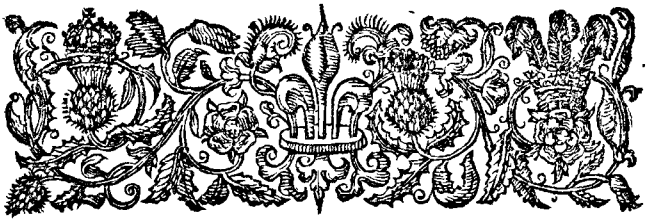
Focus is a generall name, signifying any of these altars. So called a *fouendo*: because as *Seruius* hath obserued that is *focus, quicquid fouet ignem, siue ara sit, siue quicquid aliud, in quo ignis fouetur.* But in strict propertie of speech, it is taken for that altar on which they sacrificed to their domesticke Gods, such as were their *Penates* or *Lares.* As it appeareth by *Plautus* p:

p Aulular. act. 2. Sc. 5.

Hac imponentur in focum nostro Lari
Vt fortunatas faciat gnatæ nuptias.

Whence ariseth that Adage *Pro aris & focis certare*, sounding as much as to fight for the defence of religion and ones priuate estate; or (as our English prouerbe is) for God and our Country; the prouerbe being in this originall, part of the oath that was administred vnto the Romane Souldiers: and thus it is expounded by q *Turnebus.*

q Turneb. Adv. lib. 10. c. 7.



LIB. 1. SECT. 2.

The generall divisions of the Romane people.

CAP. 1.

De populo Romano, & eius prima divisione.

THus hauing premised a short Treatise concerning the first situation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the inhabitants, which antiquity hath stiled Cittizens of *Rome*. And *Erasmus* rather describing a *Romane*, then defining him, saith, A *Romane* was graue in his conversation, severe in his judgement, constant in his purpose: Whence *Cicero* in his Epistles often vseth this phrase, *More Romano*, for *ex animo, id est*, vnfainedly.[a] *Sigonius* rendring the definition of a *Roman* citizen, averreth that no man is *lege Optimâ, id est*, in full and compleat manner a cittizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of citty preferments. By the first particle those which they tearme *municipes*; by the second those which they call *Inquilini*; and by the third those which they call *Libertini* are in a man-

a Sig de iure Rom. l. 1. c. 1.

ner

ner disfranchised. But whereas *Sigonius* saith that they must haue their habitation at *Rome*, hee would not be so vnderstood, as if a *Roman* cittizen might not remoue his habitation to any other country: For, saith he, a *Romane citizen* may be as long absent from *Rome*, and the fields belonging to *Rome*, as he please, so that he suffer himselfe to be sessed and taxed in common with others toward the subsidy payments, & denyeth to be incorporate into another citty. For *T. Pomponius* was a true cittizen of *Rome*, though he dwelt at *Athens*. The *Romane* cittizens being by these priviledges as by a more proper and peculiar character distinguished from other people: and being planted in the citty according to the appointment of *Romulus* their King, it seemed good vnto him to divide them into [b] Tribes, not taking the note of distinction only from the diverse places they thē inhabited, as we read that *Servius* the sixt king of *Rome* did, making therefore foure tribes τοπικὰ, locall, namely *Suburanam*, *Pallatinam*, *Collinam*, & *Esquilinam* (which number of locall tribes in processe of time increased vnto the number of 35) but dividing thē according to their severall nations, which at the first were *donati civitate, id est*, made free denizens of Rome: and they being in number three. 1 The *Sabines* which were named *Tatienses*, from thir King *Tatius*. 2. The *Albanes*, called *Rhamnenses* from *Romulus*. 3 Other nations promiscuously flocking out of other coūtries to the *Roman Asylū* placed in a groue called in Latine *Lucus*, which gaue *Romulus* occasion to name thē *Luceres*) he made in all three tribes γενικὰς or nationall. After that *Romulus* had thus divided the whole body of the *Romanes* into three Tribes, hee then subdivided each tribe into ten lesser numbers, which he called *Curiæ*, or patishes: & then followed fiue other divisions in respect of their different degrees, and callings: of which in their seuerall order.

[b] Sigon. de jur Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima divisione Romanorum in Senatores sive Patres, Patricios, sive Patronos, & Plebeios, sive Clientes.

THe first divison of the *Romans* in respect of their degree, and place was this. The elder, wealthier and gravest sort of *Romanes*, were called sometimes *Patricij*, either because of their age, and gravity; or because they had many childrē (for great priviledges were granted vnto fathers of three children:) and sometimes *Patroni*, because they were as patrons, and fathers in helping & assisting the causes of the common people seeking to them. The yonger, poorer, and simpler sort were called, as they had relation to the *Patricij*, *Plebeij*, *id est*, the commons; as they had relatiō to their *Patroni*, they were named *Clientes*, *id est*, Clients: betweene whom [c] there was such a mutuall, and reciprocall entercourse of loue, & duty, that as their *Patrons* were ready to protect their Clients, so the Clients were bound with all faithfulnesse to cleaue vnto their Patrons: & that not only to credit thē with their attēdance in publike assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publike mulcts, the giuing of largesses in suing for offices, &c. Neither was it lawfull for either of them to enforme, to depose, to giue their voices, or to side with adversaries one against another without the guilt of treason: for which crime of treason they were *dijs inferis devoti*, *id est*, cursed to hell, & the law gaue liberty for any man to kill them. Out of the *Patricij* did *Romulus* elect 100 counsellers to assist him in determining matters cōcerning the common-weale: to these did *Romulus* after adde another 100. & *Tarquinius Priscus*, as divers Authors testifie, made them a compleat 300. which they called *Patres*, or

c Lazius de Repub. Rom. lib. 12. cap. 3.

Senatores, and their sonnes *Patricij*. But in processe of time the commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the commons,[d] who were called *Senatores minorum gentium, id est, Senators* of the lower house. *Brutus* added the last 100: & made them 300, at what time they began to be called *Patres conscripti*. And this accordeth with *Ioannes Rosa* in his Epitome of the *Roman* history, in his Ch. *de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise [e] *Alexander Neop*: saith, that *Brutus* made them a compleat 300.

[d] Martyn. Philiticus in Cic. l. 1. Ep. fam. 1.

[e] Alex. Gen. dier. 2. c. 29.

Cap. 3.

De secunda divisione Romanorum in tres ordines, Senatorium, Equestrem, Popularem, seu Plebeium.

After that through *Tarquinius Superbus* his tyranny; the very name of a King became odious to the Romans, not only the present King was exiled, but the authority of a King ever afterward detested & perpetually abrogated: so that the office, which was before monarchicall then was divided betweene two, called Consulls: neither were they admitted for any longer space then one yeare. At which time of change, the *Romans* were divided into three orders, or ranges, 1. into Senators, of whom before. 2. into Gentlemen, called of the *Romans*, *ordo Equestris*: by which we doe not vnderstand those 300. *Celeres, id est*, Pensioners, called sometimes *Equites*, for that was a place of service, this a title and token of gentility. Who although they were inferiour to the chiefe Senate, yet they were of great esteeme among the *Romans*: and although they might not weare the same robe as the *Senators* did, namely the *laticlavium*, or garment bestudded with flourishings of purple silke in manner of broad naile heads;[f] yet they might weare the *angusticlavium*

[f] Rosin. Antiq. l. 1. cap. 17.

clavium, a garment differing from the former only in this, because the purple studdes, wherewith it was purfled was narrow, and not so large as the *lati clavium*. They also at the time of their electiõ receaued from the *Censors* an horse called by them *equus publicus*, because of the yearely allowance out of the common treasury to keepe him: it was also called *equus militaris*, because of their service in warre(g they hauing their horses kept as well in peace as warre. They receaued also a gold-ring, h whereby they were distinguished from the populacy: for it was not lawfull for any to weare a gold-ring vnder the degree of a *Senator*, or a Gentleman. The estimation and value of a *Senators* estate i vntill *Augustus* his time was *octingenta sestertia*, that is, 6000l. k Of a Gentlemans estate it was *quadringenta sestertia*, that is, of our English mony 3000l, 3. The third order, or degree in the *Roman* common-wealth was *Populus*, the populacy, or commons, which should exercise trading, manure the ground, look vnto the cattle, &c. Where by the way wee must vnderstand that the baser sort of the *Romanes*, which did wander vp and downe, to and fro, not setling themselues to any vocation, were not contained within this division, for vnto them there was no name vouchsafed: but according to the Poet they were *sine nomine turba*; or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

g Lipsius de magnitud. Rom. l. 1. dial. 5
h Alex. Gen. die. l. 5. c. 29.
i Suet in August.
k Plin. lib. 33. cap. 22.

Cap. 4.

De tertiâ divisione in Nobiles, Novos, & Ignobiles.

THis division was taken from the right or priviledge of hauing images; for they were accounted Noblemen, which had the images of their predecessours: Those which had their owne images only were called *Novi, id est*, late-coyned nobles or vpstarts. *Salust* vseth this

word often in the disgrace of *Tully* calling him *Novum & reptitium civem*, one that lately crept into the city The third sort called *ignobiles* were those that had no images, neither of their predecessors, nor of themselues. Before we proceed, we must vnderstand, that it was not lawfull for who would to haue his owne image if he so desired; for none might be thus priviledged, but those alone to whom the right of riding in a Curule chaire belonged; and to these the right of images was permitted, as well for the credit of their house, as to incite others to the like atchieuements, when they would consider the diverse ceremonies vsed vnto these images in an honourable remẽbrance of those whõ they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*: insomuch that this word [l] *Imago* doth oftentimes signify Nobility: & the right of hauing Images with them, was the same as the right of hauing armes with vs, [m] The superstitious conceipt which the Romanes had of these images was such, that vpon festivall daies and all occasions of joy and mirth, those images should be beautifyed and adorned with garlands and flowers; vpon occasion of griefe & mourning they would take from them all their ornaments, making them in a mãner to partake of their mourning. Some they kept in their private closets, [n] others they exposed to the publike view of passengers, placing them in the gates of their houses together with the swords, targets, helmets, shipbeakes, and such other spoiles as formerly they had taken frõ their enemies; [o] which it was not lawfull for any, though they bought the house so much as to deface. Yea they were so annexed to the freehold that they passed alwaies in the conveyance of the house. The matter of which they were commonly made was waxe, as that of *Iuvenall*, doth sufficiently witnesse.

Sig. de jur. Rom. l.2.c.20.

m Alex. Gen. dier. l.5.c.24.

n Barth. Lato. in Verrin 7.

o Plin. 25.2.

p Iuv. Sat. 8.

p *Tota licet veteres exornent vndiq; cera*
Atria, nobilitas sola est atq; vnica virtus.

Againe we may not thinke that they made in waxe a compleat

pleat statue or a full portraiture of the whole body, but only from the shoulders vpward.

CAP. 5.

De quarta divisione Romanorum in Optimates & Populares.

THis fourth division of the *Romanes* hath bin occasioned through the faction & siding of the cittizens. Those (according to the description of *Tully*) were *Optimates, id est*, the best citizens, who desired their actions might be liked, and approued by the better sort. Those *Populares, id est*, popular, who through desire of vaine-glory, would not so much consider, what was most right, as what should be most pleasing vnto the populacy. So that hereby this word *popular*, we vnderstand not the commons, as formerly we did,[r] but be he Senator, Gentleman, or inferiour, if he doe more desire that which shall be applauded by the major part, then that which shall be approued by the better part, him the *Romanes* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

q Cic. pro Sex. 10.

r Georg. Merula in orat. pro Ligario.

CAP. 6.

De quintâ & vltimâ divisione Romanorum, in Libertos, Libertinos, & ingenuos: item de Manumissione.

THe difference of the freedomes in the City of *Rome* hath giuen occasion of this division: For he, or shee that had served as an *apprentice*, and afterward was manumized, was named *Libertus*, or *Liberta*. The son whose father, & mother were once apprentices, was called *Libertinus*, but that sonne whose father and mother were both libertines

bertines, or both free borne, [f] yea whose mother only was free, was called *Ingenuus, id est*, free-borne. But after *Appius Cæcus* his Censorship, then began *Liberti* & *Libertini* to signify one and the same degree of freedome: so that *Liberti* & *Libertini* were taken for those which serued for their freedome, and *Ingenui* were taken for those which were free-borne, whether their parents were *Liberti* or *Libertini*. Here is occasion giuen vs to consider the mãner of their freedome, and such ceremonies which belonged thereunto. The freedome of the city of Rome was three waies obtained: first by *birth*, both or at least one of the parents being free and such were called *cives originarij* Secondly by gift and *cooptation*, when the freedome was bestowed on any stranger, or natiõ, and they were tearmed *civitate donati*: and so we read that *Cæsar* tooke in whole nations into the freedome. Lastly, by *manumission*, which was thus: when as the servant was presented by his master before the Consull or Pretor, the master laying his hand vpon his servants head, vsed this forme of words, *hunc liberum esse volo*, and with that turning his servant round & giuing him a cuffe on the eare hee did *emittere servum è manu*: the Pretor then laying a certaine wand or rod called [t] *Vindicta*, vpon the servants head, replied in this manner *Dico eum liberum esse more Quiritum*. Thẽ the lictor or sergeant taking the wand did strike therewith the servant on the head, and with his hand he stroke him on the face and gaue him a push in the back, & after this he was registred for a freeman. Moreover the servant hauing his head shauen purposely at that time receiued a cappe as a token of liberty; whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindicta liberare*.[u] According to *Tertullian* at this time of their manumission the servants receaued from their masters, a white garment, a gold ring & a new name added vnto their former. Whose authority if we admit, then the having of three names among the Romans was rather a signe of *freedome* then of *Nobility*. And that of *Iuvenal*.

[f] Iustin. inst. lib. 1. tit de Ingenuis. vid. Franc. Sylv in Catilinar 4.

[t] P. Ramus in orat pro C. Rabirio.

[u] Tert. de resur. carn.

Tan-

Tanquam habeas tria nomina----
Is not to be expounded, *as if you were a noble man*, but *as if you were a free-man.* Here we may also consider the two seuerall kinds of seruants: the first were called *serui*, and they could neuer attaine to any freedoome, without the consent of their master.[x] For those that were thus *serui* were commó-ly captiues, either bestowed as a reward vpon this or that souldier, or bought *sub coronâ*, or of other Citizens that had gotten them one of those two former waies: the second were called properly [y] *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were deliuered vp vnto their creditors by the Prætor to worke out the debt, so that after the payment thereof, either by mony or worke, they did recouer their liberty: whence they were said [z] *nomina sua liberare*, when they paid the debt: as on the contrary they were said, *nomina facere*, when they became in debt. And their creditors when they sued for the payment were said *nomina exigere: nomen* in these and the like places signifying as much as *debitũ* a debt,[a] because the creditors did vse to write downe their debters names. [b] The manner of suing for their debts was as it followeth. The debt being confessed, thirty daies were allowed the debter for the payment of the mony (those daies of respite they called *dies iustos, velut iustitium quoddam, id est, iuris inter eos interstitutionem & cessationem.*) The mony not payd, the debter was deliuered vp as a seruant to his creditor, yea hee was sometimes cast into prison, and vnlesse the creditor were in meane time compounded with, he remained three-score daies in prison, & three market-daies one after the other being brought before the Iudge, the debt was solemnly proclaimed, and vpon the third market-day, he was either sold to forrainers for a slaue or else was punished with death, each creditor being suffered if hee would to cut a peece of his dead body in stead of payment.

x Dion. Halicar. lib. 4.

y Sig. de iud. lib. 1. cap. 31.

z Mica. Tox. ita in orat. pro P. Quintio.

a Fr. Sil. in epi. virorum illust. l. 1. epi. 6.

b Vid. Cel. Rodig. l. 12. c. 20. Item A. Gel. lib. 2. cap. 1.

LIB. I. Sect. I.

The generall diuisions of the Romane Gods.

CAP. I.

De dijs.

THough *Satan* had much blinded the hearts of men in old time, yet was not the darknesse of their vnderstanding so great, but that they did easily perceiue, and therefore willingly acknowledge, that there was some supreame gouernour, some first mover, as *Aristotle saith*: some first originall of all goodnesse, as *Plato* teacheth. So that if any made this question, whether there was a God or no? hee should bee vrged to confesse the truth of that rather *argumento bacillino, quam Aristotelico*, rather with a good cudgel, then with any long dispute. But as they were most certaine, that there was a God, so were they againe very blind in discerning the true God: and hence hath beene inuented such a tedious catalogue of Gods, that as *Varro* averreth, their number hath exceeded thirtie thousand, and proued almost numberlesse. Wherefore I shall omit to make any distinct treatise of the Gods, intending *obiter*, and by the way to speake of them, which either had Priests, or sacrifices instituted for them. Onely I purpose to shew what is vnder-

stood by those generall distinctions of the Gods, which divers authors haue vsed, *Tulli lib.2.de legibus* reduceth all vnto three heads, Gods celestiall, which *Varro* calleth select, and others haue styled Gods *maiorum gentium, id est*, of the greater nations, because their power was greater than the others [a] *Alexander Neapolitanus* saith, that twelue of these were the *Penates*, which *Æneas* did take forth with him at the destruction of *Troy*. *Ouid* calleth them *Deos nobiles*, noble Gods: others call them *Deos consentes, quasi consentientes*, because *Iupiter* would doe nothing without the consent of all. *Ennius* hath deliuered them in this distich,

Iuno, Vesta, Minerua, Ceres, Diana, Venus, Mars,
Mercurius, Iouis, Neptunus, Vulcanus, Apollo.

The second sorts of Gods were called *Semidei, id est*, Demigods, also *Indigites, id est*, Gods adopted, or canonized; men deified. For as the select Gods had possession of heauen by their owne right; so these Gods canonized had it no otherwise than by right of donation, being therefore translated into heauen, because they liued as Gods vpon earth: but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called Gods of inferior note. [c] *Seruius* would haue these called *Diui*: obseruing this difference betweene *Dij* and *Diui*, that *Dij* should signifie those which had beene Gods perpetually, but *Diui* should signifie men made Gods, though commonly they are vsed one for another. Whence they called all their Emperours *Diui*, because for their deserts they thought them worthy to bee Gods. Now the [d] manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in forme of a great tent, or tabernacle, with three other lesser tabernacles one vpon top of another, the lowermost hauing in it dry combustible matter, but in the out-side adorned richly with gold, Iuory and painted tables: Hither the dead corps was to be carryed with great solemnities; the Senate, the Gentlemen, and all the

[a] Alex. Gen. dier. l.6.c.6.

[b] Seruius in lib. Georgic.

[c] In Æneid. lib. 5.

[d] Rosin. Ant. lib.3.c.18. vid. Hospiniam de orig. Christ. F. p.21. Vid. exemplum huius conseruationis in Seueri sepultura Herodian. lib. 4. p. 298.

the chiefe magistrats going before, with hymnes and songs, and all kinde of honour, which was to be performed euen to the Gods themselues. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire, for I finde none canonized but onely Emperours at their decease forthwith. at the kindling of the fire, a liuing eagle was let fly from the top of the tabernacle which was supposed to transport the soule of the dead body into heauen, in so much that euer after he was canonized amongst the Gods, & worshipped as a God. And because they were thus turned into Gods, some haue called them *Deos animales*, *quoniam animæ humanæ verterentur in Deos.* This canonization was by the Greekes termed ἀποθέωσις, by the Latines *consecratio.* The third sort were those morall vertues, by which as by a ladder men climed into heauen: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiuing that all the number of the Gods could not bee reduced vnto these three heads, haue added a fourth sort which they [f] call *Semones*, *quasi semi-homines*, because ancient writers, as *Rosinus* hath obserued, called men *hemones*, not *homines*, In which point I shall willingly condescend vnto him; but I shall leaue to the iudgement of others, to determine how iustly he hath restrained the Gods *minorum gentium*, of the lesser nations, onely vnto this last *classis*: whereas my opinion is, that the demy-Gods, the morall vertues which haue beene styled Gods, and these *Semones*, may all of them be called Gods of the lesser nations standing in opposition with the Gods select, which are called Gods of the greater nations. But that wee may vnderstand what is meant by these *Semones*, we must remember that by them are signified vnto vs not those Gods, which do appertaine to man himselfe, but to the necessaries of mans liuing, his victualls, his cloathing and the like: not to the being of a man but to the well being of him, of which sort is *Salus*, *Fortuna*, with others. We read likewise of other names

[e] Serv. in Æn. lib. 3.

[f] Rosin. antiq. lib. 2. c. 19.

giuen in common to diuers Gods, not as opposite members of a diuision, but as notes of distinction drawne fro n the diuersity of helpe, which they seuerally did afford vnto mã. In this respect some were called *dij patry*, or *tutelares*, such as had vndertaken the protection of any City or Towne which opinion had sometimes beene entertained by our English-men, & thence haue risen these & the like speeches **S. George for England, S. Denis for France, S. Patricke for Ireland,** &c. And the Romans being fully perswaded of the truth thereof, whensoeuer they went about to besiege any towne, by certaine enchantments, or spells they would first call out these Tutelar Gods; because they deeme it matter impossible to captiuate the Citie, as long as these Gods were within; or at least they thought it a crime vnexpiable to take the Gods as prisoners, and least other nations might vse the same meanes in besieging Rome, therefore, [g] as divers authors haue thought, the true name of the Romane Citie was neuer knowne, least thereby the name of their Tutelar God might be descryed. Others namely the *Tyrians* haue tied fast their God *Hercules* with a golden chaine, thereby the more to secure themselues of his residence among them.[h] Others haue beene called *Dij communes*, namely *Mars Bellona*, and *Victoria*, because in time of war they are not bound to either side: but sometimes they helpe one side and sometimes the other. And as they supposed some Gods to haue the protection of whole countries, so did they beleeue that others had the charge of particular men; and that so soone as any man was borne, two spirits did presently accompanie him invisibly., the one termed the *bonus Genius*, or good Angel, perswading him to that which should be good: the other called the *malus Genius*, or euill Angell, tempting him to that which should be hurtfull: insomuch that they thought all the actiõs of men to be guided by these Angels called *Genij*; so that if any misfortune befell a man, they would say that the matter was enterprised *Dijs iratis, id est*, our *Genius* being displeased with vs.

g Sylvius in epist. virorum illustrium.

h Alex. Gen. dier. l. 6. c. 4.

Virgil

Virgil calleth these bad angels *Manes*, as it appeareth by that,
Qui sq; suos patitur manes, *id est*, Euery man hath his euill Angell, *id est*, some misfortune. These *Genij* were thought to be a middle essence betweene men & Gods: They are therefore called *Genij*, because they haue the tuitiõ of vs so soone, as we are *Geniti*, *id est*, borne, it is most certain that old authors vsed *Geno*, for *Gigno*, whence [i] *Tully* saith, *Si mihi filius genitur*: & [k] *Varro Antequam genat siliquas*, although euery place had also his *Genius*, as hereafter shall appeare. This opinion was the more confirmed by a vision which appeared vnto [l] *Brutus* in *Asia* neere vnto the time of his death, for *Brutus* watching vpon a certain night in his pauiliõ, the candle being neere spent, saw a fierce tragicall person appeare vnto him, somewhat bigger then a man, & he presently being of an vndaunted spirit, demanded whether he were a God or a man? To whom the vision answered, *Brutus* I am the euill *Genius*, which haunteth thee, thou shalt see me at the City *Philippi* againe, and the same vision appeared vnto him, as he was fighting at *Philippi*: which was the last fight that euer he fought. And because *Iuno* was wont to be inuocated in the time of Childe-birth, therefore many haue thought that euery man hath not his two Angels but one Angel, & *Iuno* to obserue him, but it is agreed vpon by best authors, that as the angels or spirits wch did attend men were termed *Genij*: so those which guarded women were termed *Iunones*. This *Genius*, as often as he is vnderstood for the good or euill *Angell*, which hath charge of a mans body, is painted in forme of a man as we read did appeare to *Brutus*; though sometime he is painted as a young boy, sometime as an old decrepite man, [m] but alwaies with a crowne of plane-tree, which therefore was called *Genialis arbor*, in the right hand he held a platter ouer an altar garnished with flowers: in the left he held a scourge hanging downe. The sacrifice that was performed vnto the *Genius* was wine, & flowers: wherevpon (as if by wine & fragrãt odors, were signified all kinde of plea-

[i] Cic. lib. 2. de orat.
[k] Varro Rei. Rust. li. 1. c. 31.
[l] Plut. in Brut.
[m] Rosin. ant. lib. 3. cap. 14.

pleasures) certaine prouerbiall speeches haue beene occasioned: as when we see a man giuen much to his pleasure, and dainty feeding, we say he doth *indulgere Genio, id est*, pamper or make much of his *Genius*: on the contrary he that is abstemious and debarreth him selfe of his pleasure, & dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: & *genialis* signifieth iocund or pleasant. [n] It was also the custome after meales to haue a cup passe round the table, much like vnto our *poculum charitatis*, & it was called *poculum boni genij*. [o] The *Grecians* had a like custome, whence that cup was called by them, χρᾶτις ἀγαθῆ δαίμονος. But the reason, why they would not sacrifice vnto their *Genius* by kindling some host, as they did to their other gods, was, because they iudged it vnfit to depriue any creature of his life vpon that day, when they first began their life (for this sacrifice was performed yearly by euery one vpon his birth-day) *Horace* notwithstanding doth more than intimate the killing of a young pigge in that sacrifice

... cras Genium mero
Placabis, & porco bimestri. Hor. lib. 3. Od. 17.

The other *Genius* which is supposed to haue chiefe power ouer high wayes & places, being therefore called *Genius loci*, was pictured in forme of a Snake, in which forme *Virgil* fained him to haue appeared, to *Æneas*, when hee performed the funerall rites due vnto his Father *Anchises*, *Æneid. l. 5.*

... Adytis cum lubricus anguis ab imis
Septem ingens giros, septena volumina traxit,

And *Persius*.

Pinge duos angues, pueri sacer est locus, extra.
Meijte, id est, duos Genios.

Another sort of Gods was supposed to haue the keeping of mens houses: [p] which they painted in forme of a dogge because those to whom the charge of houses is committed ought to resemble dogs, that is, to seeme fierce, and angry towards strangers, but gentle and kinde to those of the household

n Vid. Erasm. adag.

o Cel. Rhod. lib. 28. cap. 6.

Sat. 1.

p Franc. Sylv. in orat. pro Sext. Rosc. Am.

hold other properties wherein these *Lares* doe resemble dogs are recited by *Ovid. Fast.* 5.

Servat vterq; domum, domino quoq; fidus vterq; est,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diania fures,
Pervigilantq; lares, pervigilantq; canes.

They were named *Lares*, & because of the charge, they had over mens houses, this word *Lar* is sundry times taken for an house it selfe, as *parvo sub lare, Horat.* In a little cottage, *homo incerti laris, id est*, a man that hath no house to dwell in. *Sen. in Med.* And the custome in sacrificing vnto them, was to eat vp all whatsoever was left at the offering, for they thought it an hainous matter to send any of that sacrifice abroad, either among their friends, or the poore: and thereupon when wee see a glutton leaue nothing in the platter, not so much as the curtesy-morsell, we say *Lari sacrificat, id est*, he sacrificeth to his house-hold God.

LIB. 2 SECT. 2.

Of the Roman Priests with some particular Gods.

Faunus the ancientest of all the Kings in *Italy* was the first, that brought any forme of religion into *Italy*. Hee consecrated groues, gaue names vnto Citties, erected Temples, ordained sacrifices, &c. from whom the Churches, as some say, were named *Fana*. But after *Faunus*, *Evander* comming out of *Arcadia*, and afterward being king of *Latium*, he instituted, and appointed many other ceremonies, which before were vnknowne to the Latines. After him *Æneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whose examples *Romulus* & *Numa* were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order, especially *Numa* who that hee might gaine the more credit and authority to his new invented superstitions fained that he had conference about them every night with the goddesse *Egeria*. My intent therefore is, to speake first of the God, in whose honour these holy rites were performed, and then to descend vnto the Priests, which were to performe them, shewing withall the ceremonies they vsed in the performance.

Lact. de fail. vel l. 1. c. 22.

CAP.

CAP. I.

De Pano Lyceo, sive Iuno: de Lupercis, & Lupercalibus.

PAn was supposed to be the God of the sheep-heards, and is [a] thus described: he is pictured naked, hauing hornes in likenesse of the sunne-beames, a long beard, his face red like the cleere ayre, in his brest the starre *Nebris*, the neather part of his body rough, his feet like a Goat: in one hand hee holdeth a pipe, in the other a sheep-heards crooke, and alwaies is imagined to laugh. [b] He was worshipped first in *Arcadia*, and there called the God *Pan Lycæus*, but afterward hee was had in great esteeme at *Rome* [c] and in the honour of him certaine sacrifices, & games called *Lupercalia* were solemnized by the *Romanes*, [d] There he tooke the name *Inuus*, or as some say *Iunus*. Concerning the time, when these sacrifices were to be performed; it was vpon the [e] vnfortunate daies of the month *February*, which hath his name *à februando*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of wolues, in a memoriall that *Romulus* and *Remus* were nursed by a shee-woolfe. This seemeth very probable, because the priests, which were called *Luperci* beganne their course at the foot of the mount *Palatine*, called by the *Romanes Lupercall, id est*, the place, where the woolfe nursed [f] *Romulus*. The ceremonies were these: the hoast (being two Goats) was to bee slaine; and two Noble mens sonnes were to be present, whose fore-heads being blouded with the kniues of them that had slaine the Goats, by and by were to be dried vp with wooll dipped in milke. Then the young boyes must laugh immediatly after their foreheads were dry. That done they cut the goats skinnes, & made thongs of them, which they tooke in their hands, and

[a] Seruius in Virg Ecl. 2.

[b] Fenest. de sacerd. cap. 1.

[c] Fenest. ib.

[d] Pomponius Lætus de Sacerdot. cap. de Luper.

[e] Plutarch. in Romulo.

[f] Plutarch in Romulo.

ran with them all about the Citty ſtark-naked (ſaving they had a cloath before their privities) and ſo they ſtroke with thoſe thongs all they met in the way. The young wiues did never ſhun them at all, but were well contented to be ſtriken with them; beleeuing it helped them to be with childe, and alſo to bee eaſily deliuered. Moreouer it is to bee noted, that a dogge was ſacrificed at this time, becauſe there is a naturall antipathy, or contrariety of nature, betweene the dogge and the wolfe: whereby *Romulus* thought to teſtify his gratefulneſſe vnto the wolfe for her paines in nouriſhing him. The reaſon why the Prieſts ran vp and downe the ſtreets naked, was, becauſe that *Pan* the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a wolfe. Some Authors haue obſerued three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quintiliani*, from *Fabius* and *Quintilius* their gouernours: the third ſort, which [g] *Roſinus* affirmeth to haue beene added in the honour of *Iulius Cæſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in [h] another place, namely that *Auguſtus Cæſar* when he was chiefe Pontify did reſtore theſe games againe being formerly aboliſhed.

g Roſin. ant. l. 3. cap. 2.

h Sueton. in Auguſt.

CAP. 2.

De Cerere & ſacris eius.

CEres otherwiſe called *Eleuſina* was honoured firſt among the *Gracians*, afterward among the *Romans*, as a Goddeſſe, which firſt taught men the skill of huſbandry.

Prima Ceres ferro mortales vertere terram
Inſtitut. Virg. Georg.

Whence ſhe is ſometimes *metonymicè* taken for corne, as

credenda

Credenda Ceres arvis.Ovid. It is ſeed time. She is called *Ceres*,[i] *quaſi Geres à gerendis frugibus*, from bearing fruit; becauſe, as ſome ſay, by *Ceres* is vnderſtood ſometimes the earth it ſelfe. whence alſo δημήτηρ being the greeke name of *Ceres* is ſaid *quaſi* γῆμητηρ, *id eſt*, the earth, which is the common mother of vs all.[k] She is painted in the habit of a Matron wearing a garland of corne, ſometime ſorrowfull with a lampe in her hand, as if ſhee were ſeeking out her daughter *Proſerpina* carried by *Pluto* into hell; and ſometime with a handfull of corne or poppy-ſeed. Vpon the fift of the Kalends of Aprill the *Romans* were wont to performe ſacrifices vnto her, which they called *ſacra Græca, id eſt*, the Græcian ſacrifices, as likewiſe they tearmed the chiefe woman which did performe them, *ſacerdotem Græcam, id eſt*, the Greeke Miniſtreſſe, becauſe they were tranſlated into *Rome* out of *Greece* by *Evander*. The time of their ſolemnities was at the dawning of the day, and the Prieſts, which were only women which ran vp and downe with lampes in their hands in manner of mad women; into whoſe temple none that was guilty of any fault committed might enter: whoſe myſteries were to be buried in ſilence, and by no meanes to be blabbed abroad. And as it is to be ſuppoſed, that was the reaſon why all wine was forbad in this ſacrifice. So that hence[l] we ſay *Cereri ſacrificat*, he ſacrifices to *Ceres*, when he maketh a feaſt without wine.

i Cic. lib. 3 de nat. Deor.

k Roſin ant. lib. 2. cap. 11.

l Plautus in Auſularia.

Cap. 3.

De Potitijs, eſt Pinarijs Herculis ſacerdotibus.

Hercules had an altar erected in the memorial of him neere vnto *Tiber* by *Evander*, vpon occaſion of the heards-mens complaint brought vnto *Evander* of him, whom they accuſed to haue ſlaine their chiefe heardsman *Cacus*, the Hiſtory being[m] thus. *Hercules* after his conqueſt

m Ser. Æn. lib. 8.

quest ouer *Geryon* brought away with him certaine goodly Oxen, and as well to rest himselfe, as to pasture his *Oxen*, he laid him downe to sleepe in a greene field neere the riuer *Tiber*. In the meane while a certaine heards-man called *Cacus* happened to come that way, and perceiuing *Hercules* to be in a sound sleepe, he stole away two of his Oxen, which hee had in a caue, or hollow rocke pulling them in by the taile backward, thinking that *Hercules* when he should looke his oxen and see the print of his footsteps, would easily beleeue, that his oxen had rather gone out from that rock thē into it, as indeed he did for a time beleeue but afterward by the bellowing of the oxen within answering their fellows without, *Hercules* entred the rocke, & finding the theefe *Cacus* there with his oxen, he killed him, by reason of which murder hee was brought before *Evander*; and after a while knowne to be the *Hercules*, of whom the Prophetesse *Garmenta* had foretold vnto *Evander*, that he should be a God, Wherevpon *Evander* presently saluted him by the name of *Hercules* the sonne of *Iupiter*, and in honour of him caused an altar to be built there in that place: vpon which yearely was to bee offered vp an heifer which had never borne yoke; and that this sacrifice might be had in the more esteeme, two Noble men well stroken in yeares, and of good repute among the *Romans*, one of them being called *Potitius*, and the other *Pinarius* were appointed as the Priests to performe these sacrifices; from whom ever after *Hercules* his Priests were called *Potitij*, and *Pinarij*. Where by the way we must obserue, that *Pinarius* Was not the sur-name of this Noble man, but, a name added vnto him, intimating his, and his successors punishment for not comming soone enough according to the time appointed by *Hercules*. For as [n] divers writers testify, the entrails of hoast were almost eaten vp by the family of *Potitius*, before *Pinarius*, and his family came; and in punishment of their negligence *Hercules* enioyned the *Pinarij* never after to eat of the entrals giuing them this name *Pinarij* at that

[n] Serv. Æneid. lib. 8.

that time, from the Greeke word πεινα signifying hunger.

CAP. 4.

De Fratribus arvalibus,

THis Colledge or company of Roman Priests may be Englished the *Arvall fraternity*: the number of thē being twelue, eleuen of them naturall brothers, sons to *Acca Laurentia Romulus* his foster mother; o for which respect *Romulus* yeelded himselfe her adopted sonne, instituting this order in the honour of *Ceres* & *Bacchus* for the plenty of wine and corne vnto whom they did offer vp certaine sacrifices called *Ambarvales hostiæ, quod antequam mactarentur ter circum arva ducebantur*, according to that of *Virg. Georg.* *Terq; novas circum fœlix eat hostia fruges*, that they being therewith appeased might the willinger cause the earth to fructify, & added himselfe to the former eleuen as the twelfe priest or brother to helpe in the performance of this publike sacrifice, moreover beside the performance of this sacrifice, these twelue were appointed *arbitrators*, or judges to decide controversies cōcerning land-marks and bounds of the field, from whence they tooke their name *fratres Arvales*. Their sacerdotall ornaments was a garland of wheat bound vp with a white riband, this being, as p *Pliny* writeth, the first crowne, or garland amongst the Romans.

o Fenest. de Sacerd. c. 3.

Hosp. de orig. Monach. c. 10.

p Plin. lib. 17. cap. 2.

CAP. 5.

De sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or wardes, and subdivided those three wardes into thirty parishes, called *Curiæ*, he ordained out of each *Curia* two parish priests or Curats called *Curiones*, or *Flamines curiales*; which were pub-

publikely to offer vp sacrifice in the behalfe of the people. Neither was every one equally capable of this honour of Priesthood; q but he was to bee at the least fifty yeare old, of a life vnspotted, and a body vnmaimed. And ouer all these there was one which had chiefe rule, and therefore was called *Curio Maximus*, the Bishop, or chiefe Prelate: and these sacrifices were called *Curionia*. r Their sacrifice being ended each parish had a feast in a common hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

q Dion. Hal. lib. 2.

r Dion. Hall. lib. 2.

Cap. 6.

De Auguribus, & eorum Collegio.

AMongst other kinds of Fore-tellers we read of three principally vsed in former time, namely, *Aruspices*, *Auspices*, & *Augures*: all which wee english soothsayers, though the Latine words doe import a maine difference worth our observation: all are alluded vnto by *Ovid*.

Hoc mihi non ovium fibræ, tonitrusve sinistri,
Linguave servatæ, pennaue dixit avis.

Ovid. trist. l. 1. Eleg 8.

The *Aruspices* did divine, or foretell things to come by beholding the entrals of beasts sacrificed: whence they had their name. *Ab aras inspiciendo*, frō beholding the altars. The *Auspices* did foretell things by beholding the flight of birds so that *Auspices* are said *quasi avispices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of the birds: whence they are called *Augures ab aviū garritu*, frō the chirping & chatting of birds. These two last kinds of soothsaying haue occasioned these, and the like phrases, *bonis avibus*, or *auspicijs*, with good lucke, *malis avibus*, *id est*, with ill lucke: and because they would beginne nothing *inauspicato*, *id est*, without the counsell of the *Augures*, hence *Auspicari rem* hath beene translated, to beginne

t Fr. Sylv. in orat. pro Cicentio.

ginne a matter. The Colledge of the *Augures* at Rome was first appointed by [u] *Romulus* himselfe being very expert in soothsaying, there being at the first but three, namely one of each tribe: (The word *Augur* being not taken in his owne proper sense and signification aboue mentioned; but generally by the trope *Synechdoche*, signifying all kinds, and sorts of diuining whatsoeuer, whether it were by obseruing the entrals of beasts, the flying, screeching, and chatting of birds, or thundring, or lightning in the heauen, or marking the rebounding of crums cast vnto birds, which kinde of diuining was called *Tripudium*. ([x] *Seruius Tullius* the sixt Romane King, when he diuided Rome into foure locall tribes: *id est*, Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricij* or the Nobility of Rome, [y] In processe of time *Quintus*, and *Cnaus Egulinus* being chosen *Tribuni plebis, id est*, Protectors of the commons, obtained that fiue other *Augures* should be chosen out of the commonaltie, and added vnto the former foure: at which time the Senate decreed that the Colledge of *Augures* should neuer exceed the number of nine. [z] Notwithstanding *Sylla* being *Dictator* added six more, insomuch that their Colledge encreased to the number of fifteen: the eldest of which was called [a] *Magister Collegij*, the master or *Rector* of the Colledge. The *Augures* excelled other Priests in [b] this respect, because if any of them had beene convinced of any haynous crime, he did not loose his office, neither was any other subrogated into his roome, although the Romane custome was, that if any other Priest had committed any notorious offence, he should presently be discharged of his office, and another chosen in his place. [c] The manner how the *Augur* did obserue was this: He sate vpon a Castle, or a Towre, the ayre being cleare, and faire without clouds or raine, holding a crooked staffe, (called in Latine *Lituus*) in his hand, where sitting in his soothsaying robe, called *Lana*, and in Greeke πλαῖνα, ἀπὸ τοῦ χλαίνειν, *à calefaciendo*, from heating, because it was well

[u] Pomp. Lætus cap. de Augur.

[x] Rosin antiq. lib. 3. cap. 8.

[y] Rosin ibid.

[z] Rosin. id.

[a] Alex. Genedier. l. 5. c. 19.

[b] Alex. ib.

[c] Pomp. Lætus. de. Aug.

lined within, being garded in the outside with purple and crimson gards) hauing his head couered, and his face turned toward the east, so that his back was west-ward, his right side south-ward, and his left north-ward, Being thus placed he quartered out with his crooked staffe the heauen into certaine *templa, id est*, Regions, or places, obseruing in what region the birds did appeare: Then killing his sacrifice, and offering vp certaine prayers called *Effata*, he proceeded in manner as followeth. But first suppose we for our better vnderstanding hereof, that now the *Augures* were to resolue the people, whether the Gods would assent that *Numa Pompilius* should bee King. The *Augur* hauing done as aboue is shewed, his *Lituus* being in his left hand, he reached forth his right hand putting it vpon *Numa Pompilius* his head, vsing this forme of words, *Iupiter pater, si fas sit Numam Pompiliũ, cuius ego caput teneo, regem Romæ esse, vti nobis signa certa aeclara sint inter eos fines, quos feci, id est*: If it be lawfull for this *Numa Pōpilius*, whose head I hold to be King of *Rome*, shew some manifest tokens within these regiōs, or quarters which I haue described. Then if he obserued luckie signes & tokens he presently pronounced *Numa Pompilius* King of *Rome*: if he perceiued vnlucky tokens, thē did he *obnunciare*, or gainesay, and shew that the matter proposed was not pleasing to the Gods. Whereby the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another; neither was any thing gainesaid by the appearance of one only euil tokē. The distinctions of the soothsayings haue beene taken, some from the euent; & thence are they called *prospera*, lucky, or *aduersa*, vnlucky. Some from the manner of their appearing, [d] and that was either wished being called therefore *impetratiua*; or vnwished called *oblatiua*. Some from the diuersity of things which offered themselues in time of diuining, and so there were fiue distinct sorts: The first was by the obseruing of lightning, and thunder from heauen; the second from the flying, and chatting

d Serv. Æneid. lib. 6.

chatting of birds; the third from bread cast to pullets, or little chicken; the fourth from foure footed beasts, which either should crosse the way, or appeare in some vnaccustomed place; the fift from those casualties, whereby the Gods doe make their anger appeare vnto vs. Of this sort are those voices which we heare we know not whence; (as [e] *Cadmus* heard when he ouercame the serpent) the falling of salt towards vs at the table, the shedding of wine vpō our cloaths. From which casualties, and the like the *Augures* would pronounce either good fortune, or bad to ensue: And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made knowne vnto vs. Now the things that in diuining time appeared on the left-hand were commonly tokens of good lucke, because the giuers right hand in bestowing a benefit is opposite to the receiuers left-hand. Whence [f] *sinistrum* though in humane affaires signifieth as much as vnluckie, yet in those holy rites of diuining *sinistrum* is taken in a contrary sense as *Auis sinistra*, good luck, *Intonuit lauum*, it hath thundered luckily, we shall haue good successe: and it is said a *sinendo*, because the Gods thereby doe suffer vs to proceed in our purposed proiects. And therefore *Tully* saith, *lib.* 1. *de diuinatione*, *A sinistrâ cornice ratum, & firmum augurium fieri*: and in the law of the 12. tables it is said, *Aue sinistrâ populi magister esto*, [d] The *Græcians* from hence in the iudgement of *Lipsius* haue called the left hand ἀριστέραν from ἄριστον signifying the best.

[e] *Vox subito audita est neq; erat cognoscere promptum Vnde, sed audita est* Ouid. Met. lib. 3. fab. 1.

[f] Serv. Æneid. lib. 2.

[d] Lips. Elect. lib. 2. cap. 2.

Cap. 7.

De Tripudijs & pullarijs.

THis kinde of coniecturing is called *auspicium coactum*, [g] *quoniam necesse erat offâ obiecta cadere frustum ex pulli ore, cùm pascitur.* The word *Tripudium* is vsed by a *syncopation* for *terripudium*, which is as much as *terripa-*

[g] Cic. de diuinat. lib. 1.

vium, id est, a dancing or rebounding of any thing vpon the ground: for *pavire* is the same with *ferire*, [h] Others say *Tripudium quasi tritio pedum*. It is here taken for the diuining, or coniecting of good or euill to come by the rebounding of crummes cast to chicken in a coob or pen: whence the *Augur* from these pullets or chicken was called *Pullarius*, *id est*, a Bird-Prophet. [i] The manner in obseruing was this. As often as by this kinde of coniecting they desired to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilfull in this kinde of obseruation, repaired vnto the place where the chicken were kept, where silence being commanded, and the coob opened, they cast crummes of bread to the chicken. Now if the chicken either came slowly, or not at all vnto the bread, or if they walked vp and downe by it not touching it, then was it a token that the matter to be enterprized was displeasing vnto the Gods: but if contrarily the chicken did hastily leape out of the coob and eat so greedily of the crummes; that some should fall out of their mouths againe, then the *pullarius*, that is, the *Augur* pronounced that it was well pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called *Tripudium solistimum*. This kinde of coniecting may seeme to haue its originall from the *Lycians*, [k] who as often as they desired to foreknow the successe of any enterprise, they went vnto the fountaine dedicated to *Apollo*, into which they cast baites for the fish: now if the fishes did eat them, it did betide good lucke; if otherwise they neglected the baits, then it did betoken some euill euent.

[h] Humbert. in lib. 6. Ep. fam. Cic.

[i] Alex. Gen. dier. l. 1. c. 29.

[k] Alex. ib.

CAP.

Cap. 8.

De Aruspicibus, Aruspicinâ, & Extispicio.

THis kinde of Sooth-sayers as they were called *Aruspices ab aras aspiciendo* from beholding the beast vpon the altar; so were they called *Extispices, ab exta aspiciendo*, from beholding the bowels or entrals of the beast, called in Latines *Exta*. In this kinde of soothsaying the *Aruspex* obserued in manner as followeth: first whether the beast to be sacrificed came vnto the altar willingly, without plucking and haling; whether he died without much strugling, or lowd bellowing; at one blow or many; whether any vnluckie obiect were seene, or heard by them, whiles they were sacrificing. Againe after the beast was slaine, then would they obserue, whether the bowels were of an vnnaturall colour, whether they were not vlcerous, exsiccate, or impostumated: moreouer they would diuide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what would befall themselues, and their friends; the other they would call *partem hostilem*, whence they gathered prædictions touching their enemies. Hence *Manto* in [m] *Seneca* describing the entrals of his killed sacrifice saith, *Hostile valido robore insurgit latus*, meaning by *hostile latus, partem hostilem*. Afterward when the sacrifice was to be burned, they considered, whether the flame of the fire was smokie, whether the smoke rolled and rumbled in the ayre, whether it were of any continuance or no: for all these were vnfortunate tokens, as the contrary did betoken a good & fortunate issue to their designments. These last which obserued the fire and smoke were called by a more peculiar name *Capnomantes* smoke-augurers from the Greeke words καπνὸς signifying smoke, and μάντις; *id est, vates*, or a Soothsayer. The first instructions that the *Romans* receiued

l Senec. Ged. Act. 2. scen. 2.

m Oedip. Act. 2. scen. 2.

was from the *Hetrusci*, (who as they themselues say) receiued their knowledge from a little boy, which they named *Tages*, the history being thus. [n] When the *Hetrusci* were plowing their lands, vpon a suddaine vpstarted this *Tages* out of one of the furrowes vsing diuerse speeches vnto the plow-men: but they being much affrighted at this sudden, and strange vision, beganne with a lowd cry to lift vp their voyces; vpon occasion whereof many other people flocked thither, where he gaue many good instructions concerning this kinde of soothsaying, which were presently recorded in books, and practised afterward by the Hetrusci.

n Cic. de diuinat. *Indigenæ dixere Tagem, qui primus Hetruscam edocuit gentem, casus aperire futuros* Ouid. Met. lib. vlt.

Cap. 9.

De Flaminibus.

THe mitre or head-ornament which these Priests did weare, was called in old time [o] *Flama*, whence the Priests tooke their name *Flamines*. The [p] custome amongst the *Græcians*, as likewise afterwards among the *Romanes* was, that the Kings should aswell performe ceremonies, and holy rites of religion, as ciuill businesses. But *Numa Pompilius* perceiuing that forraine warres did oftentimes occasiõ the Kings absence, in so much that those religious ceremonies which he himselfe personally should performe were of necessity sometimes neglected, hereupon he ordained out of the *Patricij* three Priests to performe that diuine seruice vnto *Iupiter*, *Mars*, and *Romulus*, which he himselfe otherwise ought to haue performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus*, which was often called *Quirinus*.

o Rosin. Antiq. lib. 3. c. 15.

p Rex. *Anius Rex idem hominum Phebiq; sacerdos* Virg.

Siue quòd hasta quiris priscis est dicta Sabinis,
Bellicus at telo venit in astra Deus.
Siue suo regi nomen posuere Quirites.
Seu quia Romanus iunxerat ille Cures.

In

In processe of time twelue others chosen from the commons were added vnto these, but with this note of distinctiō that the three first were had in greater esteeme, and were called *Flamines maiores*, high Priests; the other of lesse note called *Flamines minores*, inferior Priests. The chiefe of all was the *Flamen Dialis*, *Iupiters* high Priest, and whereas euery one did weare a certaine bonnet in forme of a mitre, which sometimes was called *Pileum*, sometime by the figure *synecdoche*, *Apex* (whereas *Apex* doth properly signifie onely the top of the bonnet) [q] none might weare *Albo-galerum*, *id est*, a white mitre, but onely *Iupiters* Priests, and that was to be made of a white sheepe-skin, after the sheepe had beene sacrificed. Whatsoeuer malefactor could escape vnto this Priest, he should not be punished that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died, *Flaminio abibat*, *id est*, he resigned his sacerdotall office. To him was permitted a rich robe of state, and a currule chaire: none might fetch fire out of his house; vnlesse it were to performe some sacrifice therewith. [r] None might barbe or poll him, but a free-man, and that with brasen scissers. Many other ceremonies there were which concerned this *Flamen*, as likewise time added many other *Flamines*, namely [s] euery God one, yea sometime those three-score Parish-Priests which formerly were called *Curiones*, were called *Flamines Curiales*; and diuers Emperors after their death had also their *Flamines*. [t] Moreouer wee must note that those Priests wiues were called *Flaminicæ*; Their ministers (for they were wont, when they went to sacrifice to take a boy or a maid with them *Flaminij*, or *Flaminiæ*: And the chiefe Flamins dwelling house was called *ædes Flaminea*, or *Flaminia*. But as it seemeth probable *Numa Pompilius*, and so the other Kings succeeding him did still reserue their right and authority in holy matters so farre, that they would instruct other inferior Priests, yea and specially performe some speciall sacrifices themselues:

[q] Alex. Gen. dier. l. 6. c. 12.

[r] Servius Æn. lib. 1.

[s] Feneſt. de sacerd. cap. 5.

[t] Alex. Gen. dier. l. 6. 12.

themselues : wherupon after that the Kings authority was abrogated amongst them, then that these sacrifices might be continued they chose a certaine Priest, which they preferred before the *Flamen Dialis*, but iudged him inferior to the *Pontifex maximus*, or Arch-Pontifie, and him they called, *Rex sacrificulus*, and *Rex sacrorum*, the King-Priest. To him once euery yeare the vestall Nunns repaired, and vsed this forme of words, [n] *Vigilas ne Rex? Vigila.* King art thou awake? awake. For vnto him it did belong to bid holy-dayes, and to provide all things necessary for publike sacrifices. He was to instruct those that sought vnto him, the causes of the holy-dayes, and to tell them what was lawfull & vnlawfull euery month, and vpon the fifth of the Ides of Ianuary he sacrificed a Romane to *Ianus*. He was likewise wont to offer vp a sacrifice in the *comitium* or great hall of iustice, which being finished he ranne as fast as hee could out of the market-place without delay. His wife was called *Regina sacrorum*, the Queene-Priestesse, and was wont vpon the Kalends of euery month to sacrifice a porker or a lambe in her place in the honour of *Iuno*.

n Serv. in Æn. 10.

Cap. 16.

De mare, siue Mauorte, & Salijs Palatinis Marti dicatis.

