

Romanæ historiae anthologia recognita et avcta. An English exposition of the Roman antiquities, wherein many Roman & English offices are paralleld and divers obscure phrases explained. For the vse of Abingdon Schoole / [Thomas Goodwin].

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by T. Godwin

S.T.C. 11961



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ROMANÆ
HISTORIAE
ANTHOLOGIA
RECOGNITA ET
AVCTA.

AN
ENGLISH EXPOSITION
OF THE ROMAN ANTI-
quities, wherein many Roman
& English offices are paralleld
*and divers obscure phrases
explained*

For the use of ABINGDON Schoole.

Newly revised and enlarged by the
Author.

OXFORD,
Printed for Henry Cripps

ANNO DOM. 1628.

ROMAN
HISTORICAL
ANTHROLOGY
AND
ETHNOLOGY

OF
THE
ROMAN
EMPIRE
FROM
THE
FALL
OF
THE
REPUBLIC
TO
THE
FALL
OF
THE
EMPIRE
IN
THE
FIFTH
CENTURY
A.D.

BY
J. H. M. J. VAN DER
AARDE
1888



VIRO
COLENDISSIMO

D^o IOANNI YOUNG SS. THE-
OLOGICÆ DOCTORI, & Eccle-
siæ WINTONIENSIS Decano
Ornatissimo.

Εὐδαίμονέστατα δαΐνειν

Vir Ornatissime,

NON liberi quàm libri plu-
ribus exponi periculis so-
lent, cum primùm prode-
ant in lucem: vtrisque pari-
ter opus est tutelari aliquo
numine obstetricante. Hoc
olim sensit Anthologia hæc nostra primùm
edita: idem sentit eadem in hodierna dua-
rum sectionum, & capitulorum aliquot su-
perfectione. Nacta igitur secundas suas co-
gitationes te ambit Patronum, qui facem a-
liquam mihi in his antiquitatibus obambu-
lanti prætulisti, & quem multum fuisse in
9 2 studijs

studijs meis promovendis, palam, & sub
Dio prædico. Videbis me aliquoties alium à
doctissimis viris, & ab illorum sententijs ali-
enum: Veritate enim præponderante, nullus
apud me Plato, nullus erit Aristoteles, (nolo
ego istiusmodi insaniam insanire, vtcunque
splendidam & *autoritativam*.) Cæterum taci-
tus hoc facio, & apud me, citra omnem veli-
tationis pulverem, rarò 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 arriserit, cum magnis
nominibus deviare per me licebit. Vale, &
meas Musas, vt soles, ama, illæ, quod jam fa-
ciunt, te colent semper, & omni obsequio
prosequantur. Datum Abindoniæ 14. Calend.
Decemb. Anno *χριστοφωρίτης*. 1622.

Dignitati tuæ

multiplici nexu mancipatus,

THO. GODWYN.



BENEVOLO LECTORI.

ΕΥΘΕΓΓΗΝ, ΕΥΧΡΙΣΤΗΝ.



IRARIS 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 studijs senium contrahere. Qui sic sentis, nec me satis nôris; nec ludi literarij pone lenocinium nominis, moletrinae dicces) iniquas leges, aut misérias quotidianas, & omnigenas. Sentio ego me in pistrinum damnatum, & cogitatu 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, cum hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessere, non vulgaria, aut obvia; nec quæ vulgus hominum, aut docuit, aut didicit. Vale.

IN ARS

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

Lib.	1 Of the Ro- man citie. Sect.	{ 1. Of the chiefe parts thereof. 2. Of the generall divisions of the Roman people.
	2 Of the Ro- man Religi- on. Sect.	{ 1. Of certaine generall divisions of their Gods. 2. Of their Roman Priests with some par- ticular Gods, together with their rites in mariages 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 the Roman garments. 2. Of their civill Magistrates. 3. Of their civill punishments. 4. Of all those lawes which I haue observed to be touched in Tully his orations.
	4 Of the art military, as it was pra- ctised by the Romans. Cap.	{ 1. Of their manner observed in establisshing 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 ene- mies captivated. 5. Of punishments towards the Romans souldiers offending. 6. Of certaine rewards after the perfor- mance of any noble exploits.



THE ROMANE ANTIQUITIES

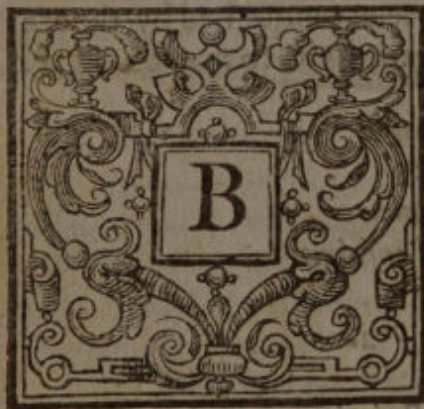
Expounded in English.

LIB. I. SECT. I.

Of the chiefe parts of the Citie.

CAP. I.

De modo condendarum, delendarumq; urbium.



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 raising Cities. In the building of Cities, the founders thereof did vsually consult with their Gods in their *Augurall* observations; & ^a this course was ^a M. Tullius
observed by *Romulus* himselfe, in the first foundation of *Rome*; lib. 1. de divi
After their *Augurall* observations, they marked out the nat.
place where the wall of the Citie should be built, by plow-
ing vp the ground, & because they left that space of ground
vnplowed, lightly lifting the plough over it, where they ap-
pointed

b M. Cato in
fragm.

pointed the gate of the city, thence *a portando*, from carying and lifting the plough, they called the gate *Porta*. This custome is fully described by ^b Cato: *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arasset murum faciebat, ubi portam volebat esse, aratrum tollebat & portam vocabat.* Virgil also alludeth vnto it,

Interea Aeneas urbem designat aratro.

The maner hereof was, that he who held the plough, did cast vp the skirt of his gowne on the right shoulder, & 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 pacifical habit intimate, that the flourishing estate of a Citie is not so much preserved by warre, as by peace. Hence Ovid, lib. 4. *Fastorum*.

Ipsa tenens strivam, designat moenia sulco,

Alba iugum niveo cum bove vacca tulit.

c Cæli. Rhod.
antiq. lib. 26.
cap. 5.

The c like custome was vsed also in the razing or demolishing of cities, when they had beene vanquished by the enemies. Which observation giveth light to that of Horace. Lib. I. Od. 16.

urbibus ultima

Stetere causa, cum perirent

Funditus, imprimeretque muris

Hostile aratrum exercitus insolens.

C. A. P. 2.

De monte Palatino.

d Vid. Anton.
Constantium
in Ovid. Fast.
lib. I.

T Ouching the name of *Rome*, from what occasion the citie should be so denominated, diverse authors conceit diverslie. Some are of opinion, that this citie was buile long before *Aeneas* came out of *Troy*, & was then called by the

Of the chiefe parts of the City.

3

the Latines *Valentia*, which was a name of strength, whence *Evander* comming into *Italy*, called it *Roma* from *pauu 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* & *Remus*, & from *Romulus* it was called *Roma*, not *Romula*, because the diminutive, *Romula*, might ominate lesse prosperity therevnto.

Some say, that they built it in forme of a quadrangle, vpon one only hill, called *Mons Palatinus*. Others say, that *Fa-*

bius left *Rome* as it was first built, with the fields thereof, painted in the forme of a bow, the river *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*, took their name, *Palatia*. This hill had his

first appellation *Balatinus*, *a 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 *αλλισοι*. *Virgil* seemeth to be of opinion, that the hill

was called *Palatinus*, by *Evander* in remembrance of his grandfather, whose name was *Pallas*, according to that

---- *Posuere in montibus urbem,*

Pallantis proavi de nomine Palanteum. Virg. Aeneid. l. 8. In proesse of time six other hills by severall Kings of *Rome* were added; whereby the city, and the *Pomarium*, that is, the territories of the city were enlarged: and *Rome* called *Vrbs septicolis*, id est, the city vpon seven 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 sanctuarie of refuge, which *Romulus* opened in imitation of *Cadmus*, who at the building of *Thebes* was said to haue opened a sanctuarie of refuge, whether whatsoever malefactor could escape, were he bond or free, he was not to be punished. It was

Rosin. antiq. lib. 1. cap. 2. Sigon. de iur. Rom. lib. 1. c. 2.