MArs otherwise called *Mavors* by the figure *Epenthesis*, as we say *Induperator* for *Imperator* was reputed the God of warre, and so *Metonymicōs* is vsed for warre as *vario Marte pugnatum est*, the battell was doubtfull; *proprio Marte*, by ones owne strength, and labour. Hee was the sonne of *Iuno* onely without company of her husband : for when *Iuno* was greatly displeased with her selfe, that *Iupiter* by striking her head without company of a woman did bring forth the goddesse *Minerua*, she by the

counsell

counsell of the goddesse *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof, she immediatly conceiued the God *Mars*. This God, by reason of his dominion in warre the Romanes painted fiery, sometimes in his chariot, sometimes on horsebacke, with a lavelin in one hand, and a Scourge in the other. In old coines there was sometimes the picture of a cocke ioyned with him, to shew the vigilancy, and carefulnesse that souldiers are to vse. Hee was called [x] *Gradivus à gradiendo* from marching in battell against his enemies. He had a temple without the Citty, whence he was called *Extra muraneus*. [y] Neere vnto this temple without the gate *Capena*, did lye a stone of great note, which vpon great droughts, the people would bring into the citty, & presently Raine would follow; wherevpon it was called the Raine-stone, *Lapis manalis a manando*. *Numa pompilius* in the honour of *Mars*, surnamed *Gradivus*, ordained 12. dauncing Priests, called *Salii à* [z] *saliendo* from dauncing, which number afterward we finde to haue beene doubled by *Tullus Hostilius*, in the war against *Fidena*, a towne of the *Sabines*. The former 12. being called *Salij palatini*, from the palatine Mount, where they did beginne their mauriske: the other, *Collini*, from the hill where their chappell stood; [a] and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24 Priests. [b] The occasion of their first institution was this: Vpon a certaine time, in the raigne of *Numa*, the plague, or some other contagious sicknesse was very hot among the Romanes, insomuch, that no sacrifice, or holy offering could remoue it: at that time a certaine brasen Target, or Scutcheon, called in Latine *anea pelta*, or *ancile*, bigge at both ends, but cut like an halfe Moone on each side, fell from heauen into *Numa* his hands: with a certaine voice promising all health vnto Rome, so long as that brasen target could be kept safe. Wherevpon *Mamurius*, a cunning workman, by the appointment of *Numa*, made eleuen other *ancilia* so like the first, that neither could be knowne from the o-

x Rosin. anti. lib. 2. cap. 10.
y Rosin. Ibid.
z Plutarch. in Numa.
a Dion. Halicarn. lib. 2.
b Plutarch. in Numa.

ther: (to the intent that if any should be so wicked minded as to steale it, he might faile of his purpose by mistaking one for another.) These twelue Priests, had the custody & keeping of them committed to their charge, and in the month of *March* every yeare they apparelled themselues with a party coloured coat, called *tunica versicolor*, girt close to their body, with a belt, or sword-girdle, and a brest-plate of harnesse, called *æneum tegmen* vpon that, & a robe of estate called *tarbea*, clapsed about them vpmost of all. Vpon their heads they did weare *apices, id est*, Caps [c] much like vnto the *Persian* Bonnets, called in Greeke κυρβασίαι or τίαραι. They did somewhat resemble our head-peeces in warre, made close vnto the head, with a crest of cloath vpon the top, whence some haue called them *Galeas*. They being thus apparelled, danced about the *Forum*, or market-place, and the Capitoll with short swords by their sides, a Iauelin in the right hand, & their *ancile* in the other; vsing certaine Songs, either of the gods, and those they called *Ianuaij*, *Iunonij*, and *Minervij*; or of men, and those they called *examenta*, because in those Songs they did *axare, id est*, nominate and call vpon the names of some well deserving men: as *Mamurius* which made those eleaven Scutcheons, was often called vpon in those Songs Vpon their feastiv all daies they had excesse of cheere, whence [d] *Horace* hath vsed, *Iuliares dapes*, to signify dainty fare.

[c] Dion. Halicarn. lib. 2.

[d] Horat. lib. 1. Ode. 37.

CAP. 11.

De Fœcialibus, & Patre patrato.

THese *Fœciales* were Officers at Armes, or Heralds, to denounce war, or proclaime peace, appointed thereunto at first [e] by *Numa Pompilius*. [f] The chiefe part of their Office was to dissuade the *Romanes* from molesting any confederate Nation with vniust warre: and if any confederate

[e] Pomp. Lætus de sacerd.

[f] Dion Halicar. lib. 2.

confederate Nation did offer injury vnto the *Roman* people, then did these *Fœciales*, goe as Embassadours vnto thē; perswading, and exhorting them to yeeld the *Romanes* their right: but if they continued thirty daies obstinate, refusing to yeeld vnto that which should be just and right, then did they presently denounce warre against them, casting forth a dart in token thereof: which denunciation was [g] called *clarigatio à clarâ voce, quâ vtebantur Fœciales.* Others are of opinion, that whensoeuer warre was denounced, this Herald at Armes should [h] turne loose a Ramme vnto their enemies borders; signifying thereby, that their fields should shortly become pasture for the *Romanes*: from which custome wee say of one that challengeth another into the field, *Arietem emisit.* Againe if the *Imperator*, or Lord generall had done ought against his Oath, these *Fœciales* by their sacrifice did avert the wrath of the Gods from him. The chiefest of them was called *Pater-patratus*, a perfect Father: for he onely could be *Pater patratus*, which had both children of his owne, and his Father also aliue. They were called *Fœciales à fœdere faciendo*, from making a league or peace betweene Nations. This league which we in Latine doe call *Fœdus*, the *Romanes* in old time [i] did call *Fidus*, as *Ennius* and *Pighius* witnesse; whence these *Fœciales* were tearmed also *Ficci Flamines.*

g Serv. Aen. lib. 10.

h Vid Erasm. Adag.

i Pighius Septim. lib. 1.

Cap. 12.

De Duumviris, & Decemviris, & Quindecemviris, sacris faciendis, item de Sibillis.

THis Priest-hood had its first institution, from *Tarquinius Superbus*, whose office was as well to expound, as to keepe the Oracles of those tenne Prophetesses so famous throughout the world, called *Sibillæ.* Concerning whom [k] *Munster* hath these words: In times past there came

k Munster. in sua Cosmog. lib. 2.

a strange woman to *Tarquinius* the King offering nine bookes, full of the *Sybilline* Oracles to be sold: But *Tarquinius*, thinking the bookes too deere, refused to buy them, the woman departing, burned three of these bookes, and came the second time vnto *Tarquinius*, demanding as much for those sixe bookes, as formerly she had done for the nine. *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, and asking as much for the three left, as she asked at first for all nine. Then began *Tarquinius* more seriously to bethinke himselfe thereof, & sent for his *Augures*, asking counsell and advise of them. And they vnderstood, by certaine signes obserued, that the King had refused some speciall goodnesse sent from the Gods, & for the bookes that remained, they advised, that the woman should haue what she asked: As so one as the woman had delivered her bookes, shee presently vanished, and was never seene againe; onely warning them to keepe the bookes as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the Noblemen, or *Patritij*, calling them *Duum-viri*, appointing them, as well by study to expound, as with care to keepe those Oracles. In processe of time, the people obtained, that ten should be appointed to this office, [l] fiue of them being chosen out of the Commons, and fiue out of the Nobles: and then they were called, the *Decem-viri*. Afterward by L. *Silla* as it is thought, fiue more were added, so that they were then called, the *Quindecem-viri*: nay the number was encreased by *Sylla* vnto forty, [m] as *Servius* thinketh, but still called by the name of *Quindecem-viri*. Of these women that had the spirit of prophecy, ten were very famous: the first was called *Persica*, the secōd *Libyca*, the third *Delphica*, the fourth *Cumæa* the fifth *Erythræa*, the sixth *Samia*, the seuenth *Cumana*, the eighth *Hellesponta*, the ninth *Phrygia*, the tenth *Tiburtina*. They all prophecied of the incarnation of *Christ*. The place where these books were kept, was within the Capitoll vnder

l Feneste. de sacerd. c. 13.

m Serv. Æn. lib. 6.

vnder ground in a chest of stone, where they remained safe vntill the burning of the Capitoll, at which time they also were burned. Notwithstanding, many of the prophecies haue beene knowne, partly by tradition, and partly being taken out of other Copies in other Countries. One of the prophecies concerning our Saviour Christ, was vttered by *Sibylla Delphica* in manner as followeth: [n] *Nascetur propheta absq; matris coitu ex vtero eius*, that is, There shall bee a Prophet borne without any copulation of the mother, even out of her wombe. It was spoken at *Delphos*. All their prophecies were of that certainty, that when we would aver re any thing to be vndoubtedly true, we vse to say, it is *Sibyllæ folium*, as true as *Sybillas* Oracles. The *Cumæa Sibylla*, did write her Oracles at the mouth, or entrance of her Caue, in leaues of trees, which the fiercenesse of the winde did oftentimes so scatter, that they could hardly be brought in order againe: insomuch that when we would shew the great difficulty of bringing things in order wee may vse [o] *Politian* his words, *Laboriosius est, quàm Sibyllæ folia colligere* it is easier to gather *Sibyllas* leaues. This name *Sibylla* is not a proper name, but an appellatiue, common to all women endowed with the spirit of prophecy, taking their denomination from σιὸς which is in the *Æolicke* dialect the same that Θεὸς, *id est*, God, and βολὴ *id est*, counsell, because they did open and declare the counsell and determination of God vnto the people. It appertained also vnto these *Quindecem-viri* aboue mentioned, to see that sacrifice, and divine service, that supplications, and processions, expiations, and all ceremoniall rites were duly performed.

n Munster. in sua Cosmog. lib.

Credite me vobis folium recitare Sibyllæ.

o Epist. lib. 1. epist. 1.

p Serv. Æni. lib. 6. *σιοὺς enim Deos, non Θεοὺς: & consilium non βολὴν sed βουλὴν appellabant Æolico genere sermonis* Lact. *de falsa religione, lib. 1. cap. 2.*

CAP. 13.

De Bonâ deâ, & sacris eius.

THis Goddesse, which is so famous by the name of *Bona dea*, is the Globe of the earth, which is therefore termed *Bona dea*, the good Goddesse, because we reape so many good things from the earth. She is called also *Ops*, the helping Goddesse *ab ope*, from helpe, because by her helpe we liue. She is called *Fatua*, and *Fauna*, *id est*, the Goddesse of speech, because young children doe never speake vntill they are able to goe, and so haue touched the earth. The *Grecians* called her γυναικεία θεὰς, the Femall Goddes, because that no Male might be admitted to her sacrifices; nay the very pictures of men were at that time to bee covered. The inner roome, where her sacrifices were, was called, τὸ γυναικεῖον the place for womens assemblies. [q] Those that were chiefe in these sacrifices, were the Vestall Nunnes. This good Goddesse was supposed to be the wife of *Faunus*, & vpon a time to haue bin taken drunk with wine by him: for which fault *Faunus*, is said to haue beaten her to death with rods of Mirtle tree. But afterward being sory for that he had done, in amends he made her a Goddesse: and as it were ever after detesting the Mirtle tree, hee hallowing all other hearbs, and flowers to be vsed in these sacrifices, forbad the Mirtle tree. Some say she was so chast, that she never was seene by any man but by her husband, and in respect of her chastity the Mirtle tree is forbid, because it was consecrated to *Venus*, But whereas in this sacrifice they vsed wine, they called it not by the name of wine, but milke or hony: [r] whence they called the vessell wherein the wine was put, *amphoram mellariam*, *id est*, the hony vessell. This sacrifice became very famous by reason of *Clodius*, who being in loue with *Pōpeia*, *Iulius Caesars* wife, came vnto these sacrifices in womans apparell and

q Cic. orat. de Aruisp. responsis.

r Alex. Gen. dier. l. 6. c. 8.

Was

was found out by *Aurelia*, *Iulius Cæsars* mother. This *Clodius* became so infamous for this, and other his adulterous prankes that hee occasioned a common proverbe amongst the *Romanes*, *Clodius accusat mæchos*, answerable to which our English proverbe is, One theefe accuseth another.

Cap. 14.

De Cybelle, & sacerdotibus eius.

THis Goddesse *Cybele*, or rather *Cybelle* was in her infancy exposed vnto wild beasts, vpon the hill *Cybellus*; where she being nourished by the wild beasts afterward became a woman of admirable beauty, and being found by a shepheards wife, was brought vp by her as her owne child, & called *Cybelle*, from the hill *Cybellus*. She excelled in all naturall gifts, and was the first that vsed a Taber and Pipe, and Cymbals among the Greekes, Moreouer shee tenderly loued children, and therefore was called *magna mater*: shee was also called *mater deorum*, the mother of the Gods.

Ipsa deûm fertur genetrix Berecynthia. Virg.

Shee was called *Rhea*, *ἀ ῥέω*, to flow, because she doth flow and abound with all kinde of goodnesse. She was also named *Pessiuuntia*, from the Citty *Pessinus* a Mart-towne in *Phrygia*, where she had a Temple. Moreouer, shee was called *Berecynthia*, from the hill *Berecynthus* in *Phrygia*, where she was worshipped. Her Priests were called [f]*Galli*, and their chiefe gouernour *Archi-gallus*: they tooke their name from a certaine Riuer in *Phrygia*, called *Gallus*: of which whosoeuer dranke, he became so mad, that he would presently geld himselfe, (as in truth all her Priests were enioyned to geld themselues with a fish shell.) The originall of which custome is rendred thus: *Cybelle* loued a young man of *Phrygia* called *Atys*: and him she appointed chiefe overseer for her sacrifice

[f] Pomp. Lætus de sacerd.

fice vpon condition that he would keepe himselfe chast perpetually: But hee not long after desloured a Nimph, for which fact, *Cibelle* bereft him of wits and vnderstanding, so that he in his madnesse did geld himselfe, and would haue killed himselfe also [t] had not the Gods in their commiseration towards him, turned him into a Pine tree. In remẽbrance of him ever after her Priests were gelded. Every yeere the *Prators* did sacrifice vnto this Goddesse. But the performance of the holy & religious rites at that time did belong vnto a *Phrygian* man, and *Phrygian* woman chosen for that purpose: which according to the manner of their Country being apparelled with a party-coloured garment, called in Latine *Synthesis*, or *amictus variegatus*, & carrying the picture of their Goddesse about with them in the streets, they stroke their breasts with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaid vpon: The Priests were also called *Corybantes* from one *Corybantus*, which was one of her first attendants. And herevpon we call the Cymball *ara corybantia*. In this manner dancing about the streets, they begged mony of the People whom they met: and hence were they named, *Cibelle* her collectors, or her *circulatores*, *id est*, Iuglers. Some called them μητρόλογοι from μήτηρ which in this place signifieth *Cybelle*, called the great mother, and ἀγύρτης a begger or gatherer of almes. [u] Others haue called them *Mitricia*: But by what name soeuer they were called, the place was so infamous by reason of their drunkennesse, and vncivility vsed at these times, that when they would point out a notorious naughty fellow, they would call him, *circulatorem Cybelleium*, *Cybelle* her Iugler. Neither was it lawfull for any free borne to vndertake that office.

[t] *Cybelleius Atis Exuit hac hominem truncoq; induruit illo.* Ov. Met.

[u] Rosin. ant. l. 3. cap. 27.

CAP.

CAP. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex*, is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifies in English from one part of their Office, which was to haue the ouersight of a great wooden bridge, called in Latine *Pons sublicius*, being so great, that Carts and Waines might passe ouer it; hauing no arches to vphold it, but onely great piles, and posts of wood: [x] and that which is most remarkable in it, was that it was ioyned together onely with wooden pinnes, without any iron at all. Others are of opinion, that they were termed *Pontifices quasi potifices*, from *potis* and *facio*, of which opinion *Lucane* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas.* Concerning the [y] number of them, onely foure were appointed by *Numa*, all which then were to bee chosen out of the *Patricij*: afterward foure more were added out of the Commons. These were called *Pontifices maiores*, or chiefe Pontifies, to distinguish them from seuen other, which afterward *Sylla* added, and [z] called them, *Pontifices maiores*, inferiour Pontifies. The whole company of them was called the Colledge of Pontifies. This Colledge is priuiledged from all allegeance, being not bound to render account of their doings, either to the Senate or Commonalty. They were to determine all questions cõcerning religion, as well betweene their Priests as betweene priuate men: They had authority to punish any inferior Priests, if he either detracted or added vnto those religious Rites, which were prescribed him. They had their great Pontifie, whom they called *Pontificem maximum.* These Pontifies were wont to exceed in their diet, insomuch that when the Romanes would shew the greatnes of a feast, they would say it was *Pontifica cœna, id est*, according to

x Plutarch. in Numa.

y Fenest. de sacerd.

z Rosin. antiq; lib. 3. c. 22.

our English phrase, a feast for an Abbot. *Cœna adjectalis*, is taken for the same. [a] *Lipsius* in the exposition of the latter phrase taxeth the Printers negligence, and is of opinion, that it should rather be printed, *Cœna aditialis*, vnderstanding hereby a solemne feast made by Magistrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magnit. Rom. cap 9.

Cap. 16.

De Epulonibus.

THe Pontifies in old time appointed three men, whom they called [b] *Trium-viros Epulonum* (from *Epulum* a feast (to haue the ouersight of the feasts made at sacrifices afterward by reason of two twice added, they were called first *Quinque-viri*, and at length *Septem-viri Epulonum*.

b Lazius de. Repub. Rom. l. 3. cap.

Cap. 17.

De Titijs.

ANother sort of religious men there were, which liued in the Suburbs of the City, and practised soothsaying; They were called *Titij* [c] from the name of the birds which they obserued, which in Latine were called *Titiæ*.

c Pancirollus lib. rerum deperditarum c. de mole Hadriani.

Cap 18.

De Virginibus Vestalibus.

NEere vnto *Castors* Temple, stood the religious house or Nunnerie, dedicated to the Goddesse *Vesta*: where at the first were foure, after six Virgins, or Votaries elected

elected, whose office was chiefly to keepe the sacred fire: the extinction whereof prooued ominous, and did portend some euill euent shortly to happen: And therefore for their negligence herein as for all other small faults, they being had into a darke corner, stripped naked, and a curtaine drawne halfe way ouer them, the chiefe Pontifie scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the sun-beames; for which purpose they had certain instruments named [c] σκαφεία, which were formed in the manner of a *pyramis*, but hollow; so that the beames being collected within the circumference, & meeting in the *vertex*, did easily kindle any combustible matter put into it; but chiefly if the matter was of blacke colour; because, as Philosophy teacheth, a darke colour doth congregate, or collect the beames, whereas whiteneſſe doth disperse them. A second part of their office was to worke reconciliation betweene parties offended, as appeareth by [d] *Suetonius*: where we may read, that by their intercession, *Sylla* was reconciled to *Cesar*. They were chosen into this place betweene the sixth, and the eleuenth yeare of their age: and they were to remaine in this Nunnery 30. yeares space, 10. yeares to learne their ceremonies and mysteries, 10. yeares to exercise them, and 10. yeares to instruct others: within which space if they had suffered their bodies to be defiled, they were to vndergo that fearefull punishment † afore mentioned. But these 30. yeares being expired, marriage was lawfull for them; so that they laid aside their scepters, their fillets and other their Sacerdotall ornaments. Notwithstanding those which did marrie, in the end dyed fearfull deaths: whereupon they chose rather to abstaine commonly. The *Romanes* had them in great honour, so that they neuer walked abroad, but with an yron scepter in their hands, and whatsoeuer malefactor met them (if the Nun would take her oath it was by chance) hee escaped punishment. They were named *Vestals* from their goddesse *Vesta*, which word (as [e] *Munster* writeth) is deri-

[c] Plutarch. in Numa.

[d] Suet. in Iulio.

† Vid. sup p 11

[e] Munst. in sua Cosmog lib. 2. c 9

ued from the Hebrew *radix* signifying fire. The eldest was called *Maxima Vestalis virgo, id est*, the Lady Prioresse, or chiefe gouernesse.

Cap. 19.

De veterum sacrificijs & ritu sacrificandi.

WHatsoeuer was burnt or offered vp vnto the Gods vpon an altar, it had the name of a sacrifice: & sometimes it was called, *victima, quòd vincta ad aras stabat*, because the beast to be sacrificed, stood bound vnto the altar. Sometimes, *Hostia*, from an absolute verbe *Hostio*, which is to strike: because certaine vnder-Officers called in Latine *Popæ* (standing by the altars, all their vpper part naked, and a Lawrell garland vpon their head) did *Hostiare victimam, id est*, strike downe and kill the sacrifice. Others are of opinion, that this name *Hostia*, is taken from *Hostis*, an enemy; according to that of *Ovid*: *Hostibus à domitis hostia nomen habet*; because either before warre, to procure the Gods fauour; or after warre, in token of thankfulnesse, they did *hostiam ferire, id est*, offer vp the sacrifice. The second difference of sacrifices haue bin occasioned in respect of the time, and so they haue bin called *Præcidaneæ*, or *succidaneæ*, *quasi præcedaneæ & succedaneæ*. Those sacrifices which were offered vp the day before any solemne sacrifice, were called *Præcidaneæ hostiæ*, fore-sacrifices, as we English *præcursorem*, a forerunner: which fore-sacrifices, if by any tokē they found vnlucky, then would they offer vp a second sacrifice which they termed *hostiam succidaneam*: and because these second sacrifices were to be offered onely in stead of the other, when they were vnlucky or faulty; hence hath *Plautus* vsed this speech, *Meum tergum stultitiæ tuæ subdes succidaneum?* Must I be whipped for thy fault? The manner of sacrificing was as followeth. Some certaine dayes before any sacrifice was to

be

be performed, the Priest was wont to wash his whole body, [f] especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding vnto this custome, we say, a man doth *Accedere ad rem illotis manibus* or *illotis pedibus*, as often as hee enterprised any businesse, without due reuerence or preparation thereunto.

Μηδὲ πολ' ἐξηῶς δεῖ λέχεων αἴδοια δίνον
Χερσὶν ἀνιπτοισιν. *Hesiod.* ἔργ. καὶ ἡμερ.

Moreouer, the Priest was to abstaine from his marriage-bed, as likewise from diuers kinds of meats, and at the time of his going to sacrifices, either himselfe, or some inferior Sexton going before him, with a rodor wand in his hand (called *commentaculum*) [g] vsed this forme of words vnto the people: *Hoc age*, attend this you are about: which custome seemeth to haue had its originall from the *Grecians*. For before the time of sacrifice, the Grecian Priest vsed almost the like speech vnto his people: as, τίς πόδε, *id est*, Who is here? the people answered, πολλοὶ καγαθοὶ, *id est*, many men, and good. After this preparation, then did the Priest, laying his hand vpon the altar, rehearse certaine prayers [h] vnto the God *Ianus*, and the Goddesse *Vesta*; because the Romans were perswaded, that without their intercession, they might not haue accesse vnto the other gods, His prayer being ended, then did he lay [i] vpon the beasts head a little corne, together with a cake made of meale and salt, called in Latine *Mola*, [k] *Mola erat far tostum, sale aspersum*. From this ceremony, the act of sacrificing hath beene termed *Immolatio*. After this, the soothsayer drank wine out of an earthen or woodden chalice, called in Latine *Simpulum*, or *simpuvyum*: It was in fashion much like our ewers, when we powre water into the bason. This chalice was afterward carried about to all the people, that they also might *libare, id est*, lightly taste thereof, [l] which rite hath beene called *Libatio*. Now euery one hauing tasted thereof, the rest of the wine with frankinsence mixt in it, was to be powred vpon the beasts head, [m] *betweene* the hornes,

[f] Vid. Erasm. Adag.

[g] Plutarch. Numa.

[h] Serv. Acci. lib. 1.

[i] Pancirol. lib. rerum deperdit. cap. de sale Ammoniaco.

[k] Textor in sua officina. *Spange salsa cala taurorum mola.* Sen. Oedip. Act. 2. sc. 2.

[l] Pancirol. lib. rerum deperdit. cap. de. Ammoniaco sale.

[m] *Media inter cornua fundit.* Virg. Æneid.

one crying out with a loud voyce, *Macta est hostia, id est, Magis aucta*, more encreased and made more pleasing vnto the Gods; as *Virgil* saith, *Macte nouâ virtute puer, id est*, O good child which increaseſt in vertue. And hence euen from this terme, we may coniecture, that the word *Macto*, which ſignifieth to kill, and ſometimes to ſacrifice, hath had its originall, becauſe they did immediately after that voyce, *mactare hostiam*, that is, ſlay the ſacrifice, and that was done in this manner. [n] First the Prieſt did plucke off ſome of the beaſts haires betweene the hornes, and caſt them into the fire, calling them his *prima libamina, id est*, his firſt offerings: Then did he, turning his face toward the eaſt, draw a long crooked knife vpon the beaſts back, commanding his vnder-Officers which I called *Popæ*; (others *Cultrarij*, from their knife; *Victimarij*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to giue the ſtroake, often vſed this word *Agon*, for *Agone, id est*, muſt I to my worke?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſaue the blood, others did flea or skin the beaſt; others waſhed it. Anon, ſome Soothſayer or Prieſt, did obſerue the entrals, turning & winding them with a knife, which was called *Seceſpita, à secãdo*: for he might not touch them with his hand, they conceiting, that if the ſacrifice had proued polluted, his hand would thē haue periſhed. Now after the Soothſayer or Prieſt had ſufficiently turned the entrals, and found no ill token therein, then did thoſe *Popæ*, or Church-butchers, cut off from euery bowel ſome portiõ, which after they had rolled in barly meale, they ſent it in baskets to the Prieſts, & the Prieſts taking it vp into a broad charger or platter, called *discus*, or *lanx*, laid it vpõ the altar and burnt it, and [o] this was properly termed *Istare*, or *Reddere, id est*, to ſatisfie by ſacrifice, or to pay the ſacrifice, which was owen vnto the Gods. After that the portion laid out for the Gods, had beene burnt, then did all the people repaire vnto a common feaſt; where, as they were eating, they ſung Hymnes, and Songs, in the praiſe of their Gods, & playing

n Roſin. antiq; lib. 3 c. 33

o Ioac. Camerar. pro Place

ing on Cymbals, they danced about the altars; intimating thereby, that there was no part of their bodie, but should be imployed in the seruice of their Gods. Now vntill all their Ceremonies and Mysteries were finished, it was not lawfull for any to tast of this feast: insomuch that we since haue vsed to checke a glutton, or greedy-gut, which cannot abstaine from his meat till grace be said, in this manner, *Sacra haud immolata devorat.*

CAP. 20.

De nuptys, & nuptiarum renunciatione.

SEeing that marriages, and burials, haue such dependance vpon the Priests, it will not bee amisse to conclude this Section, with two Chapters, briefly opening the Ceremonies of both. Before we come vnto the solemne Ceremonies, vsed by the *Romanes* in their marriages, we wil first shew the manner of their contracts, which were called by the *Romanes*, [a] *Sponsalia à spondendo*, because in their contracts, each did promise other to liue as man and wife. Now the manner of contracting was commonly thus: They did for the greater security, write downe the forme of the contract vpon tables of record, as appeareth by *Iuvenal. Sat. 6.*

Si tibi legitimis pactam, iunctumq; tabellis
Non es amaturus ———

These tables were also sealed with the signets of certaine witnesses there present, who were termed from their act of sealing, *Signatores.* Moreouer, before they would begin the Ceremonies of their contract, the man procured a Soothsayer, and the woman another, with whom first they would consult. Whence *Iuvenal, Sat. 10.*

-- -- *Venset cum signatoribus auspex.*

The tokē or signe which these Soothsayers in time of obseruing accounted most fortunate, was a Crow: [b] *Ea enim corni-*

[a] Salmuth. in Panciroll. lib. rerum deperdit. cap. de nuptiis.

[b] Alex. Gen. lib. 2.

cum

cum societas est, vt ex duabus sociis alterâ extinctâ, vidua altera perpetuò maneat. The man also gaue in token of good will, a ring vnto the woman, which she was to weare vpon the next finger vnto the little of the left hand;[c] because vnto that finger alone, proceedeth a certain artery from the heart. The word *Nuptiæ*, which signifieth marriage, had its derivation *à Nubo*,[d] which verbe in old time, signified to couer: the custome being, that the woman should be brought vnto her husband, with a [e] yellow vaile (called *Flammeum*) cast ouer her face. Againe because of the good successe that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women,[f] they continued a custome, that the man should come & take away his wife by a seeming violence, from the lap or bosome of her mother, or her next kinne. Shee being thus takê away, her husband did disseuer & diuide the haire of her head, with the top of a speare, wherewith some Fencer formerly had beene killed. This speare was called by them *Hasta cælibaris*,[g] & the Ceremony did betoken, that nothing should disioyne them, but such a speare, or such like violence. The next day after the marriage, a solemne feast was held, where all the Bride-mans and Bride-womans friends met to make merry; this feast they called *Repotia*. We must note, that [h] three manner of wayes, a woman became a mans lawfull wife: *vsu, confarreatione, coemptione.* A woman became a mans lawfull wife, *Vsu*, 1. By prescription or long possession, if that shee were wedde with the consent of her ouerseers, and so did liue with the man, as with her lawfull husband, a whole yeares space, *nullo interrupto vsu, id est*,[i] shee being not absent from him three nights in the whole yeare: and some haue thought, that the counterfeited violence, in taking away the mayd from her friends, was vsed only in this kinde of marriage. A woman became a mans wife *confarreatione, id est*, by certaine solemnities vsed before a Pontifie, or chiefe-Bishop, when the woman was giuen vnto the man vsing a set forme of words, ten witnesses being present, & a solemne sacrifice

c Aul. Gell.

d Rosin. ant. lib. 5. c. 37.

e Plin. lib. 21. cap. 8.

f Sig. de iur. Rom. l. 1. c. 9.

g Salmuth. in Pancirol. lib. rerum deperdit cap. de nuptiis.

h Boeth Toti. cor. 2. Vid. Cæl. Rhodig. lib. 28. cap. 17.

i Sig. de. iure. Rom. l. 1. c. 9.

sacrifice being offered, at which the couple married should eate of the same barly cake, which formerly had beene vsed in the sacrifice. Which sacrifice was tearmed, *à farre, confarreatio*, & the marriage it selfe, *Farracia*, [k] & sometimes *sacra* simply; the dissolution of this kinde of marriage *Diffarreatio*. A woman became a mans wife, *coemptione, id est*, by buying & selling, when the womã did vnder a faigned forme of sale buy her husband, by giuing him a piece of coyne. *Veteri Romanorum lege, nubentes mulieres tres ad virũ asses ferre solebant: atq; vnum quidem quem in manu tenebant, tanquam emendi causâ marito dare.*[m] To these three some teach, that a fourth sort of marriage was in vse among the *Romans*; namely when a woman became a mans wife, *sortitione*, by a kind of lottery: and of this they say, *Sueton* speaketh.[n] In that kind of marriage, which was *per coemptionẽ*, the man was not named by his proper name, nor the woman by hers; but the mã was named *Caius*, & the woman *Caia*, in the memory of the chast and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priscus*: from whence sprang a custome among them, that the new married wife, when shee was brought home vnto her husbands house, was to vse this proverbe. *Vbi tu Caius, ibi ego Caia*; by which words she signified, that she was now owner of her husbands goods, as well as himselfe: and therefore *Erasmus* hath expounded that saying, by these words; *Vt tu Dominus, ita ego Domina.*[o] And shee that was thus married, *Per coemptionem*, was properly called *Mater-familias*. [p] If any of these Ceremonies were omitted, thẽ was ths marriage tearmed, *Nuptiæ innuptæ*, in which sense wee call our enemies guifts no guifts; Ἐκθεῶν ἄδωρα δῶρα. These Ceremonies being ended towards night the woman was brought home to her husbands house, with fiue Torches; signifying thereby, the need which married persons haue of fiue Gods, or Goddesses, *id est, Iupiter, Iuno, Venus, Suadela*, & *Diana*, who oftẽtimes was called, *Lucina* (the reason of the name being rendred by *Ovid*:

[k] Cic. orat. pro Muræna.

[l] Sig. de iure. Rom. l. 1. c. 9.

[m] Sueton in Tiber. c. 35.

[n] Cic. orat. pro Muræna. Item. Fr. Sil. ib.

[o] Cel. Rhodig. lib. 28. c. 17.

[p] Hieron. Ferarius in Philippic. orat.

...Dedit hæc tibi nomina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who thinke that the vse of these Torches, was not only to giue light, but to represent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*: for which reason the custo ne likewise was, to besprinkle the new married woman with water * yea they did both in time of their contract touch water and fire provided for that purpose. The signification of this Ceremony, some thinke to bee thus. The fire, because it is an actiue element, to represent the man: the water, because it is passiue, to represent the woman. Others say that in the community of these two elements, was intimated the community betweene man & wife, of all other their goods and possessions, which was more fully declared in that fore-quoted proverbe, vsed by the wife. *Vbi tu Caius, ibi ego Caia.* The matter whereof these Torches were made, was a certaine tree, from which a pitchy liquor did issue: it was called *Tæda*, and thence haue the Poets figuratiuely, called both the Torches, and the wedding it selfe *Tædas*. When the woman had beene thus brought to the doore, then did she annoint the posts of the doore with oile, q from which Ceremony, the wife was called *vxor quasi vnxor*. This Ceremony of annointing being ended, the Bride-man did lift her ouer the threshold, and so carried her in by a seeming force, because in modesty she would not seeme to goe without violence into that place, where shee should loose her maiden head. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio*: for which custome, r *Plutarch* alleageth many occasions; this being one. Among those who rauished the daughters of the *Sabines*, there were found some of the meaner and poorer sort, carrying away one of the fairest women: which being knowne, certaine of the Cittyzens would haue taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well

* Pancirol. l. rerũ deperd. cap. de nuptijs

q Seruius, Æn. lib. 4.

r Plutarch. vita Pompeij.

well beloued among the *Romanes*, at which naming of *Talassius*, they suffered her to be carried away, themselues accompanying her and often crying *Talassio, Talassio*. From whence it hath beene continued a custome among the *Romanes*, ever at their marriages to sing, *Talassio, Talassio* as the Greekes did, *Hymen, Hymenæe*. From this custome of leading or bringing home of the new married Bride, commeth that Comicall phrase, *Ducere vxorem*, to marry a wife. She being thus brought home, receiued the keyes of her husbands house, whereby was intimated, that the custody of all things in the house was then committed vnto her. [f]The marriage bed was called, *Gentalis lectus*, as wee may suppose, *quasi Genitalis*. [t]Sometimes it was called, *Lectus adversus, quòd hunc lectulũ religiose servari mos fuit, & in atrio collocari, tanquam ex adversum, id est*, they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman receiued gifts of her friends, which Lawyers tearme, *Nuptialia dona*, [u] But *Cicero* expoundeth these *Dona nuptialia*, to be certaine tokens, which the husband sent to his wife before the betrothing. If after the marriage, any discontent had fallen out betweene the man and his wife, * then did they both repaire to a certaine Chappell, built in the honour of a certaine Goddesse, called *Dea viri-placa, à viris plandis*, whence after they had bin a while there, they returned friends. We haue thus seene the Rites and Ceremonies, which the *Romanes* vsed in their contracts and marriages; it would not be impertinent to annexe the mãner of their divorcements, which vpon just causes were permitted. There [x] were two mãner of divorcements, the one between parties only cõtracted; the second between parties married. The first was properly called *Repudium*, in which the party suing for divorcement, vsed this forme of words, *Conditione tuâ non vtar*. The second was called *Divortium*, wherein the party suing for it, vsed these words. *Res*

[f] Alex Gen. dier, l.2.c.5.
[t] Lipf. Elect. lib.1.c.17.
[u] Vid. Fr. Silv pro Cluentic.
* Sig. de iure Rom. l.1.c.6.
[x] Rosin. ant. l.5. cap.38.

tuas tibi habeto: vel res tuas tibi agito. Both these kinds were tearmed, *Matrimonij renunciationes*, renouncing or refusall of marriage: where we must note, that insteed of this verbe *renunciare*, divers good Authors doe vse this phrase *Mittere* or *Remittere nuncium*, as *C. Cæsar Pompeia nuncium remisit*, *C. Cæsar* hath divorced *Pōpeia*. And alluding hereunto y *Cicero* saith, *virtute nuncium remisit, id est*, he hath cast of all goodnesse, he hath even divorced vertue. Secondly, we must note, that this verbe *Renuncio*, doth not only signify to renounce, or to refuse, but many times in *Tully*, it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Cōsulem, Prætorem, &c.* The reason why in matrimoniall contracts, it signified to renounce, or refuse, was because in these divorces, they did oftentimes send to their wiues *per nunciū* by a messenger, some bill or scrole of paper, containing the causes of the divorce. Moreover, wee are to obserue, that in these divorces, the ceremonies were quite contrary to those in marriages, the just causes of divorce being foresignified to the Censors, the marriage tables were broken, the dowry restored, the keyes of the house taken from the woman, & she turned out of doores: all which ceremonies are at large treated of by *Thom. Dempster. lib. 5. Antiq. Rom. cap. 38.*

y Ep. Fam. l. 5.

Cap. 21.

Quo apparatu, quibusq; ceremonijs apud veteres defuncta corpora igni tradebantur.

THe *Romanes* in ancient time, When they perceiued a body dying, had such a custome, that the next of the kinne should receiue the last gaspe of breath from the sicke body, into his mouth, as it were by the way of kissing him: (to shew thereby how loath and vnwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said vnto her.

her sister *Dido* now dying.

-----{ Extremus siquis super halitus errat.
Ore legam ----- (Virg. Æn. 4.

And *Penelope* wishing that her sonne *Telemachus* might outliue her selfe, and his father writeth to her husband in this manner, *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seuen daies vnburied, washing the corps every day with hot water, and sometimes annointing it with oile, hoping that if the body were only in a slumber, & not quite dead, it might by these hot causes be revived.

Per calidos latices & aliena vndantia flammis
Expediunt, corpusq; lavant frigentis & vngunt.

In these seven daies space, all the dead mens friends met together now and then, making a great outcry or shout with their voices, hoping that if the dead body had beene onely in a sound or sleepe, he might thereby be awaked. This action was termed *conclamatio*, whence when wee haue done the best we can in a matter, and cannot effect it, we say proverbially *conclamatũ est*, for this third cõclamation or generall outcry (which was alway vpon the seventh day after the decease) was even the last refuge, at which if the body did not reviue, then was it carried to buriall being invested with such a gowne, as the parties place or office formerly had required. Those which had the dressing, chesting or embalming of the dead corps, were called *Pollinctores:* After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face & heeles outward toward the street, according to that of *Persius:*

-----Tandemq; beatulus alto
Compositus lecto, crassisq; lutatus amomis
In portam rigidos calces extendit.----

Herewith accordeth *Homer* speaking of *Patroclus* his funerall.

Ὃς μοι ἐγὶ κλισίῃ δεδαιγμένος ὀξέϊ χαλκῷ,
Κεῖται ἀνὰ πρόδυρον πεπταμμένος.--- *id est,*

Qui mihi in tabernaculo confossus acuto ære,
Iacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed, neere the gate, also, was erected an altar, called in Latine, [t] *Acerra*, vpon which his friends did every day offer incense vntill the buriall. The gate in the outside was garnished with cypresse branches, if the dead man were of any wealth or note: for the poorer sort, by reason of the scarcity of the tree, could vse no such testimony of their mourning

t Alex. Gen. dier. l. 3. c. 7.

[u] *Et non plebeios luctus testata cupressus.*

u Lucanus.

In these seaven daies space, certaine men were appointed to provide all things in readines for the funerall; which things were commonly sold in the [x] Temple of *Libitina*, from whence those providers were tearmed *Libitinarij*; though sometimes this word *Libitinarius* doth signify as much as *capularis*, an old decrepit man, ready for the graue, vpon the eight day a certain crier in māner of a bell-man, went about the town to call the people to the solemnization of the funerall, in this forme of words: *Exequias* [y] *L. Tito L. Filio quibus est commodum ires. Iam tempus est. Ollus ex ædibus effertur.* After the people had assembled thēselues together, the bed being couered with purple, or other rich couerings, the last conclamation being ended, a trumpeter went before all the company, certaine poore women called *Præficæ*, following after and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a trūpet sounded before them; others had only a pipe. [z] *Senatoribus & patricijs tubâ; minoribus & plebeiis tibiâ canebant sitticines*; this word *Siticines*, signifying either a trumpeter or piper, because they did both *ad sitos, id est mortuos canere.* Againe, except it were one of the Senators, or chiefe cittizens, he was not carried out vpō a bed, but in a coffin vpō a Beere. Those that carried this bed, were the next of the kin, so that it fell often among the Senators themselues to beare the corps

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. lib. 5.

z Alex. Gen. dier. lib. 3.

corps, and because the poorer sort were not able to vndergoe the charges of such solemnities, therevpō were they buried commonly in the duske of the euening; and hence *à vespertino tempore*, those that carried the corps were termed *vespæ*, or *vespillones*. In the buriall of a Senator, or chiefe officer, certaine waxen images, of all his predecessors were carried before him vpon long poles or speares, together with all the ensignes of honour, which he deserued in his life time. Moreover, if any servants had beene manumized by him, they accompanied the mourners lamenting for their masters death. After the corps followed the dead mans children, the next of the kinne, & other of his friends *atrati, id est*, in mourning apparell. From which act of following the corps, namely *à sequendo*, these funerall Rites haue beene tearmed, *Exequiæ*, as *Donat* hath obserued vpon that of *Terence*. *Furus ut eum procedit, nos sequimur*. Which Rites, because they were performed as debts due vnto the party deceased hence were they also called, *Iusta. Eò dicūtur Iusta, quod iure mortuis facitari debēt à vivis, Polid, de invent. lib. 6. c. 9.* The corps being thus brought vnto the great Oratory, called the *Rostra*, the next of the kinne [a] *laudabat defunctum pro rostris, id est*, made a funerall Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his predecessors, whose images were there present. The Oratiō being ended, the corps was in old time carried home againe, in manner as it was brought forth.

Sedibus hunc referente suis & condo sepulchro.

But afterward by the law of the twelue Tables, it was provided that no man besides the Emperour, & Vestall Nunnes: should be buried within the city; though some vpon especiall favour haue obtained it. The manner of their buriall was not by interring the corps, as in former times it had beene, but burning them in a fire ([b] the reason thereof being to prevent the cruelty of their enemies, who in a mercilesse revēge would at their conquests digge vp the buried bodies, making

[a] Suet. C. Iulius Cæsar. c. 6.

[b] Salmuth in Pancir. lib. rerum deperd. de exequiis.

king even the dead also subiects of their implacable wrath) This fire before the burning, was properly called, *Pira*; in the time that it burned, it was called, *Rogus*, [c] *quod tunc temporis Rogari solerēt manes*; after the burning, thē was it called *Bustum quasi bene vstum*. This *Pira* was alwaies built in forme of a Tabernacle, as it is aboue more at large to be seene: whither after the dead man had beene brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a second solemnity. The charges at funerals growing by this meanes to be doubled, the law of the 12 tables provided in these words, *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he dyed either in the warre, or in a strange Country. Where wee must obserue, that *lego* in this place doth signify as much as *adimo* or *aufero*, in which sense we call him, *sacrilegum, qui legit, id est, qui adimit & aufert sacra*. After the dead body had beene laid vpō the *Pyra*, thē were his eyes opened againe to shew him heauen if it were possible; [d] and withall an halfe penny was put in his mouth, they superstitiously conceiting, that that halfe-penny was *naviū Charontis*, the pay of *Charon*, the supposed ferry man of hell, who was to carry mens soules in his boat over the *Stygian* lake after their decease. About this *Pira* were first many boughes of Cypresse trees to hinder the evill sent of the corps to be burned. The dead body being thus laid vpon the *Pira*, the next of the kinne turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certaine Fencers hired for this purpose did combate each with other, till one of thē was killed; they were tearmed *bustuarij*, from *bustum*. The blood of those that were slaine, serued insteed of sacrifice to the infernall Gods, which kinde of sacrifice they tearmed, *Inferiæ*. [e] *Inferiæ sunt sacra mortuorum, quæ inferis solvuntur*. Anon after the body had beene burned, his neerest friends did gather vp the ashes and bones, which being washed with milke and wine, were put into certaine pitchers called *vrnæ*: whence this word

[c] Servius Æneid. 5.

* Sup. pag. 30.

[d] Alex. Genedier. lib. 3.

[e] Servius.

word *vrna*, is often vſed by the Poets, to ſignifie a graue or ſepulcher, as

---- *Una requieſcit in vrnâ*: *Ovid. Met. lib.4.*

[f]Though properly *ſepulchrum* was in old time, a vault or arched roofe, round about the walles whereof were placed certaine coffines called *loculi*, within which thoſe former *vrnæ* were laid vp and kept, namely, two or three in each coffine. Now theſe funerall ſolemnities were commonly towards night, inſomuch that they vſed Torches; theſe Torches they properly called, [g]*funalia à funibus cerâ circundatis, vnde & funus dicitur.* [h] Others are of opinion, that *funus* is ſo ſaid from the Greeke word φόνος ſignifying death or ſlaughter. The bones of the buried body being thus gathered vp, then did the Prieſt beſprinkle the company with cleane water thrice, and the eldeſt of the mourning women called *præfica*, with a loud voice pronunced this word *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet*;) Then preſently did the company depart, taking their farewell of the dead body in this forme of words: *Vale, Vale, vale: nos te ordine quo natura permiſerit ſequemur.* If any of theſe ceremonies had been omitted [i] then was it termed *ſepultura inſepulta*, in the ſame ſenſe as *nuptiæ*, formerly were termed *innuptiæ*. The old & aged men were inuited after the buriall, to a feaſt, or funerall banquet called, *ſilicernium* [k] *quaſi ſilicanium, id eſt, cœna ſupra ſilicem poſita*, their cuſtome being to eat that feaſt vpon an altar of ſtone, and becauſe this feaſt was onely eaten at funerals, & by the elder ſort, [l] hence figuratiuely this word *ſilicernium*, doth ſometimes ſignifie an old cripple ready for the graue: The poorer people inſteed of a feaſt, receiued a dole or diſtribution of raw fleſh: this dole was termed *Viſceratio*. Moreouer there was a potation, or drinking of wine after the buriall called *Murrata*, or *Murrhina potio*, which afterwards the law of the 12. Tables for the auoiding of expences did prohibite: as likewiſe for the moderating of griefe in the mourners, it did prohibite the vſe

f Roſin. ant. lib.5.

g Seruius in Æneid. lib. 1.

h Hub in Cic. ep. fam. lib.4.

i Hieron. Ferarius in Cic. orat. Philip.

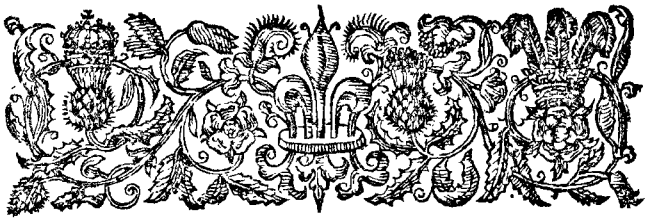
k Seruius in Æneid. lib.5.

l Anteſig. in Ter. Adelph. Act.4.

of this word *Lessum*, [*Neve lessum funeris ergô habento*] for that word was often ingeminated in their mourning as a dolefull eiulation, or note of inward sorrow. This sorrowing or mourning, was in some cases vtterly prohibited, in others limited; [m] Namely, an infant dying before he was three yeares old, should not be mourned for at all; because he had scarcely yet entred into his life. Elder persons were to be mourned for so many dayes, as they were yeares old. Wiues were permitted to mourne for their husbands (*Alexander* addeth also children for their fathers) ten months, if they would: within which time, the widdow could not marry another husband without infamy and discredit. *Polyd. de invent. l. 6. cap. 9.* Here we may with *Revardus* obserue a distinction betweene *Lugere* and *Elugere*, *Lugere* signified no more than to mourne some part of the time prescribed; *Elugere* to mourne the whole and full time.

m Alex. Gendier. l. 3. c. 7.

LIB.

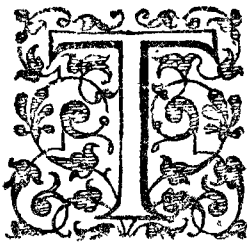


LIB. 2. Sect. 3.

Of the Romane Games.

CAP. 1.

De ludis Megalensibus.



He playes vſually exhibited by the *Romanes*, may be diuided into three ſorts: ſome were *Ludi ſacri*, others *Honorarij*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the Gods: Such were theſe that follow in their ſeuerall Chapters. *Megalenſes ludi*, they are called ſimply *Megaleſia*, from the Greeke word μέγας, ſignifying *Magnus*, becauſe they were performed in the honour of *Cybile*, called *Magna mater*; of which I haue ſpoken formerly, and there alſo diſcouered the manner of this feaſt. Onely here take notice of that which is not mentioned there, namely, that theſe Games beganne, *à pridiè Nonas Aprilis, id eſt*, on the fourth of *Aprill*, and continued ſix dayes after: it appeareth by diuers Authors, but more eſpecially by *Ouid*, who could not eaſily be corrupted, *Ouid. Faſt. lib.* 4. He hauing ſpoken of the riſing of the *Pleiades*, which is on the ſecond of *Aprill*, addeth.

Ter sine perpetuo cœlum versetur in axe,
Ter iungat Titan, terq; resoluat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Idæa festa parentis erunt.

This I note, that the error crept into [a] *Liuy*, may be obserued, who treating of the matter in hand, saith: *In eadem victoriæ, quæ est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Deæ in Palatium tulit; Lectisternium, & Ludi fuere, Megalesia appellata.* That is, that these playes were celebrated vpon the twelfth of *April*. But in the iudgement of many expositors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreouer, seruants might not be spectators here, & because the *Prators* did frequent these sports, in their purple and best robes, [b] hence grew that prouerbe, *Purpura Megalensis*. To the younger sort at this time, liberty was granted, to counterfeit all mens gestures and speeches, without distinction of degree or age. [c] They were sometimes termed *Ludi scenici*, though properly, *Ludi scenici*, signified stage-playes, and were performed in the honor of *Bacchus*.

a Liu. lib. 29.

b Ant. Const. in Ouid. Fast. lib. 4.

c Iu. Scalig. Poet. l. 1. c. 29.

Cap 2.

Ludi Cereales.

THat these Games were performed in the honour of *Ceres*, is by none doubted. In them was represented the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the *Roman* men beheld these playes in white gownes: the woman performed the sacred and holy Rites in a white garment also. Among whom it was obserued, that then they thought their seruice gratefull to the Gods, when it was performed by those that were ioyfull, and free from all funerall pollutions. At this time there was a solemne going in procession, and carrying about their Gods in the Cirque, this solemnity was pro-

properly called *Pompa.*

Circus erat pompâ celeber, numeroque Deorum,
Primaque ventosis palma petetur equis,
Hîc Cereris ludi, &c. Ovid. Fast. lib. 4.

The manner of this solemne shew, which as I noted, was properly called *Pompa*, is described[d] thus by its particulars; That there was, *Simulachrorum series, imaginum agmen, currus, thensa, armamaxa sedes, corona, exuviæ, id est. First* in this solemne procession, were carried about the Images of the Gods. *Secondly*, the images of well deseruing men. *Thirdly* Chariots led vp and downe for greater state and magnificence; vnto this *Virgill* alludeth:

... Hîc illius arma
Hîc currus fuit. ...

Fourthly, Pageants, so I interpret *thensa*, which were so called, *quasi tensa, à tendendo*, as[e] *Asconius* noteth, because they were carried vp and downe, by the help of certaine ropes, which to touch they counted a point of religion. *Fiftly*, horse-litters, for that these *armamaxæ*, were not Chariots, or wagons, appeareth by him,[f] *Qui ex curris in armamaxam deponebatur.* They seeme to haue beene of a compounded forme, in part like chariots, called ἅρματα, in part like waines, called ἅμαξαι, and thence ἁρμάμαξα hath its appellation, ἁρμάμαξα, *inquit, Phavorinus*, ἡ πρὸς ἀνδρῶν καθέδραν κατεσκευασμένη ἅμαξα, ὅτι νᾶρμα καὶ ἅμαξα, ἢ ἀνδραμαξὰ τὶς ἐστι ἢ ἄγκοι τοῦς, ἄνδρας. In which words, besides the etymologie expressed, the vse thereof is declared to be for the carriage of men. That as the chariots went emptie for greater magnificence, and as in their pageants were carried, the *Simulachra Deorum*, according to that, g *Thensa Deorum vehiculum*: so in these horse-litters were carried men; or rather that same *agmen imaginum*, which was the second particular. *Sixthly*, chaires of State. *Seventhly*, crownes. *Lastly*, spoiles taken from their enemies. These three last I take to haue beene vsed chiefly & principally in the *Romane* supplications, or publique thanksgiuings,

d Ter. respect. cap. 7.

e Vid. Franc. Iun. annot. in Tert. de spect. It. de tensis vi. Turneb. 29 27

f Herodor. l. 7.

g Alex. ab Alex. l. 2. c. 30.

giuings, for any great victorie; the custome being in such shewes, when they came to such and such remarkable places in the cirque, to pitch a certain chaire, adorned with crowns of victorie, & spoyles taken from the enemy, reputing it not the least office,[h] thus to honour their Emperour, though absent, with the prerogatiue of such a chaire. Now in the preparation to this particular shew, we read, that an egge was especially prouided. It is obserued by [i] many out of *Macrobius*, whose words are; *Ouum q̃ in Cerealis Pompæ apparatu numerabatur primum.* The obseruation is generall, but the reason thereof. *Inter arcana Cereris*, quite suppressed, & by none that euer I could meet with, yet explained; if my coniecture may satisfie in a matter so obscure, conceiue it thus. These pompous shewes were various, & in the honour of diuers Gods, & accordingly the *Romanes* made choice in euery such solemnity, of some one principall thing in their shew, vnto which the glory of the present solemnity should in more especiall manner belong. Thus in the *Pompa circẽsis*, which was celebrated in the honour of the[k] Sun, great horses were led vp & downe for greater state.[l] *Quia equis, & equestribus exercitatamentis, sol præesse credebatur superstitione antiquissima.* Hence the Cirque place it selfe was called τὸ ἱππικὸν, & ἱπποδρόμιον. After this same manner in this *Pompa Cerealis*, (which was also sometimes called *Circensis*, from the place where it was exhibited) an egge was chiefly and principally prouided: for seeing that vnder the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphick of the whole world? As if they did intimate thereby, that euen heauen it selfe was beholding to the *Earth*.