Rosin. antiq. lib. 1. cap. 4.

Vid. Servi. um in Aeneid. lib. 8.

Alex. Gen. dior. l. 3. c. 20. vbi plura lecti- one 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 committed. Whence theſe two phraſes are expounded alike, *Ad te tanquàm ad Afylum*, and, *Ad te tanquàm ad aram confugimus*, id eſt, wee fly vnto thee as our only refuge.

CAP. 3.

De monte Capitolino.

^k Roſin, antiqu. lib. 1. c. 5.

^l Plutarch, in Romulo.

2.

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

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*.

CAP.

De monte Capitolino

CAP. 4.

De colle Quirinali.

THIS hill being in former time called *Agonalis*, then began to bee 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 *Quirinus*. 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 *° Rosinus*.

° Antiq. Rom.
l. 1, p. 6.

CAP. 5.

De monte Caelio.

THIS hill hath his name from a certaine Captaine of *° Alex. Gen.* *Hetruria*, which assisted *Romulus* against the *Sabines*. *dier. l. 6, c. 31.* On this hill, King *Tullus Hostilius* erected stately edifices, which for a time served as his Palace: but afterward they became the chiefe Councell-house, whether the *Senatours* assembled themselves, for the determining of State-matters: and because this *Curia*, did farre exceed all others, therefore Authors many times vse this word *° Curia* simply, without any adiunction, to signifie *Curiam Hostiliam*, as if *° Alex. Gen.* there were no other. It much resembleth our Priuy-councell *dier. l. 1, c. 16.*

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

[Rosin. Ibid.

^r Munster. in
sua Cosmog.
lib. 2. cap. 9.

^u Alex. Gen.
dier. l. 6. c. 11.

Chamber, in respect that none might sit there, but only *Senatours*; whereas in the court-house, which *Pompey* built) being therefore called *Curia Pompeia*) ^r other City Magistrats were admitted amongst the *Senators*: & in *Curia Julia*, id est, the Court-house which *Julius* made, were examined ^r for-
reigne matters, as Embassages; but in *Curia Hostilia* domesti-
call matters onely were treated of, and that onely by the *Se-
natours*. ^r At this present time, this hill is beautified with ma-
ny Christian Churches, as the Churches of S. Stephen, S.
Paul, and S. *Iohn*, our Saviours Hospitall, &c. ^u It was also
called *Mons Querculanus*, from the abundance of oakes
growing there.

CAP. 6.

De monte Esquilino.

Esquilino

^r Rosin. antiq.
l. 1. cap. 8.

THis hill was so named *quasi* ^x *excubinus ab excubijs*, id
est, from the night watching, which *Romulus* did vn-
dertake vpon that, somewhat distrusting the fidelity of the
Sabines, in the beginning of their league. In this hill there
were three hillockes named, *Cispius*, *Oppius*, and *Septimius*.

CAP. 7.

De monte Aventino.

^a Alex. Gen.
dier. l. 6. c. 11.

^b Plutarch, in
Romulo.

THe *Aventine* mount, tooke his name ^a from *Aven-
tinus*, a certaine King of *Albanum*, which was there
buried. Vpon this hill stood *Hercules* his Altar, and certaine
Temples consecrated to *Iuno*, *Diana*, *Minerva*, *Lutina*, 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-

Of the chiefe parts of the Citty.

7

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 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 chiefly 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. La-
tomus in Ver-
rin. Orat. 7.