---- Pecori frondes alimentaque mitia fruges
Humano generi, vobis quoq; thura ministro. Ouid *Met. l. 2.*

And such an hieroglyphick [m] *Cœlius Rodiginus* proueth an egge to be, partly from its circular & globe-like forme; partly from the matter whereof it consisteth; the hard shel, resembling

h Vid. Isaac. Casaub. in Sueton. Iul. c. 76.

i Hosp. de orig. fest. Rosin. l. 5. c. 14. Alex. ab Alex. l. 6. c. 19.

k Solis honore novi grati spectacula circi Antiqui sanxere patres. Corrip. Afric. l. 1. c. 17. vid. Dempster. l. Franc. Iun. annot. in Ter. de spect. c. 8.

m Cœl. Rhod. lib. 27. cap. 17.

bling the solid earth; the more spirituous part thereof, the ayre; the moist and liquid part, the water; the yolke, the element of fire; yea he noteth also, as there is, *in mundo* so likewise, *in ovo, vis vitalis*, a kinde of quickening, and enlivening power in both. Otherwise if this opinion giue not content, we may interpret the carrying about of this egge, to be in the honour of *Castor* and *Pollux*: for as there were markes, or goales in the Cirque, some in the forme of *Dolphins*, in the honour of *Neptune*: so were there others[n] ὠειδῆ δημιουργήματα, markes of a long roundnesse, in forme of an egge, in memory of[o] *Castor* and *Pollux*, which were *ovo editi*; according to that of *Horace*:

Ovo prognatus eodem. Hor. serm. 2. sat. 1.

For the same reason happily it was, that an egge was at this time carried vp and downe, as the chiefe & principall ensigne.

n Dio. lib. 49.

o Tertull. de spect. cap. 8.

CAP. 3.

Ludi Florales.

THese Games or sports, were instituted in the honour of the Goddesse *Flora*, that she being therewith appeased, the earth might bring forth flowers, and fruits in great aboundance. Of the Goddesse it hath beene spoken before. The time of the yeare when these sports were obserued, [p] was vpon the foure last dayes of *Aprill*, and the first of *May*; whence is that of *Ovid. Fast. 5.*

p Alex. ab Alex. lib. 6. c. 8.

Incipis Aprili, transis in tempora Maij:
Alter te fugiens, cùm venit alter habet.

The manner thereof was, that shamelesse strumpets did then run vp and downe the streets naked, vsing many lasciuious & obscene gestures, and speeches, they were called together by the sound of a trumpet, vnto which *Iuvenal alludeth.*

---- Dignissima prorsus
Florali matrona tuba.

More-

Iuvenal tearmeth it,

Genua incerare deorum. Satyr. 10.

After this he was said to be *Voti reus, id est*, conditionally bound and obliged to the performance thereof, so that the Gods might challenge the thing vowed as due debt, if they granted his request, yea after that the thing craued had been obtained, then was he said, *Damnatus voti, vel voto (id est)* simply bound to the performance of the vow, so that by consequence, *Damnari voti, vel voto*, is to haue ones desire accõplished. Thus haue wee gone ouer the chiefe and principall games which were meerely *Sacri*, tending to religion, the second sort were, *Ludi honorarij*, of which in the next Chapter.

Cap. 10.

De Gladiatura.

SVch sports and plaies, which were performed by private men vpon their owne purse and charges, they seeking thereby to winde themselues into the affections of the common people, & to make way for their owne preferment and honour, were termed [a] *Ludi honorarij*, & howsoeuer any game or shew might bee tendred vnto the people in this respect, yet those of this nature, were for the most part, either *fencing*, or *stage-playes*: *fencing*, because the sight thereof was so often freely bestowed vpon the people, is therefore many times denoted by the Latine word, [b] *Munus*; and those that bestow these sights, are for the same reason termed *Munerarij*. The first originall of this fencing, and sword playing, to the killing of one another, hath been deriued [c] from a customary practice among the Heathens, at the burials of their friends, who being perswaded that the shedding of mans bloud would be propitiatory for the soule deceased, hence would they buy captiues and slaues, purposely to be sacrificed at burials: afterward that this wicked spectacle

[a] Isaac. Casaubon. in Suet. Aug. 32.

[b] Lipsi. Sat. l. 1. cap. 7.

[c] Tertul. Ie. Servius in Aneid. 10.

cle might be the more pleasant & delightfull, they changed their sacrifice into a fencing with art, where the combatants did fight for their life. This particular kinde of Fencers were called *Bustuarij* from *bustum*, they place where dead mens bodies were burned; but ambition and cruelty, made these bloudy spectacles in after ages more frequent, insomuch that prizes at last were plaid not onely at the toombes but in diuerse other places, as the *Cirque* and *Amphitheatre*, &c. yea they were giuen as legacies by will and testament vnto the people, the prizes haue continued many dayes together, and the number of the combatants sometimes exceeded number. At the first none would thus hazard their liues, but captiues and fugitiue seruants, which were enforced thereunto, being bought for that purpose, afterward those that were free-borne suffered themselues to be hired, for which cause they were termed *Auctorati* hirelings; [d] yea noble men themselues sometimes by reason of their decayed estates; sometimes to demerit the Emperour his loue, endangered their liues in this fight, those that were hired, bound themselues by a solemne oath to fight vnto death, or else they would yeeld their bodies to be whipt, yea and to be burnt, vnto which [e] *Horace* alludeth.

d Sen. ep. 1 [illegible]

e Serm. 27.

Quid refert, vri, virgis ferroq; necari
Auctoratus eas? an turpi clausus in arca?

The manner of this bloody spectacle was thus, the Master, or exhibiter thereof, did by a publique bill, giue notice vnto the people, what day the prize should be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation & concourse of people, of this speaketh [f] *Sueton*, *Munus populo pronunciauit in filia memoriam*. [g] Yea they did in tables hanged in publique vew, paint and represent, not onely the description of the place, but also the very forme and gesture of the fencers.

f Suetō. in Iulio.

g Plin. 35. 7.

---- *velut si*
Reuera pugnent, feriant, vitent q; moueantes

Arma viri. Horat. lib. 2, Sat. 7.

Vpon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the speares and wands, or cudgells, that they might tosse the one, and fence with the other, and shew other feats of actiuity, All being but preparations to that more solemne & dangerous fight ensuing. The Greeks calleth them ἐσφαιρωμένα ἀκόντια, because of the little balls tied at the sharpe end of the weapons, to preuent dangers. Others were [h] *Decretoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encountred each other for life or death, and therefore sometimes they are called *Pugnatoria*, [i] *Seneca* speaketh of both. *Remoue ista lusoria arma, decretorijs opus est.* And that the Apostle doth not allude to both, I dare not gaine-say, 1 *Cor.* 9. 26. 27. where hee saith οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων· ἀλλ' ὑπωπιάζω μου τὸ σῶμα. He did not beat the ayre, and flourish with those lusorious, and preparatory weapons, but he did truly fight against his naturall corruption, to the wounding and subduing of it; for [k] so ὑπώπια signifieth putrified wounds. That phrase of [l] *Senecaes* alluding to the fore-flourishings, is not much vnlike. *Aliud est ventilare, aliud pugnare.* This fore-skirmish with cudgells was properly termed *præludium*: *Megare* speaking of *Hercules* his conquest over the two Serpents, assaulting him being yet an infant, saith, [m] *Præludit Hydræ, id est*, that combate was but the prologue, preface, or introduction to that greater, which should ensue betweene him and the *Hydra*. Afterward when they betooke themselues to naked weapons, and to a reall fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare*. This word [n] *Versis* being put for *Transmutatis*. In the act of fighting, they did frame & compose their body according to the rules of their art, for the better warding of themselues, and the readier wounding of their adversary. This frame and posture of the body

h Lipf. Sat. l. 2. cap. 19.

i Senec. epist. 117.

k Suid. in voce ὑπώπια.

l Sen. l. 3. cont.

m Sen. Herc. fur. vers. 221.

n Lipf. Sat. l. 2. cap 19.

body, was by a peculiar name called *Status*, or *Gradus*. Whence arose those elegant Metaphors *Cedere de gradu*; *Demigare de gradu*: To change ones purpose, and as it were to draw back from what he formerly intended. In like manner we say. *De mentis statu deijcitur*, or *deturbatur*; He is driven to change his minde, or in generall he is amazed. In the conflict oftentimes, the sword-players after they had receiued any dangerous wounds, laid downe the weapons, which though in extremity was a token of cowardise, neither were they thereupon acquitted or discharged; but this depended vpon the consent either of the Emperour, or the people, or the Master of the shew. This discharge was properly called *Missio*. Such was the cruelty of those times, that many prizes were proclaimed, wherein they fore-signified, that such discharges should neither be craued, nor granted: whereupon [o] *Augustus Cæsar* made a decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatans that overcame, receaued by way of reward, sometimes mony, sometimes a garland, or coronet of palme-tree, wound about with certaine wollen ribbands called *Lemnisci*; the coronet it selfe was therefore called [p] *Palma lemniscata*, and hence figuratiuely hath *Palma* beene translated to signifie the victory it selfe, & such a man as hath often gotten the prize, wee say prouerbially that he is *Plurimarum palmarum homo*. The reason why the Palme-tree, rather then any other tree, should be giuen in token of victory, is rendred by [q] diuerse approued authors to be this: because the Palme-tree, though you put neuer so ponderous and heauy waight vpon it, yet it will not yeeld, but rather endeuour the more vpward. Sometimes the reward giuen by the people, was one of those wands, or cudgels vsed in the fore-skirmish. That wand was properly called *Rudis*, and it was giuen in token of liberty, signifying thereby, that he should thence forward lead his life free from shedding of blood, alluding to which custome, this word [r] *Rudis* hath beene vsed to signifie any other kinde of free-

o Suet. Aug. 49.

p Franc. Sylv. in orat. pro Sext. Rosc.

q Arist. probl. 7. Plut. symp. 8. q. 4. A. Gell. l. 3. c. 6.

r Eras. Adag. Rudem. accip.

dome or discharge: Whereupon *Horace* said of himselfe, that he was *Rude donatus, id est*, discharged from his paines in poetry. Lastly, sometimes he that conquered receaued *Pileum*, a cap: And here it will not be amisse, to note the difference betweene *Palma*, *Missio*, *Rudis*, & *Pileus*. *Palma*, was onely a token of victory, not of liberty, or discharge. *Missio* was not full discharge, but a kinde of vocation, or respite granted vpon request, vntill the morrow, or some other time: againe it was granted to those that were conquered, not to the conquerers. *Rudis* was a token of full discharge from bloudie combats, whereby a mans life might be indangered; but yet with this distinction, that if it were bestowed vpon free Citizens, hired to be actors in these masteries, then were they thereby restored to their freedoome also, which formerly they forefaited by vndertaken such base conditions: to others which were formerly seruants, or captiues, it was onely a token of liberty and discharge. Notwithstanding sometimes vpon fauour, such seruants or captiues, obtained together with their discharge from such fights, a priuiledge also of enfranchisement, whereby they were thence forward incorporated amongst free Citizens, the token hereof was *Pileus*, for then they receiued a cap, which latter obseruation helpeth for the vnderstanding of *Tertullian*, where he saith. [f] *Qui insignioribus homicidæ leonem poscit, idem gladiatori atrocipetat rudem, & pileum præmium conferat.* In which speech, the vniust, and the vnreasonable practice of those Heathens is displayed, whiles they iudge a man-slayer to be exposed to Lions & wild beasts: and yet notwithstanding will reward the bloudinesse of sword-players. These Fencers fought with diuerse manner of weapons, and accordingly had seuerall names, the chiefe of which we read are these. 1. *Retiarij*, so called from *reteiaculũ*, signifying a float-net vsed in fishing, because this sort of Fencers, did fight with a cast-net in one hand, to catch, and claspe about their aduersaries head; and a three forked engin in the other, which they vsed in steed of a sword

[f] Tertul. de spect. cap. 21.

ſword of this *Iuvenal* ſpeaketh, *Satyr.* 8.

---- *Movet ecce tridentem,*

They did alwayes fight in their coats, whence that Epitheto̅ floweth, *Retiari tunicati.* The reaſon why they bore vp and downe ſponges, which *Tertullian* calleth *ſpongias retiariorum* may be for the drying vp of the bloud, and wiping, or ſtopping of the wounds, which vſe of ſponges, [t] *Pliny* noteth. Now becauſe theſe *Retiarij* were ſo light armed, they were compelled every time they ſtroke with their net, to retire backe vntill they recouered their net againe: and hence the ſecond ſort of fencers, which fought with them, were termed [u] *Secutores, ab inſequendo*, from following and purſuing theſe *Retiarij*. The weapons wherewith theſe *Secutores* did fight, were a target, to keep off the net of the aduerſary; a ſword; & an helmet. 3[ly] *Thraces*, ſo called from the *Thracian* weapons which they vſed, their Target was round and little, called *Parma*, it was at firſt in vſe among the † *Thracians*, & afterward ſo proper to this ſort of ſword-players, that [x] *Parmularius*, ſignifieth ſuch a one as fauored this companie, or faction of fencers. Their ſword was a crooked falchion, termed by them *Sica*. The *Roman* ſouldiers did vſe to weare two of theſe, a long one on the left ſide, and ſhorter on the right ſide, anſwerable to our ſword and dagger, but the forme of the *Sica*, was alwayes crooked, according to that. *Sica* [y] Θρᾳκικὸν ξίφος ὑπηναμαὶς Priuie murtherers practiſing the killing of men, may ſeeme to haue vſed the leſſer, as a pocket dagger; ſuch are thoſe *Sicarij*, of which there is ſuch often mention in *Tulli* 4[ly] *Myrmillones*, they are ſometimes called *Galli*, becauſe they were appointed after the manner of the *Gaules*. Their weapons were a ſword, a target, an helmet with a creſt in forme of a fiſh. 5[ly] *Hoplomach*, the name imports them to be armed in their fight, it is deriued from the Greeke ὅπλον *vel* ὅπλα *arma*, and μάχομαι *pugno*: vntill *Auguſtus* his time they were named *Samnites*, their armour was an helmet with a tuft on the creſt, a ſword, a ſhield, and a boot on the

t Plin. lib. 31. cap. 11.

u Lipſ. Satur. lib. 2. c. 7.

† Turn. Adv. lib. 5. cap. 10.

x Suet. in Domit. cap. 10.

y Alex. ab Alex. lib. 6. c. 22.

the left legge, 6ly *Provocatores*, sometimes called *Probactores*, these vsually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and boots on both legges. For as the foot-men amongst the souldiers; so likewise, some of the sword-players vsed boots, for the safeguard of their legges, these boots were made of † iron, and so common amongst the Grecians in warre, that boots alone are oftentimes put to expresse the Grecians whole armature, as appeareth by that vsuall epitheton in *Homer* ἐυκνήμιδες Ἀχαιοὶ, *id est, Bonè ocreati Graeci.* These boots they wore sometimes on both legges, sometime on one, according as the manner of fight required. 7ly *Essedarij*, such as fought one against another out of wagons, so called from *Essedum*, a wagon or chariot. 8ly *Andabatæ, quasi* ἀναβάται, *ascensores*, because they did fight on horse-back, or out of chariots. This sort of fencers, did fight winking, whence ariseth that Adage. *Andabatarum more pugnare*, the phrase is fitly vsed, when two ignorant persons, are hot in contention about that which neither vnderstandeth. 9ly *Dimachery*, called also *Orbelæ*, they fought each against the other, with two swords a peece, as the first name importeth. 10ly *Laquearij*, such as fought with swords & halters, the vse of the halters, was the same as the *Retiarij* made of their nets, to cast about their aduersaries necke or arme: that they might the easier wound them with their sword. Of all these sorts of fencers[1] *Lipsius* treateth largely, to whom I referre the reader Onely here let him take notice that it was in the power of the people, to discharge any of these combatants in time of the fight, which discharge they signified, *premendo pollicem*, by holding down their thumbe: or else to adiudge him to continue the fight, though in neuer so great danger, and this latter they signified *conuertendo pollicem*, by turning vp their thumbe.

† Veget. vide Lipſ. de milit. lib. 3. dial. 7.

Lipſ Sat. 2.

.... Et verso pollice vulgi
Quemlibet occidunt populariter. Iuven. Sat. 3.

Moreouer that there might be alwaies in readinesse, a sufficient

ent number of sword-plaiers, hence were their schooles erected, into which captiues, fugitiue servants, and notorious offenders, were sometimes condemned, sometimes sold. The Masters of these schooles were called *Lanista*, the schollers or vnder-fencers, trained vp there for more publike & dangerous fights, were called *Familia*. The word *Familia* is often taken in this sense, to signify the whole company of vnder-fencers, belonging to one schoole, & the Master of defence; is for this reason, more then once by [m] Sueton called *Paterfamilias*. Moreouer, when one challenged another to these combats, they signified their challenge, by beckning with their little finger. *Horace* alludeth vnto this,

Crispinus minimo me provocat, accipe si vis,
Accipe iam tabulas lib.1.Serm.4.

This must be vnderstood of a beckning, and that with the little finger; for otherwise in time of the fight, if either of the combatants did hold vp his finger, [n] hee signified thereby that he did yeeld, and giue place vnto his adversary: some thinke that *Persius* had respect vnto this custome, in that phrase, ---*Digitum exere, peccas*, *Sat.5.*

[m] Sueton. Calig 26. It. in Domit. 10.

[n] Alex. ab Alex. l. 4. c. 26.

CAP. II.

De ludis Scenicis.

THE second sort of plaies bestowed on the people for their favour, were *ludi Scenici*, stage-plaies. The reason of this name *scena* may be seene before.[x] The first institution of them was occasioned by reason of a great sicknes, which by no medicinary help could be remoued; The *Romans* superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby bee vnarmed.[y] Wherevpon, about the fowre hundreth yeare after the building of *Rome*, they sent for certaine stage-players out of *Hetruria*, which they called *Histriones*, from

[x] Lazius de Repub. Rom. lib.10. cap 11.

[y] Alex. Gen. dier. l. 6. c. 10.

the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est inditum. Polidor. de inven. lib. 3. cap. 13.* Concerning the diverse kindes of stage-plaies I read of foure, called by the *Graecians, Mimica, Satyra, Tragœdia, Comœdia:* by the *Romans, Planipedes, Attellana, Prætextata, Tabernaria.* In English, Fables Mimicall, Satyricall, Tragicall, Comicall: These Mimicall players did much resemble the clowne in many of our English stage-plaies, who sometimes would goe a trip toe in derision of the mincing dames; sometimes would speake full mouthed to mocke the country clownes; sometime vpon the top of the tongue to scoffe the cittizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinde of vocations, they provoked laughter; whence both the plaies and plaiers were named *Mimi*, from μῖμος an imitator, or one that doth ape-like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter vpon the stage *planis pedibus, id est,*[z] *Excalceati* bare-footed. The second sort of plaies were called *Satyr*,[a] from the lasciuious and wanton country-Gods called *Satyri*, because the Actors in these *Satyricall* plaies, did vse many obscene poems, and vnchast gestures to delight their spectators. Afterward these kinde of actors as we may conject, did assume such liberty vnto themselues, that they did freely and without controlement, sharply taxe & censure the vices even of kings as well as of the commons; insomuch that now we call euery witty poem, wherein the liues & manners of men are sharpely taxed, A *satyre*, or *Satyricall* poem.[b] *Satyra mordax fuit & salsum genus carminis.* These *satyricall* plaies were also called *Atteilana*, from the citty *Attella* in *Campania*, where they were often acted. The third sort of stage-plaies were called *Tragœdia*, from τράγος a Goat, and ᾠδὴ an Ode or song; because the actors thereof had a Goat giuen them as a reward. And likewise they were called *Prætextata* from *prætexta*, a certaine *Roman* robe, which these actors

z Alex. ib.

a Antesignan, in suis obser. de metris comicis. Teren. præfixis.

b Vid. Erasm. adag. Καμωδοῖδος σατυρικοῖ.

ctors did vse to weare in their plaies. The fourth sort were *comœdiæ*, from κῶμαι which signifieth villages, & ᾠδὴ because these kind of actors did goe vp & downe the country acting these *Comedies* in the villages as they passed along. They were likewise called *Tabernariæ à tabulis, id est*, from the boards or pentices, wherewith they were sheltred from the weather, whiles they were acting. These two last sorts of plaies, namely *Tragedies* and *Comedies*, being still in vse among vs, it will be worth our labour to consider the communities, wherein they agree; otherwise the proprieties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primariæ, accessoriæ, circumstantes*; parts principall, accessory, and circumstances, which are not so truly parts, as accidentall ornaments added to beautify the plaies. The principall parts are 4. in respect of the matter treated of: For as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the first part called πρότασις, which word signifieth no more then a proposition or declaration. But when the play enclineth to its heat and trouble, then ensueth the second part called Ἔπτασις, which signifieth the intention or exaggeration of matters. The third part is called κατάστασις, *id est*, the state and full vigor of the play. The last part which is an vnexpected change into a suddaine tranquility & quietnesse is called καταστροφὴ whence by a *metaphor* it hath beene translated to signify the end or period of any other thing; or rather the inclinatiõ vnto the end, as *vitæ humanæ catastrophe*, the end of a mans life, in respect of the players forsaking the stage, the parts were fiue, namely the fiue Acts. For the Actors did fiue times in every *Comedy* and *Tragedy* forsake the stage, & make as it were so many interruptions. The occasion whereof is supposed to haue bin this, that the spectators might not bee wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For

those breaches and chasmes betweene each act, were made vp and supplied, either by the *chorus* or *Musicke*. Where we must note, that every Tragedy and Comedy must haue fiue *Acts*, and no more, according to that of *Horace*.

Neue minor quinto, neu sit productior actu
Fabula,-----

Againe wee must remember that it is not necessary that the πρότασις should be contained in the first Act: though many times it hapneth so: for in *Plautus* his bragging souldier the *Protasis* is found in the second Act: and so likewise haue the other three parts, *id est*, *Epitasis*, *Catastasis*, and *Catastrophe*, their bounds vnbounded. These Acts are divided into severall scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a scene being [c] *Mutatio personarum:* Whence we call a subtile *Gnatho* which can humour himselfe for all persons and times *omnium scenarum homo*, a man fit for all parts. Now amongst the *Romanes* it was thought vnfit, that aboue three persons should come on the stage in one scene.

c Vid. Erasm. Adag.

Nec quarta loqui persona laboret. Hor.

The *Partes accessoria* in a *Comedy* are foure *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subiect of the Comedy: the second is the Prologue, which is either ἐπεισοδιακός, such as doth open the state of the fable, at which time there needeth no argument, or else συμβιβαστικός, such as commendeth the fable, or the Poet vnto the people, or lastly διαφευκτικός, such as shall refute the obiections and cavills of adversaries. The third is *Chorus*, which speaketh betwene each Act; and this *Chorus* may consist either of one, of many speakers, and that either male or female: [b] but with this caution, that if a male be to be commended, then must the *Chorus* consist of males; if a female be to be commended, then must it consist of females. And alwaies what soeuer the *Chorus* speaketh, it must be pertinent to the Act past, or couertly intimating somewhat ensuing.

d Rosin. ant. cap de trag. & com. lib. 5.

Non

----Non quid medios intercinat actus,
Quod non proposito conducat & hæreat aptè. Horat.

It may seeme sometimes that in the midst of the play, some other sport was interposed, as hunting, or fencing, or such like to delight the spectators with the greater variety, whēce *Horat*, *Si discordet eques, medio inter carmina poscunt*
Aut vrsum aut pugiles.

These interposed varieties were denoted by the name of *Diludia*, *Displicet iste locus, clamo, & Diludia posco. Horat.* The fourth and last accessory part, was *Mimus* the clowne, or foole of the play. Of all these parts a Tragedy hath only a *Chorus*. The *partes circumstantes*, or accidentall ornaments were foure, common to both, *Titulus, Cantus, Saltatio, Apparatus, id est*, the title of the play, Musicke, Dauncing, and the beautifying of the Scene. By the Scene in this place I vnderstand the partition betweene the plaiers vestry, and the stage or scaffold. This partition at the acting of a Tragedy was vnderpropped with stately columnes and pillars, and beautified with paintings resembling princely buildings and the images as well of Gods as Kings. At the acting of a Comedy country-cottages and private buildings were painted in the out-face of the partition. In the *Satyricall* plaies the painting was overcome with shadowes of mountaines and woods: The [e] first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The difference betweene a *Tragedy* and a *Comedy*, which may bee collected out of [f] *Antesignanus* are these: first in respect of the matter, because a *Tragedy* treateth of exilements, murders, matters of griefe, &c. a *Comedy* of loue-toyes, merry fictions and petty-matters, the one being δηνῶν πειοχὴ; the other πύχης πειοχὴ In a Tragedy the greatest part of the Actors are Kings and Noble persons; in a Comedy private persons of meaner state and condition. The subiect of a Comedy is often feigned, but of a Tragedy it is commonly true and once really performed. The beginning of a Tragedy is calme

e Alex Gen. dier. l. 5. c. 16.

f Antesig. in uis obseru. de metris comicis terent. præfixis.

calme and quiet, the end fearfull and turbulent; but in a Comedy contrarily the beginning is turbulent, and the end calme. Another difference which *Antesignanus* hath omitted is behouefull for vs to know, namely that the Tragedians did weare vpon the stage a certaine shooe, comming halfe way vp the legge in manner of buskins, which kind of shooe was called by them *Cothurnus*, and from that custome it hath beene occasioned, that *Cothurnus* is translated to signify a Tragicall and lofty stile, as *Sophocleo digna Cothurno*, matters beseeming *Sophocles* his stile: and sometimes a Tragedy it selfe. The Comedians did vse an high shooe comming vp aboue the ankle, much like a kinde of shooes which plough-men vse to weare to keepe themselues out of the durt. This kinde of shooe is called *Soccus*, by which word sometimes also is signified a Comedy, as

Nizris medium impediit crus Pellibus. Hor. Ser. l. Sat. 6.

Hunc socci cepere pedem grandesq; Cothurni. Horat.

[g] All these sorts of stage-plaies both *Mimicall*, *Satyricall*; *Tragicall* and *Comicall*, if they are acted according to the *Gracian* rite and custome, then were they called *Palliata*, from *Pallium*, a certaine mantle which the *Gracians* did vse to weare, if according to the Roman māner, then were they called from the *Roman* gowne *Togata*.

g Antesig. ib.

CAP. 12.

De Troiano ludo, siue Troia.

IT was custome among the *Romans*, sometimes in the yeare to haue a generall muster of the younger sort, who meeting in the cirque, exercised their running, racing, riding at tilt, and other such like feats of activity, whereby they might be trained vp for their better service in the war. They chose a Captaine, one or other of noble birth; [a] He was called *Princeps iuventutis*. They divided themselues into distinct companies, sometimes marching forward, one against

a Hospin. de orig. fest.

gainst another, sometime retiring backward, sometimes skirmishing, sometimes imbatling themselues in one forme, sometimes in another, as if it were a true field pitcht. A large and full description hereof wee haue in *Virg. Æn.* 5. This game was called *Troianus ludus*; or simply [d] *Troia*, without the addition of any other word, because *Ascanius Æneas* his sonne first brought it out of *Troy*, according to that of *Virgill*, in the fore-quoted place.

Hunc morem, cursus, atq; hæc certamina primus
Ascanius, longam muris cùm cingerit Albam,
Rettulit, & priscos docuit celebrare Latinos.

Among other sports vsed at this time, [e] there was also a kind of moriske daunce, wherein the younger men danced in harnesse, after a warlike manner, being thereby trained, to exercise all parts of their body, by sundry gestures, as well to avoid all venues and defend themselues, as to annoy & offend the enimy. This kinde of dance is generally called *Pyrrhica saltatio*; because it was invented by [f] *Pyrrhus*. Yea [g] some say, that *Suetonius* taketh *Troianus ludus*, and this *Pyrrhica saltatio*, for one and the same thing. Nay, *Alexander* confoundeth both these, with those other games tearmed *Iuvenales ludi*. But doubtlesse herein he was mistaken, for those *Iuvenalia*, were instituted by [h] *Nero* [i] at the shauing of his beard, and had not their name, because young men were the chiefe actors, but because old men would now by the practise of youthfull sports, turne young againe. The actions at this time were so farre, from savouring of military discipline, that on the contrary, they were for the most part effeminate and wanton.

d Suet. in Iul. cap 39.

e Alex. ab Alex. l. 6. c. 19.

f Plin. l. 7. c. 56

g Serv. in l. 5. Æn It. Alex. ab Alex. ioco supra citato.

h Sueton. in Meron. c. 11.

i Cœl. Rhod. lib. 19. cap. 22.

k Rosin. Rom. antiq. l. 5. c. 22.

CAP.

Cap. 13.

De tesseris, talis, & latrunculis.

BEfore we treat of the game called *Ludus Tesserarius*, it will not be amisse first to cleere the word tessera from all ambiguity. The word hath foure remarkable significations all alluding to matters of antiquity: First it signified a watch word among the souldiers in the campe, whereby they discerned their enimies, or spies, from their own fellowes;[o] *Alexand, ab Alexandro* giueth many examples hereof: *Augustus Cæsar* in his camp, gaue for his watchword *Venus genetrix. Pompeius magnus* gaue for his, *Hercules invictus &c.* & this was called *Tessera militaris*. 2ly There was *Tessera frumentaria*, a certaine ticket, or token giuen by the Magistrate vnto the poore, at the tendring whereof, [p] at the beginning of every month, certaine doles & measures of corne were giuen; it is evident that at first there were such monthly distributions of corne, euen by that endeavour of *Augustus* his, who for the avoiding of trouble, would had reduced all to three set distributions in the yeare, but prevailed not: sometimes insteed of corne, or happily over and aboue the corne, there were at certaine times, doles of mony giuen to the poore, which dole whosoever receaued, tendred his token or bill of exchange, termed *Tessera numeraria*; these two last acceptions, although they may be distinguished, yet because they both tended to the releefe of the poore, I haue ioined them together. Thirdly, there was *Tessera hospitalis*, a certaine token of wood, or such like matter, which vsually was cut in two by those, who had engaged themselues mutually to entertaine each other, whensoever entertainment should be craued, yea this wooden ticket or tally being mutually accepted, it was lawfull for their posterity bringing this token, to challenge hospitality. Thus he in *Plautus*, having

o Alex. ab Alex. lib. 4. c. 2.

p Sueton. Aug. cap. 40.

ving formerly vsed *Antidomus* as his hoast. After *Antidomus* his death, he commeth vnto *Antidomus* his adopted sonne not doubting of entertainment, for saith hee: *Deum hospitalem, ac tesseram mecum fero*, Hence from this custome, or tendering a token when hospitality should be craued, that adage hath beene derived *Tesseram hospitij confregit, id est*, He hath broken the league of hospitality. Lastly, *Tessera* signifieth a dye, where we must note that the word *alea*, which commonly is translated a dye, is a generall word, applyed equally both to the *Tessera*, and the *Tali*, to denote the vncertainty of both games: *Tessera* properly signifieth a dye; *Talus*, an huckle-bone, such were with children play Cockall. In determining the seuerall chaunces in these playes, Authors are not onely diuers, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my coniectures drawn from comparing their seuerall and contrary writings, may giue light for the right vnderstanding of decayed knowledge herein, I shall willingly submitte my selfe to the censure of the iudicious. The seuerall chaunces which I reade of are these, some arising from the number of poynts in the dye, as *Senio*, *Monas*, More vsually amongst the Grecians, q these two were termed Κῶος, & χῖος, ἀμφὶ γὰρ χῖος ἐκάλουν ἕν, ὁ δὲ Κῶος ἕξ, *id est*, *Chius* answered our Ace, *Cous* our Sice. And this is confirmed by a proverbe in vse among the Grecians. Κῶος πρὸς χῖον, which the learned interpret to be, a comparison of vnequals: a Pygmie, with a gyant, others named from the number I reade not of. Perhaps they played not with a single dye, but with three as wee vse in Passage, whence their chaunces might haue their name, not from the number of poynts in each seuerall dye, but from them all being cast. But that the *Tessera* had points in them, appeareth by the testimony of a *Turnebus*: And hence *Numeri*, is sometimes, vsed for *Tessera*.

q Suid. in voce Κῶος.

a Turneb. adu. lib. 5. c. 6.

Seu ludet numerosq; manu iactabit eburnos.

Ovid. 2. *de Art. Amand.*

That they vsed more T*ali* in their playes, then they did T*esserae*, [b] T*urnebus* obseruetb from that verse.

Non sum talorum numero par tessera.

Martial. 14. *epigr.* 15.

[c] *Cœlius Rhodiginus* speaketh more distinctly, saying that in their play they vse three T*esserae*, but foure T*ali*. These T*ali*, were sometimes called *Vulturij*, as appeareth by the same [d] *Rhodiginus*, and likewise *Reguli*, the reason of both is rendred by [e] T*urnebus*, he being of opinion, that these T*ali* had not points in them as the T*esserae*, saith, *pro numeris effigies animalium habebant vt vulturum, aut regulorum*, that they were termed *Vulturij*, is probable by that of *Plautus*.

T*ace parumper, iacit vulturios quatuor.*

Plaut. curcul. Act. 2. *Sc.* 3.

But that the cocklebones should be called *Reguli*, I somewhat doubt, for no question: but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the *Latine*, the other the *Greeke* word, now *Basilicus* as shall presently appeare, signified the whole chaunce. So confused are the opinions of Authors herein, that to assigne the reason for euery chaunces name, or to reduce euery chaunce determinately, either to the T*esserae*, or the T*ali*, I thinke it impossible. Onely some may be thus reduced, and in generall we may conceiue probably, which chaunces were fortunate, which vnfortunate. The vnfortunate chaunce in the T*ali*, was commonly called *Canis*, or *Canicula*, or *Chius*:

The most fortunate chaunce *Venus*, or *Basilicus*. [f] *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace*, and *Plautus*; both of them treating of that old custome of throwing these cocklebones at their feasts, for they choice of their *Modiperator*, or master of the feast, which should prescribe lawes for drinking to the whole company. *Venus arbitrum,*

Dicet bibendi. saith *Horace.*

b Turn. adu. lib. 6. c. 10.

c Cœl. Rhod. l. 20. c. 27.

d Cœl. Rhod. l. 20. c. 18.

e Turn. adu. l. 5. c. 6.

f Lips. antiq. lect. lib. 3. c. 1.

Latte

Iacto Basilicum, propino magnum poculum.

Saith *Plautus*, *curcul*: and why may not this Cast be iustly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the *Graecians*, not onely called συμποσιάρχος, but also βασιλεὺς King, Prince, or chiefe commander at the table. This Cast was then brought to bee throwne, when all foure cocklebones appeared not one like the other, but all with different faces, *Venus consurgebat ex talis quatuor iactatis, vbi diuersam omnes ostendissent faciem*: with whome accordeth [h] *Turnebus. Venus erat, cùm nullus eodem vultu stabat talus. Hercules* was also a lucky throw, but whether the same as *Venus*? I haue not yet learned.

[g] Cœl. Rhod. lib.20. c.27.
[h] Turn. adu. lib.5.c.6.

The games with the *Tessera* I make no question were diverse, the ignorance of which, they being long since out of vse, haue caused much obscurity in this matter, one game there may seeme to haue beene in vse, where the iust number of eight seemeth to haue beene the chiefe Cast, It was called [i] *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his tombe, erected at great charges for greater magnificence, *Ex octonis constabat omnibus, id est*, consisted of many eights; to wit, *eight angles*, or corners; *eight columnes*; *eight stepps*, or greeses. In their common game, the most fortunate throw is thought to haue been three sices, wee call it in Passage, a Royall Passe, whence it was commonly called *Senio*;

[i] Cœl. Rhod. lib.20.c.27.

--- Quid dexter senio ferret
Scire erat in votis, damnosa canicula quantum
Raderet, Augusta collo non fallier orca, Pers. Sat. 3.

Which one place of *Persius*, giueth light to this in three things. First, that the winning cast, was termed *Senio*, and if you make *Basilicus*, a terme common both to dice, & cocklebones; as *Venus* is, we may fitly render it, a Royall Passe. Secondly, the loosing cast *Canis* or *Canicula*, in English a Dogge Chaunce. Thirdly the manner of their play, both in their Dice, & Cocklebones, was by casting them, not imme-

diatly out of their hand, but out of a dish or narrow mouthed vessell, that there might be faire play, without striking, or cogging the dye, this vessell *Persius* calleth *Orca*, and describeth it to haue a narrow mouth, straight necke. *Horace* applyeth it vnto the *Tali*, *Satyr.7.l.2.*

Mitteret in Pyrgum talos.---

Calling it *Pyrgus*, vsing the *Greeke* word πύργος a tower, or steeple so called from πῦρ fire; because the forme thereof, being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus*, to haue beene of the like forme, with *Persius* his *Orca*. But to returne to the game, the chiefe cast as I said was thought to be when three Sices appeared; which opinion is strengthned, by that common proverbe: *Aut tres sex, aut tres tessera, id est*, either three Sices, or three Aces. And the first of these being the best, the other the worst chance in the Dice: The prouerb implyeth thus much, I will put all to the hazard, I will winne all or loose all. This cast was also called *Mydas*, for as *Rhodiginus* speaketh, *In Tesserario ludo, Mydas iactus erat fortunatissimus*, with whom accordeth [k] *Dempster*, prouing it out of *Suidas*.

[k] Dempst. antiq. Rom. l.5. cap.1.

Μίδας ὁ ἐν ἐύβολοιν ἀβελόταλος

Mydas in tesseris consultor optimus.

This name signifieth the best chaunce, was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chaunce of the *Tali*. Likewise from that of *Martial, lib.13.1.*

Senio nec nostrum cum cane quassat ebur.

It is noted by [l] *Erasmus*, that as often as an Ace hapned to be throwne together with a Sice; so that *Senio*, and *Canicula* appeared together at one throwe, it was a loosing cast. [m] *Suetonius* is cleare in the proofe hereof, if for *Aut* we substitute *Et*, which vnlesse we doe, it will be a matter of great difficulty, to make congruity of sense. His words are *Talis enim iactatis, vt quisq; Canem aut Senionem miserat, in singulos talos, singulos denarios in medium conferebat, quos tollebat vniuersos qui Venerem iecerat.* Turne *aut* into *&*, the sense is obuious,

[l] Erasm. adag. Chius ad Coum.

Looke

Looke who threwe an Ace and Sice together for euery dye he staked and laid to the stocke a Dinere; which he tooke vp and swooped all cleane, whose luck it was to throwe *Venus*. *Euripides*, as I take it, was not a chaunce but a kinde of game, much resembling that which is in vse with vs, called one and thirty: The number of that game was Fourty, and the game called *Euripides*, because *Euripides* was one of the Fourty chiefe gouernours in *Athens*, when the thirty Tyrants were deposed. The reason of my coniecture is taken from [n] *Rhodiginus* whose words are these: *Euripides numerum continebat quadragenarium, quoniam videtur vnus fuisse Euripides præfectorum quadraginta, post triginta Tyrannos Athenis exactos.* From all we may note, that the *Iactus pronus*, or *Iactus plenus*, that is the lucky cast, wee may english it Take all, was commonly called *Senio*, *Venus*, *Cous*: the *iactus supinus*, or *iactus inanus*: was likewise commonly knowne by no other name then *Canis*, *Canicula*, or *Chius*, we may English it Blanke.

[n] Cœl. Rob. lib. 20. c. 27.

[o] Some haue deliuered their mind touching these plaies thus that the *Tali*, or Cockle-bones had but foure faces or sides, and therefore yeelded foure chaunces, and no more; the first is called *Canis*, or *Canicula*, or answering to our Ace: and it was the worst of all: the opposite vnto it they terme *Venus*, or *Cous*, and is accounted the best: *Mercula* against sense vnderstandeth the number of seuen by it, it may stand for our Sice. The third bore the name of *Chius*, proportioned to Trey with vs, and the *Senio*, which is as much as Quatre. For in these *Tali* there is no chaunce of Deaux, or Cinque. This opinion at first I confesse seemed plausible to me, but how fully it discouereth the game, and how agreeable it is to antiquity let others iudge. The chaunces of the dice, or cockle-bones as they were termed *Iactus & Missus*, casts: so also were they called [p] *Manus*, figuratiuely, as every stroke in the fencing schoole, was termed *Manus*: The first acception of *Manus*, is prooued out of [q] *Suetonius*, where

[o] Barthol. Merula in Ov. de art. amand. l. 2.

[p] Lipsi. Satur. lib. 2. cap 20.

[q] Suet. Aug. 71.

where *Augustus Cæsar* speaketh thus. *Si quas manus remisi cuiq; exegissem, aut retinuissem quod cuiq; donaui, vicissem, &c. id est*, if I had exacted those chunces which I remitted euery one, and kept that which I bestowed, I had gotten, &c. The second acception of *Manus*, is confirmed by [r] *Quinctilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much vnlike; He hath had a good or bad, lucky or vnlucky hand. Another game there was of like nature played with table-men, the word *Latrunculus* translated a table-man, doth properly signifie an hired souldier, such a one as serued for pay: whence *Latro*, whose diminutiue *Latrunculus* is, hath his denomination ἀπὸ τοῦ λατρεύειν *à serviendo*. In this sense the word is vsed by [s] *Plautus*.

Nam rex Seleucus me opere orauit maximo,
Vt sibi latrones cogerem, & conscriberem.

Secondly, because souldiers are so prone, and apt to commit robberies, hence *Latro*, and *Latrunculus*, hath beene vsed also to signifie a theefe or robber. And thirdly in a borrowed sense, these words are applied to signifie table-men, or chesse-men; because this game hath the expresse forme and representation of a warre, or battle, fought betweene two armies: Insomuch that [t] *Pyrrhus* King of Epire, being skillfull in plotting stratagems, first taught his souldiers that art of projecting, by playes and representations thereof in the table-men. [u] Some are of opinion, that it was first invented in the siege of Troy, by *Palamedes*, who that he might keepe his souldiers in better order, allowed them this kinde of recreation, whence these chesse-men, are sometimes called *Palamediaci calculi*, they were made sometimes of wax, sometimes of glasse, sometimes of other matter, The game seemeth to haue beene the very same with that which we call chesse. Other games there were of lesser note for recreation, of which sort were principally these that follow; *Petaurum*, *Discus*, *Pila* Trochus, *Nuces*, πέταυρον, from whence this Latine word

Petaurum

r Quint lib.5. cap.14

s Plaut. mil. glor. Act.1. sc. 1.

t Donat. in Terent. Eun. Act.4. Sc.7. ad Illud. Idem. hoc iam Pyrrhus fecitauit

u Suidas in voce πάλα-

Petaurum commeth, signifying properly a perch or pole, on which poultry roust, and hence the rope or staffe on which light persons were wont to dance, and try masteries, was termed *Petaurum*. It signified also a certaine hoope, or wheele, through which actiue persons would runne swiftly, their body so warily carried, that in their rũning, they would not touch the hoope or wheele, to this purpose *Alex. Neop.* speaketh.[a] *Fuit quoq; petauri ludus admirationis præcipuæ, cum per circulos, quispiam veloci cursu transvolat, corpore ita libra-to, vt circulum non offendat.* Such tumblers as were practized in this kinde of actiuity were thence called *Petauristæ*. *Discus* was a round stone in manner of a bowle, sometimes made of yron, or brasse, whosoeuer could cast it farthest got the victorie: the players thereat were called δισκοβόλοι, from δίσκος and βάλλω to dart, or cast out any thing. *Pila* it signifieth a ball, and of it there were many sorts. 1. *Harpastum*, which we may English a Foote ball.[b] This ball being put downe in the middle, two companies of young men, stroue who should driue it through the others goale. 2ly *Pila* which signified a distinct kinde of ball so called from the haire with which it was stuffed. 3ly *Follis*, light kinde of ball, so called because it was stuffed with a bladder; with this old men, and young children played. 4ly *Paganica*, this had its name *à pagis*, from villages and country-townes, where it was chiefely in vse, it was stuffed with feathers; of all these. *Martial.* 14.45.

Hæc quæ difficilis turget paganica plumâ,
Folle minùs laxa est, & minùs arcta pilâ.

Fifty *Triginalis*, and this I thinke both the *Pila*, and the *Follis* were called, in opposition to the *Paganica*: the reason of the name is taken from the forme of the tenis-courts, which because they were three-square, in manner of a triangle [c] hence was the ball with which they played in such courts termed *Trigonalis*. The players themselues were termed *factores*; those that did cast the ball into the court, were called simply *datores*; and [d] hence *datatum ludere*, is to play at ball

a Alex. ab Alex. l. 3. c. 21.

b Alex. ab Alex. ibid.

c Cœl Rhod. lib. 2. c. 18.

d Turneb. adverf. l. 7. c. 4.

ball, or elſe, we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let downe the ball, did *ſuram dare*: hold out their legge, to haue the ball ſlung at it. *Trochus*, it ſignifieth a top, as it were commonly called *Trochus*, from τρέχω to runne; becauſe of the ſwiftnes thereof: and likewiſe *Turbo* in Latine, for the ſame reaſon: ſo ſometimes it was called *buxum*, from the matter whereof it was made, as

--- Buxum torquere flagello. Perſ. ſat. 3.

Nuces, with nuts they had many plaies, ſome of which are at this day in vſe. One holding an vncertaine number of nuts in his hand, his fellow that plaied with him, was to diuine whether the number was **even or odde**. This *Horace* calleth

Ludere par impar ----

The *Gracians* ζυγὰ ἢ ἄζυγα. Of this *Ovid. de nuce.*

Eſt etiam, par ſit numerus qui dicat, an impar:
Vt divinatus auferat augur opes.

Sometimes they piled their nuts; three beneath and one on the top, in manner of a Caſtle, of this *Ovid*: ſpeaketh likewiſe.

Quatuor in nucibus non amplius alea tota eſt,
Cùm ſibi ſuppoſitis additur vna tribus.

Yea; theſe nut-games were ſo many, and ſo peculiar to children, that ſtriplings growing into mans eſtate, were ſtill reputed children, vntill they forſooke theſe nut-ſports, whence *nucibus relictis*, ſounds as much, as childiſhnes being paſt: and this is thought to be the reaſon, why the [c] bridemen, as ſoone as he was married vſed to caſt nuts among the people: intimating thereby a farewell to ſuch childiſh paſtimes. Many other childiſh games they had, among which one reſembled our **croſſe and pile**: [f] they termed it *Capita vel navim*; becauſe the coyne which they fillipped or toſſed into the ayre, bore ſtamped on the one ſide *Ianus* his two faces, on the other ſide a ſhippe.

[c] Roſin. ant. Rom. l. 5. c. 27.

[f] Anton. Conſtant in Ovid. Faſt. lib. 1.

CAP. 14.

De mensis & conviviis Romanorum.

BEfore wee proceed vnto the discription of the *Roman* tables, we will explaine those fiue tearmes, *Ientaculum, Prandium, Merenda, Cœna, & Commessatio.* which fiue words doe signify the fiue seuerall feedings each day, which children, old men, labourers, travellours, & such like, did vsually obserue; for others of healthier & stronger constitution, did commonly eat but one meale, at the most but two in the day. *Ientaculum* signifieth their break-fast, and it had its name, like as our English word hath, *ἀιειωνιο*, from fasting: In former times it was called [a] *silatum* from *Sile*, the name of a certaine hearb, with the root whereof, they were wont to season that wine, which they had at breakfast. For as [b] *Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place, he likewise saith, that in old time they had no dinner, but that which we call *Prandium*, was the same with them as *Ientaculum*, and thus much the Greeke word ἄριστον signifying a dinner, doth intimate it being so called, *quasi* ἀἴριστον, from ἀἴριον, which signifieth the morning. The name *Prandium*; which wee render a dinner, was so said *quasi* παρ' ἔνδειον, signifying noone-tide, or midday. The third time of taking meat, was called *Merenda*: we may english it our afternoones beauer: it was called also *Antecœnium*, because it was taken a little before supper. [c] *Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proximè cœnæ; vnde & Antecœnius à quibusdam dicitur.* The fourth time, was their supper, called *cœna, quasi* κοινὴ, which signifieth as much as Common, [d] *quia antiquitus seorsim solebant prandere Romani, cœnare cum amicis*: Their fift and last time of feeding, was called in Latine *cõmessatio* by some, by most *comessatio à comedendo* [e] *Ioannes*

a Rosin. antiq. lib.5.c.27.

b Plut. in sym. lib.8.q.6.

c Iust. Lipsi. cent.1.ep.65.

d Plut. symp. lib.8.q.6.

e In orat pro M. Cœlio.

nes Tristinus saith, that it is a beauer taken after supper, or a night drinking. But the chiefe feast; whereat they [f] gaue entertainment, being their supper, we will consider these three things therein. First *accumbendi vel discumbendi rationem*, that is the manner of their lying at supper (for they did neither stand, nor sit at table as we doe:) secondly, the forme & fashion of their table; and lastly the parts of their supper. The place where they supped was commonly called *Cœnaculum à cœna*, as our **Dining chamber** is so called from our **Dinner**. It was also called *Triclinium* or *Biclinium*, from κλίνη a bed: for sometimes there were three beds, sometimes but two about the table, vpon which the guests did sit, or rather lye along. In this dining parlour, was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing vpon three feet; but for men of better ranke, it was made of better timber, inlaid sometimes with wood of diverse colours, sometimes with siluer, and it stood vpon one whole intire foot; made of Ivory, in the forme of a great lyon, or Leopard, &c. Vnto the meaner sort of these tables *Horace* alludeth.

[f] Lazius de re-Pub. Rom. l. 3. cap. 3.

----Modò sit mihi mensa tripes. Hor. Serm. 13.

Vnto the other *Iuvenal. Sat. 11. vers. 122.*

-- -putere videntur
Vnguenta atq; rosæ, latos nisi sustinet orbes
Grande ebur, & magno sublimis pardus hiatu.

Sometimes this table was made in the forme of an halfe moone, the one part thereof being cut in with an arch or semicircle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, [g] which as it appeareth by certain marble monuments, was in old time made like a *Roman* C. Hence is that of *Martial, lib. 14, 87.*

[g] Rom. antiq. l. 2. c. 28.

Accipe lunata scriptum testudine sigma.

If any man should demaund the reason, why they cut their table in that forme, I must confesse I haue not read any reason in any author bearing shew of probability, My conjecture

iecture is this. It is agreed vpon by most authors, that in the round tables the one quarter was reserued void from guests that the waiters might haue a convenient roome to attend: thereupon it seemeth not improbable vnto me, that this crooked arch was made for the waiters, I acknowledge that this *Sigma* hath beene translated diversly by divers writers, as it appeareth by *Lipsius* in the forequoted place. By some it hath beene taken for the parlour, or supping chamber: so *Lipsius* in his *Antiquities*; by others for the supper or feast it selfe: so *Celius* By *Lipsius* since it hath beene thought a certaine place, erected in the manner of a hemicycle, or halfe moone, against which they did place one cõtinued bed, able to take sixe or seuen guests. But *Brodeus* and *Ditmarus*, in my opinion, haue more truly taken it for the table it selfe. About the table that was perfectly round, were placed three beds, couered with tapistry, or some other kinde of couering, according to the wealth and ability of the person, and thus,

----*Srato discumbitur ostro*;

the beds being ready furnished, the guests lay downe in manner as followeth. Each bed contained three persons. Sometimes foure, seldome or never more, except at their great and more solemne feasts. If one only lay vpon the bed, then he rested the vpper part of his body vpõ his left elbow, the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermost did lye at the beds head, laying his feet behind the second his back, the second rested his head in the others bosome, hauing a cussion put betweene, laying his feet behind the thirds backe; in like manner the third and fourth did lye. The number of the guests was not great, seldometimes exceeding nine whẽce *A Gellius* [h] saith, that the number of guests should begin with the *Graces*, & end with the *Muses*, that is, they must not be fewer then three, nor more then nine. This also hath bin the reason of that adage, *Septẽ convivium, novem convitium faciunt.*

h A Gel, noct. Atti l.13.c.11 *Tribus aut novem misceatur cyathis pocula commodis. Qui musas amat impares, Ternos ter cyathos attonitus petet. Vates. tres prohibet supra Rixarum metuens tãgere Gratia Nudis iunctæ sororibus.* Horat. carm. l.3 Od. 19.

i Alex. Gen. dier. l.5.c.22.

Heliogabalus seemeth to haue beene delighted with the number of eight,[k] whence he invited to supper *octo calvos, octo luscos, octo podagrosos, octo surdos, octo raucos, octo insigniter nigros, octo insigniter longos, octo prapingues, & octo nasutos, delectatus illo Graco proverbio,* ἀπαντοκτώ. Those that were not invited, but came of their owne accord vnto a feast without bidding, by *Plautus* they are called *Musca*, flyes; by others they are called *Umbra*, shadowes. Hence is that of *Horace.*

k Stuckius de conv. l. 1. c. 2.

----Locus est pluribus vmbris.

The party which invited the guests, sometimes expressed his earnestnesse, by pulling and hailing one by the cloak: whēce *Stuckius* obserueth, that when they would shew how earnestly they were invited, they would say, *Penulam mihi scidit*; he tore my cloake off my shoulder. Againe on the other side, when they would shew, how easily the guest was intreated they would say *Illius ego vix tetigi penulam, tamen remansit.* Before the guests sate downe, their shooes were vsually pluckt off, that they might not foule the beddes, on which they did ly [l].

l Terent. in Heautont.

Accurrunt servi soleas detrahunt,
Video alios festinare, lectos sternere, cœnam parare.

m Cœl Rhod. 27. c. 26.