¶ Lactant, de
fall. relig. lib.
2, cap. 20.

¶ Munster in
sua Cosmog.
lib. 2, cap. 8.

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; and that they might gaine the better credit vnto this their fable, they adde further, 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 writer 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*, idest, the Golden Mountaine. The third was famous for the many diuinations, and prophecies, vttered vpon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. ¶ It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

CAP. 10.

De Foro Romano.

¶ Hubertus in
Cip. lib. 3. ep.
sam. 6.

Forum hath diuers acceptions: some times it is taken for a place of negotiation, or marchandising, which wee call a market place: and beeing taken in this sense, it hath commonly some adiectiue ioyned with it, as *Forum boarium*, the beast market, *Forum piscarium*, the fish market, *Q-litorium forum*, the hearb market: other times it is take for any place, wheresoeuer the chiefe gouernour of a Province doth conuocate his people together, there to giue iudgment, according to the course in law: whence a man is said, *Forum agere*, when hee keepes the assises, and *Forum indicere*, when hee appointeth the place where the Assises shall bee kept. Thirdly, it is taken for a place, where controuersies in law are iudicially determined, and Orations are had vnto the people. At first, of this sort were only three, *Romanum*, *uli-*

um, & Augustum, as is clearly evidenced by that of Martial.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to fixe distinct Forums: one called *Forum Iulium*, because it was built by *Iulius Cesar*. A second was added by *Octavius 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 transitorie Forum, because there was *Transitus*, id est, a way or passage through it into three severall market places. The same *Martial* calleth sometimes *Forum Palladium*, because in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Traianus*, wherein was erected a stately column or pillar 140 cubits high, having all the noble exploits performed by *Traianus* engraven in it: another was called *Salustij Forum*, because *Salust* bought it with divers Gardens adjoining, which since haue beene 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 understand, 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 *Rostrum*. Round about this *Forum Romanum*, were built certaine trades-mens shoppes, which they tearmed *Tabernae*, and also other stately buildings, called *Basilica Pauli*. Here was the *Comitium*, or Hall of Iustice; the *Rostrum*, id est, the Oratours Pulpit; *Saturnes Sanctuarie*, or the common treasure house; and *Castors Temple*: of all which in their order.

Lipsius de magnitud. Rom. l. 3. c. 7.

iHear, Salomuth. in Pancirolli lib. rerum deperdit. cap. de basil. & taber.

CAP. II.

De Basilicis.

1 Sigon. de iud.
dicijs lib. I.
cap. 28.

Basilica were vpper buildings, of great state and much cost, being supported with *Pila*, *id est*, flat-sided pillars; and hauing vnderneath them walkes, much resembling our Cloisters, saving that the *Intercolumnia*, or space betweene the pillars lay open vnto the very ground. That they were vpper buildings may bee 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 iudgement: 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*.

CAP. I 2.

De Comitijs.

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

Comitium¹ was a part of the *Forum Romanum*, being a great large hall of iustice, which for long time was open at the top, hauing no covering, 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 middest thereof, the *Sella Curulis*, *id est*, the Ivory chaire, from whence the chief Magistrate administred iustice; other inferior Magistrats sitting on benches on each side, which were called *Subsellia*, because they were lower then the *Tribunall*. Those which sate vpon these benches had power *cognoscere*, but not *pronuntiare*; much like to our Iustices at Assises, which may examine or informe against a male-

Of the chiefe parts of the Citie.

II

malefactor, but not condemne him. Where wee may observe, the difference betweene *Comitium*, signifying such an edifice, or building, and *Comitia*, signifying the Romane assemblies: both being called *a coeundo*. This hall was manie times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by ^m some. That in this *Comitium*, *Aetius 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 cover of a well, but in a large acception, it signifieth a broad brimmed hat, as *Calvus Rodiginus* noteth in the same place. ⁿ *Cicero* toucheth this. *Cotem illam, & novaculam defossam in* ⁿ *Cic. de divi-*
Comitio, supraq; impositum Puteal accepimus. But why it nat.
should bee called, *Puteal Libonis*, is yet doubtfull, except happily *Libo* was the first erecter of this statue. That it was a common court, and knowne place of iustice, *Horace* witnesseth. *Roscins orabat, sibi adesses ad puteal cras,*

m Cæ. Rhod.
lib. 10. c. 17.

CAP. 13.

De Rostris

NExt to the *Comitium* stood the *Rostra*, a goodly faire edifice, in manner of the body of a Cathedrall Church. In it stood an Orators Pulper, deckt and beautified with the stemmes of many ships, which the *Romans* got from the people of *Antium*, in a memorable battaile vpon the Sea: And 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. 8.
ep. fam. 1.

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CAP. 15.

De aede Saturni

Saturnes sanctuarie, ^q was the common treasure house, ^q Plutarch in
 wherein the subsidie money which the commons paide ^{Publicola.}
 vnto the treasurers called *Quaestores*, was to be laide vp:
 whereof diuers coniecture diversly. *Alexander Neop.* ¹ saith, ¹ Alex. Gen.
 that *Saturne* found out the vse of brasen money: and there- ^{dier. l. 4. c. 15.}
 fore this Temple might be thought the fittest place for the
 treasury. *Plutarch* thinketh rather, that the making of the
 treasure in that place did allude to the integrity of the time,
 wherein *Saturne* rained, being the worlds golden Age.
¹ But the most receiued opinion, is the strength of the place, ¹ Alex. Gen.
 whereby it was the safer from theeuers. The Temple by rea- ^{dier. l. 2. c. 2.}
 son of the vse it was put vnto, was called *ararium* from *as*,
id est, Brasse: which name now is common to all treasure
 houses: for that the first money vsed by the Romans was
 of that mettall, vntill the yeare of Rome; 485. (as *Pliny* wit-
 nesseth lib. 3. cap. 33.) ¹ Some are of opinion, that before ¹ Alex. Gen.
 the vse of brasse, they made mony of leather: whence *Nu-* ^{dier. lib. 4. c. 15.}
ma Pompilius is said to haue giuen leather mony in a dole
 vnto the people. Touching their order obserued in the
 treasure, wee must vnderstand that their care in prouiding
 against sudden daingers was such, that they laid aside the
 twentieth part of their receipts, which they ^u called *aurum* ^u Alex. Gen.
vicefimarium, *Inconsimarium*, and *Comiliarchium*, into an ^{dier. l. 2. c. 2.}
 inner Chamber or more sacred roome, named in Latine *era-*
rium sanctius. ^x Wee may reade also of a third treasury ^x *Servius. l. 2.*
 called *ararium militare*, wherein *Augustus* had appointed ^{Virg. Georg.}
 that the twentieth part of certaine legacies should be laid vp
 to defray charges in extraordinary wars: where it lay so pri-
 uiledged, that it was a capitall crime to vse any of it, but in
 extreame and desperate necessity. Notwithstanding, howso-

z Alex. Geñ.
dier. 1. 2. c. 2.

y Plutarch. in
suis proble-
mat. vid.
Franc. Syluiū
in Catilinar. 4.

euver it was vsed as a treasure house & yet diuers Authors testifie that the Acts of their Senate, the books of records, together with such bookes, as were for their immeasurable bignesse, called *libri Elephantini*, wherein all the names of their Citizens were registred, and also their military Ensignes, were contained there. y And from those statute books called *tabula publica*, this treasurie was also called *Tabularium*, because they were laide vp there.

CAP. 16.

De campo scelerato.

z Munster. in
sua Cosmog.

z Plutarch. in
Numa.

C*ampus sceleratus*, the field of execution & lying within the citie, ioyned to the gate *Collina*. It was the place, where the Vestall Nuns, 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 victuals: whither 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 pittie. Shee beeing thus brought to the place of execution, was let downe by a ladder into the hollow Caue, and the hole presently stopped. And the reason why they suffered such a kinde of death, was because they thought it not fitte, that shee should bee 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 serued in so holy a function.