[m] They likewise did gird their heads with fillets and haire-laces, as often as they intended to drink more then ordinary, thereby to prevent the vapours, which otherwise would annoy the head: for which reason, they did likewise [n] vse garlands of Ivy, and nettle-tree, and roses; the coolenesse of which comforted the braine. These garlands were also *Symbolum plenæ libertatis*, a token of their full liberty. The carver in these feasts, was called from his artificiall setting and ordering the dishes vpon the table *Structor*; & from his artificiall caruing and cutting vp of the dishes, *Carptor. Trypherus*, as appeareth by *Iuvenal. Satyr.* 11. was famous for his skill in caruing: he did set vp a schoole, teaching such as came vnto him by rules and precepts; and also shewing them the

n Plin 16. c. 1.

manner

manner of caruing: which that he might the better do, he furnished a table with seuerall dishes of meat, formed and fashioned in wood, with a dull knife, shewing his scholers after what manner, and with what gesture of their body, they should cut vp this or that dish. This supper, because of the wooden dishes of meat, was called *Cœna vlmea.* They divided their supper vsually into three parts which they termed their first, second & third course. In the first course commonly was serued mulberies, lettices, sausages, & alwaies egges: as likewise in the last course (whether the second or third) were serued, nuts, figs, grapes, but alwaies apples: [p] whence we say proverbially, *Ab ovo ad mala,* from the beginning of the feast to the end; or simply, from the beginning of any thing to the end thereof. The middle course, was the maine supper, and the chiefe dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase, it is called [q] *Fundus & fundamentum cœnæ.* Their first messe they called the *proœmium*; the last the *epilogue*, which because it consisted so much of sweet and delicious meats, hence did they apply that vnto the second course, αἱ δευτέραι φρονιδες σοφώτεροι, *id est, Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *cœna dubia*: *Recta*, in this place signifieth as much as *vera*: thus ὀρθὸς among the *Græcians*, sometimes signifieth *verus & sincerus.* The phrase intimateth, that it was a true supper, opposed to that dole of meat distributed by princes to the people which from the panier or basket, in which it was brought, was called *sportula*: sometimes they distributed money instead of meat: this also was named *sportula*: so that *sportula* denoted any kinde of dole either of meat or mony, which as often as it was given in lieu of a supper, it was opposed to *cœna recta.* Yea sometimes by *sportula* wee may vnderstand a light and short supper.

Promissa est nobis sportula, recta data. Martial.

The reason why a great feast should be tearmed *cœna dubia*,

o Stuk. de conv. l.3. c.3.

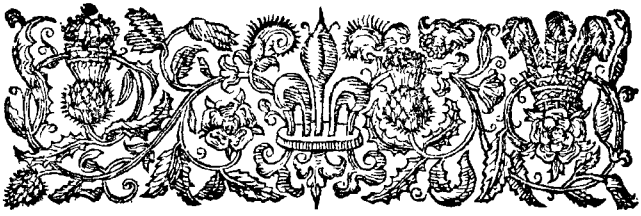
p Panciroll. lib.1.c.1. de perditis cap. de cibi capiendi modo.

q Stuk. l.3. de conviv.

Turneb adv. lib.5. cap.10.

is, becauſe in ſuch variety of diſhes, the gueſt is many times doubtfull of which to beginne. Contrary to this is *cœna ambulatoria*, a ſupper where one diſh walketh through the table.

LIB.



LIB. 3. SECT. 1.

Of the Roman Assemblies.

De Comitijs.

Ither-vnto haue wee insisted vpon the description of the most remarkable parts of the *Roman* city, together with the severall divisions of the *Roman* people, as also the *Roman* religion; where wee haue seene the generall divisions of their Gods & their sacrifices, with their ceremonies thereunto belonging, and likewise of the *Roman* games both greater and lesse. Now are wee to proceed to that part of government, which is politicall or civill: where wee will first speake of their assemblies called *Comitia*, then of their civill magistrates, afterwards of their punishments, and lastly of so many of their civill lawes, as I haue observed needfull for the vnderstanding of *Tully*, and that principally in his Orations. For the more easie conceaving of all which I haue præfixed one Chapter of the *Roman* yeare, treating there; of the *Calends*, *Ides*, and *Nones*, the knowledge of which is needfull for that which followeth.

CAP.

Cap. I.

De Anno & partibus eius.

INasmuch as there cannot be a full knowledge of the *Roman* assemblies, without some generall vnderstanding of the *Roman* yeare, and the generall distinctions of the *Roman* daies, it cannot be but worth our labour in this short chapter, briefly to consider what may bee spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greeke word Ἐνιαυτός signifieth) ἐν ἑαυτῷ εἶσι, *id est, in se convertitur annus*: which was the reason, why the Egyptians in their mysticall cyphers (called *literæ hieroglyphicæ*) did vse the picture of a serpent, hauing his taile in his mouth, to signify an yeare. The time or space of this yeare hath beene diverse, according to the diversity of nations.[a] Some allowed no more daies to an yeare, then we doe to a month, whence that monthly space which the *Latines* called *Mensis* from [b] μῆνη, signifying the Moone, they called *Annum Lunarum*. Some allowed foure months, some six months, some tenne. And thus *Romulus* measured his yeare, counting the months either from the number of our fingers, or fro the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of vnities which in a simple number doth not exceed ten.

a Vid Plin. lib. 7. cap. 48.
b Paulus Mar. in Ovid Fast. lib. 1.

Quod satis est vtero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à funere coniugis vxor
Sustinet in viduâ tristia signa domo. Ovid. fast. lib. 1.
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit,

Seu

Seu quòd ad vsq; decem numero crescente venimus,
Principium spatijs sumitur inde novis. Ovid. Fast. lib. 3.

Thus *Romulus* his yeare contained of months ten; of dayes 304. But after this *Numa* added two months,

At Numa nec Ianum, nec avitas praeterit vmbras.
Mensibus antiquis addidit ille duos. Ovid lib. 1. Fast.

Numa, [c] or as some say, *Tarquinius Priscus* perceiuing that the months did not alwaies fall out alike euery yeare; but sometimes the same month would happen in the summer, sometimes in the winter, thereupon after long study and many instructions from the *Grecians*, finding the reason of this confusednesse, he added vnto *Romulus* his yeare fifty dayes, so that the whole yeare afterward was diuided into twelue months; because the moone had finished her course twelue times in that space; beginning their yeare then at Ianuary: because then in his iudgement was the fittest time to beginne the yeare, when the sun being farthest from vs, did beginne to turne his course, and to come vnto vs againe; which is about Ianuary, the sunne being about the Tropicke of Capricorne. Afterward vpon a superstitious conceit of the odde number, *Numa* added one day more vnto Ianuary, so that whereas at the first *Numa* his yeare did agree with the *Grecian* yeare, both of them containing three hundred fiftie foure dayes; Now the *Roman* yeare contained three hundred fiftie fiue dayes, which computation falling out too short for the true yeare by the space of ten dayes, and six houres yearly, it occasioned euery eighth yeare in the interposition of 3. whole months, which they called their leap-yeare: [d] This cõfusednesse afterward *Iulius Cæsar* by long study remedied, adding the odde ten dayes vnto *Numa Pompilius* his yeare. And least the odde six houres might at last breed disorder in their computation, he appointed that euery fourth yeare whole day should be inserted, next after the three and twentieth of February; which inserting they called *Intercalatio* frõ an old verbe *Intercalo*, & that day they called *Intercalarem*.

c Vid. George. Metulam in orat. pro Q. Ligario.

d G. Metula in orat. pro Q. Ligario.

Now the day following being the foure and twentieth of Februarie, was alwayes the sixt of the Kalends of March,[e] & therefore because of the interposition of that day, they called the leap-yeare *Annum bissextilem*, that is, the yeare wherein their falled out two dayes, which they called *Sext. Calend. Martij*. And the day thus interposed, was called *dies bissextus*. This conputation, which *Iulius Cæsar* found out, wee haue embraced, and doe at this day follow, calling our yeare *Annum Iulianum*,[f] and *Annum magnum*, hauing relation to the monthly yeare called *Annus Lunaris*; & sometimes this great yeare is called, *Annus vertens*, *a vertendo*, because it is alwayes turning, and running on. † Moreouer we must remember, that the Romans did begin their yeare at March; whence that month, which since hath beene called *Iulius* in the honour of *Iulius Cæsar*, was by them called *Quintilis*, because it was the 5. month: and that month, which since hath beene called *Augustus*: in the remembrance of *Augustus Cæsar*, was by them called *Sextilis*, because it was their sixt month. Thus then the great yeare being diuided into twelue months, euery month was diuided into three parts, *id est*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were so proper vnto the *Romans*, that [g] *Augustus Cæsar*, when he purposed neuer to doe what he was requested, was wont by way of proverb to say, that he would doe it *Ad Calendas Græcas*, that is to say in our English prouerb, **At latter Lammas, never.** For the better vnderstanding of which, I shall insert three common verses.

Principium mensis nostri dixêre Calendas:
Sex Maius Nonas, October, Iulius, & Mars,
Quatuor at reliqui: tenet Idus quilibet octo.

That is, the first day of euery month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7. of these foure months, May, October, Iuly, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4. & 5. day: so that the fist day (for example sake

e G Morula in orat. pro Q. Ligat.

f Rosin. ant. Rom. lib. 4.

† Hubert l. 3. epist. fam. 18.

g Suet. Octav. Aug. c. 87.

ſake) of Ianuary was called *Nonæ Ianuariæ*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vſed alwaies to ſay *Pridie Cal. Pridie Nonar.* and *Pridie Idum*: in ſteed of *ſecundo Cal. Non. Id.*) The third day of Ianuarie, they called *tertium Nonarum, vel Nonas Ianuar*; the ſecond day of Ianuary they called *quartum Nonarum, vel Nonas Ianuar.* After the Nones followed the Ides, which contained eight dayes in euery month, ſo that the 15. day of the foure aforeſaid months, were called *Idus Maij*, *Idus Octob. Idus Iulij*, and *Idus Martij*. In all the other months, the 13th day was the Ides: as to proceed in Ianuarie, the thirteenth day was called *Idus Ianuar.* the twelfth *Pridie Idum*, *vel Idus Ianuar.* The eleuenth *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum, vel Idus Ian.* the ninth 5° *Id. Ian.* the eight 6° *Id. Ian.* the ſeauenth 7° *Id. Ian.* the ſixth 8° *Id. Ian.* After the Ides then followed, the Kalends of the next month. As the fourteenth of Ianuarie was *decimo nono Calendarum*, or *Calendas Februar.* the fifteenth *decimo octavo Calend. Febr.* the ſixteenth *decimo ſeptimo Cal. Feb. &c.* Where wee muſt note that as often as we vſe *Pridie*, *tertio*, *quarto*, or any of thoſe numerals with an accuſatiue caſe, as *Pridie Calendas*, *&c.* the *Grammarians* ſay that this præpoſition *Ante* is eclipſed; Againe every month had in its compaſſe three great markets, which becauſe they were obſerued euery ninth day, were called *Nundina*, and the latter of them being the greateſt is called by *Atheneus* τὴν ἐκκλησίαν, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I ſhould treat of the dayes, which are the leſſer parts of the yeare: where before we proceed, we will conſider the parts, which the *Romans* diuided their day into.

Dies Ciuilis continet

- *Lucē, cuius partes sunt*
  - *Diluculum.* The breake of day.
  - *Mane.* The full morning.
  - *Admeridiem.* The fore-noone.
  - *Meridies quasi Medidies.* Mid-day, or *quasi Merus dies.* Perfect day, Noone.
  - *De meridie.* After noone.
  - *Solis occasus.* Sunne setting.
- *Noctem, cuius partes sunt*
  - *Crepusculum,* The duske of the euening.
  - *Prima fax,* Candle-tining.
  - *Vesper.* The night.
  - *Concubium.* Bed-time.
  - *Nox intempesta.* The first sleepe.
  - *Ad mediam noctem,* Towards mid-night.
  - *Media nox,* Mid-night.
  - *De media nocte,* A little after mid-night.
  - *Gallicinium,* Cock-crowing.
  - *Conticinium.* All the time from cock-crowing to the breake of day.

The day and night againe were each of them diuided into *primam, secundam, tertiam, & quartam vigiliam,* every watch containing three houres. The first of the night began at six of the clocke in the euening and the fourth ended at six of the clocke in the morning. [g] These watches were distinguished by seuerall notes and sounds of Cornets, or Trumpets, that by the distinction and diuersitie thereof, it might easily be knowne what watch was sounded. Moreouer wee must vnderstand that the *Romans,* vpon a superstitious conceit & obseruation of misfortunes and euill euents falling out on some dayes, and more happy successe vpon others, haue called the former sort of dayes *Atros dies,* or *dies postriduanos, & Ægyptiacos: ἀποφράδας Græci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Postriduani* was because they thought *Dies Postridie Calendas, Nonus, & Idus, id est,* The next day after the Calends, Nones, & Ides, of euery moneth to be vnfortunate; & the latter sort they called *Albos*

g Alex. Gen. lib. 1. cap. 12.

Albos dies,[h] borrowing the names from the *Scythians*, who vsed to chalk out the fortunate dayes in their Kalenders with white Characters, whence *Horace* saith:

Cressa non careat pulchra dies notâ.

Other-some, as their vnfortunate and vnluckie dayes, were noted with a coale or blacke character, according to that,

Nigro carbone notatus.

Againe their Kalender distinguished some dayes for Holy-dayes, which they called *Dies festos*, festiuall dayes, or *dies Feriatos, & Ferias*, Holy-dayes, [i] because they did vpon such dayes *Ferrire victimas, id est*, offer vp sacrifices. Others were distinguished for working dayes, which they called *Profestos quasi procul à festis*. The third distinction was of halfe holy-dayes, which *ab intercidendo*, they called *Dies intercisos*, as it were dayes cut asunder: the one part of them being allotted for worldly businesse, the other for holy and religious exercises. [k] The *feriæ* were either *priuatæ*, and so they belonged sometime to whole families, as *Familiæ Claudiæ, Æmiliæ, Iuliæ, &c.* sometimes to priuate persons, as euery one his birth-day, particular expiations, &c. or else they were *Publicæ* such as the whole common-wealth did obserue: and they were of two sorts, the one called *Anniuersariæ*, which were alwayes to be kept on a certaine day, [l] and thereupon they were called *feriæ statiuæ*; the other *conceptiuæ*, which were arbitrary, & solemnized vpon such dayes as the Magistrates and Priests thought most expedient, whereof the *Latinæ Feriæ* were chiefe: which *Latinæ Feriæ* were kept on mount *Albane* to *Iupiter Latian*, for the preseruation of all the Latine people in league and confederacie with the *Romans*, and were solemnized in memorie of the truce between those two nations. Those *Feriæ* which were called *Imperatiuæ*, and [m] *Indictiuæ*, because the *Consul*, *Prætor* or chiefe Pontifie, according to their pleasure *imperabant, & indicebant has, id est*, commanded them, may in my opinion be contained vnder that number of *Feriæ conceptiuæ*, in respect of the vncertainty

h Vid. Erasm. Adag. vnione signare.

i Ascensius in epist. 3. illust. vir. lib. 2.

k Rosin. ant. lib. 4. c. 3.

l Alex. Gendier. lib. 5. c. 7.

m Alex. Gendier. lib. 6. c. 7.

n Seru. Æneid. lib. 11.

certaintie of them. Another distinction of dayes is found in the Roman *Kalender*, to haue beene in *Fastos*, whose court or leet-daies; *Ex parte Fastos*, Halfe court-daies; *Nefastos*, Non-leet-daies; though this word *Nefastos* be often expounded vnluckie, as in that of [o] *Horace* touching the tree *Ille & nefasto te posuit die*, that is, Hee planted thee in an vnhappy time. These daies were called *à fando*, from speaking; because vpon those daies which were *Fasti*, the *Prætor* or L. chiefe Iustice might lawfully keepe court and administer iustice, which was not done without the speaking of these three words, *Do*, *Dico*, and *Addico*; [p] *Dabat actionem dicebat ius*; *Addicebat tamres quàm homines*. Where by the way we must note, that sometimes these court-daies were also called *dies comitiales*, because that [q] vpon euery such day which was noted in the Kalender for a comitiall day, if the publique assemblies were not held, it was lawfull to keepe court: whence not onely *comitiales dies* doth signifie a law-day, but *comitialis homo* also doth signifie a wrangler in the law, or a litigious person.

o Carminum lib. 2. Ode. 13.

p Ioach. Camerat. pro Flacco.

q Bersman. in suis andot. in Rom. Calend. ad finem. Ov. Fast.

Cap 2.

De comitijs idq; Calatis præcipuè, de Rogationibus, & antiquâ scribendi ratione.

EVery assembly of all the *Romane* people being called together by a lawfull Magistrate to determine any matter by way of giuing voyces, is *à coeundo* termed *Comitia* simply, without the adiection of any other word; or *Comitia calata*, that is assemblies called together, from καλέω or the obsolete Latine verbe *Calo*, which signifieth to call: though afterward those assemblies onely, which were held either for the inauguring of some Pontify, some *Augur*, some *Flamen* or him that was called *Rex sacrorum*, or for the making of their wills & testaments, were called *Calata comitia*. Whence

Whence the will that was made in these assemblies was called *Testamentum calatis comitijs*. This kinde of assembly is sometimes called *comitia* [a] *pontificia*, and *comitia sacerdotum*, in that sense as others are called *Consularia*, or *Ædilitia comitia*; namely because the Pontifies in these, as the *Consuls*, and *Ædiles plebis* in the others, were chosen. There followeth three others kinds of assemblies: for either the people did assemble themselues by parishes, called *Curiæ*; or by hundreths, called *Centuriæ*; or by wards, called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Centuriata*, the last *comitia Tributa*. [b] Where by the way we must note, that that thing which was determined by the *maior* part in any parish, hundreth, or ward, was said to be determined by that whole parish, hundreth, or ward and that which was determined by the *maior* part of parishes, hundreths, or wards, was said to be approued *comitijs Curiatis, Centuriatis, vel Tributis*. Secondly we must note, that neither children vntill they were seuenteen yeares old, nor old men after the sixtieth yeare of their age, were allowed to suffrage in these assemblies, whence arose that adage. *Sexagenarij de ponte deijciẽdi:* [c] & old men were hence called *Deponta-ni*, for the explication of which see before. Here before wee speake of those three seuerall kinds of assemblies, wee will consider the manner of their proceedings in propounding cases vnto the assemblies. [d] The custome was at first, that the *Romans* should bestow their suffrages *Viva voce*, but afterward that euery one might with freer liberty giue his voice, they commanded certain wooden tables, wherein the names of those that stood for offices were written, to be carried about, euery suffrager receiuing so many tables, as there were suitors: then did the people giue back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager receaued two tables, in the one of which were written these two great letters V.R. in the other was written a great *Roman* A. Those who deliuered these tables vnto the.

a Ioan. Tristinus in orat. pro Cœlio.

b Sigon de iure Rom. lib. 1. c. 17.

c *Pars putat vt ferrent iuvenes suffragia soli: Pontibus infirmos præcipitasse senes Ov. Fast.*

d Philip Beroaldus in orat. Phil. 11.

the people; did ſtand at the lower end of thoſe bridges (which were erected vp for the ſuffrages to aſcend vnto the *ovilia*) whence they were called *à diribendo, id eſt*, from diſtributing *Diribitores*. At the other end of the bridges were placed certaine cheſts or little coffers, into which the ſuffragers which did approue the law did caſt in the firſt table; thoſe that diſliked it, did caſt in the ſecond, for by thoſe two letters V. R. which were written in the firſt, is meant *Uti rogas*. i. Be it as thou haſt asked, this word *fiat* being vnderſtood. By A in the ſecond table was meant *Antiquo, id eſt*, I forbid it, the word, ſignifying as much as *antiquum volo*, I like the old law, I loue no innouations. The tables being thus caſt into the cheſts certaine men, appointed for that purpoſe in manner of Scrutators (they called them *Cuſtodes*, and ſometimes [c] *Nongenti*) did take the tables out of the cheſts, and ſo number the voices by making ſo many points or pricks in a void table, as they found tables alike: which kinde of accoũting occaſioned theſe and the like phraſes; *Suffragiorum puncta non tulit ſeptem*, and *Omne tulit punctum*; where *punctum* is vſed for *ſuffragium*, The voices being thus numbred, it was pronounced by the common crier what was decreed. Becauſe the vſe of thoſe tables is now growne quite out of vſe, I ſhall make bold to inſert that, which with much labour I haue collected out of ſeuerall authors touching theſe tables. It is certain that a long time the vſe of paper was not knowne, whence men were wont to write ſometimes vpon the inward rindes of trees, called in Latine *Libri* (ſo that to this day we call our bookes *Libri*, becauſe in old time they were made of thoſe rindes of trees,) ſometimes they did write in great leaues made of that ruſh *Papyrus*, growing in Ægypt, from which we haue deriued our Engliſh word Paper & the Latin word *Papyrus*, now ſignifying our writing paper. Shortly after the inuentiõ of this Ægyptian paper, *Ptolomy* the King of Ægypt reſtrained the common making thereof, becauſe of the great [a] emulation betweene him and *Eumenes* King of *Pergamus* concer-

c Plin. l. 33. c. 2.

a Plin. lib. 13. cap. 11.

concerning their libraries; not long after therefore *Eumenes* hauing found out the making of parchment, hee made vse thereof in writing, and called it from the place *Pergamenta.* At this time did the *Romans* vse to write in tables of wood, couered with wax, called in latine *cerata tabulæ.* They wrote their wills & testaments in tables [b] *Hinc secundum & contra tabulas bonorum possessio;* The possession of goods either according or against the testator his will. Because of the wax wherewith these tables were covered, *cera* is often vsed in the same sense, as *Hæredes primæ ceræ, id est primæ tabulæ, & in primo gradu instituti;* by which words I thinke are vnderstood such heires as [c] *Alexander* calleth *Hæredes ex toto asse,* that is, heires to the maine inheritance, opposing them to those which did receiue only legacies, whom he called there *Hæredes in imâ cerâ, secundos hæredes, & legatarios.* [d] *Syluius* not vpon improbable grounds doth thinke, that *Tully* doth vnderstand by *Hæredes secundi,* such heires as were nominated to succeede the chiefe heire or heires if they died. They wrote their accounts in tables; hence *tabulæ accepti & expensi,* signifying reckoning bookes. These count-books were of [e] two sorts, some monthly, without order or method called *Adversaria. Quod adversa parte etiam scriptis implerentur.* Others perpetuall, being the transcript of the forme, called *Tabula accepti & expensi.* They wrote their statutes also in tables, whēce *Tabula publicæ,* are englished statute-bookes or rather books of record. Those writings or instruments which the Senate or Emperour caused to bee hanged vp in the market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas,* wee may [f] english them letters of protection. They wrote their inventories of goods set at sale in tables, calling them *tabulas auctionarias;* yea they indited their epistles and common letters in tables; in somuch that *tabellæ* are expounded missiue letters, and *tabellarius* which properly signifieth a carrier of tables, is now vsed, to signifie a letter-carrier; yet they [g] sometimes

b P. Pellitar. in orat pro A. Cæcinna.

c Alex. Gen. dier. l. 1. c. 1.

d Fr. Silvius. pro Cluentio.

e Cœl. Rhod. lib. 12. cap. 21.

f Fr. Sylv. in. orat. Catalin.

g Suidas in voce μυλύβδιον.

times wrought also in plates of lead, εἰς ἐλεφαντίνας μολύβδων γεγραμμένας; And thus wee may vnderstand what [h] *Suetonius* meaneth by *charta plumbea*; concerning all these, [i] *Pliny* writeth excellently; before the vse and making of paper was invented; men wrote at first in palme-tree-leaues, afterwardes in the rindes of certain trees, afterward publike monuments were recorded in volumes or roles of lead, at last privat matters on fine linnē or wax. [k] The mãner how they sealed their letters was thus: they did binde another table vnto that wherein the inditement was, with some strong thred, sealing the knot of that thred with wax, whence *Cicero* saith *Linũ incidimus*, that is, we opened the letters, hence also is that of *Plautus*, *Cedo tu ceram ac linum: age, obliga, obsigna citò*: [l] The impression was commonly their owne image, or the image of some of their ancestors. The matter on which the impression was made, was not alwaies waxe, but sometimes a kind of tempered chaulke, which occasioned that phrase of Tullies, [m] *Signum ille animadvertit in cretula*. [n] Lastly they wrote their bookes in tables, whence frõ thē we doe at this day call our bookes *codices à caudicibus*, *caudex* signifying properly the trunke or stocke of a tree, whereof these tables or books were made. We must note withall that they wrote not with inke or quill, but with an instrument of steele; or iron, hauing [o] a sharpe point at the one end, & being broad, yet keene and well edged at the other, with the sharpe point they did write what they pleased, with the broad end they did scrape out what they had writtē: Whence *Stylum invertere* is to say & vnsay a thing, to turne his punch the wrong end downeward, as it were to scrape out that which one had formerly writtē. The Romãs did afterward vse in steed thereof, an instrument made of bone, prohibiting the vse of iron ones, as [p] *Isidore* noteth by that law, *Ceram forone cœdito*. And as we vse this word *Manus* to signify the writing it selfe, according to that of [q] Tully, *cognovit manũ, & signum suum*: so

[h] Sueton. Nero. 20.
[i] Plin. l. 13. c. 11.
[k] Fr. Syly. in orat. Catil 3.
[l] Iust. lipl. epistol. in 4. c. 4.
[m] Cic. 4 in Verrem.
[n] P. Pellitar. in orat. pro A. Cæcinna.
[o] Vid. Erasm. Adag.
[p] Herman. Hugo. de prima scrib. o ig cap. 9.
[q] Cic. orat. cont. Catil.

so in the like sense we vse this word *Stylus*, to signify the peculiar tenure or straine of phrase, which any man obserueth in the composing of an oratiõ, epistle, or such like; in which sense Tully vseth it, as the antitheton to *gladius*, in that speech of his, *Cedat forum castris, otium militiæ, stylus gladio*, though in another place he vseth it to signify, if not a sword, yet a pocket dagger, as *Etsi mens ille stylus fuisset*; [s] in which place *Stylus* doth signify as much as *pugio*. And here seeing wee are fallen into the manner and custome of ancient writings, it will not bee amisse to note that vsually at the end of their books they printed a little marke, which they tearmed *Coronis*. Those that interpret *Aristophanes* describe that marke thus, saying that it is [t] *Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common & kuowne dash vsually subioyned to the end of bookes: [u] others are of opinion that the ancient *Romans* did in like manner adorne the frontispice, or beginning of their bookes, with the picture of an halfe moone, which observation giveth light not only to that adage Ἀπὸ τῆς ἀρχῆς μέχρις τῆς κορωνίδος, From the begining to the ending. But also that of *Martial. lib.* 10.

Si nimius videor; seraque coronide longus
Esse liber, legito pauca, libellus ero.

And of *Ovid.*

Candida nec nigra cornua fronte geras.

For in *Turnebus* his judgement those halfe moones prefixed, were called *Cornua*. Howsoeuer this may bee true touching the dash, or character at the end of a booke, and that it was tearmed *Coronis*: yet I doubt whether any such halfe moone was vsually prefixed in the beginning of bookes, or whether such an halfe moone were denoted by the Latine word *Cornu*: more probable in his opinion, * who treating of this very matter, saith, that in old time a whole booke was written in one continued page, neither did they thẽ cut their books into many leaues, & bind them vp in that manner as we doe; but that one entire page in which alone the whole book was

Cic. orat. pro Muræn.
(Mic. Toxita. in orat. Phil. 2
t Cœl. Rhod. lib. 15. cap. 20.
u Turn. adv. lib. 22. cap. 10.
* Pir. hierog. lib. 34.

written, was wont to be roled vp vpon a staffe fastned at the end thereof, in māner as many large mappes are now adaies with vs. Hence it is *à volvendo*, that we call our books, *volumina*, Volumes; this staffe on which the booke is roled was called *Vmbilicus*, the same word signifieth a navill, which because it is the middle part, and as it were the center of a mans body, hence approved authors vse the word to signify the middle of any thing; and happily that name was first giuen this staffe, because when the booke was roled vp, the staffe was the middle thereof: howsoever because it was fastned alwaies at the end of the page, hence *Vmbilicus*, especially when it is applied to a booke, signifieth the end thereof: as *Horace*, *Ad vmbilicum ducere:* to bring to an end the two pummels, or ends of this staffe, which did iut out & appeare on each side of the volume, they called *Cornua*, & they were wont to be tipt with siluer or gold, or otherwise adorned. The title which was the beginning of every booke, was tearmed *frons*. This seemeth more probable then that of *Turnebus* his, and giueth greater light to that of *Ovid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we haue digressed, it remaineth that wee should declare the manner how they enacted their lawes. All the *Romans*, though free Cittizens had not power & authority of preferring the law, but only eight of their Magistrates: which they called *Magistratus Maiores*: namely the *Prætor*, the *Consuls* the *Dictator*, the *Interrex*, the *Decēviri*, the *Military Tribunes*, the *Kings* & those *triumviri*, vnto these eight was added one of those whō they entitled *Magistratus minores* namely the *Tribunus plebis*. If any of these Magistrats thought it fit to preferre a law, then did he first write it down at home, & consult with some lawyer, whether or no it might be for the good of the Commonwealth, whether it should not weaken any former law, or whether it was not formerly included in some other law, &c. These and many other cautions were to bee considered

dered before it was preferred, yea some would haue the approbation of the whole senate after the advice of their lawyer, though diverse times that hath beene omitted. And the lawyer alone allowing it, the law was hanged out publikely in the market-place for the space of 3 market-daies, which kind of publishing the law was tearmed, *Legis promulgatio, quasi provulgatio*, during which time of promulgation, reasons were alleaged *pro & con* by the spectators: and all the people had so much time to cōsult of the cōveniency thereof, and every one vpō iust reason, had freely liberty to admonish him that preferred the law, either to amend it, or to surcease the propo'all. After the third market day (for vnlesse it were vpon an extraordinary occasion, no assembly might be called vpon a market-day, because of the country folkes businesse, they also hauing freedome of suffraging) the Magistrate did convocate the people to that place where the law was to be proposed: there the Towne clearke, or Notary reading the law, the common crier proclamed it then did he which promulged it, make an oration vnto the people, perswading them that it might passe, Sometimes others of his friends would second him with orations in his behalfe, as likewise others that disliked it, would by orations disswade the people shewing the inconveniency thereof. After the orations had bin ended, an vrne or pitcher was brought vnto certaine Priests there present, into which were cast the names of the tribes, if the *Comitia* were *Tributa*; or of the centuries, if they were *centuriata*; of the parishes, if *curiata*: then *sortibus æquatis*, that is, the lots being shakē together they drew their lots; and that tribe or century whose name was first drawne, was called *Tribus, vel centuria prærogativa, à prærogando*, because they were first asked their voices. *Turnebus*, interpreting that of *Tully*, *Maiores voluerunt prærogativam omen esse iustorum comitiorum*, interprets it; That the *Romanes* did so depend vpon the prerogatiue Century, that they would alwaies declare him Consull that was cho-

sen by them, *Turneb. adv. l. 5 c. 23.* That *Curia* vpon which the first lot fell, was called [q] *Principium*, because that *Curia* did first suffrage those Tribes vpon whom the other lottes fell; namely the second, third, fourth, &c. were tearmed *Tribus Iure vocatæ*. From this distinction it is, that such a man as hath the voices of the prerogatiue Tribe, or Century, is said to haue [r] *Omen prærogativum*: which good fortune whosoever could attaine vnto, was in great hope of obtaining the other voices of the *Iure vocatæ*; for they never or very seldome would swarue from the determination of the prerogatiue Tribe, or Centurie. Whiles the people were busy in their lottery, in the meane time if any [s] Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly therevpon should be dismissed: likewise they were dismissed if either he which first promulged the law did alter his opinion, or if the *Consul* commanded supplications to be offered vp in the behalfe of their Emperour, or any of those holy daies called *Feriæ latinæ, vel Imperatoriæ* to be observed vpon that day; or if any of the people assembled were taken with the falling sicknesse (by reason whereof that disease is called by the [t] Physitians at this day *Morbus comitialis:*) Lastly, the assemblies were dissolued by reason of the southsayings, which kinde of dissolution was caused either by the civill Magistrate his obseruing of signes and tokens in the heauen, and that was called *Spectio*, and sometimes *de cælo observatio*; the very act of this observation, though no vnlucky token did appeare dissolved the assembly: or else it was called by the *Augures*, and civil magistrate promiscuously, whensoever any civill token was seeene or heard, either by the Magistrate, or Augur (amongst which thunder was alwaies counted the vnluckyest) at which time the assemblies were in like manner to be dissolued: this manner of dissolution was tearmed *obnunciatio*, or *Nunciatio* [u] *Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kindes are easily to be collected out of

q Rosin. ant. lib. 6. cap. 7.

r Cic. pro Muræn.

s Huber. in lib. 1. Cic. ep. fam. 2.

t Fuchsii inst. medicin. l. 3. sect. 1.

u Stadius in Flor. l. 3. c. 7.

of that speech in *Tully*,[x] *Nos Augures nunciationem solam habemus. Consules & reliqui magistratus etiam spectionem.* Here we may fitly in way of conclusion vnto this tract, adde a just difference to be observed betweene these phrases, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang vp a law not yet asked, to the publike view of the people, to be examined by them touching the conveniécy thereof. *Rogare legem* was to vse a certaine oration vnto the people, to perswade the conveniency of the law, which Oration because it began with this forme of words, *Velitis iubeatis-ne Quirites?* that is, O yee *Romans*, is it your will and pleasure that this law shall passe or no? Hence was it tearmed *legis rogatio Ferre legem*, was when the law had beene approued of by the people, then to write it downe vpon record, & so to lay it vp into the treasure-house; [y] *Cùm approbata fuisset lex, in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Lastly *Figere legem*, was to publish the law after it had beene approued & recorded,[z] by hanging it vp in tables of brasse in their market-places, or at their church dores: Hence it is that we vse[a] *Tabulum figere* in the same sense, namely to enact or establish a law, and *Refigere legem*, to disproue or cancell a lawe.[a] And that which was determined *Comitijs curiatis*, was tearmed *lex curiata*; that which was *Comitijs centuriatis*, *lex centuriata*, that which was *Comitiis tributis*, was not called a law, but *Plebiscitum*.

x Cic. orat. Phil. 2.

y Fr. Maturantius in Phil. 1.

z Corn. Tacit. annal. lib. 11.

a Fr. Matur. in Philp. 12

b Sig. de iure. prov. lib 3 c. 1.

CAP. 3.

De comitiis Curiatis.

Comitia Curiata were those, wherein the *Roman* people being divided into thirty parishes did giue their suffrages: They were so called from *Curia* signifying a parish. And vntill *Servius Hostilius* his time, who did first institute the *comitia centuriata*, all things which were determined

mined by the suffrages of the people, were determined by these *curiata comitia*. But after the other two sorts of assemblies had beene established, these *curiata* were vsed only either for the enacting of some particular lawes, or for the creating of some certaine priests called *Flamines*. For the better vnderstanding hereof we must remember that though at first these thirty parishes were parts of the three Tribes (each tribe being divided into ten parishes,) yet in processe of time the increase of the *Roman* people was such, that a great part of the *Roman* fields were filled with buildings and places of habitation, insomuch that the tribes of the *Romans* were encreased to thirty fiue: but the parishes (because none that dwelt out of the city were tied to the rites and ceremonies of the Roman religion) did not encrease, so that the parishes did not alwaies remaine parts of the tribes. Hence it followeth that all the *Romans* had not power to suffrage in these assemblies, but those alone, who dwelt within the City: for no other could be of any parish. The place where these assemblies were held, was the great hall of Iustice, called from these assemblies *Comitium*. Before these assemblies were held, it was required that some lawfull magistrate for some competent time before hand should solemnly proclaime them, and the thirty sargeants (each parish hauing for that purpose his serjant) should call the people together; as likewise three *Augures*, or at least one should be present to assure them by their observations, either of the favour, or displeasure of the Gods. Vpon these premises the matter was proposed vnto the People, who if they liked it, then they proceeded vnto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: wherevpon their assemblies were presently dissolued.

CAP.

CAP. 4.

De Comitijs Centuriatis.

AS those former assemblies were called *Curiata à curijs*, so were these called *Centuriata à Centurijs. Servius Tullius* caused a generall valuation of euery citizens estate throughout *Rome*, to be taken upon record, together with their age: and according to their estates and age, he divided the *Romans* into six great armies, or bands, which he called *Classes*; though in truth there were but fiue of speciall note: the sixt contained none but the poorer sort, and those of no worth or esteeme. The valuation of those in the first *Classis* was not under two hundred pounds, and they alone by way of excellency were tearmed *Classici*: and hence figuratiuely are our best and worthiest authors, called *Classicis scriptores*, Classicall authors. [d] All the others, though they were enrolled in the second, third, or any other *Classis*, yet were they said to be *Infra classem*. The valuation of the second band was not vnder seauenscore pounds. The valuation of the third was not so little as an hundred pounds; of the fourth not lesse then forty pounds; of the fift not lesse then twenty five pounds. The sixt contained the poorer sort, whom *Horace* calleth *Tenuis census homines*, men of small substance; and also they were called *Proletarij, à munere officioque prolis edendæ*, as if the only good that they did to the common-weale, were in begetting of children: & sometimes they were called *Capite-censi*, that is such as paid very little or nothing at all towards subsidies, but only they were registred among the citizens, as it appeareth by [c] *Sigonius*. These six great bands or armies were subdivided into hundreths, called in Latine *Centuriæ*. The first *Classis* contained foure-score centuries of foot-men, and eighteene of horse-men; the second contained twenty centuries of foot-men, and two of

[d] A Gel lib. 7. cap. 13.

[e] Sig. de iure Rom. li. 1. c. 4.

workmen, which followed after to make military engins & weapons: the third also, as likewise the fourth contained 20. centuries of footmen, but to the fourth were added two other centuries of Trumpeters, Drummers, and such like, who vpon iust occasion did *Classicum canere*, sound the alarme, & vpon iust occasion did againe *receptui canere*, sound the retrait: the fift *Classis* contained thirty centuries of footmen: the sixt, or last *Classis* contained one centurie: so that in all the sixe *Classes* were contained one hundred fourescore and thirteene centuries. Where we must note that all the centuries of footmen did consist, the one halfe in every *Classis* of the younger sort, who were to make warre abroad vpon the enemies; the other halfe of old men, who remained at home for the safety of the city. All that hath been hitherto spoken of these *Centuriata comitia*, may be collected out of *Sigonius* in the place above quoted. The chiefe commander of every cēturie was called *Centurio*; the rod, or tip-staffe, wherewith he did strike his souldiers to keepe them in aray, was called by *Pliny*, *Centurionum vitis*. So then we may perceave, that those *Centuriata comitia* were those, wherein the people did giue their voices by centuries, or hundreds. Now the centuries did not consist of those alone which had their places of habitation at *Rome*, but of certaine *Municipall* states also, & such colonies or other states, that could [d] *Plenum civitatis ius cum iure suffragij adipisci*. [e] Now the custome in old time was that all these centuries should march in their armour after the Magistrate which assembled them, into the *Campus Martius*, there to give their voices. But this custome continued not long: for thereby they did disarme the citie, & give their enemies (if any should assaile them in time of their assemblies) the greater advantage: for their greater security thereof, they appointed a flagge to be hanged out vpon the mount *Ianiculus*, some few armed men standing there in watch and ward for the safeguard of the city: and when the assembly was to be dissolved, then did the watch depart, &

d Rosin. ant. lib. 6. cap. 10.
e Rosin. antiq. Rom. lib. c. 16.

the

the flag was taken downe: neither could any thing after that be determined; but if they continued their assemblies, then did they proceed to the giuing of their voices, in old time thus. Those centuries of the first *Classis* being the wealthier had the prerogatiue of suffraging first, and because this first *Classis* contained more centuries then all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partiall, in as much as the richer & wealthier being placed in the first *Classis*, did oversway the elections against the poorer sort of people; thence did the after ages appoint that that century should haue the prerogative of suffraging first, vpon whom the lot fel. The other centuries were all called [f] *Centuriæ Iurevocatæ*, & did giue their voices not by lots (as the *Tribus Iurevocatæ* did) but the elder and wealthier centuries did suffrage next after the prerogatiue centurie accordingly as their place required.

f Rosin. antiq. Rom. l. 6. c. 20.

CAP 5.

De comitijs Tributis.

FOR the better vnderstanding of these assemblies by Tribes, or wards, it will be needful first to learne, that this word *Tribus* in this place doth signifie a certaine region ward, or locall place of the city, or the fields belonging therevnto according to that, [g] *Tributa comitia erant cùm ex regionibus & locis suffragabantur*. It was so called either *à tributo dando*, every severall regiō or quarter paying such a tribute; or *quia primò tres tantum fuerunt*, the whole citie being at first divided only into three regions, or wards, each nationall tribe hauing his seuerall region or local tribe to dwell in. The first nationall tribe called *Ramnenses* did inhabite the mount *Palatine*, and the mount *Cœlius*, and those two hills made the first locall tribe. The second nationall

g A. Gel. l. 15. cap. 27.

tribe called *Tatienſies*, did inhabit the *Capitoll*, and the *Quirinall* mountaine, which two mountaines made the ſecond locall tribe. The third nationall tribe did inhabit the plaine betweene the *Capitoll* and the *Palatine* hill, and that plaine was called the third locall tribe. Of theſe tribes more is ſpoken in the first diviſion of the Roman people. Only here we muſt note thus much, that in proceſſe of time after the citie was enlarged, and the number of Roman citizens increaſed, theſe locall tribes were alſo augmented, ſo that they amounted at the laſt to the number of 35. ſome of them being called *Urbanæ*, others *Ruſticæ*; [h] *Urbanæ ab vrbis regionibus, Ruſticæ ab agri partibus erant nuncupatæ.* And of thoſe two ſorts the *Tribus ruſticæ* were accounted the more honorable. Moreover we muſt remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where theſe *Tributa comitia* were had, ſometimes they fell out to be in the *campus Martius*, ſometimes in their great hall of iuſtice called *comitium*; ſometimes in the *capitoll*; many times in other places, according to the diſcretion of the Magiſtrate which cauſed theſe aſſemblies.

h Sig. de iure Rom. li. 1. c. 3.

CAP. 6.

De Candidatis.

IT ſhall not be impertinent to annex ſome neceſſary obſeruations touching the *Romane* petitors or ſuiters for bearing office: where we will obſerve theſe three phraſes, *ambire magiſtratum*, *inire magiſtratum*, and *abire magiſtratu*. The firſt ſignifieth, to ſue for an office; the ſecond, to enter into the office; the third to depart out of the office. Again the differēce of theſe phraſes, *conſicere legitima ſuffragia, & Explere ſuffragia.* [i] The firſt ſignifieth to haue ſo many voices as the law doth require. The ſecond ſignifieth to have more voices

i Roſin. antiq. Rom. l. 20. c. 6.

voices then any other competitour, but not so many as the law requireth.

These persons were tearmed *Candidati*, *à togâ candidâ*, from the white gowne which they did weare, as appeareth more at large, where we haue spoken *De Romana toga*. That they might the easier procure the good will of the people, these foure things were expected from them. First *Nomenclatio*, the saluting of euery citizen by his name; for the better discharge of which, they had a certaine follower, which should by way of prompting, tell every citizens name as he passed by, and hence this prompter was sometimes called [a] *Nomenclator*, which word doth properly signifie a cõmon-crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old latine word to call; sometimes [b] *Monitor*, sometimes *Farctor, ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of some complementall name, as, well met friend, brother, father, &c. Thirdly, *Assiduitas*, that is an hot canuasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of mony called *congiarum*, from the measure *congius* containing a gallon, because their [l] dole was at the first made of oyle or wine distributed in those measures. Howbeit κατεχρησικῶς any dole, gift, or largesse in mony, or otherwise is called *congiarum*. The distributers of this dole were called [m] *diuisores* & [n] *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Likewise their bounty or liberality consisted in prouiding great dinners, and exhibiting magnificent shews vnto the people, &c. Where we must obiere, that as often as this largesse is called *Largitio*, it is taken in the worst sense, namely, for an vnlawfull bribing of the suffragers, vnder a pretended largesse, [o] *Benignitas liberalitatem magis significat quàm largionem.*

[k] Rosin. antiq. Rom. l. 7. c. 8.

[a] Cic. orat. pro L. Mur. *Mercemur seruum qui dictet nomina, &c.* Hor. l. 1. ep. 6.

[b] Cic. loco supra citato.

[l] G. Trapez. in Philip. 2.

[m] Sig. de iud. lib. 2. cap. 29.

[n] Batth. Latomus in orat. pro M. Cœlo.

[o] Cic. orat. L. Muræn.

Cap. 7.

De Romanis vestibus.

WE may observe in reading old authors, that as well the *Romans* as the *Grecians* had diverse distinct habits, or outward vestiments. The *Grecians* had their mantle called *Pallium*; the *Romans* their gowne called *Toga*, and by this different kinde of garment the one was so certainely distinguished from the other, that this word *Togatus* was often vied to signifie a *Roman*, and *Palliatus* a *Grecian*. [f] *Togati pro Romanis dicti, vt Palliati pro Græcis.* Before we proceed, we will first observe what this *Toga* was, and then how many sorts there were. [g] *Toga à tegendo dicta est.* It was made commonly of wooll, but according to the worth and dignity of the person, sometimes of courser, sometimes of finer wooll. As we may collect by that of *Horace*.

f Sigon de iudic. l. 3. c. 19.
g Mic. Toxita in orat. Philippic. 2.

----Mihi sit toga, quæ defendere frigus
Quamuis crassa queat.----

We must note with *Toxita*, that no women of any credit did weare the *Roman* gowne, but insteed thereof did use a garment called *stola* from στέλλω signifying *demitto, quod vsq; ad talos demitteretur:* whence old Poets, when they would point out unto us an infamous or lewd strūpet, they would terme her [i] *mulierem togatam.* [k] This *toga* sometimes was worne open and vntuckt; then was it called *toga aperta:* other times it was tuckt vp, and then it was called *toga præcincta.* This cincture or girding up of the gowne was according to [l] *Sigonius* threefold; *Cinctura laxior, Astrictior,* and *Cinctus Gabinus*: *Cinctura laxior*, or the loose kinde of girding was such, that notwithstanding the tucke, yet the taile trailed on the ground; *Cinctura astrictior* the close kinde of girding was such, that after the gowne had beene lapped

b Mic. Toxita ib.
i Rosin. aut. Rom.
k Sig. de iud. lib 3. cap. 19.
l Sig. ib.

or

or tucked vp, it should not reach so far as the feet. The first kind of these cinctures did argue a remisse, soft, and effeminate minde; the latter did signifie the promptnesse or readinesse of the person;[m] *Unde, Alte præcinti pro expeditis dicti sunt.* Thirdly, *Cinctus Gabinus* was a warlike kind of girding not so that the whole gowne should be tucked vp about the middle, but that it being cast quite backward, the partie should gird himselfe with one skirt thereof.[n] This kind of girding was so called from a certaine city of *Campania* called *Gabij*, because vpon a time the inhabitans of this citie being at sacrifice, were set vpon by their enemies; at which time they casting their gowns behind them, and girding one lappet or skirt about them, went immediatly to warre even from the altars, and got the conquest.[o] In memory of which euer after, the *Consul* when he should proclaime war, girded himselfe in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every souldier in time of war did weare a different kinde of garment from the gowne, which they called *Sagum*: we may english a souldiers coat. Whence *Tully* vseth this phrase *ad saga ire*, which *Erasmus* hath paralleld with this. *Ad certamen se accingere*, to buckle for warre. Insomuch that *Cedant saga togæ*, is *equivalent* to that of the Oratours. *Cedant arma togæ.* Touching the difference of the *Romane* gownes, I find them distinguished by[p] *Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paludamentum, Pictam, Trabeam. Toga pura* was the common ordinary gowne worne by new married women, and *Tanaquill prima texuit rectam tunicam, qua simul cum toga pura tyrones induuntur novæq; nuptæ, Plin lib.8.cap.48.* and by private men at mans estate, about the sixteenth yeare of their age, at which time they were said, *Excedere ex ephebis*, that is, to be past stripplings. Notwithstanding the sixteenth yeare was not alwaies strictly without exception observed;[q] for *M. Aurelius* was permitted to weare this gowne being but fifteene yeares old

m Sig ibid.

n Serv. Æneid lib. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de iud. 3. cap. 19.

q Rosin. antiq lib. 7 cap. 32.

old;& *Caligula* did not weare it till the nineteenth yeare of his age. This kinde of gown besides that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *pura* in respect of its pure white colour, being free fro all admixtures of purple, or any other colour; and therefore some haue termed it ὁλόλευκον, all white, others ἀπόρφυρον, void of purple. It was called *virilis*, because it was giuen to striplings now growing to mans estate. Whence we use to say of a stripling past 16. yeares of his age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, [r] because then they did receaue some beginning of freedome as being about that time freed from their schoolmasters, and [f] overseers. This kind of gowne was not made open, but sowed downe to the bottome, and also it was made without sleeves, so that if at any time they had occasion to use their armes, they would take up their gowne and cast it quite behind them, or vpon their shoulders. But these striplings could not for one whole yeares space, cast back their gowns in that manner for the liberty of their armes without the imputation of immodesty, as it appeareth by [t] *Cicero*, *Nobis annus erat vnus ad cohibendum brachium toga constitutus*. The like liberty it seemeth was denied those that stood for places of office; [u] and thence is it, that *Horace* wisheth such to hire them a seruant

Et toga non tactas vincere insuta nuces Marti.

r Rosin. antiq. Rom. l. 5. c. 32.

f Aldus Manu-

t Cic. in orat. pro Cœlio.

u Sig de iud. lib 3. cap. 19.

--- Lauum
Qui fodiat latus, & cogat trans pondera dextram
Porrigere ---

In which place by *pondera* is vnderstood the Roman gowne, as [x] *Sigonius* hath expounded that place. Now for the vnderstanding of *Toga candida*, wee are to learne a difference betweene this *candida toga*, and the *toga pura* above spoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whiteneſſe. The *toga alba* had only the naturall whiteneſſe of the wooll; the *toga candida* had an artificiall white die: whereby the glasse of the white was made more orient and intensiue. Or else as [y] *Sigonius*

x Sigon. ib.

y Sigon. ib.

nius hath observed out of *Isidorus*, *intendendæ albedinis causâ cretam addiderant*, that is, they chalked it to encrease the whiteness thereof. And hereunto *Persius* alludeth.

---- Quem ducit hiantem Cretata ambitio.

Whence *Polybius* calleth it *togam* λαμπρὸν, that is, shining or splendent. Moreover whereas the *alba toga* was the ordinary Roman gowne which commonly the *Romane* citizens did weare; this *candida toga* was only worne by those which did *ambire magistratum*, sue for a magistracie or place of office, who during the time of their suit were called from their gowne *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called an young student *eloquentiæ candidatum*. The third sort of gowne which I termed *togam pullam*, was a blacke gowne, and thereof was two severall kindes; the one cole-blacke, which was worne *luctus causa*, in token of mourning and the mourners were thence called *Atrati*, and as often as they did weare this gown, they were said *Mutare vestē*, [z] which phrase in old authors doth signifie nothing else, but to go in mourning apparell: The other not cole-blacke, but only fould or stained, and that was worne *reatus causa*, in times of arraignment, & those that wore it, were called *sordidati*, *à sordibus in veste*, frō the spots or staines in the gowne. Where we must note, that in processe of time *Toga pulla* became the ordinary gowne which the cōmon people did weare; at which time the ordinary gowne, which the citizens of better place and esteeme did weare, was the *toga candida*: wherevpon there did then grow a distinction of the citizens vnknowne to the former age, saith *Rosinus*, namely that some were tearmed *candidati*, others *pullati*, *Candidati* were those, not which became suiters for places of office (as in old time it signified) but those which did live in better repute then others, from whence it is, that [a] he whose office was to read the Emperours letters in the Senate was called *Candidatus principis*, or *Quæstor candidatus*. It did somewhat resemble the office of the King his Maiesties chiefe Secretary

z Sig. de iud. lib. 3. cap. 19. Cic. orat. pro P. Sext. *Suum dolorem veste mutatâ significabant Romani.*

a Fenestella de mag. Rom. cap. 3.

cretary, *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gowne was the *toga prætexta*, so called, *quia et purpura prætexta erat*, because it was garded abour with purple silke. This kinde of gowne at the first was vsed only by the Roman Priests, & chiefe Magistrats: Neither was it lawfull for such as did weare that gowne to bee arraigned, or sentence to be giuen on them vntill that gowne was put off. In continuance of time this *toga prætexta* was permitted first to Noble-mens children: afterward to all Romane children in generall: wherevpon, [b] *Togatus à prætexto differt, ut privatus à magistratu, & vir à puero*, and *ætas prætexta*, is taken for childhood; and *prætextati* sometimes for magistrates, but commonly for young children. The fift sort of gowne was called *Paludamentum*; It was a military garment, which [e] none but the L. Generall of the chiefe captaines did vse to weare: [d] *Isidorus* said it was not only garded with purple, but with skarlet and gold lace, whence it was sometimes called [e] *toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Gracian* Emperour was wont to weare called *Chlamys*; yea now it is [f] called *Chlamys*; we may english it an *Heralds* coate of Armes. The sixt sort of gowne was called *toga picta*, [g] because in it were imbroadered goodly pictures with needle work: it was also called *Purpurea*, not because of any purple gard (in which respect the *prætexta*, and the *paludamentum* were called *purpurea*) but because it was all over with a purple die: It was by some tearmed *toga palmata*, because in it many palme branches being the reward & token of victory were wrought; whence by others it was called *toga triumphalis*, because Emperors in their triumphs did weare such gownes. The last sort of gowne was *Trabea*, whereof there were [h] three seuerall kinds; the one woven all of purple, which was consecrated vnto the Gods: the secód was purple woven vpon white, and this only kings & *Consuls* might weare, the third was skarlet woven vpon purple, and this the *Augures* onely did weare. [i] This last sort was there-

[b] Pet. Pellitarius in orat. pro A. Cæcin.

[e] Alex. Genialis. lib. 5. ca. 18.

[d] Sig. de iud. lib. 3. cap. 19.

[e] Sigon. ib.

[f] Rosin. antiq. lib. 5. cap. 31.

[g] Sig de iud. lib. 3. c. 19.

[h] Serv. Æneid. lib. 7.

[i] Alex. Genialis. lib. 5. c. 18.

therefore called *trabea auguralis*, the second *trabea regia*, the first *trabea consecrata*.

CAP. 8.

De Tunica.

THose coats which were worne vnder the gowne, were called *Tunicæ*; & that they were worne vnder the gowne it appeareth by that Adage, *Tunica pallio proprior est*, that is every one for himselfe first; or according to our english proverb, Close sitteth my shirt, but closer sitteth my skinne. [k] This *tunica* was both narrower and shorter then the gowne: at first it was made without sleeues: afterward with sleeues, and by it, as well as by the gowne were the citizens distinguished. The first sort of coats was made of white cloath commonly, [l] but purfled over and embroadred with studs of purple in manner of broad nayle heads; whence it was called *Laticlavia*, or *Latus clavus*; and the persons wearing the coat were Senators, called thence *Laticlavij*: The second sort belonged vnto the *Romane* knights, and it differed in making from the first, onely that the purple studs or embroadred works of this, were not so broad as the former: whence the coat was called *Augusticlavia*, or *Augustus clavus*, and the persons wearing it were called *Augusticlavij*. The third sort belonged vnto the populacy and poorer sort of *Romans*; it was made without any purfled workes, being called *Tunica recta*. This coat was given together with the *Virile* gowne to stripings past sixteen yeares old, & to new married women. And as the *recta tunica* was giuen with the *virile* gowne; so was the *tunica clavata* giuē together with the *toga prætexta*; & the *Laticlavia* otherwise called *tunica palmata*, giuē with the *toga picta*. The fourth & last sort belonged vnto women, being a long coat reaching downe vnto the heeles; they called it *stolam*. Vpon it they did weare an outward garment [m] called *palli-*

k Sig. de iud. lib. 3. cap. 20.

l Salmuth in Pancirol. lib. rerum deperdit. c de fibula. Vide Turneb. adverf. l. 1. c. 2.

m Rosin. Ant. lib. 5 cap. 35.

n Sig. de iud. lib. 3 ca. 19.

um, and sometimes *palla*, *quia palam gestabatur*. n *Sigonius* saith that this *palla* was a certaine gowne vsed by stage-plaiers: howsoever certaine it is, that not only women, but men also and children did weare this kinde of garment. Besides the *Romane* gown & coat there remaine other parts of their apparell to be spoken of: such are these which follow: *Lacerna*, which some do English a cloake, but o *Festus* would haue it to be a little kind of hood, which men should weare to defend themselves from the raine & weather; It was made that either side might be worne outward; and at first it was worn only in warre, so that *lacernati* stood in opposition with *togati*. p *Isidorus togatos pro vrbanis*, *lacernatos pro militibus vsurpatos scribit*. Afterward as we way coniect, it was made longer in manner of a cloake, for it was diverse times worne vpon their coats insteede of gownes. Another kinde of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signifie a certaine attire for womens heads, as a coife or such like; though this kinde of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *zona*; This *zona* chiefly signified a souldiers belt, or a marriage girdle: The souldiers belt was lined within in the inside, where whē they went to war, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*, And ζώσασθαι, to be girt, signifieth Ἐνδύναι τὰ ὅπλα, *Arma induere*. *Cœl. Rhod. l.* 22. 19. happely because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to every mans particulars *Genius*, the armes to *Iuno*, the breast to *Neptune*, the reines to *Venus*, the feete to *Mercurie*, and the fingers to *Minerva*. *Alex. ab Alex. l.* 2. *c.* 19. Young maides when they were married were wont to have a marriage girdle tied about their middle, which their husband at the first night of their marriage should untie: whence *zonam solvere* hath beene translated to deflowre a Virgine: this marriage girdle

o Sigon. ib.

p Sigon. ib.

girdle in former times was called *Cestus*, from whence commeth the Latine word *incestus*, and the English word Incest: which in truth signifieth all kind of pollution committed by vndoing, or vntying this girdle called *cestus*: but now in a more strict acception it signified onely that kinde of naughtinesse, which is committed between two of neere kinne: q & that other folly which is committed with a strangers wife, is now properly called *adulterium*; and that which is committed with a maide or widdow *stuprum*. The last thing touching their apparell is their shooes. r *Calceamentorum genera duo fuerunt, calceus, & solea*. For the soale of the shooe called in Latine *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica* was tied on to the bottome of the foot with letherne straps or buckles, and so worne insteed of shooes: the diuerse kindes of these shooes did distinguish the *Romane* people also. To omit the difference in colours, wee may reduce the chiefe kindes to five heads, *Mullei, Vncenati, Perones, cothurni, Socci*. All these sorts of shooes were made halfe way vp the legge, as the Turkish shooes are according to *Iosephus Scaliger*: and they were either laced close to the legge, as many of our bootes are now adaies; or clasped with taches or haspes. The first sort called *Mullei* s from the fish *mullus*, being like vnto it in colour, were also called from their clasps, *calcei* t *lunati*, because the clasps were made in forme of an halfe moon, which halfe mooned clasp resembling a *Romane* C, signified an hundred, u intimating thereby that the number of the *Senators* (they only being permitted to weare this kinde of shooe) were at first a full hund ed and no more. Others are of opinio that they woare this mooned clasp to put them in minde that the honour to which they had attained, was mutable and variable as the moone. For they thinke that these *Lunati calcei* were not received as a token of Nobility only at *Rome*, but in other places, to which purpose they interpret that of the Prophet *Esay, cap 3. In die illo aufert Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. Antiq.*

q Cœlius in orat. pro Milone.

r Rosin antiq. Rom. l. 5. c. 36.

s Salmuth in Pancirol. lib. rerum deperdit cap. de fibula

t *Appositam nigræ lunam subtexit alutæ.* Iuvenal.

u Salmuth. in Pancirol lib. rerum deperdit. cap. de fibula.

*tiq.l.*20 *c.*28. *Uncinati calcei*, were those, which the souldiers were wont to weare, I take them to be the same with those which they called *Caliga*, from which kinde of shooes *c. cæsar caligula* had his name, because it was borne in the army. *Quia natus in exercitu fuerat cognomentum calceamẽti militaris, id est, caligula sortitus est. Aurel. Vict. Epito. de vita imperat. Perones* (as we may coniecture) were laced vp the legge: for *Tertullian* making but two sorts of shooes, saith there were the *Mullei* called from their claspes *lunati*, and the *Perones* made without such halfe mooned claspes, called also *calcei puri, quoniam ex puro corio facti*; and these *Perones*, or *puros calceos* all the other *Romans* did weare [x] with this note of distinction, that the magistrates shooes were beset with precious stones, priuate mens were not. Thus much concerning both the kinds and fashion of the shooes may be collected out of *Rosinus* in the place aboue quoted. The description and vse of the *Cothurnus*, & *Soccus*, may be seene in the tract *de Romanis Iudis*.

x Salmuch in Pacirol. lib. rerum deperdit. c. de fibula

LIB.

LIB. 3. SECT. 2.

Of the Romane Magistrate.

CAP. 1.

De Magistratibus Romanis.

WE being to treate of the *Romane* Magistrates will first see what the definition of a Magistrate is. A magistrate is he [o] who receaveth by publique authority, the charge and oversight of humane affaires belonging to the common wealth. These *Romane* Magistrates were either to be chosen onely out of the better sort of *Romanes*, called the *Patricij*; or else only out of the commonalty. [p] The first were thence called *Magistratus patricij*, the second *Magistratus plebeij*. The *Patricij* had power to hinder the assēblies of the people; namely their *Comitia*, by observing signes and tokens from the heavens: howbeit some of them had greater power, others lesse; insomuch that some were called *Maiores Magistratus, quoniam habebant maiora auspicia, id est,* [q] *magis rata*. Others were called *minores magistratus, quoniam habebant minora auspicia*. Of these in their order.

[o] Sig de iur. Rom. l. 1. c. 20.

[p] Sig. de iur. Provinc. l. 3. cap. 1.

[q] Fenest. de Magist. Rom. cap. 1.

CAP. 2.

De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it was governed by a king vnto *Tarquinius Superbus* his time, who by maintaining that shamefull act of his sonne towards *Lucretia*, did so incense the people, that they did not only for the present exile him, but decreed that their city should never after that bee governed by a king. This king had absolute rule and government over the city. For the safety of his person he had three hundred chosen young men alwaies to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his *Pensioniers*. They were called [r] *Celeres à celeritate*, from their readinesse in assistance: sometimes they were called *Trossuli*, [f] because they alone without the helpe of any foot-men did take a certaine city in *Etruria* called *Trossulum*. Other times they haue beene called *Flexumines*, whereof as yet there hath beene no certaine reason rendred. Each hundred of them had their severall overseer called *Centurio*: and over them all there was one generall overseer, and chiefe commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the king. A second sort of attendants about the king were called *Lictores à Ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a rodde, and ἔχω, to haue: though sometimes ῥαβδοῦχοι doe signifie the same as ῥαψῳδοὶ. The rehearsers of *Homers* verses, or in generall of any other *Poets*: ᾤδῃ τὸ ῥαψαι ᾠδὰς, from patching together other mens Poems. For the reciters of *Homers* verses were wont to hold a rod or wand in their hand during the time of rehearsall. *Cœl. Rhod. l. c. 29.* They did somewhat resemble our Seriants, there being in number twelve of them. Their office was to carry certaine bundels of birchen

r Plutarch. in Romulo.

f Plin. li. 33. cap. 2.

birchen rods with an axe wrapped vp in the midst of them: the rods in Latin were called *Fasces*, the axe *Securis*. [t] The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped vp together was not only that they might thereby be more portable, but that the anger of the magistrats might be somewhat allayed, whiles they were vnbinding. Hence, because these *Fasces virgarum & securium*, did betoken honour and chiefedome in place and authority, by the figure *synecdoche* this word hath beene used to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere* to give place, or yeeld vnto. *Valer. Publicola* gaue the occasion of the proverb. He to insinuate himselfe into the hearts of the people is said, *Submittere fasces populo quoties prodiret in concionem.* Some interpret it, as if he were wont to command the Seariant quite to depart out of the assembly with their rods, which opiniõ *Plutarch* in *Publicola* confuteth writing thus: αὐτὸς τε τὰς ῥάβδους εἰς ἐκκλησίαν παριὼν, ὑφῆκε τῷ δήμῳ, καὶ κατέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinavitq;.* So that the phrase signifieth properly, the not holding vp of the rods, or rather the laying them downe as it were at the feete of the people. *Cal. Rhodig. l. 12. c. 7.*

[t] Ioac. Camarius in orat pro Flacco.

Immedicabile vulnus Ense recidendum. &c.

Cap. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarij?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores maiorum & Senatores minorum gentium*, sufficient hath beene delivered in the second division of the *Roman* people; as likewise in the third division hath been shewne the habit

or gowne by which the *Senators* were distinguished from the *Roman* Gentlemen. Here therefore it shall bee sufficient for vs to vnderstand, that every solemne meeting, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other then such, as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had borne those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The decree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only. S. C. In like manner their preface to these decrees was commonly these two capitall letters B.F. That is *Bonum factum. Sueton. Iul. Cæs. cap.* 80. and it had the same vse as, *In nomine Dei* with vs. The place where this cõsistory was had, they called *Senaculum*: None was [u] ordinarily admitted into the place of a *Senator*, before the fiue and twentieth yeare of his age: and of those that were admitted, some were allowed to ride vnto the Senate-house in a Curule-chaire, namely when they had borne such office, which gaue them right vnto that chaire: others which had not born such office went on foot: [x] whence these latter were called *Senatores pedarij*. They determined their acts which they called *Senatus-consulta*, sometimes by departing down their branches, & dividing themselves into sides; those which did approue that which was proposed, sided with the party who did *Referre ad Senatum*, that is, propose the matter vnto the Senate; the others departed vnto the contrary side; or if they came not downe at all, but sate still on the benches, then did they signifie by holding vp, or beckning with their hands, what side they would take. Now if the maior part were easie to be discerned, then they rested there, tearming that act to be decreed [y] *per discessionem*: and hence these and the like phrases haue taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusq; discedere in alicuius sententiam*, that is to be fully perswaded of ones opinion. Now if both com-

[u] Mart. Phileticus, in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileticus ibid. It. A Gel. noct Attic. l. 3. c. 18.

[y] Hubert. in Cic. lib. 1. ep. fam. 1.

companies were almost equall, so that the maior part could not easilie be discerned, then did they proceed to giue their voices, and that which was thus determined was said to be determined, *per singulorum sententias exquisitas*, that is, by voices. Here we may obserue that to those, who were favourably heard in *Senate*, *His senatus dari dicebatur*; and [a] likewise they were said, *Stare in Senatu*: as on the contrary they were said *lacere*, whom the *Senate* neglected or rather condemned. [a] *Cum mihi stanti iacens minaretur*, saith [b] *Tully*. If any Senator were absent without a lawfull excuse, then was hee fined: and for the payment thereof, he did put in a pledge, which if he did not ransome, then did the common Treasurer *Cædere vel concidere pignora* that is, straine or seaze vpon the pledges, making common sale thereof, in which sense those two phrases are vsed, namely, *capere pignora*, & *auferre pignora*, that is, to straine or seaze vpon a mans goods.

[a] Ascensius in Cic. l. 1. epist. fam. 4.
[a] Cic. orat. de aruspi. respon.
[b] Rosin. antiq. l. 7. c. 7.

Cap. 4.

De Consulibus.

After the expulsion of *Tarquinius Sup*, the last *Roman* King, all the citizens in *Rome* assembled, and concluded that the governement of the city, which before was in the hand of one alone governour, called their King, should now bee diuided betweene two: [c] who at first (before there was any such subordinate office as a *Pretorship*) the *Romanes* called *Prætores*, *quod præirent populo*. Not long after they were called *Iudices à iudicando*. In processe of time they were knowne by no other name then *Consules à consulendo populo*. [d] No citizen, was ordinarily created *Consul* before the forty third yeare of his age. Neither might any be chosen without speciall dispensation, either of their absence out of *Rome*, [e] or in time of their triumph; which was the reason that *Iulius Cæsar* was glad to forgoe his triumph at

[c] Rosin. ant. Rom. l. 7. c. 9.
[d] Cic. orat. Phil. 5.
[e] Suet. Iul. Cæs. c. 18.

that time when he was Consul with *Bibulus*. The signes or tokens of this *Consular* dignity were the twelve *Lictors* carying their bundles of rods and axes,[f] the first month before one *Consul*, and the second before the other as formerly they had done before the Kings.[*] Now he that had the rods caried before him in the first month, either he had more children then the other, for the *lex Iulia* gaue precedency to him who had most children, or he was elder then the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul maior*, and *Consul prior*.[g] The reason why each *Consul* had not twelue *Lictors* alwaies, was because the tyranny of the *Consuls* might then seeme to be doubled and to exceed the tyranny of the Kings: another token was a certaine chaire of estate called *Sella eburnea*, that is, an yvorie chaire so called from the matter whereof it was made, & [h] because this chaire was commonly carried about in a certaine coach or chariot, wherein the *Consul* did ride, hence from *Currus* which signifieth a chariot it is also called *Sella curulis* where [i] note that the word *Curulis* is sometimes used substantively: and then it signifieth some chiefe magistracy or office amongst the *Romans*. The gowne, by which they were distinguished from other magistrats or private men, was a certaine purple gowne, which from the great embroadred workes was called *Trabea*, and he that did weare it was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. it will be worth the observation to note, that the *Romans* did date their deeds and charters in old time, by naming the yeare wherein their citie was first founded; as to say *Ab vrbe condita* the twentieth, thirtieth, or fortieth yeare, &c. But in processe of time their manner of dating was by subscribing the names of their present Consuls: as to say, such a thing was determined *L. Valerio. M. Horatio Consulibus*, such and such being *Consuls*. Whence *Suetonius* speaking of *Iulius Cæsar*, saith, he was appointed to be *Flamen Dialis, sequentibus consulibus*, that is, the

f Alex. Gendier. l. 3. c. 8.
† Cæl. Rhod. lib. 12. c.
g Feneſt. de magiſt. Rom.
h A. Gel. l. 3. c. 18.
i Stadius in Flor. l. 1. c. 5.

the next yeare following. Yea this was so common a date that to know the age of their wines they signed their vessels with the names of their *Consuls*, adding withall that they might know the goodnesse of their wine, the name of the country whence it came, according to that of *Iuvenal. sat.* 5.

-- -Cuius patriam, titulumq; senectus
Delevit multa veteris fuligine testæ. *Turn. ad vl.* 1. *c.* 1.

Those alone who had borne the office of a *Consul*, not every one that was capable thereof, were said to be *Viri consulares*. [k] At the first those who were created *Consuls* remained in their office the space of an whole yeare, being *designati ad cõsulatum* vpon the twenty fourth of October.[l] *Ad consulatum non inierant ante Calendas Ian.* that is the first of *Ienuary*. The reason of this chasme, or *interim* between their designation vnto their office, and their entry into it, was (as we may probably coniect) that the competitours might have some time to enquire *de Ambitu*, that is, whether there was no vndirect and vnlawfull meanes vsed in their canvasing. In processe of time either by voluntary resignation or depositiõ or death many *Consuls* haue been chosen in the same yeare, and they were called [m] *Nonordinarij & suffecti Consules*. At such times all their deeds were dated by the names of the 2 first *Consuls* which beganne the yeare: whence those two first, and likewise all those that continued in their office the whole yeare were called [n] *Consules Honorarij*, and *Consules Ordinary*.

[k] Tistinus in orat. Cic. pro Cœlio.
[l] P. Ramus in orat. Cat. 1.
[m] Fr. Sylvius in Cic. orat. pro Muræn.
[n] Rosin. ant. Rom. l. 7. c. 9.

Cap. 5.

De Censoribus.

THe *Consuls* finding themselues encombred with so many businesses of a different nature, did by consent of the *Senate* choose two peculiar officers called [o] *Censores à censendo*; because they cessed and valued every

[o] Fenest. de magist. Rom. cap. 17.

mans estate, registring their names, and placing them in a fit centurie. For it did concerne the *Romanes* to know the number, and likewise the wealth of the people, to the end they might be informed of their owne strength, and so shape their course accordingly, either in vndertaking warres, transplanting Colonies, or in making provision of victuals in time of peace. A second and maine part of their office was in reforming mãners, to which end they had power to enquire into every mans life. This part of their authority was noted out vnto us by this phrase being called *Virgula censoria*. If any one had played the ill husband, & neglected his farme, or left his vine vntrimmed, the *Censors* tooke notice thereof. They did *Senatu & Tribu movere*, that is, they did dispose Senators and pull downe men from a more honourable tribe, to a lesse honorable. *Diminutio maxima* was the losse of ones Tribe, city, and freedome. These *Censors* were reputed of the best rancke of Magistrates in *Rome*: they remained in their office an whole fiue yeares space ordinarily. I say ordinarily, because [r] through the abuse of their place, the office hath beene made sometimes annuall. [s] That fiue yeares space the *Romanes* did call *Lustrum*, because they did once in every five yeares revolution *Lustrare exercitum Romanum*, by sacrifice purge the *Romane* army. Hence we say *duo lustra*, 10. yeares, *tria lustra*, 15 yeares, &c. The performance of this *Lustration* belonged also vnto the *Censors*: for after the *Censors* had performed the one part of their office, in registring the iust valuation of every citizens estate, [t] they did lead a Sow, a Rã and a Bull, three times about the army, and in the end sacrificed them to *Mars*: and thus to purge an army, is, *condere Lustrum*; though sometimes *condere Lustrum* doth signifie, to muster an army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ramme, and a Bull sacrificed, were tearmed sometimes [u] *Suovetauralia*, sometimes *Solitauralia*, sometimes [x] *Taurilia*. Moreover it did belong vnto these *Censors* to farme out the tributes

r Fenest de Rom magist. cap. 7.

s Pomp. Lætc. de Rom. mag. c. de Censor.

t Pancirol. lib. rerum deperd. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Lætc. de mag. Rom. c. de Censor.

butes, imposts, tollage, &c.[y] At the fiue yeares end, the acts of both their *Censors* were registred vpon bookes of record, which records were laid vp in a certaine religious house dedicated to the *Nymphs*. Whence [z] *Cicero* speaking of *Clodius* saith, *Qui ædem Nympharum incendit, vt memoriam publicam incensis tabulis publicis impressam aboleret.*

[y] Pancirol I. rerum deperd. cap. de cibi capiendi modo.
[z] Cic. pro. Milone.

CAP. 6.

De Prætoribus.

THE *Consuls* by reason of their many troubles in warre, having no time to administer iustice unto the *Romane* people, did for their better helpe therein, create two new officers for the executing of iustice; the one to examine and iudge of matters within the citty, betweene citizen, and citizen; the other to decide controversies betweene forreiners: The first they [a] called *Prætorem vrbanum*, and *Prætorem maiorem*; the other *Prætorem peregrinum*, & *Prætorem minorem*: we may english them Lord chiefe-Iustices. Where we must note that at the first there was only the *Prætor Vrbanus*, vntill the cases and suits in law became so many, that one was not sufficient to heare them all.[b] yea at last the number of the *prætors* came to sixteene: namely, when those two were added for the providing of corne and graine: whence they were called *Prætores cereales*;[c] nay there were at last eighteene *Prætors*, there being two others added to iudge of controuersies touching feoffmẽts of trust, called thence *Prætores fidei commissarij*.[d] *Causarum duo genera sunt: aliæ priuatæ, aliæ publicæ; has criminosas, illas ciuiles appellant.* In those cases which were private, that is,[e] touching equity and vprightnes of any act, or the restitution of any mony, or goods vnlawfully detained from the right owner, it belonged principally vnto the [f] two first *Prætors* to iudge, [g] but vnder them vnto the *Centum-viri*, who oftentimes are called by *Tully*, *Recuperatores*.

[a] Pighius æquiper. comp.
[b] Alex. Gen. dier. l. 2. c. 15.
[c] Feneſt. de mag. Rom. c. 19.
[d] Fr. Sylvius in orat. pro Muræn.
[e] I. Saxonius in Cic. orat. pro S. Roscio.
[f] Rosin antiq. lib. 7. cap. 11.
[g] Saxonius ibid.

cuperatores, and *Iudices hastæ*; the court *Hasta centum viralis*; because one of the markes and speciall ensignes was a speare erected vp in the place the court was kept. Those cases which were publique or criminal, as treason, murder, buying of voices in the canuasing of offices, &c. were called also *causa capitalis*, and *capitis deminutio*, that is, [h] such cases wherein if the party accused had been found guilty he was *capita dãnatus*: by which phrase we must not vnderstand alwaies *Vltimum supplicium sed aliquando exilium, quo scilicet caput*, that is, *civis eximitur à civitate*. [i] These cases at the first were heard by the Kings and *Consuls*; afterward by certaine appointed therevnto by the people, being called from their inquisition *quæsitores parricidij*. In continuance of time the examination and hearing of these publique cases was turned over vnto certaine Magistrates, who because they were to continue their office a full and entire yeare (whereas the others had their authority no longer then they sate in iudgement) were thence for distinction sake called *Prætores Quæsitores*, and the cases were tearmed *Quæstiones perpetuæ*: [k] because in these cases there was one set forme of giving iudgement perpetually to remaine; whereas in those private or civill causes the *Prætor* did commonly every yeare change the forme of giving iudgement by hanging vp new edicts. [l] Here we must note that these *Quæsitores Parricidarum*, otherwise called *Prætores Quæsitores*, had not the examination of all publique cases, but sometimes vpon extraordinary occasions either the *Consuls*, the *Senate*, or the people themselves would giue iudgement. Now as those former *Prætors* had a speare erected vp, whereby their court for private causes was knowne; so had these *Quæsitores* a sword hanged out in token of their court. [m] *Prætorum insignia duo fuere, hasta, & gladius; illa ad iurisdictionem, hic ad quæstionem significandam.* The officers which did attẽd these *Prætors* were *Scribæ*, that is, certaine Notaries much resembling the Clarkes of our Assises, their office being to write according as the *Prætors*

h Fr. Sylv. in orat. pro Mur.

i Rosin. antq. lib. 9. c. 18.

k Rosin. ant. lib. 7. c. 11.

l Rosin. ant. lib. 6. c. 18.

m Sig. de iud. lib. 1. cap. 7.

or

or chiefe Iustices did bid thē, taking their name *à scribendo*. The second sort were called *Accensi ab acciendo*, from summoning, because they were to sommon men to their appearance. They much resembled our Bayliffes errant. The third sort were *lictores* of which before [n] The authority of the vrbane *Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Ius honorarium* [o] Others are of opinion, that onely the *Prætors* edict was that *Ius honorarium*; [p] the *Prætor Vrbanus* being wont at the entrance into his office, to collect a set forme of administration of iustice out of the former lawes & severall edicts of former *Prætors* according vnto which hee would administer iustice all the yeare following. And least the people might be ignorant of the contents thereof, he caused it to be hanged vp to the publike view. This forme of justice was tearmed *Edictum ab edicendo, id est*, [q] *imperando*; because thereby he did command, or forbid something to bee done. Whence *Pellitarius* in the place now quoted doth translate *Consultum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictũ*. And as *Pighius* observeth in the place aboue quoted, it was called *edictum perpetuum*, not absolutely, because the vertue therof was perpetuall (for that expired together with the *Prætors* office and therefore *Tully* calleth it *legem annuam*:) but in respect of others edicts made in the middle of the yeare vpon extraordinary and vnexpected occasions, which latter sort of edicts [r] *Tully* calleth *peculiaria & nova edicta*. Afterward, [t] *Salvius Iulianus* collected an Edict out of all the olde edicts of the former *Prætors*, wherein almost all the whole civill law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer justice according to the Edict, by the appointment of *Hadrianus* being then Emperour. The edict being given out, the administration of iustice consisted in the vse of one of these three words, *Do, Dico*,

n Feneſt de Rom. maiſt. cap 19.
o P. Pellit. in Cic. orat. pro A. Cœcinna.
p Pighius Ã. quib. pet. com.
q Pellit. in Cic. orat. pro A. Cœcinna.
r Cic. in Ver.
s Cic. in Ver. 5
t Sig. de iud. lib. 1. cap. 6.

eo, & Addico, id est,[u] *Dat actionem, Dicit ius, Addicit tam res quàm homines.* That is, he is said *Dare*, when he granteth out an action or writ against a man. *Dicere* when hee passeth iudgement on him, and *Addicere*, when he in the court doth see & allow the delivery of the thing or the person on which iudgment is passed. The forme of Addiction was thus. After iudgement had beene pronounced in the court, the partie which prevailed, laid his hand on the thing or the person, against which sentence was pronounced vsing this forme of words, *Hunc ego hominem, sive hanc rem, ex iure Quiritium meam esse dico.* Then immediatly did the L. chiefe-Iustice *Addicere*, that is approue the challenge, and grant a present possession. *Ant. in Fast. lib.* 1. For explanation whereof wee must know, that this word *Addico*, is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a tearme of art belonging vnto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods, the opposite hereunto is *Abdicere.* Sometimes this verbe *Abdico* is a tearme of law signifying as[x] much as to deliuer vp into ones hands, or into ones possession: whence we doe not only call those goods that are delivered by the *Prætor* vnto the right owner *bona addicta*, but those debtors also which are delivered vp by the *Prætor* vnto their creditours to work out their debt, are tearmed *servi Addicti*: yea moreover because in all port-sales it was necessary that the *Prætor* should *Addicere bona* deliver vp the goods solde: hence doth this word often signifie to sell, as *Addicere sanguinem alicuius*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores à præeundo, quoniam iure præibant.* And[y] those alone were properly tearmed *viri prætorii*, which had borne this office, not they which were capable thereof: in the same sense we say *Viri censorij*, and *viri Ædilitij, &c.*

u I. Camerar. in Cic. orat. pro Flacco.

x M. Toxita in orat. pro Pub. Quint.

y Fr. Maturanius in Philip. 13.

CAP.

CAP. 7.

De Imperatoribus, Cæsaribus, sive Augustis.

WHen C. *Iulius* Cæsar had overcome *Pompey* his sonnes in *Spaine*, at his returne to *Rome* the *Senate* welcomed him with new invented titles of singular honour, styling him *Pater patriæ, Consul in decennium, Dictator in perpetuum, Sacrosanctus* and *Imperator*, all which titles were afterward conferred vpō *Octavius* Cæsar, and all the Emperours succeeding desired to be called *Imperatores & Cæsares* from him. Where wee must vnderstand that this name *Imperator* was not altogether vnknowne before, for by that name the *Romane* souldiers were wont (evē at that time) to salute their L. Generall after some speciall conquest. [z] These *Romane* Emperours were afterward called also *Augusti* from *Octavius* Cæsar, whom when the Senate studied to honour with some noble title, some were of minde that he should be called *Romulus*, because he was in manner a second founder of the citie. But it was at length decreed by the advise of *Manutius Plancus*, that he should be styled by the name of *Augustus*: which wee may English Soueraigne, and they counted this name of more reverence and maiestie then that former name of *Romulus*, because all consecrated and hallowed places were called *Loca augusta*. The authority of these Emperours was very great, even as great as the Kings in former times.

z Ser. Æn. l. 6.

CAP. 8.

De principibus iuventutis Cæsaribus, & nobilissimis Cæsaribus.

A[a] custome was receaved amongst the *Romane* Emperours in their life time to nominate him whom they would haue to succeede them in their Empire; & him they called *Princeps iuventutis*, *cæsar*, & *Nobilissimus Cæsar*. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath beene continued by his successours; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so farre invested in the title to the Empire by the meanes of the present Emperour, that vpon the death, resignation, or deposition of the then being Emperour, he immediatly should succeed.

a Rosin. antiq. l. 7. c. 3.

CAP. 9.

De Præfecto vrbis.

Romulus for the better governement of the citty appointed a certaine officer called *Vrbis Præfectus*, to haue the hearing of all matters or causes betweene the master and the servant, betweene orphanes and their overseers, betweene the buyer and the seller, &c. Afterward in time of the *Roman* Emperours, this *Vrbis Præfectus* did assume vnto himselfe such authority, that hee would examine and haue the hearing of all causes, of what nature soever, if they were *Intra centesimum lapidē*, within an hundred miles of *Rome* (for [b] *Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected) in the absence of the King or Consuls, he had all authority which belonged vnto them resigned vnto him. I am not

b Despauterius in sua syntax 1.

not ignorant, that some doe marke this latter kinde of Prefecture, or Lieutenantship, a different office from the former. But I should rather thinke them to be one & the same, onely his authority to be more enlarged in the Kings absence, and of this opinion doe I finde *Eenestella*, *Alexand. Neopol.* and [c] *Sigonius*.

c Sig. de iure Rom. l. 1. c. 20.

CAP. 10.

De decem-viris legibus scribendis.

FOR the better administration of iustice: the[d] *Romans* appointed three men, namely[a] *Sp. Posthumius*, *Ser. Sulpitius*, *A. Manlius*, to goe to *Athens*, and other *Grecian* cities, there to pervse the *Grecian* laws: to the intent that at their returne, both a supply might be made of those laws that were wanting in *Rome*, and the other which were faulty, might thereby be rectified and amended. At the returne of those three men, the *Consuls* were deposed, and both their authority and ensignes giuen vnto [b] ten men newly elected for the governement of the state, & were thence called *Decemviri*. The first elected into this Decemvirat were, *Ap. Claudius*, T. *Genutius*, P. *Sextus*, Sp. *Veturius*, C. *Iulius*, A. *Manlius*, Ser. *Sulpitius*, P. *Curiatius*, T. *Romulus*. Sp. *Posthumius*. All of them such as had borne the office of a *Consul*. The lawes which they brought from *Athens* were written at first in ten tables of brasse: afterward two other tables were added, at which time those lawes began to be knowne and distinguished from others by the name of *Leges* 12 *tabularum*. And according to those lawes iustice ever after was administred to the *Roman* people: at first by these ten men appointed thereunto, whose authority was as large even as the *Kings* and *Consuls* in old time, onely it was annuall, one of them only had the ensignes of honor carried before him; one alone had the authority of convocating the Senate confirming

d Fenest. de magist. Rom. cap. 14.
e Rosin. lib. 7. cap. 9.
f Lipsi. Reg. Leg.

firming their decrees, and the discharge of all state-businesses. [e] The other did little differ from private men in their habit; only when the first had ruled a set time, the others succeeded by turnes. This kind of government did not continue long in *Rome*, for in the third yeare all their power was abrogated, because of their tyrannie and oppression vsed by them towards the Romane people.

g Rosin antiq Rom. l. 7. c. 19.

CAP 11.

De Interregia potestate.

AFTER the death of *Romulus* [f] the *Senators* divided themselves into severall companies called *Decuriæ* committing the governmẽt of the kingdome to that *Decury*, that is to those ten men, vpon whom the lot fell, calling them the *Interreges*: where we must know, that these ten did not rule altogether, but each man ruled for the space of fiue daies, whence [g] *Rosinus* calleth this magistracie *Magistratum quinque duanum*. After that fiue daies government had passed through the *first*, then did they go to lots to haue a second *Decury* chosen, and so a third, &c. This office of an *Interrex* remained evẽ in the *Consuls* time, so that if by some extraordinary occasion the *Consuls* could not bee created, [h] then they chose one, to whom alone they committed the whole government of the kingdome, and him they called *Interregem*.

h Dion. Halic. l. 2.

i Rosin. lib. 6. cap. 16.

k Alex. Gen. dier. l. 5. c. 6.

CAP. 12.

D Dictatore.

WHensoever the *Romanes*. found themselves encumbred with dangerous warres, or any other eminent dangers, they presently chose a *Dictator*, to

to whom alone was committed the authority and rule of the whole kingdome, differing from a King only in respect of his name, and the continuance of his office. Touching his name he was so called, *quoniam dictis eius parebat populus.* His office continued but sixe months, and at the expiration thereof, if need required, hee was chosen againe for another sixe months. He was also called [i] *Populi Magister*, in as much as none could make their appeale from him vnto the people. As soone as himselfe was established in his office, he chose a subordinate officer, whom hee called [k] *Equitum Magister:* his authority much resembled his, whom they called *Vrbi Præfectum:* for as the *Præfectus vrbi* in the absence of the king, so this *Magister equitum* in absence of the *Dictator* had full and vncontroleable authority of doing what he would.

l Pighius in Tyran.

m Stadius in Fior. l. 1. c. 11.

Cap. 13.

De Tribunis militum.

THese [l] military *Tribunes* were of two sorts. The one had all power and authority, which belonged vnto the *Consuls*; and thence were called *Tribuni militum consulari potestate.* The occasion of them was this: The protector of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capable of the consular dignity as the Nobility: [m] This was followed so hot, that in the end though the Nobility would not grant them way vnto that dignity vnder the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, & in their steed other magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni* yet were they of *Consular* authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were

n Rosin. anti. l. 7. c. 20.

knowne

knowne by the name of *Tribuni militum* without any addition. [n] Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate vnto vs any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli* because they had their authority confirmed vnto them by vertue of an act or law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the souldiers themselves in their campe, then were they called *Tribuni suffecti* that is, *Tribunes* substituted or put in the place of another. Whence wee may conject, that the souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or vnnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the Roman assemblies called in Latine *Comitia*. They were termed *Tribuni*, because at the first institution of them (whether we vnderstand the Consular *Tribunes*, or this latter sort) there were but three of each. In processe of time notwitstanding I finde the number not only of those *Consular Tribunes*, [o] but of those other also to haue beene encreased to six, according ly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their military discipline, which was to see the souldiers being faultie to be punished, wee may english **Knights Martiall**: In respect that their authority was over foot-men only we may english them **Seriants maior**: onely this difference there was, to every thousand of foot-men in any legion, there were as many military Tribunes vnder their chiefe commander called *Imperator*. But in our english armies there is but one **Seriant maior**, who alone vnder the L. Generall hath command over all the foot-men, bee there never so many thousands.

n Alex. Gendier. lib. 6. c. 18.

o Rosin. Ant. lib. 7. cap. 20.

CAP.

CAP. 14.

De Triumviris Reipub. constituendæ.

THis tyranny of the *Triumviratus* beganne by a conspiration betweene *Augustus Cæsar*, *Antonius*, and *Lepidus*. For these three vnder the pretence of revenging *Iul. Cæsar* his death, obtained chiefe power and authority for the space of five yeares throughout *Rome*, p pretending that they would settle the common wealth, which at that time by reason of *Iul. Cæsars* death was much out of order. Those 5 yeares being expired, they refused to resigne their authority, exercising excessiue crueltie towards all the *Romans* of what degree soever. q This kinde of government remained but ten yeares, neither ever were there any other then those three aboue named. They had power to enact any new law, to reverse any former Act, without the consent of the *Senate*, or commons. They might proscribe and banish any *Romane* at their pleasure, and as often as we read *de Triumviratu* simply without any adiunction, or *de Triumviratu Senatus legendi*, weeare to vnderstand it of this, though some vpon vnsure grounds doe disioine them.

q Fenest. de mag. Rom. cap. 21.

r Suet. Oct. v. Aug. cap. 27.

CAP. 15.

De Quæstoribus ærarij.

THis office of the *Quæstors* seemeth not vnlike to a publique Treasurers, which collecteth the subsidies, customes, mony, yearely revenues, and all other paiments belonging to any state or corporation. And hence *quoniam publicæ pecuniæ quærēdæ præpositi erant*, they tooke their name *Quæstores*: Sometimes they are called *Quæstores Vrbani*, to distinguish them from the provinciall *Quæstors*, which

s Fenest. de Rom. magist. cap. 3.

which bare office in the *Roman* Provinces: sometimes they are called *Quæstores ærarij*, to distinguish them from those that were called *Quæstores parricidij*, or *rerum capitalium*, of which you may see more in the tract *de Prætoribus.* [t] Lastly they were called *Quæstores ærarij*, to distinguish them from the *Tribuni ærarij*, that is, those Martiall treasurers, or Clarks of the band, which did receaue the souldiers pay from these citty-treasurers, and so pay it to the souldiers. The office of those city-Treasurers (then being at first but two) was to receaue all the city accounts; to disburse at all occasions of publique expenses; to take an oath of him that the souldiers had saluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies slaine, as also of the number of citizens lost: otherwise he might barre the Emperour of his triumph, Moreover whatsoeuer spoiles were taken in warre, they were delivered vp vnto these city. *Quæstors*, and they selling them, laid vp the mony in the great Treasure-house called *Ædes Saturni*,

t Sig. de iure Rom. l.2.c.8.

Ca. 16.

De Tribunis Plebis.

THE [u] *Roman* commonalty finding themselves oppressed by the wealthier sort, departed vnto the *Aventine* mount, threatning the *Roman* nobility, that they would forsake their city, and never againe adventure themselues in warre for the defence thereof, vnlesse they did finde some release and easement, from those excessiue payments of vse & interest vnto their creditours: yea beside the remission of their present debts, before they would returne vnto their city againe, they would haue certaine magistrates chosen, which should be [x] *Sacro-sancti*, that is, such as might not be hurt or violently vsed, not so much as in word: and if any had violated that law, whereby they were made *Sacro-*

u l. Rosa in. Epit. rerum, Rom.

x Rosin. ant. l.7.c.

sancti

sancti, then was he accounted *homo sacer*, that is, an excommunicate person, or such an one whose soule should bee vowed vnto some God; insomuch that if any after had killed him, he should not be liable vnto judgement: [y] *quoniam illius anima dijs devota amplius humani commercij non sit.* To those [y] magistrats the protection of the commons was committed, who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retaine the name of *Tribunes*, being called that they might be distinguished from the others, *Tribuni plebis*, Protectours of the commons. At the first institution of them they were in number but two, as [z] some haue thought: [a] Others say fiue: afterward (as it is yeelded by all writers) they increased vnto ten: Their authority at first consisted chiefly in this, that they had power to hinder any proceedings in the *Senate*, which they thought might proue preiudiciall vnto the commons, so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. [b] *Sed eorũ authoritas magis in intercedendo, quàm iubendo.* And hence was it that in olde time these protectours of the commons were not permitted to come into the *Senate*: but [c] they sate without at the dore, whether whatsoever was determined within the *Senate* was sent vnto them, to be perused by them, and if they did approue it, then did they subscribe a great *Roman* T. being the first letter of this word *Tribuni*. [d] The houses of these Tribunes stood open night and day, as a common refuge or place of succour for all that would come; [e] neither was it lawfull for them to bee absent out of the towne one whole day throughout the yeare.

y Alex. Gen. dier. l. 6. c. 14. Rosin antiq. lib. 7. c. 23.

z Pighius in suo Tiranni fug.

a Pom Læt.

b Stadius in Flor. lib. 3. c. 2.

c Pigh. in suo Tirannifug.

d Rosin. ant. Rom. l. 7. c. 23.

e Pigh. in suo Tyrannifug.

Cap. 17.

De Ædilibus & Præfecto annonæ.

WE may read of three sorts of *Roman* Magistrates called *Ædiles*, the two first had their name *ab ædibus curandis*, hauing in their charge to repaire

both temples and priuate dwelling-houses which belonged vnto the city. The first sort were called *Ædiles curules, à sella curuli*, from the chaire of state, wherein it was permitted them to ride, and these were chosen out of the *Senators*. The second sort were called *Ædiles plebeij*, and they were added vnto the former at the earnest suit of the commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one and the selfe same time, [g] but that the *Curules* should rule the one yeare, and the *Plebeij* the other. To these *Ædiles* it did belong, beside the reparation of temples & priuate houses, to looke vnto the weights and measures in common sale: for they had power to examine *Actiones redhibitorias*, that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them againe. Moreover they had the charge of the publique conduit or water-conveiances, of provision for solemne plaies, &c. Of the third sort there were also two, who were in a manner Clarkes of the Market. [h] For vnto them belonged the looking vnto the victuals sold in the market, and corne: Whence they were called by them *Ædiles cereales*, and [i] by the *Greekes* ἀγορανόμοι. This office, for ought that can bee collected out of those that treat of it, differeth but little from his, whom the *Romans* called *Annonæ præfectum*, onely this, the *Ædiles Cereales* were *magistratus ordinarij*, the *Præfectus*, *extraordinarius*, namely, [k] such as was chosen onely in time of extraordinary deaths: he hauing for that time larger authority then those ordinary clarkes of the market. For as it appeareth, by *Rosinus* in the place now quoted, this *Præfectus* had power of himselfe, to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corne, forestalling the market, &c.

f Philet. in l. 2 Cic. epist. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

h Alex. Gen. ibid.

i Pighius in suo tyrannis.

k Rosin. antiq. lib. 7. cap. 38.

CAP. 18.

CAP 18.

De Triumviris.

BEside that *Triumviratus Reip. constituendæ*, of which we spake before, there were divers kindes of *Triumvirates*, namely *Triumviri capitales*, three high Shireiffes, who had the charge of prisons, and were to see malefactors punished: for which purpose eight *Lictors* did attend them. There were also [l] *Triumviri Menarij*, three men, wee may tearme them Bankers, who had authority to pay out of the common treasurie poore mens debts. Sometimes there were appointed fiue to this office, whence they were called also [m] *Quinque viri Mensarij*, both being called *Mensarij* from *Mensa*, a table, whereon they told their mony: Another sort of *Triumviri* there were appointed to presse souldiers, whence they were called *Triumviri conquirendi iuvenes idoneos ad arma ferenda*. We read also of certaine *Triumviri*, which were elected as chiefe captaines to guid and conduct the people in transplanting colonies, and thence were they named *Triumviri Coloniæ deducēdæ*; but sometimes for this purpose they elected seven, ten, or twenty, and so named them *Quinque viri*, *Septemviri*, *Decemviri*, and *Vigintiviri coloniæ deducendæ*. Three other sorts of *Triumviri* remaine, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri A.A.Æ,F.F.* that *Auro*, *Argento*, *Ære*, *Flando*, *Feriundo*, for they had the charge of coining the mony. Secondly, *Triumviri valetudinis*, Three Pest men, which were to oversee those that lay infected with any contagious sicknesse. Thirdly, [n] *Triumviri nocturni*, three Bell-men which were to walke the towne at night, and to giue notice of fire.

l Alex. Gen. dier. l. 3. c. 16.

m I. Camerar. in orat. Cic. pro Flacco.

n Alex. Gen. dier. l. 3 c. 16.

Cap. 19.

De Præfectis Ærarij.

AVgustus *Cæsar* desiring for the better safety of the citty, to maintaine many bands of souldiers, which should alwaies be in readines for the defence of the Citty, desired of the citty an yearely subsidie for the maintenance of those souldiers: but being denied it, hee built a certaine Treasure-house, which hee called *Ærarium militare*, whereinto he cast his mony for himselfe, and *Tiberius*; and promised to doe so every yeare. Afterward when he saw the Treasurie not to bee enriched enough, either by that mony which himselfe bestowed, or by the contributions of others he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kinne, or to the poore) should fall vnto this Treasurie. For the charge & custody hereof hee appointed three of those souldiers which alwaies attended about him for the safegard of his person, calling them *Præfectos Ærarij*.

Cap 20.

De Præfecto Prætorio.

ALL Captaines and Governours to whom the rule of any army belonged, were in ancient time called o *Prætores*: This word *Prætor* signifying then three chiefe officers among the *Romans*: first a *Consul*, secondly a L. chiefe-Iustice, thirdly, a L. Generall in warre, all of them being called q *Prætores, quasi Præitores, quoniam iure & exercitu præibant*. Answerable to which threefold acception, this word *Prætorium* hath three severall significatiõs: sometimes it signifieth a Princes palace or mannour-house, sometimes a great

o Pancirol. in notitiam imper. orient. c. 5
p Pighius in Æquipet. compos.

great ball or place where judgement was wont to be given; and lastly the L. Generall his pavilion in the campe; [q] from which last signification it is, that those souldiers that giue attendance about that pavilion for the gard of their Captaines person, are sometimes called *Milites Prætoriani*, sometimes *Cohors prætoria*: [r] and he to whom the oversight of these souldiers was committed was thence called *Prætorio præfectus*.

[q] Asconius in Verrinam. 3.

[r] Fr. Sylv. in Catil. 2.

CAP. 21.

De Advocato fisci.

FOR the right vnderstanding of this office, wee must first note a difference betweene these two words, *Ærarium*, & *Fiscus*. *Ærarium* was a common treasury belonging vnto an whole state or corporation, whence all publike and common expences are to bee supplied. *Fiscus* was the Kings or Emperours private coffers: it may be englished the Kings Exchequer. The keeper thereof was called *Advocatus Fisci*. There are many other petty offices within the citty, which I haue purposely omitted, because there is but seldome mention of them in old authors, and as often as they are mentioned, their names doe explaine their office.

CAP. 22.

De præcipuis Magistratibus provincialibus.

OVer the Provinces at first ruled certaine magistrates sent from *Rome*, by commission from the *Roman* Senate, called *Prætores*, whose office was to administer iustice vnto the Provinciall inhabitans, yea & if occasion serued, to make war also vpon their enemies, & this was the reason that the number of the *Prætors* did so increase

alwaies

alwaies, namely accordingly as the number of Provinces did encrease. The wars and tumults in the Provinces sometimes were so great, that the *Prætor* was not sufficient both to manage war and execute iustice: wherevpon the *Senate* thought fit to send a nother magistrate into the Provinces, whom they called a *Consul*, because properly the managing of warre belonged vnto the *consul*, So that there were at first two ordinary Provinciall magistrats, a *Consul* to manage warre, and a *Prætor*, or L. chiefe-Iustice to sit in iudgement. And if these two by a second grant from the *Senate* did continue in their office above the space of an yeare, then were they called *Proconsules, & Proprætores*. But in processe of time this custome was altered. For then none could be *Proconsules*, but those alone who had beene *Consuls* in *Rome*: neither could any bee *Proprætors*, which had not beene *Prætors* at *Rome*. Their manner being, that the next yeare after the expiration of their offices in *Rome*, they should depart into some certaine Province, to beare the same offices againe, being not called *Consules* or *Prætores* as before, but [f] *Proconsules & Proprætores*: and for this cause alwaies, so soone as the *Consuls* had beene created, the *Senate* did appoint certaine Provinces for the *Consuls*, which being appointed, the *Consuls* did either agree betweene themselues, who should goe to the one, who to the other: and that was tearmed *comparare provincias*: or else they did decide the question by lots, and that was tearmed *sortiri provincias*: howbeit sometimes the *Senate* did interpose their authority, and dispose the same. Vnder the Emperours the governours of some Provinces were appointed by the *Senate*, and the people, and those were called *Proconsules*, and the Provinces, [t] *Provinciæ Consulares*: others were appointed by the Emperours, and they were called *Proprætores*, and the Provinces *Prætoriæ Provinciæ*. For all this, which hath beene noted touching the Provinciall Magistrates, it is almost *verbatim* translated out of [u] *Rosinus*. To which we adde this, namely that every *Proconsul* and *Proprætor* did vsually

[f] Alex. Gendier. l. 3. c. 3.

[t] I. Camerar. pro L. Flacco.

[u] Rosin. antiq. l. 10. c. 24.

vsually choose a Lieutenant such a one as should be assistant vnto him in matters of government; whom they called *Legatum*: So that this word *Legatus* signifieth three severall Magistrates amongst the *Romans*, two whereof may bee proued out of[y] *Sigonius*: first that it signified such a Lieutenant, or L. Deputy vnder a *Proconsul*, or *Proprætor* in a Province; secondly, that it signified such a one as is imployed in the delivery of a message or embassage from one Prince or State to another; we commonly call them Embassadors. Lastly it signified a Lieutenant or chiefe captaine in warre, whose place was next vnder the L. Generall. His office at the first institution was not so much to rule or command, as to assist the L. Generall in councell; whence *Polibius* commonly ioyneth these two together, πρεσβευτὰς καὶ συμβούλους, that is, *Legatos & Consiliarios*, that the latter word might expoūd the former. *Lips. de mil. Rom. l. 2. dial. 11.* Moreover every *Proconsul* and *Proprætor* had with them certaine Treasurers called *Quæstores Provinciales*. These provinciall Treasurers [a] were chosen by the *Roman* people commonly, namely such a number as the number of provinces did require. After the election, they betweene themselves did cast lots who should goe vnto the one, who vnto the other provinces: [b] sometimes extraordinarily by vertue of speciall Act or decree, this or that speciall man hath obtained his or that Province without any lottery. By the way wee must note, that all Provinciall *Quæstors* could not be called *Proquæstors*, as all Provinciall *Consuls* and *Prætors* were called *Proconsules* and *Proprætores*. [c] For these onely were called *Proquæstores*, which did succeed these provinciall *Quæstors*, when they did either die in their office, or depart out of the Province, no successor being expected from *Rome*: at which times it was lawfull for the *Proconsul*, or *Proprætor* to choose his *Proquæstor*. Moreover there were beside these *Legati* & *Quæstores* [d] other military officers; such as are the *Tribuni militum*, *Centuriones*, *præfecti*, *Decuriones*, together with other inferior officers, as their Secretaries, Bayliffs, Cryers, Seriants, and such like.

[x] Pomp. Lær de mag. Rom.

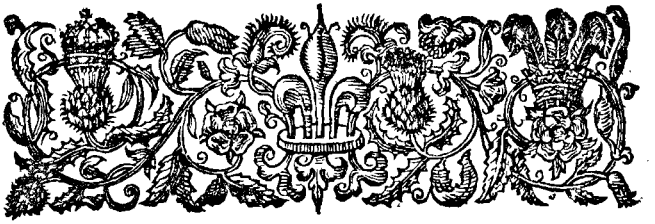
[y] Sig. de iure prou. l. 2. c. 2.

[a] Sig. de iure Prov. l. 2. c. 3.

[b] Sigon. ibid.

[c] Rosin. antiq. Rom. l. 7. c. 45.

[d] Sig. de iure Prov. l. 2. c. 2.



LIB. 3. SECT. 3.

Of the Roman Punishments.

CAP. 1.

Supplicia, Mulcta, Lex Ateria, Tarpeia. Ego ei vnum ovem mulctam dico, &c.

TOuching the military punishment, which belonged to military discipline, it shall bee treated of in it's proper place. Here only of the Citty discipline, and the vsuall punishments exercised therein, which wee may divide thus. Punishments publikely inflicted on malefactors are either *Pecuniarie mulcts*, or *Corporall punishments*; the *Pecuniary mulcts* were of two sorts: either an appointed summe of mony was required of the party guilty and then it was called *Mulcta*: or his whole estate was seased on, and then it was tearmed a *Confiscation* of his goods. The *Mulct* was twofold, the one tearmed *Mulcta suprema*, the other *Mulcta minima*. Of both these [a] *Gellius* writeth thus: *Suprema mulcta erat duarum ovium, & triginta boum, pro copia scilicet boum, & penuria ovium: sed cùm eiusmodi mulcta pecoris, armentiq; à magistratibus dicta erat, adigebantur boues oveſq; alias pretii parui, alias maioris, eaq; res faciebat inæqualem mulctæ punitionem. Idcirco postea lege Ateria constituti sunt*

[a] Gellius. l. 11.

sunt in oves singulas æris deni, in boves æris centeni: Minima vero mulcta fuit ovis vnius. Moreover as he observeth in the same place, whensoever the Magistrat did set a fine or Mulct vpon the offenders head, he vsed the word *Ovis* in the Masculine gender as, *Ego ei vnum ovem mulctam dico, &c.* The law which *Gellius* calleth *Ateriam legem*, *Festus* calleth *Legem Tarpeiam*, because *Aterius* enacted it, when he was Colleague or fellow-Consul with *Tarpeius*. Likewise wee may take notice of the clemency vsed in those times. It was provided by the law, that seeing there was greater plenty of Oxen then of Sheepe, & to be fined an Oxe, was not so much as to be a fined Sheep, therefore the Magistrate pronouncing the Fine [c] *Bouem prius quàm Ouem nominaret, vt innotesceret Romanis mitiores semper pœnas placuisse.*

[b] Festus in voce peculat.

[c] P. in l. 18. c. 3. It Alex. ab Alex. l. 3 cap. 5.

Cap. 2.

Capitis diminutio, maxima, media, minima. Aqua, & Igni interdici. Proscriptio, Lata fuga, Deportatio θεσφάφειν, σηλιτεύειν, *Ærarij, In ærarios relati, Religatio, Lanij cum tintinnabulis.*

THE corporall punishments are either such as were *Capitall*, depriuing a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capitall* punishments were sometimes taken in a civill acception, for the losse of freedome, which the *Romanes* called *capitis diminutionem*, Disfranchising, because in every Free-man thus disfranchised, one head of the corporatió was as it were cut off: sometimes it is taken for the losse of ones life, & this they called *Vltimum supplicium*. That disfranchising called *Capitis diminutio*, was [d] threefold. *Maxima, Media & Minima.* The least degree was, when the *Censors* pulled a man from

[d] Rosin. ant. Rom. l. 9. c. 3.

an higher Tribe, downe to a lower and lesse honorable, or when by any censure they disabled a man from suffraging, or giving his voice in the publike assemblies: such as were thus in the last manner punished, were tearmed *Ærarij*, and *In ærarios relati*: [e] *quia omnia alia iura civium Romanorum, præterquã tributi & æris conferendi amiserunt*. This kinde of punishment, as it may seeme, was many times exercised for irreverend gesture, or speeches vsed by such as were questioned by the *Censors*. Three severall examples are noted by [f] *Gellius*; the last is this: *P. Scipio Nascica*, and *M. Pompilius* being *Censors*, taking a view of the *Roman* knights obserued one of them to haue a leane starueling horse, himselfe being fat, and in good plight, wherevpon they demanded the reason why his horse was so leane, himselfe being so fat: his answere was. *Quoniam ego, inquit, me curo; equum Statius meus servus*. *Diminutio media*, was an exilement out of the Citty, without the losse of ones freedome: [g] It was commonly set downe in this forme of words: *Tibi aqua & igni interdico*. And it seemeth by [h] *Cœlius Rhodiginius*, to be all one with that kinde of banishment, which the *Romans* called *proscriptio*, though it cãnot be denied, but that *Proscriptus* some times signifieth only such a one, whose goods are set at sale to satisfie his creditors, because hee will not appeare in the Court, the forme thereof is thus. The Creditours hauing obtained leaue of the Lord chiefe-Justice to proceed in this mãner, they cõmitted the ordering of the sale to one principal Creditour and he was called simply *Magister*, and he in the name of all the rest solemnely proclaimed in the chiefe places of the City in forme as followeth. [i] *Ille debitor noster in eiusmodi causa est, vt bona eius divendi debeant, nos creditores patrimonium eius distrahimus: quicunq; emere volet, adesto*. But for the reconciling of both opinions, we may tearme the first to be *Proscriptionem hominum*: the other *Proscriptionem bonorum*: which distinctiõ being not obserued, breedeth a great confusion in the Authors that treat of this punishment, and because

[e] Sig. de iure Rom. l. 1. c. 17.

[f] A. Gell. noct. Autic. l. 4. cap. vii.

[g] Camerar. in orat. Cic. pro. Muræn.

[h] Cœl. Rhod. l. 15. cap. 17.

[i] Rosin. antiq. lib. 9. cap. 12.

because both was performed by solemne and publique proclamations, hence the name *Proscriptio* agreed as well to the goods confiscated, as to the persons banished: according to that, [k] *Quoniam eorum nomina in publico scribebantur, hinc proscribi dicebantur.* Hence the [l] *Græcians* vse not onely the word προτρόφδιν, but also στηλιτιῦειν, to signifie the act of *Proscription*, because they wrot in a publique pillar the faults and offences of such as were thus banished. But to proceed without farther digression. *Diminutio maxima* was the losse both of the city, and the freedome; and this I take to be the same which in other tearmes was called *Lata fuga*, or *Deportatio*, namely a perpetuall exilement: all standing in opposition to that other kind of banishmẽt, called *Relegatio*, which was the exilement * onely for a season, happily for fiue yeares &c: see C. *Rhod. lib.* 10, *c.* 5. though I deny not but that *lata fuga* was so called not only in respect of the duration of time, it being a perpetuall banishment: but also in regard of the places so generally prohibited, [m] for he that was thus banished, was tied and limited to one peculiar country, all other places in generall being forbidden him. Those punishments that depriued of life in ordinary vse, and of which there is most frequent mention in *Roman* Authors, are these which follow. *Furca, Crux, Carcer, Culeus, Eculeus: De rupe Tarpeia deiectio Scalæ, Gemoniæ, Tunica, Damnatio in gladium, in ludum, ad bestias*: In generall we are to note, that the execution was without the gates of the city, to prevent the noysõnes which such abundance of bloud might occasion, [n] for which reason the executioner dwelt without the city. Likewise those that were adiudged to death, when they went to the place of execution, a certaine little bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was coũted a kinde of pollution: this [o] *Turnebus* obseruieth out of *Zonaras*: and from hence the executioners are called [p] *Lanij cum tintinnabulis*. And for this reason [q] it was, that a little bell

[k] Fr. Matur. in Philip orat. 5.
[l] Suidas in voce στήλη.
* Adde quod edicta quamvis immite minaxque Attamen in pænæ nomine lene fuit. Quippe relegatus, non exul dicor in illo Ovid. de trist. lib. 2. Eleg. 1.
[m] Tholosan. syntag. iur. vniuers. lib. 31.
[n] Plaut. Cas. 2. 6.
[o] Turn. adv. l. 11. c. 21.
[p] Plaut. pseud. l. 3.
[q] Rosin. ant. l. 10. c. 29.

bell and a scourge was hanged vp in the hindmost part of the chariot, wherein the Lord generall did ride in his triumph, a publike officer which rodde with him in the same chariot, now and then plucking him behind, and bidding him looke back, vsing this forme of words, [r] *Respice post te, hominem memento te*, that is, Sir looke behind you, remember your selfe to be but a man. For the sight of the scourge and bell serued to put him in minde, that notwithstanding his present triumph and acclamations, his after-miseries might be such, that he might be punished not onely with whipps, but even with death it selfe.

r Tertul. Apolog. cap. 33.

Cap. 10.

Furca, Furcifer. Supplicium more maiorum, ἐπὶ ξύλου.

A Vncient authors which do write of the *Roman furca*, doe rather mention it, then explaine it, but if wee diligently obserue what they speake of it, wee shall finde the vse thereof to have bin three-fold. The first ignominious. Which [a] was when the master forced the servant for small offences *furcam circa vrbem ferre*, to carry this *furca* vpon his shoulders about the citty, confessing his fault and admonishing others to beware of the like offence, & [b] hence such a servant was afterward called *furcifer*; and here I thinke was vse of those *stimuli* or goades, whereof I shall speake more in the chapter following; namely that when the party thus to be punished dragged back, and shewed himselfe vnwilling, then did the executioner prick him forward with these kinde of goades. The second sort was penall, when the party hauing the *furca* on his neck, was ledde vp and downe the Cirque or some publique place, and on the way to bee whipt but not vnto death, [c] thus C. *Matienus damnatus sub furca diu virgis cæsus erat, & sestertio nummo vaniit.* He was after-

a Isidor. orig. lib. 10.

b Plutarch, in Coriol.

c Epit. Livij. de c. 5. lib. 6.

afterward sold,& therefore died not vnder the punishmennt. The third sort was penall to,but in an higher degree;namely, when the malefactor hauing his head fastned to the *furca*, was whipt vnder it vnto death; and this was by a peculiar name called[d] *supplicium more maiorũ*. This yet differed from that beheading with an axe which was in vse among the *Romans*, and called by the *Grecians* πελεκισμὸς from πέλεκυς signifying an axe or hatchet;it differed I say from this, because howsoever there were in this σαυρῷ προσδεσις, a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishmẽt, yet herein they differed,because in the former they were whipped vnto death,in the latter they were after their whipping beheaded with an axe, as appeareth by the[e] execution of *Antigonus* the King of the Iewes. But to proceed in the description of the *furca*, the forme thereof I take to bee like the beame of a wayne vnto which the yoakes are fastned; it resembleth a forke,& the *furca* is called ξύλον διπλῆν, δικρῦν, δίδυμον, *id est, lignum duplex, bicornutum, geminum*, in english a forked piece of timber; there is no such piece throughout the whole wayne as the forme of waynes is in these daies, but only the beame thereof[f] *Plutarch* treating of the *furca*, saith that it is, ξύλον ἁμάξης ᾧ τὸ ῥυμον ὑπερείδουσι, that is, a piece of timber about the wagon or wayne, wherewith they vpheld the beame,and he addeth,that what the *Grecians* call ὑποστάτην & στήριμα, that the *Romans* call *furca*:now *Hesychius* describeth στήριμα to be τὸ δικρῦν ὅ περ ὑποτιθέασι τῷ τῆς ἁμάξης ζυγῷ, that is,the forked piece of timber,which they put vnder the yoak of the wayne;correct *Plutarch* by *Hesychius*, and for τὸν ῥυμὸν reade τὸ ζυγὸν, & you haue in both the description of the beame in the wayne. Some thinke that *Plutarch* compareth the *furca* to certaine forked piece of timber, where with the waine was vpheld whiles it was vnloaded, but how this can stand with *Hesychius* his description of στήριμα, I am yet to learne;notwithstanding if we admit this interpretation,that which

d Sueton. in Ner. 49.

e Dio. lib. 49.

f Plut. in Coriol.

which I would hence inferre, is rather confirmed, then any way weakened: namely that the forme of the old *Roman furca* was forked, neither doe there appeare any testimonies so evident to me, as to persuade that among the ancient *Romans* any other was in vse. True it is, that in after ages the forme thereof was the very same with our gallowses which are now in vse, and this happily beganne, when the vse of crucifying was interdicted, which interdiction we read first to haue taken place in *Constantines* time.

g Sozom. eccles. hist. l. 1. c. 8

CAP. 4.

Crux. Servile supplicium. Titulus.

CRucifixion hath beene a punishment in ancient vse among the *Romans*, it was abrogated by *Constantine*. It was a death that commonly servants were sentenced vnto, seldometimes free-men, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*, yet some times freemen though of the baser sort, & for notorious offences were adiudged to this kind of death: nay acleare example hereof we haue in that *Guardian which *Galba* crucifyed, for poisoning his ward, for the Guardian calling for the benefit of the law, & avouching in his plea, *That he was a Roman citizen. Galba* as if hee would allay his punishment with some comfort and honor, commanded the crosse already made to be changed, and another to bee reared far higher then the ordinary, and the same laid ouer with a white colour. Those which were thus to be punished, they bore their crosse vpon their shoulders to the place of execution. *Malefici cum ad supplicium educuntur, quisq; suam effert crucem.* *Artemidorus* is as plaine Εοικε γὰρ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων προσηλοῦσθαι, πρότερον αὐτὸν βαστάζει, that is, The crosse is like vnto death, & he which was to be crucified did first bear it. The party that suffered this kind of death was first stripped

b Vid. Lisp. de cruce. l. 1, c. 11.

† Suet. Galb. 9.

i Plut. de sera numinis vind.

k Vid. Lipsi. de cruce. l. 2. c. 5.

ped of all his cloathes, for he suffered [l] naked; thē was he fastned vnto the crosse and that commonly with nayles, the Greeke word προσήλωσις clearly evinceth as much, we may render it *Clauifixio.* Now that the equitie of the proceeding might clearely appeare to the people, the cause of his punishment was written in capitall letters, hence [m] *Dio* speaketh of a seruant drag'd to the crosse, μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούντων, that is, with letters declaring the cause of his death. This inscription was called αἰτία *Mat.* 27. 37. It was also called τίτλος *Ioā.* 19. 19. from the latine word *titulus* vsed in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας. *Mar.* 15. 26. or simply ἐπιγραφὴ *Luc.* 23. 38. [n] *Tertullian* & [o] *Suetonius* calleth it *elogium.* The like kinde of publishing the cause, either by an inscription, or by the voice of a common crier was not vnvsuall in other capitall punishments; as *Attalus* the Martyr was led about the Amphitheatre, πίνακος αὐτῷ προαγομένου, ἐν ᾧ ἐγέγραπτο ῥωμαϊστὶ, οὗτος ἐστὶν Ἄτταλος ὁ χριστιανός. i. A table being carried before, in which it was written in latine, *This is Attalus the Christian.* That of [q] *Suetonius* his is not much vnlike. *Patrem familias detractum è spectaculis in arenam, canibus obiecit, cum hoc titulo: Impie locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath bin already declared in the chapter of Feuers. Moreouer such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much; the parts whereof are two; first [r] *Verbera intra aut extra pomerium*, secondly: *Arbore infelici suspendito.* This whipping was sometimes *sub furca*, for this * *Valerius* is plaine. *Cum seruum suum verberibus multatum sub furca ad supplicium egisset:* sometimes *ad columnam. Artemidorus* is cleare in this, προσδεθεὶς κίονι πολλὰς ἔλαβε πληγὰς that is, being tied to the pillar, hee receaued many stripes. Happily [s] *Plautus* alludeth to the same.

[l] Arrimidr. lib. 2. 58.

[m] Vid. Lipsi de cruce. l. 2. c. 11.

[n] Apol. cap. 2.

[o] Sueton. in Calig.

[p] Euseb. eccl. hist. lib. 5. c. 1.

[q] Sueton. Domit. cap. 10.

[r] Liv. lib. 1.

* Valer. Max. l. 1. c. 7.

[s] Plaut. Bacch.

----*Abducite hunc*
Intro atq; adstringite ad columnam fortiter.

Yea the auntient [t] *Fathers* say that our blessed Saviour was thus whipt: touching the place or manner the scripture is silent, only that he was whipt it testifieth, and that with scourges. Τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ *Mat.* 27.26. This fore-whipping I take to be a matter vnquestionable, but that they should be whipt on the way towards the place of execution, I much doubt, much more that they should bee goaded on the way with pricks and goads, by the Executioner. That there was [u] *stimuleum supplicium*, a kinde of punishment with pricks and goades is evident, and hence commeth that phrase *Stimulo fodere*, and hence that other phrase of Kicking against the prickes. Parallel to which is that of *Plaut.* Truc. 4.2. *Stimulos pugnis cædere.* But this kinde of punishment I take to haue beene exercised only by Masters towards evill servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a seruant thus handled was tearmed *Carnificinum cribrum*, because he had his backe so boared with those pricking instruments, that it looked like a sieue full of holes: Otherwise, if we vnderstand it as a punishment imposed by publique authority, we may say, that thereby is denoted a certaine punishment, exercised towards theeues in time of their examination, that by the pricking and goading of them, the truth might be confessed, [*] for to that end theeues were thus tortured, and thence were they called *Centrones*, from κέντρον *Stimulus*. Lastly we must remember that these three words *Furca*, *Crux*, and *patibulum*, are many times vsed promiscuously, signifiing the whole crosse on which malefactors suffered, but in strict propriety of speech, *Furca* signifieth that forked instrument of which wee treated in the former Chapter: *Crux*, that erect part of the crosse standing vpright: and *Patibulum*, the thwart peece of timber vpon the top of the crosse: yet sometimes also *Patibulum* is taken for the *Romanfurca*, whence *Patibulatus* and *Furcifer* are vsed as words æquivalent, and in both senses it may

[t] Prudentius Hieronym. Beda. vid Lips. de cruce l.2. c.4

[u] Plaut. Mil: 2.6.

[x] Plaut. Most. 1.1.1.

[*] Cel. Rhod. lect. antiq. l. 10. cap. 5.

may borrow its name from *Pateo* to lie open; because as the malefactors hands were spread abroad being fastened to the thwart peece of timber vpon top of the crosse: so were they likewise spread abroad vnder the *Furca*, his two hands being tyed to the two forked ends thereof.

CAP. 5.

Carcer, Ergastulum Tullianum, Robur. Malamansio, Neruus, Collumbar, Numella, Codex.

HOwsoeuer *carcer* & *ergastulum* are vsed promiscuously by moderne writers, yet if we diligently enquire vnto each words origination, and how they haue beene vsed by more auncient authors, wee shall finde them thus differenced. *Ergastulum* was a prison much resembling our house of Correction, into which seruants only were cast: *Carcer* a more publike prison, vnto which men of better ranke & fashion vpon iust occasion were committed: secondly, the power of sentencing any seruant to the *Ergastulum*, was proper and peculiar to the master of the seruant, without approbation from publike authoritie, but the power of committing to the prison called *Carcer*, was onely in the publique magistrate: thirdly *Ergastulum* tooke away only the libertie and pleasure of life: *Carcer* life it selfe. The word *Carcer* hath his name *à coercendo*, from restraining mē of their liberty.[a] It had two principal parts, the one called *Tullianum*, the other *Robur*, besides many other roomes wherein men were kept close prisoners, those two places were assigned for execution. In that which they called the *Tullianum* (wee may english it Dungeon) they strangled malefactors.[b] It had its name from *Servius Tullius a Roman* King, the first inventor & author thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur vbi paulatim*

a Sigon. de iudic. lib. 3. c. 17.

b Sigon. ibid.

tim ascẽderis adlævam, circiter duodecimpedes humi depressus eum muniunt vndiq; parietes, atq; insuper camera lapideis fornicibus iuncta, sed inculta tenebris, odore fœda, atq; terribilis eius facies est. In that other place which they called commonly *Robur*, sometimes [c] *Robustus Codex*, sometimes [d] *Custodia lignea*, sometimes [e] *Italum robur*, (our english phrase strong hold fitly answeareth it) they broke malefactors necks, by a kinde of præcipitation or tumbling them headlong, [f] from a certaine stock of a tree fastened there in the earth; vnto this *Tully* alludeth. *Quæro fregeris ne in carcere cervices illi ipsi Vectio.* But more expresly *Plautus*. [g] *At ego faciam vos ambos in robusto carcere vt pereatis*; those that had the chiefe oversight in such executions were called *Triumviri capitales*, that is high sherifs. The whole proceeding is set downe by *Valerius*. [h] *Mulierem damnatam Prætor Triumviro necandam in carcere tradidit, quam receptam is qui custodia præerat, misericordia motus non protinus strangulavit; aditum etiam filiæ dedit, sed diligenter excussæ, ne quid sibi inferret, existimans futurum, vt inediâ consumeretur; cùm vero animaduertisset, filiam matrem lactis sui præsidio sustentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad consilium iudicum pertulit, et remissionem mulieri impetravit.* It is much controversed among interpreters, what that kinde of punishment was which they tearmed *Malam mansionem*, wee may english it little ease: Some vnderstand hereby a certaine deepe dungeon, made in the forme of a pit or well, called therefore in latine *puteus*; but this as it seemeth by that of *Plautus*, was a punishment proper and peculiar to theeuish cookes. [i] *Coqui abstulerunt, comprehendite, vincite, verberate, in puteum condite.* Others vnderstand hereby a close prison, which because of its straightnes & closenes they called *arcam*, a chest, the vse of this prison, was for the safe keeping of such who were afterward to be examined of farther matters; though sometimes other offenders were cast into the same. Of these prisons *Tully* speaketh. [k] *Subito arrepti inquæstionem, tamen separan-*

c Plau pæn 5. 3.
d Plau. pæn. 5. 6.
e Hor. lib. 2. od. 13.
f Turneb. adv. lib. 23, cap. 21.
g Plau in Cur. c. act. 5. sc. 5.
h Valer. l. 5. c. 4.
i Plau. Aulul. 2. 5.
k Cic. pro. Milone.

parantur à ceteris; & in arcas conjciuntur, nequis cum his colloqui possit. Another kinde of prison there was called *Sextritium*, thus it is commonly rendred in Latine, but the Greeke word is σεστέρτιον, and accordnigly [a] *Turnebus* renders it *Sestertium*, being of opinion that it was so called from the quãtitie of ground it contained, namely two acres and a halfe: *C. Rhodginus* thinketh that *Spoliarium* and *Sextritium* were not places vnlike, but herein not he alone, but divers others haue bin deceaued: for *Sextritium* is apparently a place of [b] execution, where those were executed whom the *Roman* Emperours adiudged to death, now whether that *Spoliarium* were a place of punishment I much doubt. What in Latine we call *Spoliarum*, that the Greeks termed ἀποδυτήριον both doe signifie primarily little cells or chambers neare adioyning to the bathes, where such as washed themselues laid vp their cloathes: In a borrowing sense both are vsed to signifie chambers and cells adioyning neare vnto the Amphitheatre or fencing place, wherein the fẽcers did put vp their cloaths in time of fight, and because such as were wounded in fight were carried into those chambers, where they languishing with much paine, at last notwithstãding expired for the most part, & that not without much torturing of the Chirurgion, hence such a spittle-house is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, [c] *Numquid aliquem tam cupidum vitæ putas, vt iugulari in spoliario, quàm in arena malit?* Whereby it appeareth, that *Spoliarium* was not a prison vnto which malefactors were iudged, but rather as I said a kinde of spitle-house. Other kinde of punishments, there were of a neare likenesse with imprisonments, and casting into the pillory, laying one by the heeles, &c. of these little is spoken more then the very names; of this sort those that doe most commõly occur in authors, are these. *Nervus, Collumbar, Numella, Codex*, *Nervus* is generally thought to resemble our stocks, [l] some take it to be made of wood, others of yron, [m] *Nervum appellamus ferreum vinculum, quo pedes impediuntur*

a Turn. adv. lib. 3. cap. 18.

b Plutarch. in Galba.

Sen. ep. 94. De spoliario. Vid. Lips. Sat. 1. 8.

d Vid Taub. man. in Plau. Aulul. 4. 10.

m Festu. Vid. Lam. in Plau. Aulul. 4. 10.

pediuntur: quanquam Plautus eo etiam vinciri cervices ait. Two of the last seeme to haue some resemblance with our Pillory. *Collumbar* had its name from *Collum*, because the necke was cheifly pained in this kinde of punishment. *Numella* was also a kind of Pillory being so called *quasi*[n] *Numella, quòd qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certaine block or clogge, so tied vnto the Malefactors, that they vsed it as a stoole to sit on, the vse of this may seeme to haue beene only in priuate houses, thereby to keepe evill seruants the closer to their work, of this *Iuvenall* speaketh. *Sat:2.*

n Turneb. adverf. l.23.c.21.

Horrida quale facit residens in codice pellex.

o *Turnebus* describeth it thus. *Codex est ligneus stipes, quem alligati servi, qui deliquerant trahebant, cuiq; insidebat vincti.*

o Turneb. ibid.

Cap 6.

Culeus.

THe crime which in Latine wee call *Parricidium*, is murder practised by father or mother towards the children, or by the children towards either of the parents. It had in old times a larger acception, signifiing any murder betweene man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so vnnaturall, that neither[y] *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it selfe might proue a kind of irritation, to provoke some to the commission of the crime, which otherwise would neuer haue entred into their hearts but the wickednes of the aftertimes, enforced Lawgiuers to invent a sharpe punishment against such vnnaturall offences. The punishment decreed against Parricides in[q] *Senecaes* age, was, that such malefactors should be sowed

p Cic pro. Sext. Roscio.

q Senec. lib. 5. controv. 4. in fine.

sowed vp in a leatherne-sack together with serpents, and so cast into the sea, afterward there was sowed vp in the same sack an ape, and a cock, and at last a dogge. Whence *Iuvenal. Satyr.* 8.

Cuius supplicio non debuit vna parari
Simia, nec serpens vnus, nec culeus vnus.

[a] *Modestus* describeth the manner thereof thus. The Parricide being first whipt with rods vntill the bloud came, then was he sowed vp in this sack called *Culeus*, together with a dog, a cock, a serpent, and an ape.[b] They would not cast him naked into the sea, least the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

[a] Digest. lib. 48. ad legem Pomp. de paric. vid. Cœl. Rhod. lib. 11. cap. 21.
[b] Cic. pro. Sext. Rosc.

CAP. 7.

Eculeus. Lamina. Vngulæ. Fidicula σχοινίον.

EC*uleus* had its determination from *Equus, quasi Equleus*, as may be collected from that description which [c] *Turnebus* giueth. But not somuch from the positure or situation of the offenders body on the engine as *Turnebus* would haue it, for he in no wise resembled a man on horse-backe, but rather from the horsing or hoysing vp of the party fastened with ropes vnto the *Eculeus*, so that his hãds being tied fast at the vpper part of the engine, & his feet at the neather part, he was hoysed vp into the ayre like vnto one fastned on a crosse. The forme of the *Eculeus* I cõceaue thus, it was not one entire stake, but rather two long peeces of timber ioyned together in forme of a stake, ioyned together I say, by the meanes of a vice or scrue and the reason hereof was that by helpe of this scrue, the vpper part of the engine might be lifted vp to the racking and torturing of the malefactor, or let downe to the easing and remitting of his paines as should seeme good to the executioner, or other officers,

[c] Turneb. adverf. l. 4. c. 3.

who

who now and then would grant some remission and respite in hope of a confession. For in the first institution, the maine end of this torture was to worke out the knowledge of the truth. Neither did they alone rack the parties ioints in this kind of punishment, but to enforce him vnto a confession by an augmentation of his paine, they did often with hot plates & yron pinsors, burne and teare his flesh from his sides, and all this we shall finde warranted by [d] *Sigonius*, whose words I haue written downe at large. *Eculeus catasta fuit lignea, cochleata, ad intendendum ac remittendum apta atq; ad torquendos homines vt facti veritas eliceretur instituta. Tormenti verò genus erat huiusmodi, vbi catastæ huic brachia pedesq; eius, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebãtur alligauerant, tum catasta intenta atq; in altum erecta, vt ex eo quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus eiusdem corpori laminis admotis, atq; bisulcis vngulis ferreis lateribus laniatis dolores acerbitatem augebant.* And thus wee see what the vse of those *Laminæ* and *Vngulæ* were, namely that they were not severall torments of themselues, but adiuncts to this, to encrease the paine. The *Eculeus* was sometimes called [e] *lignum tortorium*: sometimes [f] *stipes noxialis*. The torturing engine called *Fidiculæ* was not much vnlike: *Fides* signifieth the string of any musicall instrument, and the engine had its name from the strings & cords wherewith men were tortured vpon it; of this [g] *Turnebus* writeth. *Fidiculæ quæ in tormentis numerantur, mihi videntur lascivia quadam ioci nomen invenisse, quod vt in fidibus nervi item quoq; vt nervi hinc & inde multis funibus homines distendebantur.* The torment χοινισμὸς vsed by the *Grætians*, was either this same or very like.

d Sigon. de Iud. l. 3. c. 18.

e Sozom. hist. Eccles. lib. 5.

f Prudent. in hymno Vincent Martyr.

g Turneb. adv. lib. 4. c. 3.

CAP. 8.

De rupe Tarpeia deiectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in Ludum, ad bestias.

MAlefactors for notorious offences were tumbled downe headlong from a certaine rocke in the *Tarpeian* Mount: This kinde of punishment was called either simply *Deiectio è saxo*; or *Deiectio è Tarpeia rupe*. In some cases notwithstanding, by the intercessiō of friends, or some othe meanes, pardons were sometimes obtained for the condemned persons, whereby they were freed frō death howsoever the disgrace and infamy cleaued euer after vnto them, and therfore they were tearmed *de lapide empti*: which phrase [h] *Cœlius Rhodiginus* hath parallel'd with that, *à furca redempti*, that is, *saued from the gallowes*. In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*: certaine stayres whether condemned persons were dragged, and so cast headlong into the riuer *Tiber*. *Cœlius Rhodiginius* seemeth to be of another opinion: [i] who describing this punishment, saith, that an hook was thrust into the malefactors throat, and so hee haled by the Executioner vnto those stayers, where hauing his thighes broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonij*, because, as some are of opinion, the first that suffered this kinde of punishment his name was *Gemonius*: or as others would haue it, because it was *locus gemitus, & calamitatum*. If wee admit that malefactors were here burnt, then may we thinke this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to be burned, were clad with a coat dawbed in the inside with pitch and brim-

h Cœl. Rhod. ant. l. 25. c. 22.

i Cœl. Rhod. l. 10. cap. 5.

k Sen. ep. 14. stone. Thence is that of k *Seneca*, *Cogita illam tunicam alimẽtis ignium & illitam & intextam.* This giueth light to that of *Iuvenal. Sat.* 8. *Tunica punire molesta.*

l Tertul. ad Martyr. l *Tertullian* also mentioneth it in this sense. To these may bee added two other punishments vsually inflicted vpon fugitive servants, but yet not so restrained vnto them, as that they were not sometimes extended to other malefactours. The first is *Damnatio in gladium.* A condemning one into a fence-schoole, there to be trained vp in the art of fencing, vntill some publike prizes were plaied, at what time such a condemned person was to fight for his life. m *Capitolinus* calleth it *Ad gladij ludum deputationem.* But *Vlpian*, as n *Lipsius* else where observeth, differenceth these two phrases thus. He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compasse of an yeare: but he that was *damnatus in ludum*, had not death so peremptorily sentenced vpon him; if he scaped the danger of those publike prizes, & alwaies got the vpper hand of his adversaries, at three yeares end, he receaued the *Rudem*, or wand, which was a token of discharge from those bloudy combats: yea at fiue yeares end, he receaued the *Pileum*, or cap, which was a token of his infranchisement or freedome in the citty. The second sort was *Damnatio ad bestias.* A condemning of a mã to fight for his life with beasts; as with Beares, Leopards, Lions, &c. The persons thus condemned were tearmed o *Bestiarij.* A memorable example thereof we haue in a certaine *Roman* servant called *Androclus*, p who hauing runne from his master liued in a wilderness, and whiles hee rested himselfe in a denne, there came a fierce Lyon vnto him, moaning and grieuing because of a stumpe of a tree which stucke fast in his foot; *Androclus* at first beganne to be affrighted, but the Lion comming neerer and neerer vnto him, & laying his foot on the mans lap, intimated his desire of helpe from him, which when the man perceaued, he plucked out the stumpe, and gaue him what ease he could. Afterward this fugitiue being

m Vid. Lipsi. Saturn. l. 2. c. 3

n Lipsi. Satur. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.

p A. Gel. l. 5. cap. 14.

being apprehended & adiudged to this punishment, it happened that this very Lion was brought into the shew-place for *Androclus* to fight with, where insteed of a fierce onset, the Lion vsed a tame and familiar fawning on him, wherevpon the spectators admired, and vnderstanding the former passages betweene *Androclus* & the Lion, they released the servant and freed him from his punishment. Where wee must note that this pardon was extraordinary:[q] for vsually if any so condemned happened to overthrow a beast or two, yet was he not thereby discharged, but was to encounter with others vntill he were killed. Yea it was very seldome that the man could prevaile against the beast, on the contrary one Lion hath prevailed against two hundred men; according to that[r] *Praclara ædilitas, vnus leo ducenti bestiarij.* By which we see many mē one after another did thus fight with beasts at the same meeting: yea the[s] *Grecian*, called such as succeeded the first combatans ἐφέδρους, the Apostle S. *Paul* calleth them ἴσχατος, because they were reserved vntil the last.[u] *Tertullian* readeth that place in this sense, and the words themselves enforce as much, for what shall wee vnderstand by θέατρον ἐτεινήθημεν; but the very spectacle or shew it selfe, and what by ἀπέδειξεν, which signifieth properly *Ostendit*, but allusion to him who was the chiefe author and exhibiter of these bloudy spectacles vnto the people.[†] *Lipsius* hath paraleld that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*; both signifying the setting forth or bestowing the sight of such masteries, and fightings. And that it was no vnvsuall kinde of Martyrdome in times of the primitiue Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who reioyced to be grownd betweene the teeth of wild beasts, that he might bee found pure bread. Whose words were[x] *Frumentum sum Christi, & per dentes bestiarum molor, vt mundus panis Dei inveniar*: yea the word Ἐπιθανάτιος, *morti addictos*, helpeth this interpretation: the word intimateth

q H. Salmuth. in Pancirol. de veter. ludis.

r Cic. in orat. pro Sastio.

s Suid. in voce. Ἐφέδρος

t 1. Cor. 4. 9.

u Tertul. l. de pudicit.

† Lips. Satur. lib. 2. cap. 18.

x Iren. adverf. hæres. l. 5. c. 28 it. Euseb. hist. Eccl. 3. c. 33.

that there was a sure death remained for them also, though the last. The custome being in the morning to commit men with beast, but those ἐσχαλοὶ which remained till noone-tide, and were therefore called *Meridiani*, were committed each against other, and that without any defensiue weapons, with swords in one hand cutting, and with the other hand being empt, y grasping and tearing each others flesh, so that [z] *Seneca* speaking of this, comparing it with that former fighting with beasts, saith. *Quicquid ante pugnatum est, misericordia fuit.*

y Suet. Claud. cap. 34.

z Senec. ep. 7.

Cap. 9.

Ergastulum. Ergastula inscripta. Pistrinum, Damnari in Antliam. Metallum. Inscripti. Stigmatici. Literati. Virga. Flagella. Talio.

THE state and condition of servants was various and different among the *Romans* in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily imployed in these prison seruices, they were either such servants as were bought for that purpose, or such as for notorious crimes were adiudged thereunto in way of punishment, whence the word *Ergastulum* is iustly deriued from the Greek Ἐργάζομαι because it is τόπος ἐν ᾧ δεδεμένοι Ἐργάζονται: *locus in quo vincti operãtur.* For even in the day time when they were sent forth to work they hand shackles & bolts about their legs to preuẽt their escapes or running away, though not so bigge as those into which they were cast at night when they returned into prisõ. Their fetters or bolts are oftentimes in ancient writers (peradventure from the forme of their links) tearmed *Annuli* & themselues said to haue *pedes Annulatos.* They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Iuvenals* Epitheton. *Inscripta ergastula.*

Quem

Quem mirè adficiunt inscripta ergastula. The labours in which they were imploied, were sometimes digging, deluing, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an handmill, sometimes drawing water: this latter kinde of punishment in [m] *Suetonius* his phrase is *In Antliam damnari.* Those Criticks who for the word *Antlia* doe substitute *Anticyra*, or *Andia*, or such like names of Ilands, doe vtterly faile of the Authors scope, and drift; for the punishment which *Suetonius* speaketh of, is some strange or vnvsuall punishment: now seeing that Senatours themselues were often exiled, it could not seeme strange that *Roman* knights should bee banished into forreigne lands. But this was a matter vnvsuall, and vnheard of, that a *Roman* knight should be imployed in such drudgeries. Againe the word *Antlia* fitly denoteth such a kinde of labour, whether we respect its Etymology ἀπὸ τοῦ ἀντλεῖν; or its signification in Latine authors, it being vsed by them to signifie a great bucket, or water-scoupe to draw vp water. Thus *Martial.* *Curta laboratas antlia tollit aquas.*

[m] Suet. Tiber. cap. 51.

The handmil is often expressed by the latine word *pistrinum*, a word frequent in Comicall Authors. It much resembled our Bride-well or place of correction, being called *pistrinum à pinsendo*, from pounding. For before the vse of mills was knowne, the *Romans* did pound their corne in a great morter, calling the place where they pounded it *pistrinum*: whereupon our hand-mill hath retained the same name to this day. And because of the great paines that men did suffer in pounding, as likewise the strict discipline vsed towards servants thus punished (for [n] their neck was thrust into a certaine wooden engine called *pausi cape*, made for the purpose least happily in time of grinding they might eat of the meale) hence grew a custome among them, that when a servant had offended his master, he would menace him in this manner. *In pistrinum te dedam.* I will cast thee into Bride-well. The punishmẽt *Metallum* was not much vnlike: the digging in Metall.

[n] Turn. adv. lib. 4. cap. 13.

tall-mines,& working in metall houſen, appeareth not only to have beene a baſe and ſeruile, but alſo a very laborious and painefull worke;whence it was eſteemed a grieuous puniſhment to be adiudged to Metall workes, or caſt into a Metall-houſe. And either for the encreaſe of ſuch mens paines,or for to keepe thē from eſcapes, they were enforced to worke with their fetters and geiues about them, as is implied by *Vlpian* [o] who makes the difference betweene theſe two phraſes: *Damnari in metallum*, and *Damnari in opus metalli*,to be thus; that the firſt ſort did weare heavier & greater fetters then the laſt.How true the difference is I leaue it to the enquiry of others, but that it was a great and infamous puniſhment [p] *Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people.*De veſtris ſemper aſtuat carcer,de veſtris ſemper metalla ſuſpirant.* Sometimes there was only ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing vp and down the *Roman Furca* in the market place, or elſewhere in publike view, whereof I haue ſpoken in the chapter *Furca*,likewiſe a branding of the Malefactor with ſome infamous letter in his forehead or hand, or ſome other part of the body. Whence [q] *Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici* from στίζω,which ſignifieth to brand with markes; As *Nebulo ſtigmaticus*, A rogue burnt in the hand; or any way marked;ſometimes ſuch are called *Literati*. The *Athenians* being enemies to the *Samij*,as often as they tooke them captiues,they did vſe thus to burne them for Rogues which occaſioned that proverbiall ſcomme; *Samis neminem eſſe literatiorem.*

o Vid.Cœl. Rhodig.l. 10. cap.5.

p Tertul. apolog.cap.44.

q Plin.l.18. c.3.

r Cæl.Rhod. l 7.c.13.

Sometimes beſides the diſgrace there was alſo toileſome paines as appeared by their *Ergaſtula*;& ſometimes to their paines ſtripes added: though I deny not, but that many times,correction with ſtripes was a preparation for death it ſelfe.This correction by ſtripes was twofold, either it was *Verberatio*, or *Flagellatio*: the firſt was with rods called

Virga

Virgæ; the other with scourges called *Flagella*. That there was a difference betwenne *Virgæ* and *Flagella*, is plainely by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit.* Both of them were counted servile, so that Freemen were ordinarily exempted from them, as appeareth.[m]

m Ter. Adelph Act. 2. scen. 1.

--- Ad necem operire loris. Saun. loris liber?

Horace also intimating the servile condition of *Meua* saith:

[n] *Sectus flagellis hic triumvirabilibus.*

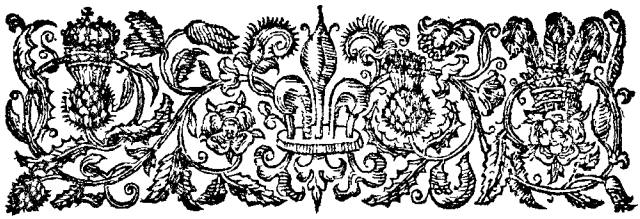
n Epod. od.

They are called *Flagella triumviralia*, from those *Triumviri* who formerly I translated shreiffes, because to them belonged the oversight of this punishment. *Eustathius* calleth them ἀστραγαλωτὰς μάστιγας, *id est. Flagra talaria, seu taxillata*, because to augment the paines, they did vsually in these scourges tye certaine hucklebones or plummets of lead at the end of the whip-cords or thongs, and such scourges they tearmed *scorpiones*. The cruelty of the scourges was such that they many times died vnder them. Thus haue we generally and briefly touched the more vsuall punishments. But sometimes wrongs done betweene party and party, were punished with a retaliation of the same kinde: according to that. *A tooth for a tooth, and an eye for an eye.* And this kinde of punishing was called *Talio*. Yet wee are to knowe that a simple retaliation, such as is tearmed *Talio Pythagorica*, was not alwaies exacted; but sometimes satisfaction might bee wrought by a commutation of the punishmet. [o] *Reus habuit facultatem paciscendi, & non necesse habuit pati talionem, nisi eam elegisset.* It were endlesse to speake of the punishment, and happily not worth the labour, their very names being sufficient comments two explaine them. As *Effossio oculorum. Amputatio manuum, crurifragium, Talifragium*, and such like.

Tholos. in sy. iur. vniverf. ca. 11. lib. 31.

o A. Gel. l. 11. cap. 1.

LIB.



LIB. 3. SECT. 4.

Of the Roman Lawes.

CAP. 1.

De Legibus.

HAuing ſpoken of the civill Magiſtrates, and puniſhment, we will now alſo deſcend vnto the civill law: where firſt we will note among other differences betweene *Ius* and *Lex* principally theſe. Firſt, *Lex* ſignifieth only the law, but [a] *Ius* ſignifieth alſo that place, wherefoeuer the Law or Iuſtice was adminiſtred: not only if it were adminiſtred out of the Tribunall in the *Comitio*, or great hall of Iuſtice, which was tearmed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a private houſe or in ones iourney, ſo that it were by a lawfull Magiſtrate, and out of the curule chaire; and this was tearmed by the Lawyers, *Agere de Piano*: and hence is it, that *Ius vocare* ſignifieth to cite one into the Court. Secondly, *Lex*, ſignifieth only the written law, but *Ius* ſignifieth equity, ſo that [b] *Ius permaneat ſemper, nec vnquam mutetur: Lex vero ſcripta ſæpius*. Notwithſtanding theſe two words are vſed promiſcuouſly one for the other, and therefore leauing all curious differences betweene thoſe words (whether the

a Sig de iud. l.1.c.7.

b Fr Sylv. in orat. pro Mil.

Roman

Roman lawes were truely *Iura* or *Leges* (thus much wee may obserue that the lawes vsed among them were of three sorts: either they were such as were made by severall *Roman* kings, and afterwards collected and digested into a method by *Papirius*,[c] from whence it was called *Ius Papirianum*: or they were such as the *Decemviri* brought from *Athens*, and were called *Leges 12. tabularum*: or lastly they were such as the *Consuls*, the *Tribuni Plebis*, and such Magistrates did preferre, whence every severall law bore the name of him or them that preferred it. My purpose is to explaine only this latter sort, and that not all of them, but such alone as I haue obserued in *Tully*, and that chiefely in his orations. My proceeding shall be first to shew the divers kinds of iudgments; and then to descend vnto the lawes themselues, beginning with those which shall concerne the *Roman* religion, and then proceeding to the others, which concerne the commonwealth.

c Fr. Silv. pist. virorum illust. l. 5. cp. 11.

Cap. 2.

De Iure publico & privato.

THe cases to bee decided by the law were either publike or private, and accordingly were the iudgements,[d] *vel privata in quibus ius suum privatus quisq; persequebatur: vel publica, in quibus iniuria quæ reip. facta erat vindicabatur* The private (as we obserue before) belonged vnto the *Prætori vrbano & peregrino* that is, the Lcheise Iustices, who did either giue iudgment themselues, and then were they said *iud care*, or they did appoint others to sit in iudgement, and[e] then were they said *Iudicium dare*: in the absence of the *Prætors* there were ten called *Decemviri Stlitibus iudicandis, id est,*[f] *Super lites iudicãdas*, who in the same manner as the *Prætor*, might either giue iudgment themselues, or appoint others, for they were euen in[g] one place and

d Sig de iure Rom. l. 2. c. 3.

e Sig de iud. lib. 1. c. 7.

f Rosin. ant. l. 7 c. 29.

g Alex. Gendier. l. 3. c. 16

and insteed of *Prætors*. Those which either the *Prætor* or the *Decemviri* did appoint to debate the cases vnder them, were taken out of the *Centumviri*, that is, [h] out of certaine commissioners chosen for that purpose; namely three out of euery Tribe or ward; so that in all, the number of them amounted vnto an hundred and five, but in round reckoning they went for an hundred; and from a certaine speare that was wont to be erected vp in token of this court, hence was the [i] Court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their forme of acquittance was thus: [k] *Secundũ illam litem do*, whence *Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we doe not deny, but they may be acquitted. Those that were cast in their suit, were said, *Lite vel causa cadere*. The publike cases belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authority) vnto those whom we called *Prætores Quæsitores*. Some haue [m] thought them to bee the same with those, whom *Rosinus* calleth *Iudices Quæstionum* and that I thinke not altogether vpon vnsure grounds: first because most of these publique cases which they tearmed *Quæstiones*, had their [n] seuerall *Prætors* to enquire them, whence they were called *Quæsitores*, & may in my opinion be called *Iudices Quæstionum*, especially seeing that those which would haue them bee different officers, cannot well shew the differences of their offices. Now as the Vrban *Prætor* had an hundred commissioners vnder him: so had these *Prætores Quæsitores* certaine Iudges chosen [o] by the Vrban or forreigne *Prætor*, when he tooke his oath; and that not according to his pleasure as many as hee would, or whom hee would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of *Roman* Gentlemen, sometimes out of both, sometimes also out of other orders, [p] according as the law appointed, which oftentimes varied in those points. The Iudges how great soever the number was, [q] were called *Iudices selecti*, & were divided

h Pet Ramus. in 2 m de lege Agrar.

i Sid de iud lib 1. c. 28.

k Sic de iud. lib. 1. c. 29.

l Cic. pro. Quin. Roscio.

m Rosin ant. lib. 2. c. 18.

n Sig. de iud. lib. 2. c. 4.

o Sig de iud. lib. 2. c. 6.

p Sig. ibid.

q Sig de iur. Rom. l. 2. c. 18.

vided into severall companies called *Decuriæ*. These Iudges were vpon any citation from any of the *Prætors*, to giue their assistance in the Court vpon the day appointed by the *Prætor*. Now the manner how they did proceed in their iudgment followeth in the exposition of one of the Lawes, and therefore I will refer the reader thither. Only let him by the way vnderstand, that whereas *Tully* is quoted in every law, it is not so much for the proofe of the law, as to signifie, that he in that place maketh mention thereof. For the proofe of the lawes I referre the reader to *Rosinus* and *Sigonius*: touching the expositions, my marginall quotations doe proue sufficient.

CAP. 3.

De legibus religionem spectantibus.

Lex papiria.

L. *Papirius* Trib. *Pleb.* established a law touching the consecration or hallowing of places, that it should bee vnlawfull for any to consecrate either houses, grounds, altars, or any other things *Iniussu plebis*, that is, without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies tearmed *Plebiscitum*. Cic. pro Domo.

Roscia Lex.

L. Roscius Otho. Trib. *Pleb*, preferred a law, that whereas heretofore the *Roman* Gentlemen did stand promiscuously with the commons at their theatrall shewes, now there should bee fourteene benches or seats built for those *Roman* Gentlemen which were worth H. *S. quadraginta*, that is about 3125 l. of our *English* mony. As for other Gentlemen whose substance was vnder the rate, they had a certaine place alotted them by themselues, with a punishment imposed vpon them, if they offered to come into any of those 14. benches. Cic. Philip. 2. Item pro Muræn.

Here we must note that this character H· S. standeth for a siluer coyne in *Rome* called *Sestertius*, and is by *Rosinus* in this place improperly vsed for *Sestertium*. For this character H·S. is by our printers false printed, the true character [r] being L.L.S. signifying *duas libras*, (as the two L.L. doe intimate) & *Semissem*, which is intimated by the letter S. Where if *Libra* doth signifie no more then the *Roman* coyne called A S, then is this opinion touching the character. LLS. easie to be confirmed. For divers authors [s] rendring a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, hat is, such a coyne as conteineth *Duos solidos asses & semissem*. This *Sestertius*, was such a common coyne among the *Romans*, [t] that *Nummus* and *Sestertius* became at length one to be vsed for the other; [u] *Mille huiusmodi sestertii vel nummi faciunt vnum sestertium in neutro genere, & conficiunt plus minus viginti quinque coronas*. According to which rate, *quadringenta sestertia* amounteth to 3125: and euery particular *sestertius* is according to this rate, in value three halfe-pence farthing *q*.

[r] Fr Matur. in Philip. 2.

[s] Chr. Hegendorphius in Verinam 1.

[t] P. Nannius in Verrin. 5.

[u] Ch. Hegendorphius in Verrin. 5. m.

And here wee may fitly obserue the art of numbring by these *Sesterces*, which consisteth in three rules. First, if the numerall or word that denoteth the number be a noune-adiectiue agreeing in case gender & number with the substantiue *Sestertius*, then it signifieth precisely so many *Sestertij*: For example sake; *Decem sestertii* doe signifie so many times *id ob q^a q*. Secondly if the numerall being an adiectiue, and of a different case, be ioyned with *Sestertium* in the genitiue case plurall, then doth it note so many thousand *Sestertii*: For example, *Decem sestertium* signifieth ten times $7^l\ 16^s\ 3^d$. Thirdly if the numerall ioyned with *Sestertiũ* be an adverb, then it signifieth so many hundred thousãd *Sestertii, ex gra: Decies sestertium*, doe signifie ten hundred times $7^l\ 16^s\ 3^d$. Yea the numerall being an adverb, is sometimes but simply by it selfe, without the addition of any other word to signifie in the same manner, the genitiue case *Sestertiũ* being vnder-

stood.

stood. For the better conceauing hereof, the former example may be thus set downe.

Decẽ sestertii.	*valent*	10 *Sestertios*	*De nostro*	0000	01	6d	½	q[a]
Decẽ sestertium		10 *Millia sestertium*		0078	02	6		0
Decies sestertium		10 *Centena Millia sestertium*		7812	10	0	0	0
Decies								

Clodia lex.

Publius Clodius Trib Pleb. made a law, by vertue whereof the Priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddesse) should be deprived of his Priesthood, and the Temple built in the honour of this Goddesse should be bestowed vpon *Brotigarus*, of *Galla Gratia.* Cic. pro Sext item de Aruſp respon.

Domitia lex.

Cn. Domitius Abenobardus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordaine, that the lesser part of the people, namely seaventeene Tribes should elect whom they thought fit. and afterward hee should haue his confirmation or admission from the Colledge. Cic. Agrar.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priviledged from their service in all warres, except onely in vproares or civill tumults. [x]And these priviledges were tearmed *Vacationes,* Cic Philip. 8. & pro Font.

[x] B Latomus in Philip. v.

Cap. 4.

De Civitate, & iure civium Rom.

Forcia lex de civitate.

Cic pro Rabir. & sæpe alias.

M. *Forcius Trib. Pleb.* established a law, that no Magistrate should beate any *Roman* Cittizen with roddes.

Lex Sempronia.

Cic pro Cluentio. & sæpe alias.

C. Sempronius Gracchus Trib. Pleb. preferred a law whereby hee disabled the Magistrate from punishing any *Roman* Cittizen, either with rods, or with his axe, that is, with death; without the allowance of the people. Secondly, by vertue of this law, If any Magistrate did condemne any *Roman* Cittizē *Indicta causa* he should be liable to the iudgment and censure of the people. A third clause to this law was. *Ne quis coiret, conueniret, quo quis iudicio publico circumueniretur Indicta causa.* He was said to bee condemned *causa indicta*, which was condemned before hee had spoken for himselfe. Although [y] *Indicere pro non dicere, sicut & invidere pro non videre vix reperiatur, tamen indictū & invisum, pro non dicto & non viso sæpe reperiuntur.* [z] They were properly said *Coire*; which did worke vnderhand against a man, that he might be condemned; we may translate it in this place, to Conspire [a] The verbe *Circumvenio* doth commonly signifie as much as *circumscribo*, to deceaue or cheate one: but in this place to oppresse one with false iudgment, procured by bribery or confederacy.

y P. Ramus in orat pro Rabirio.
z Fr. Silv. in orat pro Cluentio.
a I Camerar in orat Cic pro L. Flacco.
b Fr. Silv. in orat. pro Cluentio.
Cic pro Balb.

Lex Papia de peregrinis.

The priviledges of the *Roman* Cittizens became so great, that almost all the inhabitants of the confederate nations, would forsake their owne dwellings, and vse meanes to become free denisons in the *Roman* Citty; insomuch that the Embassadours of the Allies, and associates, did grieue much

and

& complaine of the losse of their inhabitants: wherevpon a law was made by *Papius*, that all forreigners & strange commers should be expelled out of the Citty. To the same effect was *Lex Iunia*, and also *Licinia Mutia de peregrinis*: the first being preferred by *Mar. Iunius Pennus*: the second by L. *Licinius Crassus*, and *Q. Mutus Scaevola*. Cic. offic. l. 3.

Servilia lex de civitate:

C. *Servilius Glaucia* preferred a law, *Ut si quis Latinus*, if any of the Latine associates could proue an action of bribery against a *Senatour*, then should he be made a free-man of the Citty. Cic. pro Balb

Quis Latinus] Here wee will obserue with [c] *Sigonius*, that the Latine people were not alwaies called *Latini & Italici*: *Sed & socij & Latini socij & socij nomnis Latini. & socij nomenq; Latinum, & socij ab nomine Latino, & socij ac Latinum dicti sunt* c. Sig. de iura Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis.

Sylvanus and *Carbo* being *Tribuni Pl.* preferred a law, *vt qui fœderatis civitatibus adscripti essent, si tum, cum lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, cives Romani essent.* Cic pro Archia.

Adscripti.) For the right vnderstãding hereof we must note that there were two sorts of cittizens; some *cives nati*, that is, cittizens by birth, others *civitate donati*, that is, cittizens by donation, or gift: who because they were added vnto, and registred with the first sort of cittizens, were thence called *Adscripti cives.* [d] Fr. Silv. in orat pro lege Manil.

Professi apud prætorem.) This verbe *profiteri* is sometimes [e] *Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to render ones name vnto a Magistrate: and this construction it beareth in this place. [e] P. Ramus in or. Cic. Agrar. 2.

Cornelia de Municipijs.

L. *Cornelius Sylla* preferred a law, that all *Municipall* states should loose their freedome in the *Roman* citty, and also their priviledge of hauing commons in the *Roman* field. Cic. pro Domo.

Gellia.

Gellia Cornelia lex.

L. Gellius Publicola, & *Cn. Cornelius Lentulus* being consuls decreed a law, that all those private persons vpō whom *Cn. Pompeius* in his wisdome should bestow the freedome of the *Roman* cittizens, should euer be accounted free denisons.

Cic. pro Balb.

CAP. I.

De legibus ad comitia spectantibus.

Ælia lex.

Q. *Ælius Petus* asked a law in time of his consulship, *vt quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to giue their voices, the *Augures* should obserue signes and tokens in the firmament, & the magistrate should haue power *obnunciandi, & intercedendi*, that is, to gainsay and hinder their proceedings.

Cic multis in locis.

Ageretur cum populo.) Here we may note the difference betweene these two phrases, *Agere cum populo*, and *Agere ad populum*, [f] He was said *Agere ad populum*, whosoeuer made any speech or oration vnto the people, and this might bee done vpon any day indifferently, But then onely was it said *Agi cum populo*, when the people were assembl d to the giving of their voices by a lawfull Magistrate, and the people were demaunded that their opinion was in the matter proposed: and this could not bee done, [g] but vpon one of those daies which they called *Dies Comitiales*.

f Agel. l. 13. 14. cap.

g Bersman. de vet. dier. ratione ad finem, Ovid Fast. Cic in suis orat sæpe.

Fusia lex.

Pub. Furius sive Fusius Philus. being *consul* ordained a law, that vpon some certaine daies, although they were *dies Fasti* that is, Leet-daies, yet no Magistrate should summon an assembly.

Clodia

Clodia lex.

Cic pro Sext.

P. Clodius Trib. Pl. abrogated both those former lawes, making it vnlawfull to obserue signes and tokens in the heavens, vpon those daies when the *Roman* people were to bee assembled: And secondly, making it lawfull to assemble the people vpon any Leet-day whatsoever.

Gabinia lex.

Cic.3.de leg.

At first, for many yeares the *Roman* people in their assemblies did suffrage *Viuâ voce*: at which time many of the inferiour sort, gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better helpe in this point, *Gabinius* asked a law, that the people in all their elections might not suffrage *Viua voce*, but by giuing vp certaine tablets the manner whereof hath beene formerly shewne: whence both this, and all other lawes tending to this purpose haue beene called *Leges tabellariæ*.

Cassia lex.

Cic.in Lælio.

After *Gabinius*, *Cassius* also preferred a law, that both the Iudges in their iudgements, and the people in their assemblies should suffrage by rendring such tablets: [h] but this is to bee vnderstood onely of those assemblies by wards called *Comitia Tributa*: wherein they treated of mulcts and mercements,

h Rosin.antiq. lib.8.c 3.

Cœlia lex.

Cic.3 de leg.

Cœlius Trib. Pl. established a law, that not only in mulcts and mercements, but also *In perduellionis iudicio*, that is, in taintments of reason against any person of state (namely such as were *sacro sancti*) or against the common-weale, this *Tabellary* liberty should haue place, when the people should iudge thereof.

i Cœlius Sec. Curio in orat pro Milone.

In perduellionis iud. [i] This word *perduellis* doth signifie an enimie vnto the state, a traitour: and hence commeth this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto, [k] *Si crimen quod erat gra-*

k Sig.de iud. lib.3.c.3.

vissimum inter crimina, nempe imminuta maiestatis: si pœna, quæ erat acerbissima, nempe mortis.

Papiria lex.

Cic. de leg. 3 C. *Papirius Carbo Trib. Pl.* perswaded that not onely in their elections, but in the proposall of their lawes also, this suffraging by tablets should be vsed.

Sempronia lex.

Cic. multis in locis. C. *Sempronius Gracchus Trib. Pleb.* preferred a law, that the Associats of *Latium* should haue as great right of suffraging, as the *Roman* citizens.

Manilia lex.

Cic. pro Mur. C. *Manilius Trib. Pl.* preferred a law, that all those who were *Libertini*, in what tribe or Ward soever, should haue the right of suffraging.

CAP. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verrin. 7. Q. *Claudius Trib. Pleb.* perswaded a law that no *Senator* or *Senators* father, should haue any shippe, which should containe aboue three hundred of those measures called *Amphoræ* deeming that sufficient for the transportation of their corne from the *Roman* field. Secondly, by this law the *Senatours* were forbidden the vse of trading.

Amphora,] *Alexander Neopol.* obserueth two sorts of these measures, namely *Amphora Italica* containing 2 *Vrnas* & *Amphora Attica* containing 3 *Vrnas*: every *vrna* contained two gallons and a pottle. This in probability is vnderstood of the *Italian Amphora.*

l Alex. Gen. dier. l. 2. c. 20.

Tullia lex.

Cic. Philip. 1. When as a custome had growne, that many of the *Senators* hauing by speciall fauour obtained *Liberam legationem*, vpon

vpon all occasions would abuse that their authority, procuring thereby their priuate gaine, & the increase of their owne honour, then *M. Tullius Cic.* being *Consul* laboured, quite to take away these kindes of embassages, which though hee could not effect, yet thus farre he prevailed; That whereas in former times this *Libera legatio* being once obtained, was neuer (not through a mans whole life) taken from him againe, yet afterward this authority should neuer bee granted to any longer, then the space of one yeare.

Legatio Libera. We may obserue in ancient authors three seuerall kindes of embassages. The one, which is a message sent from the Prince or chiefe gouernours of one country vnto another, and that is expressed commonly by this one word *Legatio*, without any addition therevnto; sometimes it is called *Legatio mandata.* The second, which is when one purchaseth the title of an Embassadour, thereby the more honourably to performe some vow made, whence it was called *Legatio votiua.* The third is the office or title of an Embassadour, granted vpon speciall fauour vnto a *Senatour*, that hee might with the greater authority prosecute his private suits in law, or gather vp his debts in that Prouince whether he went, this last was tearmed *Legatio libera.* All three sorts are briefly touched by [m] *Toxita.*

m M. Toxita in orat. Phil. I.

Cap 7.

De *Magistratibus.*

L*Cornelius Sylla* being *Dictator*, made a law, that all such as would follow him in the civill warre, should obee capable of any office or magistracy before they came vnto their full yeares. A second part of this law was, that the children of such as were *proscripti*, should be made vncapable of the *Roman* magistracies. Cic. in Pison.

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made such as were vnder age, to bee vncapable of the city preferments: and those he accounted vnder age, who had not attained vnto that number of yeares which he had prescribed each seuerall office: [n] and this law was tearmed *lex annalis*.

n P. Ramus in Agrar. 2.

Proscripti were such persons as were banished. For the fuller vnderstanding, looke Proscription in the tract of punishments. *Iulius Cæsar* did contrary to this law. *Admisit ad honores & proscriptorum liberos. Sueton. Iul.* 41.

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should bee made vncapable of all places of office.

Cornelia lex.

Cic Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the L. chiefe Iustices not to giue sentence alwaies according to equitie, yea sometimes to goe quite contrary to their owne Edict, made a law, that every L. chiefe-Iustice should administer iustice according to that his first Edict, hanged vp at the beginning of his office. And addition vnto this law was, that the L. chiefe-Iustice should not bee absent out of the city aboue ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censors* did plainely gainesay it, and make opposition therein. But many abusing this their authority. P. *Clodius Trib. Pl.* made a law, that the *Censors* should not ouerskippe any in their election of *Senatours*; neither should they brand any with disgrace, except such as had beene accused vnto them, and beene condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus* being *Interrex*

rex, in the vacancy of the *Consuls* preferred a law, that *L. Cornelius Sylla* should be a perpetuall *Dictator*.

Cornelia lex.

L. Cornelius Sylla in the time of his *Dictatorship*, did by vertue of a law preferred by him, clip the authority of the *Tribuni Pl.* disabling them of bearing any office after the expiration of their *Tribuneship*, taking away their authority of preferring lawes, of vsing any solemne speech, or publike oration vnto the people, of hearing appeales, of hindring any statute, or decree tending to the hurt of the populacy. Cic. 3 de leg.

CAP. 8.

De Legibus.

Cæcilia Dedia lex.

Q. *Cæcilius Metellus*, & *Titus Didius* being *Consuls*, forbad that *Vna rogatione*, that is, in one and the same bill many things should bee proposed vnto the people: least by that meanes, the people by granting the whole bill, might grant something which they would not, or in denying the whole bill, might deny some particular clause which by it selfe they would haue accepted. Moreouer these two *Consuls* ordained, that before a law should be asked in the assemblies it should be promulged, that is, hanged vp to the publique view of the people three market daies. Cic. pro domo sua ad pontif.

Iunia Licinia lex de trinundino.

Iunius Silanus, and *L. Licinius Murana* being *Consuls* established that law of *Cæcilius* & *Didius*, annexing a more severe punishment for the breakers thereof. Cic. Philip. 5.

Clodia lex de intercessione.

P. Clodius Trib. Pl. made a law, that the *Trib. Pl.* should haue full authority, and power to propose lawes; neither should they be hindred by the *Intercession*, that is, gainsaying of any. Cic. pro Sext.

Licinia Æbutia lex.

Cic. pro domo sua ad pontif.

Licinius and *Æbutius* being *Trib. Pl.* ordained that if any preferred a law touching the ouersight, the charge, or cure of any busineſſe in hand; neither he, nor any fellow-officer with him, nor any allied unto him ſhould haue his ouerſight, or charge committed to him.

CAP. 9.

De Provincijs.

Sempronia de Provincijs.

C. *Sempronius Gracchus Trib. Pl.* ordained, that the *Senate* every yeare before the election of their *Conſuls*, ſhould as it ſeemed beſt to them, appoint out what Provinces the *Conſuls* now to bee elected, ſhould after the expiration of their office goe vnto; for which Provinces afterward the *Conſuls* deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times by a decree from the Senate, it was lawfull for the *Tribunes* to hinder the *Romane aſſemblies*, hence forward they ſhould haue no authority.

Cic. de prou. conſulatibus.

Cornelia de Provincijs.

Cic. ep 9. ad Lentul.

L. *Cornelius Sylla* being *Dictator* preferred a law, that whoſoever went into a Province *cum imperio*, *tam diu illud imperium retineret, quoad in vrbem reverſus eſſet*: where as in former times his rule and gouernment was to be reſigned at the expiration of a ſet time appointed: yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new commiſſion. A clauſe added vnto this law was that after the comming of any new *Preſident* or Gouernour into the Province, the old *Provinciall Preſident* ſhould depart within thirty-daies.

p Sig. de iure. Prov. l. 3. c. 13.

q Sig. eiusd. lib. cap. 6.

Eſſe cum imperio.] that is p *Exercitui praeſſe*, q *vel habere ius adminiſtrandi, & ſuis auſpicijs gerendi belli.*

Titia

Titia lex de Provincia.

Titius, or (as [r] some say) *Decius* preferred a law, that the Provinciall Treasurers called *Quæstores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell vpon *Servius Sulpitius*, yet in as much as it fell *Lege Titia*, that is, by casting lots, he could not therefore challenge any superiority aboue *L. Muræna*, *Sed vtriusq; nomen consedit in Quæstura*, that is, their fame and renowne was equall in their *Quæstorship*. Cic. pro L. Muræn. r Melancth. in orat. pro Muræna.

Iulia lex de Provincijs.

C. Iulius Cæsar established two lawes touching the *Roman* Provinces: one that no *Prætor* should gouern a Province aboue twelue months; nor *Proconsul* aboue two yeare: The severall heads or clauses of his second law could not all be found out, but those which haue come to light are these. First that *Achaia Thessalia*, and all *Gracia* should bee free; neither should any *Roman* Magistrate sit in iudgment in those Provinces (*Cic. pro domo*) Secondly, that the Provinciall governours and their *Comites*, that is, assistans, or attendants should haue hay, and all other necessaries provided them on the way, by those Townes aud Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the provinciall Magistrates at their departure, should leaue a booke of their accounts in two Cities of their Province, and likewise should send a coppy of their accounts vnto the *Roman* Treasure-house (*Cic. in Pison.*) Fourthly, that it should neither be lawfull for the people to bestow, nor for the Provinciall Magistrate to receaue *Aurum coronarium* vnlesse it were in a triumph (*Cic. in Pison.*) Lastly, that it should be vnlawfull for the Provinciall Magistrate without the allowance of the people or the *Senate*, to depart out of their province, to lead forth any army, to wage warre, or to goe into any forraine country. (*Cic. in Pison.*) Cic. Phil. 1.

Aurum coron.] There was a custome among the *Romans* in [s] Lips. de mag. Rom. l. 2. c. 5.

in times of victory to present vnto the L. Generall Coronets of gold, insteed whereof the after-ages presented a certaine summe of mony, which was thence called *Aurum coronarium.*

Vatinia de Provincijs.

Cic. pro Balb. *P. Vatinius Trib. Pl.* procured a law, that *Iulius Cæsar* should haue the goverment of *Gallia Cisalpina* and *Illiricum* for fiue yeares space, without any decree from the *Senate*, or casting lots. Secondly, that they also should goe as Legates, or L. Deputies vnto *Cæsar*, without any decree from the *Senate*, whatsoever were nominated in that law. Thirdly, that *Cæsar* should receaue mony out of the common Treasure-house towards hauing an army. Lastly, that hee should transplant a Colony vnto a certaine towne of *Cisalpina Gallia*, called *Novocomum.*

Clodia de Provincijs,

Cic. pro Dom. *P. Clodius* being *Trib. Pleb.* procured a law, that the goverment of *Syria*, *Babylon* and *Persia* should be committed to *Gabinius*. The gouerment of *Macedonia*, *Achaia*, *Thessalia*, *Græcia*, and all *Boetia* should be committed vnto *Piso*; and they should receaue together with an army, mony out of the common Treasurie towards their iourny.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another law, that the Iland *Cyprus* should be made a Prouince. That *Ptolomæus* the king of *Cyprus* sitting in his purple, with his scepter & other his princely ornaments, *Præconi publico subijceretur, & cum bonis omnibus publicaretur*, that is, should himselfe with all his goods be sold by a common cryer. That *M. Cato* being then Treasurer, *cum iure Prætorio, adiecto etiam Quæstore*, hauing by cõmission the office of a L. chiefe-Iustice, and another Treasurer to accompany him, should bee sent into the Iland *Cyprus*, both to make sale of the kings goods and estate, and also to bring backe the mony. Lastly, it was decreed by this law, that those who lived in exilement at *Byzantium* being condem-

condemned for some capitall crime should be brought back vnto the citty, vnder the name of *Romanes.*

Præconi publico subyceretur.] For the better vnderstanding of that phrase, we are to vnderstand the manner of port-sale amongst the *Romanes*: which wee may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publikely sold *Per præconem sub hasta*, that is, by the cryer vnder a speare sticked vp for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *Publico præconi subijci*, and *Hastæ subijci*, to signifie one and the selfe same thing, namely, to be set at sale: and [t] *Cicero* vseth almost the selfe same phrase, *Bona Cn. Pompeij, voci acerbissimæ subiecta præconis.* This kinde of sale was tearmed *Auctio*: because as *Sigonius* saith in the same place, to him the goods were sold, *Qui plurimum rem augeret*, that is, which would bid most for it: and hence is the seller thereof tearmed *Auctor*, as [u] *Cic. Id quod à malo auctore emissent*, that is, that which they had bought of one which had no authority to sell. and from this custome of setting up a speare in this kinde of sale, this word *Hasta* alone is vsed to signifie port-sale, as [x] *Hasta Cæsaris*, the sale of *Cæsars* goods. Those who bought these goods [y] *Tully* doth call *Sectores* [z] *qu a spem lucri sui sectabantur.* In such kinde of sales a catalogue or note of the goods to be sold was hanged vp in tables for the publique view of passengers. Whence such goods were tearmed *suspensa bona.* And if any friend would redeeme the goods, then did he *deijcere libellos*, that is, put in bands and security to answere the matter. The phrase is vsed by *Tully Cic. pro Quintio.* And also by *Seneca, de benef. lib. 4. cap. 12. Suspensis amici bonis libellũ deijcio, creditoribus eius me obligaturus.* It is thus explained by *Turnebus adv. l. 12. cap. 9.* If the sale proceeded on, then such as proposed to bee chapmen, signified their desire by holding vp their finger: whence *Digitum Tollere* signifieth the desire of buying such goods. *Alex. ab Alex. l. 4. cap. 26.*

t Cic. Phil. 11.

u Vorrin. 7.

x Cic. Phil. 8.

y Cic. in Ver.

z Sig. de iud. lib. 2. cap. 24.

Cap. 10.

De Legibus Agrarijs.

THose lawes were tearmed *Leges Agraria*, which did concerne the diuision of the publique, or common fields. And these were either giuen by *Romulus* and other Kings; or taken from the enemies, or from priuate men which had made inclosures; or lastly bought out of the common Treasury. *Vide* [a] *Sigon.*

de iure Ital. l. 2. c. 2.

Sempronia lex Agraria.

Titus Sempronius Gracchus Trib. Pleb. preferred a law which forbad, that any of the *Romans* should haue to his owne part aboue five hundred acres of the common fields, the one halfe of which it was lawfull for his sonne to enioy. If it had so happened that any should enlarge these common fields, three suruayers called the [b] *Triumviri agro diuidendo*, did mark out which was common, which priuate ground. Moreouer it was by this law prouided, that the mony of king *Attalus* who made the people of *Rome* his heire might be bestowed vpon those citizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreouer that the kings lands should be farmed out at a set rent by the *Censors*, whence an yeareley tribute should be paid to the people.

Cic. pro Sext.

[b] Sig. de iure Ital. l. 2. c. c.

Cornelia lex.

L. Cornelius Sylla being *Dictator* preferred a law, that all the fields of those *Romans* which he had banished, should be common. This publication is to bee vnderstood chiefly of those fields in *Thuscia*, neere vnto the Citty *Volaterra*, & the citty *Fesulæ*, which grounds *Sylla* diuided amongst his souldiers.

Cic. in Rull.

CAP.

CAP. II.

De frumentarijs legibus.

Sempronia lex.

T *Sempronius Gracchus* being tribune of the commons prouided, that a certaine quantity of corne should monthly be giuen vnto the poorer sort at a low price. *Semisse & triente:* that is, about six pence farthing a bushell. Herevpon was there a place appointed in *Rome*, for the keeping of this common corne, together with certaine lawes hanged vp there called *leges frumentaria.* This place was called [c] *Horrea Sempronia.* The quantity of corne laid vp in every Citty for this purpose is by the latter Lawyers tearmed *Canon:* as *Canon Alexandrinus*, *Canon vrbis Romæ. &c. vide. Stuck. de conviv. lib. 1. c. 35.*

Cic. pro Sext.

c Rosin. ant. lib. 8. c. 21.

Semisse & triente] It appeareth by the next law, that *Semissis* in this place, must signifie the same as *senis æris* doth there. Whereby wee may note, that *semissis* doth not alwaies signify the halfe part of the *Romon* coyne called *As*, but sometime it signifieth a greater coine valuing almost our six pence.

Clodia lex.

P. *Clodius* Trib. *Pl.* ordained, that that corne which heretofore was sold to the poore *senis æris & trientibus in singulos modios*, that is, for six pence farthing a bushell, should hereafter be giuen *gratis*, and charge and ouersight of this dole was committed to *Sext claudius*

Terentia Cassia.

M. Terentius and *C.* Cassius being Consul preferred a law, *Vt alteræ decumæ à provincijs coemerentur. pretio in singulos modios. H.S. trium constituto. Item vt ciuitatibus æqualiter imperaretur, pretio in singulos modios H.S. quatuor constituto.*

Cic. pro Sext. in Pisone. Cic. Verrin. 5 & 7.

For the better vnderstanding of this law, wee must note [d] a threefold tithe payd by the Provinces. The first was the tenth part of the graine, growing in the Prouince to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and those that tooke this tithe to rent were called thence *Decumani*. A second sort of tithes was a certain quantity of corne taken vp for the L. president or chiefe governour of the Province, to keepe his house, & that was called *Frumentum æstimatum*, that is, corne gathered vp by way of taxation: for so this word *æstimo* comming from *as* doth signifie, [e] *Est autem æstimare ab ære dictum, id quod vulgo dicunt appreciare & taxare*. The third sort of tithes, was when the *Senate* finding scarcity of corne in *Rome*, did inioyne the Prouinces to sell them a quantity of corne at a price set downe by the *Senatours* themselues, and this corne sold vpon iniunctiō if it was paid but once in the yeare, it was tearmed *Frumentum emptum*: but if in the same yeare a second sale was inioyned them, then they called that second pay *Frumentum imperatum*. In the first clause of this law by *alterā decumā* is meant *Frumentum emptum*; in the second clause, by these words [*ciuitatibus æqualiter imperaretur*] is vnderstood *Frumentum imperatum*.

[d] Sig. de iure Prov. l. 1. c. 1.

[e] Fr. Sylv. in orat. pro Cluentio.

Lex Hieronica,

Hiero king of *Sycily* obtained a law, wherein was set down the quantity of corne that the *Aratores* or country farmers should pay vnto the *Publicani*, that is, those which receaued the tithes, together with the time of payment and the price agreed vpon.

Cic. Verrin. 4.

CAP 12.

De legibus sumptuariis siue cibariis.

IN ancient times there was a commendable frugality among the *Romanes* in their feast, but after ages grew to immoderate excesse therein, so that whole Goates and Boare

Boares &c. were set on the table at one time. Such a hogge thus dressed *Cincius* was wont to call[a] *Porcum Troianum*, alluding to the *Troian* horse; because the belly thereof was stuffed with variety of fowle and rabbats. & such like, as the *Troian* horse was with armed men. This kinde of excesse *Tiberius Casar* laboured to redresse, by seruing at table his cold halfe-eaten dishes at solemne feast, vsing this proverb[b] *Dimidiatus aper omnia eadem habet quæ totus*. Hence also men of seuerer discipline enacted lawes tearmed *Leges sumptuariæ* or *Cibariæ*, which prescribed a moderation, not onely for the charges in their greatest feasts, that they should not exceed such and such summes of mony, but also for the guests to bee inuited, that they should not exceed such a number. The chiefe of these lawes were these that follow.

a Stuck de cõviv. lib. 3. c. 3.

b Suet. Tibet 34.

Lex Orchia.

C. *Orchius* being protector of the commons, by the consent of the *Senate*, the third yeare before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia.

Twenty two yeares after *Orchius* his law *C. Fannius* being *Consul* enacted another, for the moderatting of expences, allowing: *Non plures denis assibus* to bee spent in their ordinary feasts: But vpon those more solemne feasts dedicated vnto *Saturne*, and from thence called *Saturnalia*, likewise when any publique games were exhibited to the *Romane people*, he then allowed *Centum asses*, ordaining that no other fowle should then be dressed but only one henne, & that not fatted for the purpose.

Non plures denis assibus] The *Roman* coyne *As* was so called[c] *quasi æs*, because the matter thereof was *brasse*; [d] at first it consisted of a full pound weight; afterward in the first *Punick* warre, by reason of the scarcity of mony, they made of euery pound of brasse six of those coynes, each valuing as

c Varro lib. 4. de ling Latina

d Plin. l. 33. c. 4

much as they did at first. In the second *Punick* warre there were twelue made of every pound; at last by vertue of a law which *Papirius* enacted, foure and twenty were made of a pound; and so they continued; the value alwaies remained the same, *videl:* ob. q[a]. so that to allow but ten of these to a feast, seemeth a matter altogether vncredible, but consider with the frugality the cheapnes of those times, it may bee graunted for a truth;[e] for tenne of these were the price of a sheepe, and an hundred the price of one oxe.

[e] A. Gel. 11. cap. 2.

Lex Didia.

Eighteene yeares after *Fannius*, *Didius* ordained that the former sumptuary lawes should bee of force, not onely in *Rome*, but throughout *Italy*; Moreouer that not onely the feast-master transgressing, but all the guests should bee liable to the penalty.

Lex Licinia.

P. Licinius crassus preferred a law in a manner agreeing with the *lex fannia*, whereby hee rather confirmed *Fannius* his law being now antiquated, made an new.

Lex Cornelia.

Cornelius Sylla being *Dictator* ordained a law for the price of meates, so that he was thought by cheapnes of vittayles to encrease, rather then to restraine superfluities at feasts.

Lex Antia.

Antius Restio preferred a vseful law, to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated, by the contrary practise of the Citizens in generall. For which cause, *Restio* afterward being invited, would neuer come to any feast, because he would not be an eye-witnesse of the contempt of that law, which himselfe had caused. If any desire to see more lawes of this nature, let him read *Stuck. conviv. lib. 1. cap. 3. Aul. Gell. lib. 2. cap.* 24. And *Macrob. Saturn. lib. 3. cap.* 17.

CAP 13.

De re militari & bellis.

Gabinia lex.

A *Gabinius* Tr. *Pl.* preferred a law that the managing of the warre against the Pyrates should be in such manner committed vnto *Pompey* for three yeares space, that ouer the whole sea betweene *Hecules* his pillars, and in the maritine prouinces vnto the foure hundreth *Stadium* from the sea, hee should haue power to command any Kings, L. Presidents, or whole corporations to furnish him with all things necessary to that warre. Cic. pro lege Manilia.

Manilia lex.

C. *Manilius Trib. Pl.* perswaded a law, that the man aging of warre against *Mithridates* should be committed vnto *Cn. Pompeius.* That the whole Prouince where L. *Lucullus* ruled together with his whole army should bee resigned vp vnto him. Moreouer that *Bithinia*, where *Glabrio* ruled, should be added, together with all those bands and forces, which he had vpon the sea against the Pyrats, and all those prouinces, over which the law *Gabinia* did entitle him governour, as *Phrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cilicia*, *Colchis superior*, and *Armenia*. Cic. pro lege Manilia.

CAP. 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof [f] *Camerarius* obserueth foure sort, & wee may with *Peditarius* adde the fift. Either the ouerseers were appointed by will; or else the next of the kinne were overseers; or the magi- [f] l. Camerar. in orat. pro L. Flacco.

magistrate did appoint whom he thought fit: and these three sorts g *Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Datiuam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum est, qui emancipati desijssent esse agnati*. the fift h *Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certaine chiefe ouerseers were appointed to see the will performed, who were called *Tutores honorarij*. i Where wee must note, that the law provided ouerseers, not for children vnder age onely, but for women also.

g I. Omphal. in orat. pro Cæcinna.

h Pellitarius pro Cæcin.

i Cic pro Muræn.

Emancipati desijssent esse agnati] By the *Roman* law euery sonne was in such subiection vnto his father, that before hee could be released of this subiection, and made free, he should by an imaginary sale k be sold three times by his naturall father to another man, who was called by the lawyers l *Pater fiduciarius*, that is, a father in trust; yea and be bought againe by the naturall father, and so manumised by him, and then he became free. The forme of this kind of sale or alienatiõ is set downe more at large in the explanation of one of the lawes that followeth, with an example not much vnlike this. This imaginary sale was called *Mancipatio*, the children thus alienated from the father were tearmed *Emancipati*, this forme of setting free was tearmed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall vnto a child thus alienated, by the death of his father, then should not the ouersight of this child fall vnto the next of the kinne, tearmed *Agnati*, but *Quoniam desijt esse agnatus* that is, because he had in a manner lost his alliance with his kindred, therefore should the ouersight of the child belong vnto the father in trust, tearmed *Pater fiduciarius*, Whence the gardianship it selfe was called *Tutela fiduciaria*.

k Vid. leg. 12. tabul.

l Sig de iure. Rom l. 1. c. 10.

Latoria lex.

This law made by *Latorius* prouided, that there should be ouerseers appointed for those which were distracted, or did

Cic. 3. de offic.

did prodigally wast their patrimonie. For as it appeareth by the common adage, *Ad agnatos & gentiles deducendus est*, they did account all prodigals, mad men: they meaning no more by that, then we doe by our englisſh proverb, when we ſay of a ſpend-thrift: let him be begged for a foole. The reaſon of their adage was, becauſe if any were diſtracted, by the *Roman* law his wardſhip fell *Ad agnatos & Gentiles*, that is, to the next of the kindred.

Cap. 15.

de teſtamentis.

BEfore we deſcend vnto the lawes themſelues, we will explaine thoſe three divers ſorts of wils in vſe amongſt the *Romans*. Namely *Teſtamentum calatis comitijs*; which was ſo called, becauſe twice in the yeare in time of peace the *Roman* people aſſembled themſelues together to this end and purpoſe, that if any would make his will, the whole people might beare witneſſe therevnto: theſe aſſemblies were tearmed *Calata comitia*. Secondly *Teſtamentum in procinctu*, that is, when a ſouldier in time of warre ready to giue battle, did call out three or fowre of his fellowes, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making ouer his goods and poſſeſſions vnder a fained forme of ſale, vnto a ſecond party called *Hæres fiduciarius & imaginarius*, that is, an heire in truſt, who ſhould afterward reſigne them vnto the true & lawfull heire: and this imaginary kinde of ſale, was performed with certaine ſolemnities *circa as & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per as & libram*, ſometimes *Teſtamentum per Nexum*. For the proofe of this, which hath been delivered, touching the three ſorts of wils I

m Sig de iure Rom l.1.c.12.

will referre the reader to m *Sigonius*.

Furia Lex.

Cic. Verrin.3.

C. Furius Trib. Pleb. made a law, that it should not be lawfull for any to giue away in way of legacy, vnto any, except to the kinsmen of him which manumised him, or some other certaine persons *supra mille asses*, that is, aboue fifty shillings or there about, there going two *Asses & semis* to the making of one *Sestertius*.

Voconia lex.

Cic. Verrin.3.

Q. Voconius Saxa Trib. Pleb. tulit legem, Ne qui sensus esset virginem, neve mulierem supra quadrantem suorum bonorum haeredem institueret, plusue cuiquam legaret, quam ad haeredem, heredesuo perveniret.

Census.) This word *Census* doth sometimes signifie all such as haue tendred the iust valuation of their estate vnto the *Censors*: and then *Incensus* is opposite to it, signifiing such a one, as hath not tendred his estate or name to be registred by the *Censors*. But in this place *census* is taken for such a rich man, whose estate was in the *Censors* book valued at one hundred thousand *Sesterses*. (*Vid. Asconium in Verrin.3.*)

Supra quadrantem suorum bonorum) that is. No woman should be heire to more then one quarter of such a rich mans goods. For the right conceauing of this, we must note with n *Latomus*, that the whole inheritance (were it never so great) was tearmed *As*, and that was divided into twelue parts, which the lawyers called *Vnciae: Duae Vnciae dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, sex Semissis, septem Septunx, octo Bessis, nouem Dodrans, decem Decunx, vndecim Decunx, Totum As. vt dictum est*, Againe every *Vncia* was divided into six parts called *Sextulae: Duae sextulae Duellam, tres Semuncia faciunt*. So then according to the lawyers (as o *Alexander* obseruerh) if there were one heire alone instituted, he was tearmed *Haeres in Assem totum institutus*; if otherwise there were many co-heires, then was it according

n Barth. Latom. in orat pro Cecinna.

o Alex Gen. dier. l.1.c.1.

cording as the *Testator* did appoint. Some were *ex Deunce hæredes*, that is, heires to eleven parts of his goods, there being but one part bestowed from him: some were *heredes ex quadrante*, that is, heires to one quarter of his goods: others were *Hæredes ex semuncia*, that is, they had the fowre and twentieth part: others were *sextula asperſi*, that is, they had the threescore and twelfe part of the whole *As*, that is, of the whole inheritance, be it more or lesse, &c. Here we must vnderstand, that there is great difference betweene these two phrases, *Institui hæres in totum Assem, & ex toto Asse*. For all those, which were nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howsoeuer, yet were they tearmed *Hæredes ex toto Asse*, that is, they were not *Legatarij*, such as receaued legacies. Now none can be said *In totum assem instiui*, but he which is the alone and sole-heire vnto the whole.

CAP. 16.

De vsu-capione.

Atinia lex.

ATinius made a law, that the plea of prescription or long possession should not availe in things that had beene stolen, but the interest which the right owner had in those stolen goods, should remaine perpetuall. The words of the law are these: *Quod sureptum est, eius rei æterna auctoritas esset.* Whereby p *auctoritas* is meant *ius dominij*. This crime of theft, as likewise of vsury, was so odious vnto the *Romans*, that whosoeuer was found guilty thereof was condemned q *Lege quadrupli*, that is, to pay fowre times as much. whence the informers against such, were termed *Quadruplatores*.

Cic. Verrin. 3.

p Sig de iure Rom. l. 1. c. 11

q Fr. Sylv. in Verrin 1.

CAP. 27.

De Iudicibus, & Iudicijs.

Lex accusatoria.

TUlly mentioneth a law tearmed *Lex accusatoria* which in truth was no law, neither was there any author thereof: but there was such a receaued custome amongst the *Romans*, that the accuser should obiect against the partie accused, not onely the present crime then questioned, but all other scapes and faults committed long before to the bettering of this matter: that at length this accusatory custome became in manner of a law, and so was called *Lex accusatoria*. vid. *Franc. Sylvium in orat. pro Mur.* [r] Their custome also was to procure others to ioyne with them in their accusations; those [f] *Tully* calleth *Subscriptores*, because they did subscribe vnto the accusation.

Cic. pro Mur.

r Alex Gen. dier. l. 3. c. 5.

f Cic. pro Nuræn.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law, whereby hee tooke away the authority of sitting in iudgment from the *Senatours*, and appropriated it to the *Roman* Gentlemen; *Q. Servilius cæpio* being *Consul* did afterward preferre another law, whereby the administration of iudgement was diuided betweene the Senatours and the Gentlemen.

Curio in orat. pro Scauro.

Rupilia lex.

Rupilia lex vetabat diebus triginta sortiri dicam. Here we must note with [t] *Sigonius*, that this law was of force only in the province of *Sicilia*: also that it is one thing *scribere dicam*, that is, to enter an action, another *sortiri dicam*, that is, by lots to choose the Iudges, which was 30. daies after.

Cic in Ver.

t Sig de iure Prov. l. 2. c. 5.

Livia lex.

Though by vertue of *Servilius* his law the *Senators* were made capable of the office of a Iudge, yet they were not

Cic de orat. l. 3.

thereby

thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordaine, that the Iudges should be elected equally out of both orders, namely three hundred out of the *Senate*, and three hundred out of the Gentry.

Plautia lex.

M. Plautius Sylvanus preferred a law, that the number of Iudges should be chosen not onely out of the *Roman Senators* and Gentlemen, but out of the populacy also, namely out of every Tribe fifteene Iudges. Cic. pro. Cornel.

Aurelia lex.

L. Aurelius Cotta being *Prator* made a law, that the Iudges should be chosen out of the *Senators*, the Gentlemen and those Martiall Treasurers or clearks of the band called *Tribuni ærary*. Cic. in Verr. sæpe.

Pompeia lex.

Cn. Pompeius Magnus being Consul ordained, that the Iudges should be elected out of the wealthiest *Centuries*, tying the election notwithstanding to those three degrees of people, namely *Senators*, Gentlemen, and Martiall Treasurers; also hee added that the number of Iudges to examine causes should be seuenty and fiue. Cic. in Pilon.

Iulia lex.

C. *Iulius Cæsar* ordained, that the election of Iudges should be out of the *Senators* and Gentlemen onely, leaving out the Martiall Treasurers; and this *Tully* calleth *legem Iudiciariam Cæsaris*. Cic. Philip. 1.

Antonia lex.

M. Antonius tulit legem, vt tertia iudicum decuria è centurionibus, Antesignanis, Alaudis Manipularibus fieret. Cic. Philip. 1. & 5.

Iudicum decuriæ:] When the L. chiefe Iustice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*, that is out of such degree and place, as the law required, to sit in iudgement on those cases, which were tearmed *causæ publicæ*: and these Iudges hee afterward diuided into other

numbers called *Decuriæ. vid. Sigon. de iure Rom. lib.* 2. *c.* 12.

E Centurionibus.] *Centuriones* were Captaines ouer an hundred foot-men.

Antesignanis.] This word *Antesignanus* hath a double acception in the *Roman* histories. Sometimes *Antesignani* doe signifie the third part of the *Roman* army: For all those souldiers that fought before the banners or ensignes, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensignes, before which they fought. The second part of the army, as they were called *Principes* in respect of their prowesse and valour, so were they called *Subsignani*, as fighting vnder the ensignes, The third part; as they were called *Triarij*, because they fought in the third, or rereward, so were they called *Postsignani*, as fighting behind the ensignes. Where we must not think, that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensignes among themselues: (for every Maniple had his ensigne:) But the Eagle, and other chiefe ensignes were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely that all those souldiers of every Maniple, which stood in front before their ensigne were called *Antesignani*, and those were commonly the best souldiers in the company. See for the severall proofes of this, *Lips. milit. Rom. lib.* 2. *dial.* 3.

Alaudis.] *Iul. Cesar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did resemble the head of the Larke, called in French *Alauda. Barthol. Latomus in Phil.* 1.

Manipularibus.] Those Captaines which gouerned a Maniple of souldiers, were called *Manipulares. Fr. Maturantius in Phil.* 1.

Lex Cincia de donis & muneribus.

M. Cincius being protector of the Commons, M. *Cornelius*

ius Cethegus, and *P. Sempronius Tuditanus* being *Consuls* preferred a law, that no man should receaue gift or bribe from his cliẽt for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralem*: also in *Tully de senect.*

Cornelia lex.

L. Cornelius Sylla preferred a law, that the chiefe iudge of the bench called *Iudex Quæstionis*, should referre it vnto the choice of the defendant, whether he would haue iudgement passed on him *Clam an Palam*, that is, (as *Sylvius* obserueth either by voices or by tables. Cic pro Cluentio.

Memnonia lex.

This law (made by *Memnus*) prouided, that no action should be entred against those, who were employed abroad in businesses for the common wealth. An addition vnto this law was, that whosoeuer should *calumniari*, that is, forgoe an accusation against another, a certaine letter should be burnt in his forhead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with u *Fr. Sylvius* obserue the difference of these three phrases, *Calumniari*, *Prævaricari*, and *Tergiversari*. He which doth in his accusation forge faults neuer committed, is said *Calumniari*. Hee which vndertaketh ones suit, and either will not vrge reasons in the behalfe of his client, or answere the obiections of his aduersary when he is able, is said *Prævaricari*, that is, to Play the false *Proctour*. He which doth resist in his accusation, and let his suit fall, is said *Tergiversari*. Cic. in Vatin. Cic. pro Sext. Rossio. u Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

In ijs rebus quæ mancipi sunt; in periculum iudicij præstare debet, qui se nexu, obligauit, that is, if the buyer of any thing in that forme of sale called *Nexus* be troubled in law, the seller thereof must secure him, and saue him harmeless. Cic. pro Mur.

Mancipi sunt) x Those things were tearmed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such a forme of sale as followeth. The forme was thus: At the least fiue witnesses, all *Romane* Cittizens and of full age besides x Fr. Sylv. in orat pro Mur.

sides one called *Libri-pens* (from holding of a paire of ballances) should be present: and the chap-man or buyer should come with a certaine brasse coyne in his hand, and say (for example sake, if it were a bond-slaue to be sold) *Hunc ego hominem ex iure Quiritium meum esse aio, isq; mihi emptus est hoc are*; & forthwith strikeing the ballance with the brasse coyne he gaue it to him that made the sale. This kind of chaffering was tearmed *Nexus*, as wee may suppose *á nectendo*, because it did binde the celler to make good the sale.[y] sometimes it is called *per as & librum venditio*, because of the ceremonies vsed in it. Now it is commonly called *Mancipatio*[a] *à manus capione*, from taking that which is sold into ones hands or Possession: whence the word *Mancipatus*, and *Mancipium* are vsed to signifie a bond-slaue, that is in this manner solde; though sometimes *Mancipium* doth signifie the sale it selfe: whence *Cic.* vseth this phrase *Lex Mancipij*, to signifie a clause or condition put in the sale. All things sold after this manner were tearmed *Res mancipi*;[b] The word *mancipi* being a nowne indeclinable, as *Frugi, Cordi, Huiusmodi &c.* and from this forme of sale, the morgaging of land for the payment of mony may seeme to be called *Mancipatio fiduciaria*; He which did thus receaue the morgage, or land in way of securitie, is said *accipere fiduciam. Cic. orat. pro L. Flacco.* Vpon which place saith *Lambinus* in his annotations. *Accipere fiduciam, est fundum, aut aliam rem soli, seu vt appellant immobilem, ab aliquo mancipare, seu accipere ea lege, vt cum ille repetat ei remancipet.* We may coniect the reason of these ballances, why they should be vsed in this kinde of bargaining, to be, because in old time they did not bargaine by paying coined mony, which was called *Æs signatum*, but by paying a certaine waight of mony, whence such mony was tearmed *Æs graue*. And hence it is, that metaphorically we translate *Tendo* and *rependo*, to pay and repay.

y. Sylv. ibid.

z Melanct in orat. pro Mur.

a I. Camerar. in orat. pro Muræn.

b Priscian. l. 3. vid Fr. Sylv in orat. pro Mur.

c Alex. Gen. dier. l. 1. c. 15.

CAP. 18.

CAP. 18.

De Maiestate.

Lex Varia.

Q. *Varius Trib. Pleb.* made a law, that the *Prætores Quæsitores* should sit in iudgement vpon those, by whom the allies or Associates had beene moued to attempt warre against the *Roman* people. Cic. pro Cornel.

Iulia lex.

C. *Iul. Cæsar* ordained, that such as were condemned of treason, or causing vproares in the common wealth, should bee banished. Cic. Phil. 1.

CAP. 19.

De Ambitu.

THose lawes were tearmed *Leges de ambitu*, which were made against indirect or vnlawfull courses vsed in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poore men who because they were wont to follow vp and downe, & all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

M. Acilius Glabrio, and *C. Calpurnius Piso*, being *Consuls* made a law, that such as were conuinced of sinister and vndirect meanes vsed in their canvasses, should bee fined at a certaine summe of mony set on their heads, and they should bee made both vncapable of bearing office, and vneligible into a *Senators* place. Cic. pro Mur.

Senatus consultum de Ambitu.

Cic pro Mur. *M. Tullius* Cic. and *C. Antonius* being *Consuls*, a certaine decree was made by the *Senate*, that if such as did either salute or attend vpon those which stood for offices, were hired by any manner of reward; or if any publike prizes were occasioned to be plaid; or any publike feasts made by them, they should be liable to the censure of *Calpurnius* his law.

Tullia lex.

Cic. pro Sext. *M. Tullius* Cic. made a law, that no man standing for an office should cause any publike prize to bee plaied, within two yeares that he either had stood, or should stād for an office, vnlesse the day had formerly beene appointed by some will. *Item*, he ordained, that *Senators* being found to haue vsed vnlawfull meanes for the attaining of any office, should suffer ten yeares exilement. And the commonaltie offending in that point, should be punished with an heauier punishmēt then the law made by *Calpurnius* laid on them. An addition vnto this was, that if any being cited to his answere in the court of their vndirect meanes, *Si morbum excusaret*, that is, If hee did vrge his sicknesse for his not appearance, then should he vndergoe a penalty.

Si morbum excusaret] So that *Tully* here seemeth to cut of that liberty which the twelue tables permitted in these words [*Si Index alterve ex litigatoribus morbo sontico impediatur, iudicij dies diffisus esto.*] that is, If either Iudge, Plantiffe, or Defendant were sicke, they should *diffindere diem*, *id est*, [d] *proferre & in aliud tempus reijcere* prorogue the time of iudgement. And vnlesse some might thinke, that by *morbus sonticus* was meant some strange disease, *Sigonius* inferreth that euery disease is tearmed *Sonticus*, which hindreth vs in the performance of our businesses: *Sontes enim nocentes dicunt.*

d Sig. de iud. lib 1. c 28.

Licinius de Sodalitijs.

Cic pro Plantio. *M Licinius Crassus* being *Consul* perswaded, *vt in Sodalitijs Iudices, ab accusatore ex tribubus ederentur.*

Sodalitia

Sodalitia.] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, tearming them *Sodales*: and these *Sodales* would as it were by violence force the people to suffrage with them, whence the violence offered by them was tearmed *Sodalitia*, *Sig. de Iud. lib. 2. cap. 30.*

Iudices ab accusatore ederentur ex tribubus.] We may read of three sorts of Iudges among the *Romans*, or rather of three diuers kindes of elections of their Iudges. For either they were, *Lecti sortitione*, or which more may bee seene in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe should choose them all, and then were they called *Iudices edititij*, or the Plaintiffe should choose one halfe, and the Defendant the other, and then were they called *Iudices alterni*. *Melanthon in Cic. pro Muræn.*

Cap. 20.

De pecunijs repetundis.

First touching the word *Repetunda* *Sigonius* saith that such mony was tearmed *Pecunia repetundaque possent repeti*, which might by the course of law be recouered. Namely such mony as any magistrate, Iudge, or publike officer, did either in the Provinces, or in the Citty receaue as a bribe, from the Allies and Associats, or from the *Roman* cittizens for the administration of Iustice, or the execution of any publike duety: and this kinde of bribe they tearmed *Pecunias repetundas*, *pecuniam ablatam*, *captam*, *coactam*, *conciliatam*, *aversam* (*Cic. in Vrnis*) But as it seemeth very probable these lawes against bribery were first occasioned, for the case and reliefe of the *Roman* Prouinces and Allies, called in Latine *Socij*, who were much abused in this kinde by the Prov *Consuls*, *Prætors*, and *Quæstors*, &c. Whence *Tul-*

ly called this law against bribery, *Legem Socialem.* Here also may we note, that [d] *Tully* vseth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put mony to vse. *Occupare pecuniam est collocare, inquit Nonius, id est, Fœnori dare. Vid. Lambin annot. in Cic. orat. pro L. Flacco.*

d Cic. in orat. pro L. Flacco.

Iunia lex.

M. Iunius Pennus Trib. Pl. preferred a law that no such as were conuinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.*

Litis æstimationem.] Here we will consider the difference of these three phrases, *Litis contestatio, Litis redemptio, & Litis æstimatio.* [e] The first signifieth the producing of witnesses when both sides shall openly in the court vse the forme of words, *Testes estote*: which was not done, *antequam satisdationes factæ essent*, before sureties were put in, by the one, that he should *Iudicatum solvere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifieth a compsition or an argument agreed vpon by both sides betweene themselues: [f] *Redimere lites est pactionem facere; qui enim paciscitur, facit vt lis non sit.* The third is when the party which is cast in the suit is adiudged to pay the mony, or the worth of the goods called in question, together with the cost and dammages in law vnto his adversary. [g] *Litem æstimare est pecuniam, de qua lis fuit, & propter quam condemnatus est reus, in summam redigere, quæ de bonis eius redigatur.* [h] And *Æstimare litem est, quod vulgò dicitur, Taxare litis expensas.*

e Cic. de inv. l. 2. cap. 27.

f orat. pro Q. Roscio.

g Fr Sylv. in orat. pro Cluentio.

h I. Tiffin in orat pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neq; ampliari, neq; comperendinari possent*, that is, they must out of hand receiue iudgement.

For the right vnderstanding of these two words [*Ampliari & comperendinari*] we must consider the ancient customes and ceremonies vsed by the *Romanes* in handling their suits of

of law. First there was *In ius vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a request put vp vnto the *Prætor*, that it might be lawfull for the plaintiffe to enter his action against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly. *Nominis delatio*, that is, the taking of the Defendants name into the court-booke: and this was tearmed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is, to enter an action against one. In the second of these Acts, namely when request was made by the Plaintiffe vnto the *Prætor*, that he might enter his action against the Defendant; then the plaintiffe did *Vadari reum*, that is, demande sureties or bayle from the defendant, that he would appeare vpon the day appointed by the *Prætor*. And the Plaintiffe did againe, *Promittere vadimonium*, enter bond also for his owne appearance vpon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capitall letters. I. D. T. S. P. vsed to bee written in their actions: which letters [i] *Probus* expounderh thus: *In diem tertium, siue perendinum*. So that then properly, *lis vel reus dicitur comperendinari*, when the giuing of sentence is differd till the third day. Moreouer before the *Prætor* would suffer the action to bee entred, hee would sweare the Plaintiffe, that he did not accuse the Defendant *calumniandi causâ*, that is, falsely or maliciously, and this kinde of swearing was tearmed *Calumniam iurare, calumniam deiurare*, and *In litem iurare*. Now if either party were absent from the court vpon the third day, except he were sicke, hee was cast in his suit, and the *Prætor* did grant an execution called *Edictum peremptorium*, whereby he gaue authority to his adversary to seaze vpon his goods. Sometimes there were two or three edicts in manner of Prosses or writs, before the *Edictum peremptorium*, could be obtained; sometimes it was graunted at the first, and then was it [k] called *vnum pro omnibus*

i Sig de iud. lib. 1. cap. 27.

k Sig. eiusd. l. cap. 28.

l Sig.e iuld.l. cap.21.

bus. [1] Now if both parties came into the court and did appeare, then were they said *se stitisse*: so that this word *sistere* mongst the lawyers did signifie to shew ones selfe in the court. Vpon the third day the *Prætor* also with the whole bench of Iudges did meete, and the *Iudex Quæstionis* (whom *Rosinus* maketh a distinct officer differing from the *Prætor*) did cause all the *Select* Iudges to pull out certaine lots, out of an vrne or pitcher brought thither for that purpose, & those Iudges vpon whom the lot fell were to sit in iudgment: This was called *Sortitio Iudicum.* Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he eccept against them; and that was called *Iudicum reiectio*: Then the *Iudex quæstionis* would in manner aforesaid choose other Iudges in their places, and that was called *subsortitio.* Which being ended, those Iudges which were thus chosen receiued euery one of them frō the *Prætor* three tables, the one hauing this letter A written in it, betokening *Absolution:* whence *Tully* calleth it *literam salutarem*: The other hauing this letter C. written in it, betokening *Condemnation:* the third hauing these two letters *N. L.* betokening *Non liquet.* After the receipt of the tables, then did the *Prætor mittere vel dimittere iudices in consilium*, that is, sent them to cast their tables into the vrnes, there being three vrnes or little coffers purposely provided; the one for those iudges which were chosen out of the *Senators*, the other for those that were chosen out of the Gentlemen, the third for those which were chosen out of the *Martiall* Treasurers. Now if they did cast the first sort of tables into the vrnes, then the *Prætor* pronounced the defendāt absolued, if the second, then he pronounced him condemned; if the third then he pronounced *Amplius cognoscendum*, that they must haue longer time to enquire: And this is properly tearmed *Ampliatio*, a Repriue and in such manner it is said, *quod lis vel reus dicitur ampliari.* The proofes for this manner of Proceeding in law may be collected out of *Rosinus lib. antiq.9.*

cap.

cap. 19.20.& 24.and out of *Sigonius* according to the marginall quotations. The like custome,seemeth to haue beene receaued also among the Græcians,who had three letters of their alphabet , answerable to those among the *Romans*; Θ was *damnationis symbolum*,which occasioned that of *Persius*,

Et potis es nigrum vitio præfigere Theta.

T. a token of absolution, A of ampliation.*Vid.Erasm. Adag.* Θ *præfigere*.Some as it appeareth by *Erasm.* giue a reason of Θ,because it resembleth the heart of man wounded in the midest with a dart,others because it is the first letter of θάνατος, signifying death according to that.

Infœlix multis theta est mihi litera fœlix.

Si Θάνατον *scribit scribit & illa* Θεον.

Cornelius Syba being *Dictator* ordained a law that the chiefe Iudge called *Iudex Quæstionis* with the whole bench of Iudges should sit vpon life & death on such as had killed a man; on such as had with an evill intent set any place on fire : on such as should walke with any weapon either to kill or rob a man;on such as had either made,bought,sold,had,or giuen any poison,thereby to kill a man,on any magistrate, whosoeuer should cause any conuenticle or secret assemblies, or should giue their consent to the suborning of any man to accuse another falsely,that thereby he being innocent might be oppressed and condemned by publique iudgement. Moreouer *De eius capite quærito &c.* that is, Let them sit vpon life and death on that man, which shall beare false witnesse, that another might bee condemned to death, on that magistrate or chiefe Iudge,which shall take a bribe to condemne another to death. Cic.pro Cluent.

Parricidium.] This word doth properly signifie onely a murthering of ones parents or kinsfolk,but in *Numa Pompilius* his time it signified as much as *homicidium* , that is any man-slaughter whatsoeuer.

CAP. 21.

Lex.12.tabularum de vindiciis.

SI qui in iure manum conserunt, vtriq; superstitibus præsentibus vindicias sumunto.

Si qui in iure.] Here we must note that the custome among the *Romans* in old time was, that as often any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did goe vnto the house, field, or the thing questioned being accõpanied thither with the plaintiffe and the defendant, together with others whom the law required to be present as witnesses. This place whersoeuer it were, though in the open field, during the time that the *Prætor* sate there to giue judgement, was tearmed in Latine *Ius*, in English a Court. Wherein the presence of the *Prætor* and the witnesse, the plaintiffe and Defendant did *manum conserere*, that is, as [m] *camerarius* supposeth, argue and dispute the case *pro* and *con* in a solemne forme of words prescribed them by the law. For this phrase is borrowed by the Lawyers from the art military, where souldiers are saied *manum vel manu conserere*, when they fight hand to hand, [*Vtriq; superstitibus præsentibus*] that is let both parties in the presence of witnesses (so [n] *Festus* expoundeth *superstites*) [*Vindicias sumunto*] that is, let them take a turffe of the ground: for so [o] *Sigonius* expoundeth *Vindiciæ*; though properly (as he obserueth) it signified the possession of a thing, rather then the thing possessed. This turffe being taken vp, was carried to the *Prætor*, and iudgment was giuen vpon that, as vpon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turffe was presented vnto the *Prætor*, vpon which as vpon the whole he gaue iudgment. In processe of time, the *Prætor* by reason of the tumult of other imployments; not finding convenient leasure to review euery particular

m I. Camerar pro L. Muræn

n Rosin. ant. lib. 8. c. 29.

o Sig. de iud. lib. 1. c. 21.

Vindiciam ferre est sententia decretoq; rem obtinere dicebat Vindicias iudex ferebat Vendicias quirem obtinebat Turneb. adv l 13. 27.

'cular ground, or house called in question, p it was ordained contrary to the twelue tables, that the plaintiffe in such cases should come into the court, and challenge the defendant in this forme of words, *Ex iure manu consertum te voco*, that is, I challenge thee to goe out of the court into the field, to vse one towards the other that solemne forme of words which the law iniouneth. Then did the defendāt either yeeld the possession of the ground, or else did reply. *Vnde tu me ex iure manu consertum vocasti, inde ibi ego te revoco.* Then did they both taking witnesses with them without the company of the *Prætor in reviam*, that is goe into the ground bringing back a turffe thereof, vpon the which (as in manner shewne) the *Prætor* gaue iudgement at their returne.

p A Gel noct. Attic. l. 20. c. 10.

For the better vnderstanding of this that hath beene spoken in the explanation of this law, wee must note that the action tearmed *Vindicatio* was twofold: either the suit for the possession of a thing or the suit for the Lordship or right owning thereof. The possession of any thing was recouered, either by a true and reall violence, or by a seeming violence. This seeming violence was twofold, either it was *manus consertio*, which was shewne immediatly before; or *Moribus deductio*, that is, a customary leading the vnlawfull *possessor* out of the ground, thereby to enter possession. *Vis simulata, altera à lege, altera emanavit à moribus*; saith q *Sigon.* The first of these did arise from the *Roman* law, the other from a custome amongst the *Romans*: the first of these is to be seene in *Tully* his oration *pro Murena*, the other *pro Cæcinnâ*. To these *Sigonius* addeth a third kinde of seeming violence; which how iustly he hath tearmed a violence, I shall leaue to the indifferent iudgement of the vnpartiall reader. The right of the Lordship or owing any thing was sued for in this manner: the plaintiffe did question with the defendant thus; first *An auctor esset*, that is, whether he had not couertly made away the possession of the thing, thereby to frustrate the action. Secondly, *An sponderet*, that is, whether he would

q De ind. lib. 1. cap. 21.

 put

put in a gage of mony into the court, which he would forfeit if he were cast, which being done, the plaintiffe did also vpon the demand of the defendant put in a gage of mony to be forfeited, if he preuailed not in his suit This gage of mony was tearmed [r] *sacramentum*; and in this sense, *Tully pro Milone*, saith, *Iniustis vindicijs, & sacramentis alienos fundos petunt* that is, they sue for other mens grounds, with vniust actions and gages of mony. Thirdly, *An satisdaret*, that is, whether he would put in surety, that during the triall in law, the ground or house called in question should not bee impaired, The solemne forme of words vsed in the first demand, is thus to be seene in [s] *Tully*, *Quando in iure te conspicio, postulo anne fies auctor?* If the defendant held his peace, then was hee adiudged to pay all costs and damage; if he professed himselfe the present *possessor*, then did the plaintiffe proceed in manner as he should for the possession thereof; if he denied it, then did the *Prætor* say vnto the plaintiffe, *Quando negat, sacramento quærito:* Therevpon saith the plaintiffe to the defendant, *Quando negas, te sacramento quinquagenario provoco: spondes ne te soluturum quinquaginta asses, si auctor sis?* To whom the defendant seplied, *spondeo quinquaginta asses si auctor sim: Tu verò spondesne idem, ni sim?* The plaintiffe answered, *Ego quoq; spondeo.* Now in this kinde of stipulation, the plaintiffe was said *sponsione & sacramento provocare, sacramento rogare, quærere, & stipulari*, that is, to challenge one to pawne a summe of mony for the triall of a suit in law. The defendant was said, *contendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such manner. This mony was tearmed *sacramentum*, [t] because when it was forfeited, is was bestowed *in rebus sacris & diuinis*. Touching the last interrogatory, I read no set forme of words, but by the word *satisdatio*, the intelligent reader may coniect, that it did somewhat symbolize with our English custome of putting in byale. [u] This putting in of byale was twofold. The one was *satisdare iudicatum solui*, to bind himselfe to

r Sigon. de iudic. l. cap. 21.

s Cic. orat. pro Muræna & pro Cœcinna.

t Sig. de iud. lib. 1. cap. 21.

u Sigon. de iudic. lib. 1. c. 27.

to pay what ſhould be adiudged. The ſecond, was *ſatiſdare rem ratam habere.* To become bound that he would ſtand to the verdict and iudgement of the court. The firſt of theſe bonds was required to be performed by the defendant: the ſecond by the plaintiffes Proctour or Attourny. But if the Action were an Action of debt, then the Proctours alone became bound; the Plaintiffes Proctour that he would ſtand to the iudgement; the Defendants Proctour, that the debt adiudged ſhould be payd.

LIB. 4.

Rites and customes observed by the Romans. in their warres.

De Militia.

Touching the art *Military* vsed among the *Romanes*, it will not bee impertinent to consider, first how warre was proclaimed, and peace established by them: Then to march on to the description of their bands, or companies, where wee may first obserue the office of their chiefe Captaine, and their subordinate leaders, together with the seuerall wards, into which the vniversall army was diuided. After this we way descend vnto the diuersitie of punishments vsed toward Captiues, and likewise towards refractarious and disobedient souldiers: Adding a *Coroll-lary*, or *Period* to our whole discourse the seuerall rewards, which the L. Generall with his souldiers after the performance of certaine noble atchiuements receaued. CAP. I.

CAP. I.

De ritu, quem Romani obseruârunt vel fœdus ferientes, vel bellum inferentes: & de tripliciratione conscribendi milites.

WEE may remember that it hath beene already shewne, that both the proclaiming of warre and peace belonged vnto a certaine order of *Roman* Priests called *Fœciales*, whom by reason of their office I englished Heralds at armes. The rites and ceremonies, which they vsed, when they proclaimed peace were as followeth. *viz.* One of those Heralds hauing his commission from the State (after that both sides had agreed vpon the truce and league now to be concluded) tooke vp a stone in his hand [a] vsing this solemne forme of words: *Si rectè & sine dolo malo hoc fœdus atq; hoc iusiurandum facio, di mihi cuncta fœlicia præstent, sin aliter aut ago cogito (cæteris omnibus salvis) in proprijs patriis, in propris legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, vt hic lapis è manibus decidet*, and therewithall he cast the stone out of his hand: which manner of oath was tearmed *Iurare Iovem lapidem*, or *per Iovem lapidem*, that is, as it hath beene rendred by *Festus*, to sweare by *Iupiter* holding a stone in ones hand. [b] Many say that he did cast that stone at an hogge or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, vt ego hunc porcum hodiè feriam*: alluding to which custome *Virgill* saith,

Et cæsa iungebant fœdera porcâ.

The manner of denouncing warre hath beene alreadie shewne. The act of seruice in warre was tearmed *Mereri sub hoc vel illo duce*, that is to serue in warre vnder this or that Captaine; and whatsoeuer souldier was discharged of his ser-

[a] Polyb vid. Rosin. antiq. l. 10. c. 2.

[b] Sig. de iure Ita. l. 1. c. 1.

vice, as hauing serued out his whole time, he was called *miles emeritus*, & by [c] *Tully*, such an one is said *stipendia confocisse*. [d] *Seruius* hath obserued that the *Roman* souldiers were pressed three manner of waies: *per Sacramentum, Coniurationem, & Evocationem*. But [e] *Lipsius* censureth him for the amisse explanation of the last member. Therefore the indifferent reader shall giue me leaue to borrow the tearmes from *Seruius*; but the explanation of them partly from *Seruius*, and partly from *Lipsius* in the places now quoted. Ordinarily souldiers at their presse did each seuerally take their oath not to forsake their Captaine or country; and this oath was called *Sacramentum militare*. The words thereof are rendred by [f] *Polibius* thus: *Obtemperaturus sum, & facturus quicquid mandabitur ab imperatoribus, iuxta vires*; & those were tearmed *Milites per sacramentum*. [g] This sort of souldiers were vpon appointed daies as it were of publique Muster, elected and chosen by the military *Tribunes* vnder the *Consuls*: the assignement of the day did chiefly belong vnto the *Consuls*, at which time if any souldier withdrew himselfe, and did not appeare, he was seuerely punished, sometimes by imprisonment, sometimes by confiscation of his goods, sometimes by being sold for a bondslaue. Vpon extraordinary occasions (as when tumults or commotions did cause any suspition of imminent danger) the chiefe leader of the souldiers did goe vnto the Capitoll, and bring forth two banners or flaggs, the one red called therefore *Vexillum Roseum*, vntò which the footmen repaired, the other sky-coloured called therefore *Cæruleum*, which the horsemen followrd. The reason why the horsemens banner was sky coloured, is [h] rendred thus, because it did most resemble the colour of the sea, which colour they deemed most acceptable to *Neptune*, who was both the God of the sea, and the first author of horses. Now because the suddaine danger would not yeeld so much time, that they might seuerally be shorne, therefore did they take their oath in common all together, onely one chiefe souldier throughout

c Orat. pro lege Manil.
d Serv. l. 2. & 7. Æneid.
e Lips. de milit. Rom. lib. 1. dial. 8.
f Vide Lips. de milit. Rom. l. 1 dial. 6.
g Lips. de mil. Rom. lib. 1. dial. 4.

throughout a whole legion, tooke his oath at large, and in expresse words, [i] the rest followed in order one by one, saying καθάπερ ὁ πρῶτος, that is, that hee swore the same as the first. If the *Tribune* distrusted his souldiers fidelity, then would he sweare thē every one seuerally in tearmes at large And thence were they called *Milites per coniurationem*; as likewise *Milites subitarij* in respect of their suddaine presse: The third member may also be admitted, if we with † *Lipsius* vnderstand it in its true sense, namely for those souldiers who by the L. Generall were added vnto the body of their army, hee hauing authority to call out such other souldiers, who for their long service were discharged from giuing in their names at a muster. And these are generally by all authors tearmed *Milites evocati*, and *Lipsius* deemeth them all one, with those whom *Seruius* calleth *Milites per evocationem.* The souldiers being thus pressed, if they purposed to make war vpon their enimies, then did the L. Generall summon them to prepare themselues by a sound of Trumpets; & this was tearmed *Classicum cane, à calando*, which signifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pavilion: from which ceremony I think that that common adage did first arise, *Conferre signa, & Collatis signis pugnare*, to ioyne battle. Immediatly vpō this they did *Barritum tollere*, make a great shout or noise with their voices to the greater terror of their enimies: & that the noyse might be the greater, they did *Arma concutere*, rustle together with their armour, and clash their swords. These foure ceremonies are to be seene more at large in [k] *Lipsius.* Vnto which we may adde the fift, observed by [l] *Fr. Sylnius*; namely that at the remouing of their campe they did *conclamare vasa*, giue a great shout or cry in token that the souldiers should trusse vp their bagge and baggage: and hence it is that [m] *Plautus* useth this phrase, *Colligatis vasis*, to signify as much as *paratè* or *expeditè.* Now that they might be the readier for battle, they did gird (as I suppose) their souldiers coats close

[i] Lips. de mil. lib. 1. dial. 6.

† Lip. de mil. Rom. lib. 1. dial. 8.

[k] Lib. 4. de milit. Rom. dial. 11. & 12.

[l] In ep. viror. illust. l. 4. ep. 1.

[m] Plaut. in Pseudolo.

VSEO.

vnto them;& a souldier thus girt was called *Cinctuvus*, that is,(saith *Pighius*) *Cinctu tutus.* [n] *Inde distinctos ignavos, & militiæ minime aptos putârunt, Præcinctos verò fortes, & strenuos.* Hence also is that proverbiall speech. *In præcinctu stare* or *Vivere*, To be in a readinesse continually.

Non pudet ad morem discinctu vivere Nacer. Pers. Sat. 3.

n Pigh. in sua præf. ad lib. 1. septim.
o Alex. Gen. dier. l. 1. c. 20.

CAP. 2.

De Legione. Auxilius. & legionis partibus.

THE *Roman* forces were in old time diuided into two severall parts; namely *in Legiones & Auxilia*, into Legions and Auxiliary bands. The Auxiliary bands were such forces as the neighbour and confederate countries did send vnto the *Romans*. The Legions were taken out of the body of the *Romans*, [p] *Legio, a diligendo dicta est*, from the choice and selecting of souldiers. [q] *Romulus* is said to haue beene the first author of these Legions, making every Legion to containe three thousand footmen, and three hundred horsemen, [r] one thousand footmen & one hundred horsemen being taken out of each nationall Tribe. Afterward it was augmented by *Romulus* himselfe into foure thousand footmen, [s] whence it was called *Quadrata legio*. And in processe of time a legion increased vnto the number of six thousand: which number it seldome or neuer exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now [t] none could be ordinarily registred for a souldier vntill the seuenteenth yeare of his age, [u] at which his first admission he was tearmed *Tyro*, a fresh-water souldier and hence figuratiuely *Tyrocinium* hath not beene translated only the first entrance into warre, but also the initiation or first entrance into any art or science whatsoeuer. After he had serued many yeares, then was hee tearmed *Veteranus*, an old beaten souldier. [x] The *Roman* legion was divided *In pedites & equites*, there being

p Plutarch. in Romulo.
q Rosin. anti. lib. 10. cap. 4.
r Sig. de iure Rom. l. 1. c. 15.
s Sigon. ib.
t Alex Gen. dier. l. 1. c. 20.
u Pancirol. l. rerum deperdit cap. de habit. & vest. veter.
x Sig. de iure Rom. l. 1. c. 15.

being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turmæ in decurias.* The word *Cohors* doth signifie that part of ground, which is commonly enclosed before the gate of an house, [y] which from the same word wee call a Court: and [z] *Varro* giueth this reason of the *Metaphor*. As in a farme house (saith he) many out-buildings ioyned together make one inclosure: so *Cohors* consisteth of seuerall maniples ioined together in one body. It is manifest (saith [a] *Alexander*) that the *Romans* in ancient time did very seldome, yea neuer (except in great necessity) inroll into their vniuersall army aboue foure legions: & in an ordinary legion, which he tearmeth *Legionem iustam*, ten *Cohortes*; euery *Cohors* containing 3 maniples, euery maniple two Centuries, euery Century an hundred souldiers: whence they from *Centum* were called *Centuria*, a centurie: [b] These centuries were sometimes diuided into lesser numbers called *Contubernia*; euery *Contubernium* containing ten souldiers besides their captaine, [c] which was called *Decanus*, and *Caput Contubernij*. Where we must obserue, that *Contubernium* doth signifie as well the pauillion or lodging it selfe, as the souldiers lodging there in: & it may be so called *quasi contubernium*, from *Taberna* signifying any slight lodging made of boards. Those that ruled ouer a thousand footmen we may in English call Seriants maiot: They called them *Tribuni militum*. Those that gouerned ouer the centuries were called by them *Centuriones*, by vs in English Centurions and they had their inferiour officers vnder them, which were called *Tergiductores*, or *Extremi agminis ductores*. [d] Their office was to ouersee and looke vnto those of the campe which were sick, who commonly came behind the army, *quasi extremum agmen, & tergum aciei*. The horsemen were diuided into seuerall troopes called *Turmæ*, euery *Turma* containing thirty horsemen. Againe euery *Turma* was subdiuided into three lesse companies called *Decuriæ*; euery

y Edmunds in his observ. vpon Cæsars Comment. lib 2. c 3.

z Varro lib. 3. de re rustica.

a Alex. Gen. dier. l. 1.

b Varro. vid. Rosin. ant. Rom l 10. c. 5.

c Rosin. ibid.

d Veget vid. Rosin. ant. Rom. l. 10. c. 7.

Decuria containing ten horsemen: whence their captain was called *Decurio*, and the captaines ouer the greater troopes, namely ouer the seuerall wings of the horsemen, were called *Equitum præfecti*. Now the chiefe gouernour ouer the vniuersall army was called commonly *Imperator*: we in English call him a L. Generall. His Lieutenant or L. debuty was called *Legatus*, [e] who in old time was sent *non tàm ad imperandum, quàm ad consulendum imperatori*. This word *Imperator* in the *Roman* histories hath a threefold acception: first it is taken for him, who by commission from the state hath the managing of an army, being the same that *Prætor* was in ancient time: and in this sence it hath affinity with the office of our L. Generall. Secondly for such a L. Generall, who by his prowesse hauing put [f] one thousand of his enimies to the sword, was both by his souldiers saluted, and the *Senate* styled by the name of *Imperator*. But if he had slaine lesse then one thousand, he was not thought worthy of this solemne salutation by that name. Lastly it was taken for a soueraigne Prince, King, or Monarch, in which sence it was the *Prænomen* of all the *Roman* Emperours from *Iulius Cæsar* forward. Now because the souldiers in a legion must of necessitie differ much in estate, age, & experience, some being wealthier, elder, and of more experience then others; hence was it requisite also, that there should be a distinction of places in their armies, according to the desert and worth of each seuerall person. We are therefore likewise to vnderstand [g] that the *Consuls* every yeare made a generall muster: at which time the military tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not onely because they fought a farre off and were lightly armed; but also because they were commonly exposed to their enimies as forelorne hopes. According to [h] *Lipsius* these *Velites* were commonly placed either *In Fronte, Viis*, or *Cornibus*. 1. In the front of the army. 2ly in the distances

e Lipſ. de mil. Rom. lib. 2. dial. 10.

Barth. Lafom. in Phil. orat. 14.

g Lipſ. de mil. Rom. l. 1. dia. 3

h Lipſ de mil. Rom. lib. 4. dial. 3.

stances, or spaces between the severall Maniples. 3ly In *Cornibus*, that is, In the wings of the battle: Not that the wings at any time consisted of those *Velites*, for that was the *Socij* and Auxiliary forces; but either the spaces in the wings were filled vp by those *Velites*, or else they might obtaine a promiscuous place among those forrainers. Notwithstanding they did like scouts run too and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leape from one thing to another in his talke, we say he doth *Agere velitatim*. Hauing chosen out a competent number of these scouts, they proceeded to the choice of them, which they called *Hastati*, that is, Pike-men: forasmuch as they fought with a kinde of iaueling, which the *Romans* called *Hasta*. These pike-men fought in the first part or fore-front of the maine army. The third choise which they made, was of the strongest and highest bodied m n, who for the prime of their age were called *Principes*: and hence was the second place or ward in the maine army called *Principia*, according to [i] *Thraso* his speach, *Ego ero post principia*, that is, I will follow the *Principes* thereby choosing to himselfe the best, and safest place. The last sort of souldiers, which stood in the third place or reward, were called *Triarii*. They were of all, the most approued, and the very last help of refuge; so that if they failed, all was lost: and hence ariseth that forme of speach, *Ad triarios ventum est*, [k] whereby we signifie that a thing is come to the last push. As I suppose, the weapon, wherwith these *Triarii* fought, was a dart with yron fastned at the end of it, called in Latine *Pilum*. The reasons of this my coniecture are these: first because the first century of these *Triarij* was called *Primum pilum*, and their centurion *primopilus*, and *Primipilus*, and *Primus centurio* because hee was the chiefe centurion in a whole legion, as hauing the charge of the chiefe banner called the Eagle; [l] whence *Aquila* is sometimes vsed to signifie *Primopilatum*, the office and place of the *Primopilus*. The second Century was called *secundum*

[i] Terent. Eun. Act. 4. Scen. 7.

[k] Alex. Gondier. l. 5. c. 15.

[l] Lipsi de mil. Rom. lib. 2. dial. 1.

pilum, and their Centurion *Secondi pilus*, &c. secondly, they called the *Principes*, which marched in the battle immediatly before these *Triarij*, *Antepilanos*: which argueth that those souldiers which followed next should be the *Milites Pilans* and by consequence their weapon should bee that kinde of dart which they called *pilum*. Their manner of embattelling was diuers. Sometimes they would make a winged army so that the maine body thereof should be in the middle, and on each side a lesser company: The maine body wee in English call the Mauntgard, and the two lesser companies we call Wings; as likewise in *Latine* they called them *Alas aciei* and *dextrum vel sinistrum eorum*.[m] *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing, then belonged to one banner called in Latine *Vexillum*. The gouernours of these wings hee calleth *Alarum Prafectos*. Sometimes they embatled so, that the forefront of the Army being small, it was enlarged bigger and bigger backward in manner of a triangle: By [a] *Lipsius* it is demonstrated vnto vs vnder the forme of the greeke letter Δ He in the same place calleth it *caput porcinum, quia velut fodit & ruit in vadendo*. Commonly it is called *Cuneus militum*, the *metaphor* being borrowed not only frō the resemblance it had with a wedge, but also from the vse of a wedge: for they neuer embatled in that forme, vnlesse it was to breake through their enimies, the piercing angle being thicke compacted with targets. Sometimes they did in a quite contrary manner enlarge their army in the fore-front, making it to end in an angle: and[o] this they called *forfex* and *Forceps militum*. Sometimes their forme of embatling was circular, and then was it called *Orbis vel globus militum*. The banner or flagge was properly called *Vexillum* being a deminutiue of *Velum*. It was also called [p] *Bandum*: whence we doe at this day call so many souldiers as doe fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* an handfull of hay being vsed at that time insteed of a flagge) *Manipulum militum, Ovid.*

m Pancir. in notit. orient. & occident. imper. c. 32.

a Lips. milit. Rom. lib. 4. dial. 7.

o Lips. milit. Rom. lib. 4. dial. 7.

p Festus. vid. Panc. In not. orient. & occident. imp. cap. 32.

Percita.

Percita suspensos portabat longa maniplos,
Vnde maniplaris nomina miles habet.

* *Suidas* is plaine, Βάνδον καλοῦσι ῥωμαῖοι τὸ σημεῖον τὸ ἐν πολέμῳ that is, The *Romans* called their military ensigne a **Band**: hence others haue vsed Βανδοφόρος to signifie as much as *Signifer*, an **Auncient-barer**. † Suid. in voce Βανδον.

CAP. 3.

De oppugnatione vrbis, & ijs quæ ad oppugnationem requiruntur.

IF the siege of a towne seemed difficult and hard to compasse, then did the *Romans* vse certaine meanes of policie for the better effecting thereof. They invironed the towne with a broad & deepe ditch, adding thereunto a rampier fortified with many castles and fortresses; whereby they both kept the towne from any forraigne succour, and withall secured themselues from sallies and other stratagems. This rampier did extend it selfe toward the walles of the city, so that by making (as it were) a great hill, they might overtop the citty, and fight with the greater advantage. Now that this greater heape of earth might become firme and well able to support the buildings to be erected vpon it, they did cast in such timber and stones among the earth; and this heape of earth, stones, and timber when it was reared, was properly called *Agger*; whence commeth both the Latine verb *Exaggerare*, and the English to **Exaggerate**, that is, to amplifie or encrease a matter. The stakes, posts, and trees, which were rammed in about this bulwarke or rampire to vphold the earth, were sometimes called q *Cerui*, because of their forked and sharp tops, but more properly r *Valli*, and *Valla*. The distance or space betweene each stake was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth:

q Lips. polior. lib. 2. dial. 2.
r Serv. Æneid. lib. 10. (Cic. ep. fam. lib. 1. ep. 7.

reth by that of[f] *Tully: Intervallo locorum, & temporum disiuncti.* Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tyed; according to that receiued adage, which we vse when a speciall friend forsaketh one, *Vallus vitem decepit.* From the first signification it is, that *Vallum* doth often signifie the inclosure, or hedging in of trees & stakes, wherewith the bulwarke is vpheld: Alluding whereũto[t] *A. Gellius* translateth ἕρκος ὀδόντων. *Vallum dentium.* The meanes of their defense, whiles they were making this their rampire, was a certaine engine or ordinance of warre[u] made of plankes and hurdles running vpon wheeles, vnder which they might rest secure from all stones and darts cast from the wals of the city: It was called *Vinea.* A second engine was *Musculus.* The matter whereof it was made I haue not read: but the vse of it was, that vnder it the souldiers might approch vnto the wals of the citty, and vndermine them. Thus much[x] *Lipsius* seemeth to inferre, when he rendreth the reason of the name: *Musculus ideo dictus, quia instar eius animalculi foderent sub eo terram.* A third meanes of their defence was *Militaris testudo.* This word *Testudo* in the art Military had a double acception, both being borrowed from the resemblance of the Tortoise shell, which is the true and genuine signification of this word. In the first acception *Testudo*, [y] doth signifie a warlik engine or fence made with boards couered ouer with raw hides, which serued against fire and stones cast at the souldiers, vnder this they might safely assaile the wals.[z] In the second acception it signified a target-fence, which was a close holding together of targets ouer head like a vault or roofe, wherewith the footmen did defend themselues from the thicke shot of arrowes or slinging of stones. Their rampier & couuertmour being finished they vsed certaine great timber towers made vpon wheeles to run too and fro, which they called *Turres ambulatoriæ*, moueable turrets. These towers had many stories one ouer the other,[a] wherein they carrying ladders and casting bridges thereby to scale the wals

[f] Cic. ep. fam. lib. 1. ep. 7.

[t] A. Gel. Noc. Artic. l. 1. c. 5.

[u] Rosin. ant. Rom. lib. 10. c. 16.

[x] Lips. polior. lib. 1. dial. 9.

[y] Rosin. ant. R. l. 10. c. 16.

[z] Stad. in Flo. l. 4. c. 10.

[a] Rosin. ant. Rom. lib. 10. cap. 16.

wals. The engines hithervnto haue beene defensiue, such wherewith the *Romans* defended themselues in their seige. Others there were offensiue, wherewith they did assaile the city and of those the chiefe were *Balista sive Catapulta, Scorpius sive Onager, Aries, & Mulleoli.* The first of these engines as it was called *Balista* ἀπὸ τοῦ βάλλειν, from darting or casting forth any thing, [b] so was it in old time called *Catapulta* ἀπὸ τῆς πέλτης, which signifieth a shaft or dart; Though it cannot be denyed, but that *Pelta* doth also signifie a kind of shield made in the forme of an halfe moone, according to that of *Virgil. Æneid lib.* 1.

Ducit Amazonidum lunatis agmina peltis,
Penthesilea furens.----

[b] Lipsi. poliorc. l.2. dial.2.

The forme thereof followeth, translated word for word out of [c] *Marcellinus.* (Between two plankes there is set in frame; and fast ioyned a strong and bigge yron, reaching out in length after the māner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a fowre square beame, made hollow with a direct passage in manner of a narrow trough, tyed fast with many cords of sinewes twisted one within another; and therevnto are ioyned two wooden skrews; neere vnto one of which standeth the cunning Balistier, and subtilly putteth into the hollow passage of the beame a wooden shaft with a bigge head glewed fast to it. This done on both sides, two lustie young men doe bend the engine by turning about certaine wheeles. When the top of the head is drawne to the vttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flyeth out of sight. That the reader may receaue the more light in the vnderstanding of this obscure descriptiō, I haue added the very words of *Marcellinus.* [*Ferrum inter axiculos duos firmum compaginatur & vastum, in modum regulæ maioris extentum: cuius ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensiùs recto canalis angusti meatu cavatus, &*

[c] Am. Marc. l. 23. cap. 3.

hæc

hac multiplici chorda neruorum tortilium illigatus: eiq; cochleæ duo lignea coniunguntur aptissime, quarum propè vnam adsistit artifex contemplabilis, & subtiliter adponit in temonis canamine sagittam ligneam spiculo maiore conglutinatam: hoeq; facto hinc inde validi iuvenes versant agiliter rotabilem flexum. Quum ad extremitatem neruorum acumen venerit summum, percita interna pulsu à balista ex oculis evolat. In respect of its vse we may english it a Crosse-bowe: but it was much bigger, and of a different forme, The Scorpion, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two oaken or elme beames were hewen out, and somewhat bended so that they seeme to bunch out in backes; and these in manner of assaw engine are tied fast together, being bored through with wide holes, through which (by the meanes of those holes) strong cords are tied, keeping in the whole frame that it start not asunder: * From betweene those bunches, another wooden beame reaching forth ouerthwart, & in manner of a waine-beame erected vp, is tied with such devises vn to certaine ropes, that it may be pulled vp higher, or let down lower at ones pleasure; and at the top thereof certaine yron hooks are fastned, from which hooks there hanged downe a certaine sling either of yron or tow: Vnder which erected beame there lyeth a great peece of haire-cloath full of small chaffe tied fast with cords, & placed vpon a banck of turfes, or a heape of brickes: When therefore it commeth to the point of skirmish, a roūd stone being put into the sling, foure young men on one side loosing the beames, into which the ropes are incorporated, doe drawe backe the erected beame vnto the hook. Thus at length the master of the engine standing in some high place, giuing a mighty stroke with a hammer (and as I suppose vpon the cord, whereunto the erected beame was fastned, with his hooke) setteth open the railes, that containe the whole worke, insomuch that this erected beame being now at liberty with that quicke stroke, and hitting against the soft haire-cloath, it hurleth out the stone, that

‡ *Machinæ Serratoriæ*

† Ab hac, medietate testium) *Here we must note that this signification of* testes *is borrowed from the* Anatomists *Which do call certaine eminent parts behind.* φαλλίδοειδὲς Testes. Vid. Fuchs. instit. med. l. 1. Sec. 5

that will batter whatsoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is also called *Scorpio*, because when the long beame or tillar is erected, it hath a sharp top in manner of a sting. The moderne time hath imposed vnto it the name of *Onager*, that is a wild Asse, because that wild Asses, when they are coursed by hunters, sling back stones with their heeles a farre off, so that oftentimes they peirce the breasts of them that follow them. The Latine word is made from the Greeke ὄνος, that is, *Asinus & Ἀγρὸς, rus, vel ager.* Now if any aske mee, why that sackcloath of ashes was interposed, the reason is rendred by *Marcellinus* in two lines, which I purposely did not translate in their place, because I would continue the sense, without such a long *parenthesis.* The reason is there deliuered thus; because the violence and force of the erected beame recoiling, after it had beene by the stroke discharged, was such that it would shake in peeces the strongest wals, except there were some soft thing interposed, whereby the forcible strength of the recoile might bee by degrees slaked. The *Aries* or Ramme is described also by *Marcellinus* in the same place. [The Ram was a great tree, or beame *like vnto a mast of a ship*, hauing a peece of iron in manner of a Rams head, fastned at the end thereof, wherewith they did demolish and batter downe the wals of a City. It was hung vnto a beame, which lay a crosse ouer a couple of Pillars, and hanged thus equatly ballanced, it was by force of men pulled backward, and then recoiled vpon the wals.] The Rammes which *Titus* vsed at the siege of *Hierusalem*, ranne vpe on wheeles: which kinde of Rãmes are described by *Iosephus.* There be, saith he, other manner of engines, as an iron Ramme vpon 4. wheeles, bound with yron, and fastned with yron nayles, to this they make foure feet answearable to the bignesse of the beame & every foot hath his seuerall wheele, and when they will batter the wall, certaine men first pulling it backe, they recoile it by the help of foure wooden leauers put in the hun-

der part thereof for that purpose. The head of this Ramme hath no hornes, but is blunt, made of the strongest kinde of yron, with a wonderfull thick neck. They haue also of both sides of the Ram a pentise of wood for the safegard of those that recoile it. *Iosephus Ben. Gorion de bello Iudaico.* In lieu of these Rammes another engine was found out, called *Helepolis ab inusitato* Ἕλω, that is, *capio*, and πόλις, that is, *civitas*, The forme of it is to be seen also in *Marcelli* ibid. [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long peeces of timber: it was couered ouer with Oxe hides, and greene wicker hurdles: the vpper part or convexe sur-face thereof was ouerlaid with mudde, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certaine *Cuspides trisulcæ* that is, iron pikes with three edges very massie, in manner of the thunderbolts, which Painters and Poets exhibit vnto vs. This great engine the souldiers ruling within with diuerse wheeles & ropes, with maine force they thrust it against the wals.] *Malleoli* (saith the same *Marcellinus*) were certaine darts fashioned on this manner: there was an arrow made of a cane, betwixt the head and the necke whereof was fastned an iron full of clefts; which arrow like vnto a womans distaffe, on which linnen is spinned, was finely made hollowe within the belly, yet open in many places: In the belly it receaued fire with fuell to feed vpon. And thus being gently discharged out of a weake bow (for with an ouer strong shooting the fire was extinguished) if it tooke fast hold on any place, it burned the same, and water being cast thereon, the fire increased, neither was there any meanes to quench it, but by casting dust on it. [Now if they could not prevaile by these engines called *Machinæ*, then did they make certaine passages vnder ground, which they called *Cuniculi* from *Cuniculus* signifying a cony-berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareh by that of [d] *Plutarch. Cæsar non iam cuniculis*, *sed*

d Plutarch in vit. C. Cæs.

sed machinis tollit rempublicam, that is, He doth not now covertly, but with open violence assault the common weale,

CAP. 4.

De Pœnis in hostes deuictos.

ALbeit after the victory the *Romans* inflicted diverse degrees of punishment, according to the malice found in an enimie: yet were they alwaies compassionate, & (as histories testifie) more exorable then any other nation. The punishments which we finde them to haue vsed towards a conquered nation are these. Either they punished them by death; or sold them *sub corona*; or dismissed them *sub iugum*; or merced them in taking away their territories; or made them tributary states. [e] An enimie was said to bee sold *sub corona*, when he being placed in the market place, a crowne was put vpon his head in token of such a sale: or therefore certaine captiues were said to be sold *sub corona*, because at such times they were environed about with souldiers to keepe them together, and this circle of souldiers, as likewise of all other companies, is called *Corona*. When they dismissed any *sub iugum*, [f] they erected two speares with a third lying a crosse in manner of a gallowes: then they caused them being disarmed, and their belt taken away to passe vnder in token of bondage. When their territories were taken from them, they were commonly conferred vpon old beaten souldiers, in way of remuneration for their faithfull service. This transplantation was tearmed *Colonia deductio*; and the place ever after *Romana colonia*, that is, a Roman Colonie. At which times they chose out every tenth man, *viz.* such as were able and of best sufficiency to make and establish a publike councell, [g] whom they named *Decuriones*. Whence we may obserue, that *Decurio* is not alwaies taken for a Captaine ouer ten horsemen, but sometimes it is vsed to

e A. Gel. 7. c. 4

f Stad. in Flor. lib. 1. c. 12.

g Sig. de iure Ital. l. 2. c. 4.

signifie an Alderman or chiefe Burgesse in a *Roman* Colony. These Colonies were of two sorts, some called *Coloniæ Latinæ*; others *Italicæ*. The Latin Colonies had *Ius ciuitatis, suffragij & Magistratus capiendi, si in sua Colonia magistratum gessissent. Italicis autem, Ius ciuitatis & suffragij nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, vt prouinciæ solebant. Turneb, adverſ. l. 1. c. 11.* Diuers times the *Romans* would be content after the conquest to grant to their enimies a peaceable inioying of their lands & possessions, conditionally, that they would yeeld all faithfull allegiance vnto the L. Deputy, whomsoeuer the *Senate* of *Rome* should place ouer them. The L. Deputy was either stiled by the name of a *Proprætor*, a *Proconsul*, or a *Præfectus*. Those places where the two first sorts of gouernours did rule, were tearmed *Provinciæ*; the other from the gouernour was tearmed *Præfectura*. Where we most obserue that this word *Provinciæ* hath a threefold acception. First it is taken for a country, which by the force and power of armes is subdued to the *Roman* Empire, and gouerned by some *Roman* Deputy sent from the *Senate*: and this is the proper & primitiue signification thereof, it being so called,[h] *Quod populus Rom: eam provicit, id est, ante vicit.* Secondly, it is taken for any region or country, where the L. Generall or chiefe Captaine ouer a *Roman* army doth mannage warre against any nation by commission from the *Senate*. Lastly, it signifieth any publike function, or administratiō of office, yea any priuate duty, charge or taske either vndertaken, or imposed; according to that of [i] *Terence, Prouinciam cepisti duram*, that is, thou hast vndertaken an hard taske. Now the tribute to be paid was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; and those who paid it were tearmed *Tributarij siue Stipendiarij*: and this Tribute was of two sorts, either ordinary, such as was required from every house yearely, euen in the time of peace; or extraordinary, such as was leuied by a law or decree of the *Senate* towards vnex-

h Pigh. lib. Tyrannis.

i Terent. in Phor.

pected

pected charges. The vncertaine tribute [k] properly called *Vectigal*, was either impost-mony, such as was collected in haven townes for the transportation of marchants wares, and that was called from *Portus Portorium*, or from *Porta Portarium* and the receauers thereof *Portitores*. The wares after the impost, mony had beene paid-were sealed by the *Publicanes* with a certaine kinde of tempered chaulke: and this is that which *Cicero* vnderstandeth by *Asiatica creta, orat. pro Flacco*. Or Tithe corne, namely the tenth part of their graine and that was called from *Decem Decuma*, and the receauers thereof *Decumani*, though *Decumanus* when it is an adiectiue signifieth as much as *Maximus*, according to that of *Ovid, lib. 1, de Trist.*

Qui venit hic fluctus supereminet omnes;
Posterior nono est, undecimoq; prior.

The reason of this signification is [m] supposed to bee, because in *Arithmetiske* amongst simple numbers the tenth is the greatest: or lastly that mony, which was paid by certaine heards-men for pasturing their cattle in the *Roman* fields and forrests. This kinde of tribute was called *Scriptura*, and the pastures *Agri Scriptuarij*, because (as [n] *Festus* saith) the bayliffe or receauer of this mony, called *Pecuarius*, did *Scribendo considere rationes*, that is, keep his account by writing. Where we must note, first that all these kindes of Tributes were not only required in Provinces or Countries subdued, but throughout *Italy*, euen in *Rome* it selfe: Secondly though each collectour of these Tributes was distinguished by a peculiar name; yet by a generall name they were all called [o] *Publicani*, in as much as they did take to rent these publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of these tributes *Tully* calleth *Mancipes*. The others which were entred into the same bond as sureties, were tea med *Prædes*. Many times the *Romans* did bestow the freedome of their city vpon forraigne countries; & the degrees of freedome were proportioned accordingly

[k] Sig. de iure Rom. l. 1. c. 16
[l] Stadius in Flor. l. 3. c. 13.
[m] Fr. Sylv. in viror. illust. ep. 2. l. 1.
[n] Sig. de iure Rom. l. c. 4.
[o] Cic. de Arusp. respnos. & alias sæpe.

as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them fro the right of suffraging, leauing them also to be gouerned by their owne lawes and magistrates This state they called a *Municipall* state, in Latine *Municipium*, because they were *Muneris huius honorarij participes*. p By *Munus honorarium* in this place is vnderstood nothing but the bare title of a *Roman* citizen, whereby they were priuiledged to fight in a legion as free Denisons, not in an auxiliary band, as the associats. Now the first that ever obtained this Municipal state, were the *Cerites* who for preseruing the holy things of *Rome* in the time of the warre against the *Gaules*, were rewarded with the freedome of the city, but without power of suffraging; q From whence it is, that those tables wherein the *Censors* inrolled such as were by them depriued of their voices, were called *Cerites tabulæ*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewne before. But we must withall obserue, that some Municipall townes haue either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that receaued distinction, that there was *Municipium sine suffragio*, & *Municipiũ cum suffragio*. Other countries which could not bee admitted into the freedome of the city, haue obtained, and that not without speciall and deserued respects to be associats and confederates vnto the state of *Rome*. The inhabitants of such countries were sometimes called *Socij*, sometimes *Amici*, sometimes *Latini nominis socij*, *&c.* The King or Prince of such a country did stile himselfe *Amicus & Socij Senat, & Pop. Rom.* Here wee must obserue a difference betweene *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of warre is concluded vpon and accepted of both sides for a certaine r limited space of time, is properly called *Pactio*; we commonly call it *Induciæ*; and it differed from *Fœdus*: s first because that *Fœdus* is a perpetuall truce or league, secondly because it was necessary, that one of those Heralds at armes called *Fœciales*, should by

p A. Gel. noct. Attic. l. 16. cap. 13.

q A. Gel. ibid.

r Sig. de iure Ital. l. 1. cap. 1.

s Sigon ib.

a

a solemne proclamation confirme this league called *Fœdus*, neither of which conditions was absolutely requisite in their truce tearmed *Pactio*.

CAP. 5.

Mulcta militares, quibus milites Romani ob delicta officiebantur.

TOuching the punishments that the *Roman* L. General vsed towards his own souldiers, when they were faulty, they were commonly proportioned vnto the fault committed. Sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: other times they were heauier, such as did hurt & afflict the body. To the first sort belonged these: First *Ignominiosa dimissio*, that is, a shamefull discharging of a souldier, when he is with disgrace remoued from the army. Secondly, *Fraudatio stipendii*, that is, a stopping of their pay: & such souldiers which suffered this kind of mulct, were said to be *ære diruti*, [f] because *Æs illud diruebatur in fiscum, non in militis sacculum.* 3ly, *Censeo hastaria*, whereby the souldier was inioyned to resigne and giue vp his speare: for as those which had atchieued any noble act, were for their greater honour *Hasta pura donati*: so others for their greater disgrace were inforced to resigne vp their speare. Fourthly, the whole *cohors*, which had lost their banners, were compelled to eat nothing but barly bread, being depriued of their allowance in wheat: & every Centurion in that *cohors* had his souldiers belt or girdle taken from him, which was no lesse disgrace amongst them, then it is now amongst vs, that a Knight of our order of the Garter, should be depriued of his Garter. 5ly, for petty faults they made them to stand barefoored before the L. Generall his paulion, with long poles of ten foot length in their hands: & sometimes in the sight of the other

[f] Rosin. ant. l. 10. c. 25.

souldiers

souldiers to walke vp and downe with turfes on their necks. In the last of these they seemed to imitate their city discipline whereby malefactors were inioyned to take a certain beame resembling a forke vpon their shoulders, and so to carry it round about the towne; It hath some affinity with our carting of queanes here in England. In the first we haue no custome, that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vaine, or letting thē bloud in one of their armes: which kind of punishment was vsed towards those alone, which (as they cōceited through the abundance of their hot bloud) were too adventurous & bold. The heavier kinds of punishment were these: first *Virgis; vel Fuste cædi*, to bee beaten with rods; or with staues & cudgels. None were ordinarily beaten with cudgels but those who had not discharged their office, in the sending about that tablet called *Tessera*, wherein the watch word was written; or that had forsaken their place, where they were appointed to keepe watch; or those who had stollen any thing from out the campe: or borne false witnesse against their fellowes, or abused their bodies by women: or lastly, that had beene punished thrice for the same fault: those which were in this māner cudgelled, were often killed in the place. but if they escaped alisue, they went to liue in perpetual exilemēt. The ceremony vsed in this kind of cudgelling was that the [u] knight Martiall should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staues and cudgels, whence we may say of one that deserueth a good cudgelling in [x] *Tully* his phrase *Fustuarium meretur*, *Polybius* calleth it ζυλοκοπιαν. *Vid. Lips. de milit. Rom. lib. 5. dial. 18.* If a *Roman* souldier had broken his ranke by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the knight Martiall vpon iust occasion would cause them to be sold for bondslaues, to bee beheaded, to be hanged. All these punishments were

t Alex. Gen. dier. l. 2. c. 13.

u Trib. milit.

x Cic. orat. Phil 3.

were personall or particular; there remaineth one which was generall, namely when the fault was generall, as in their vproares, conspiracies, &c. Vpon such occasions the souldiers were called together, and every tenth man vpon whom the lot fell was punished with that kind of cudgelling aboue spoken of; all the others escaped either without punishment or with very little. The punishment it selfe was tearmed *Decimatio legionis*, and the reason of this kinde of punishment is, rendred by Y Tully: *vt metus viz. ad omnes, pœna ad paucos perveniret.* Sometimes such was the clemency of the L. General that he would punish only the twentieth, nay the hundreth man, & then was it called *vicesimatio, vel centesimatio legionis.*

Y Cic pro Cluent.

Cap. 6.

De donis militaribus ob rem fortiter gestam.

Concerning the rewards which were bestowed in war, some were by the *Senate* cōferred vpon the L. Generall: others were by the L. Generall conferred vpon his souldiers. Those honours which the L. Generall receiued were three. First *Nomen imperatoris*, of which before. Secondly *supplicatio*, that is, a solemne procession continued for many daies together, sometimes more, sometimes fewer: all which daies the *Roman* people did obserue as holy-dayes offring vp daily prayers and sacrifices to the Gods in the behalfe of their L. Generall. The custome being that after some notable victory, the souldiers hauing saluted their cheife captaine (whom I call their L. Generall) by the name of *Imperator*, then would he send letters vnto the *Senate* dight with lawrell, wherein he required both that name to bee confirmed & approued by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemne supplications. Thirdly, they honored him at his comming home also with a triumph. *Triumphus vel maior, vel minor erat*, saith

Alexander. The lesser kind of triumph was properly called *Ovatio* [z] *ab ove*, from a sheepe, which in this time of his triumph was led before him, and afterward sacrificed by him: As also in the greater triumph (called properly *Triumphus*) the L. Generall sacrificed a bull. It differeth from the greater triumph first in the acclamation; for in the lesser triumph the souldiers following did as it were reduble this letter O, and some are of opinion that it was therefore called *Ovatio*. In the greater triumph the souldiers followed crying *Io triumphe, Io triumphe*: an example whereof may be seene in [a] *Horace*, where he describeth the triumph of *Bacchus*, the first author of this greater triumph; from whose [b] name also divers authors doe deriue this word *Triumphus*, hee being in greeke called θριαμβος which by a little change is made *Triumphus*. Secondly they differed, because in the greater triumph, the L. Generall did weare a garment of state, called by some *Trabea*, [c] by others *Triumphalis, Picta, vel Aurata vestis*; likewise a garland of lawrell, riding in a chariot, the *Senators* themselues with the best of the *Romans* meeting him, his souldiers with their coronets, their chaines, and other rewards following after: But in the lesser triumph the L. Generall did weare a plaine purple gowne without any gold imbrodering, and a garland of mirtle tree [d] commonly going on foote, sometimes permitted to ride on a horse; the gentlemen and commonalcie of *Rome* alone without the *Senators* did meet him. Moreouer for a perpetuall memory of this their triumph in some publike place certaine trophies were erected. [e] *Trophæum monumentum dixere nunc marmoreum, modò æneum, cum inscriptione & titulis ævo perpetuo duraturis.* [f] *Dictum est* ἀπὸ τῆς τρέπεσθαι, *id est, à conuersione*, from making the enemies to retire and turne backe. Sometimes there were statues, columnes, and arches built in token of triumph. These arches though commonly they were knowne by the name of *Arcus triumphales*, yet sometimes they are called *Fornices*, whence it is that *Tully* calleth *Fabians* triumphall arch

z Salmuth. in Pancir. l. rerũ deperd. cap. de triumph.

a Ode. 2. lib. 4.

b Salmuth. in Pancir. l rerũ deperd. cap. de triumph.

c Alex. Gen. dier. l. 6. c. 17.

d Dion Hali. car. lib. 5.

e Alex. Gen. dier. li. 1. c. 22.

f Serv. Æneid. lib. 10.

g Fr. Sylv. in orat. Cic. pro Cn. Plancio.

arch *Fabianum fornicem.* If it so hapned that the *Roman* Generall himselfe personally, did take away any spoiles from the chiefe captaine of the enemies, then did hee hang them vp in a temple consecrated to *Iupiter Feretrius*; who was so called,[h] because as the *Romans* conceited without the speciall assistance of *Iupiter, Dux ducem ferire non poterat*: these spoiles had the name of *Optima spolia*, that is, Royall spoiles. The rewards bestowed vpon the souldiers were diuers: either places of office, as the place of a Centurion, of a *Præfectus*, a *Decurio &c.* or their pay was increased, the spoiles distributed amongst them, or lastly they receiued certaine gifts tearmed *Dona militaria.* In ancient times those souldiers which had best deserued, receiued a certaine measure of corne called by them *Adorea*;[i] and hence it is, that *Adorea* is now vsed to signifie such laude and praise, as is due vnto a souldier. But after ages for the better encouraging of the souldiers, haue found out more honorable rewards, of which[k] these were the chiefest; *Armilla*, that is, a bracelet for the handwrest; *Torquis*, a chaine to weare about their necke; *Phalera*, horsetrappings; *Hasta pura*, that is, a speare hauing no yron at the end of it, (it is sometimes called *Hasta donatica*, and *Hasta graminea*;) Lastly *Coronæ*, crownes, of which *A. Gell. lib. 5. cap 6.* obserueth these to haue beene the chiefest. *Corona triumphalis*, which in old time was made of Lawrell, but afterward of gold, and thence was it called *Corona aurea*: it was sent by the *Senate* vnto the L. Generall in honour of his triumph: Secondly *Corona obsidionalis*, which was giuen by the souldiers vnto the Generall, when they were freed from a siege: it was made of grasse growing in that place, where they were besieged, whence it had the name also of *Corona graminea.* Now the reason why they made this crowne of grasse growing in the place where they were besieged, was thereby to yeeld vp their right in that place vnto their captaine: for by that ceremony, as[m] *Pliny* obserueth, they did *Terra & ipsa altrice humo & humatione e-*

[h] Alex. Genedier. l. 1. c. 14.

[i] Alex. Genedier. l. c. 18.

[k] Sig. de iure Rom. c. 15.

[l] Rosin. ant. lib. 10. c. 27.

[m] Plin. lib. 22. cap. 4.

tiam cedere. And hence it is, that in races & the like masteries, he that was overcome, did gather some of the grasse of that place, & giue it vnto the conquerour, as a token that he did acknowledge himsefe conquered;[n] this is the reason of that Adage, *Herbam dare*, that is, to yeeld the victory. Thirdly, *Corona civica* which was bestowed onely vpon him, which had saued a citizens life,[o] though in processe of time it was also bestowed vpon the L. Generall, if hee spared a *Roman* citizen, when he had power to kill him. It was commonly made of oake; whence it was called *Corona quernea.* And this I take to be the reason why in *Ovids* time the Emperour had alwaies standing before his gates, an oake tree in the midst of two lawrels, as Emblem denoting two worthie vertues required in all Emperours and Princes, first, such whereby the enemy might hee conquered; secondly, such whereby citizens might be saued. Vnto this *Ovid* seemeth to allude, speaking of the lawrell tree.

p Postibus Augustis eadem fidissima custos
Ante fores stabis, mediamq; tuebere quercum.

Fourthly, *Corona Muralis*: [q] Hee onely was honoured with this, which did first scale the wals, and enter first into the enimies city: and hence this crowne was put vpon the circlet or top like vnto the battlements. Fiftly, *Corona Castrensis.* This the L. Generall bestowed on him, which first entred into the enimies tents; it did beare in it the resemblance of a bulwark or at least of the mound, wherewith the bulwarke was strengthned; which mound was called in Latine *Vallum*, & thence the crowne it selfe was often called *Vallaris corona.* Sixtly, *Corona nauali*, with which he was honoured, which first entred into the enimies ship in a battle vpon sea: it was portrayed with many ship-beakes called in Latine *Rostra*, [r] whence the crowne it selfe was often called *Corona Rostrata.* That Roman *Hercules Siccius Dentatus* obtained almost all those seuerall rewards, and that each many times. Lastly, *Corona ouali*, it was made of Mertle-tree, the L. Generall

n Salmuth. in Panair. l. rerū. deperd. cap. de coronis

o Pigh. l. Tyrannis.

p Ovid. Met. lib. Fab. 9.

q Dion. Halicar. lib. 10.

r Pigh. l. Tyrann if.

s A. Gel. noct. Attic. l. 26. 11.

nerall vſed it in the leſſer kinde of triumphs called *Ouationes*, from whence the Coronet it ſelfe was named *Oualis*. It was then beſtowed when the Herald had committed ſome errour in denouncing warre; or when the enimies conquered were of meane ranke and place, as Servants or Pyrats; or elſe if the victory were gotten without bloodſhed or great hazard, the enimis eyeelding without reſiſtance. *In quibus impulvereis & incruentis victorijs, aptam eſſe Veneris frondem crediderunt, quod non Martius, ſed quaſi Venereus quidam triumphus foret.*

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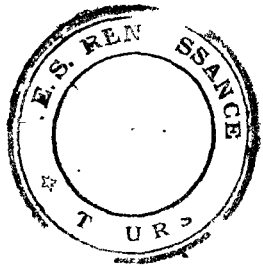
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