CAP.

CAP. 17.

De Campo Martio.

THe ^b *Campus Martius*, otherwise called *Tiberinus*, ^b Rosin. antiq. lib. 6. cap. 11. (because it was neere the riuer *Tiber*) was giuen vnto the Roman people, by *Caja Tarratia*, a Vestall Virgin: but *Tarquinius Superbus*, the last King of *Rome*, did take it from the people, converting it to his owne priuate vse: insomuch that he sowed corne there; which when he was deposed, the *Romans* did cast into the riuer *Tiber*, iudging it vnfit that any man should reap any commodity from so holy a ground. In processe of time, the sheaues of corne being stopped in a shallow foard of the riuer, became firme ground, and was called, *The holy Iland*, or *Æsculapius his Iland*. and 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 diuers images of well deseruing men. Hither did the younger sort of *Romans* come to exercise Chiuallry, namely the horse-race, the foot-race, wrestling, fencing, casting the bowle, the sledge, the dart, vsing the sling, the bow, vaulting, with such like: and vpon this occasion it was dedicated to *Mars*, and 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, ^c Cæli. Rhod. l. 21. c. 29. 30. their custome being for their horse-men in warre, to lead a spare horse in their hands, besides that whereon they did ride, that when the one did sweat, they leaped vpon the others backe; à *desiliendo*, those horses were called *Equi desultorii*: whence an vnconstant, wavering, and vnsetled minde, 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,

^d Servius in
Bucol. eclo. 1.

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 Tribunal, or seat of justice, within which precinct the people oftentimes assembled to give 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, and every Tribe, or Ward in the assembly of the Tribes, & every hundred in the assembly of Centuries having his Bridge: whence this proverbe was occasioned, *de ponte dei sciendus, id est*, he is to be barred from giuing his voice. ^e These bridges were not made ouer any riuer but ouer the dry land: whence me were said to be cast, *Non ut periclitarentur de vita, sed ne suffragarentur in Comitijs.*

^e Ioan, Saxo-
nius in Orat.
pro S. Roscio.

CAP. 18.

De Circo Maximo.

AMongst other places where the Romans exhibited their Playes 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 diuerse galleries round about it, from whence the *Senators* & *Gentlemen* of the City did behold the running with great *Horses* at lists, the fire-workes, tumbling, the bayting, and chafing of wild beasts, &c. In former time, all did stand on the ground, being sheltered from 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 *Feræ*, making thirty distinctions of them

them, allotting every ward or companie their severall quarters, all the seats being able to containe one hundred fiftie thousand parties. ^f Under these places were cele, or vaults, ^f Rosin. antiq. lib. 5. cap. 4. where women did prostitute their bodies, and would buy stolne goods, and for this reason *Horace* calleth it *Fallacem circum*, *id est*, the deceitfull shew-place. There was at the one end of the 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*, *a coercendo*. Whence we say *a carceribus ad metam*, *id est*, from the beginning to the ending.

CAP. 19.

De Theatro.

THe Theatre hath his name from the Greeke verbe *θεωω*, *id est*, to behold: because the people flocked thither, to behold plaies and shewes exhibited to them. The custome ^h first sprang from the sheepeheards, who leading a contemplative life, were wont to compose dialogues in meetre, and at their leasure to recite them vnder the trees pressed down in forme of an arbor; whence this theatrall tearme *σκηνη*, hath beene deriued from *σκη*, a shadow, but afterward learned Poets composed Comedies, and Tragedies, which were publicquely acted in the Citie vpon a stage: and although at the first it was counted infamous to frequent them, yet afterwards the Senatours themselves, yea the Emperour, and all the chiefe of *Rome* assembled thither. ⁱ Neither for a long continuance were there any seats built, ⁱ Alex. Gen. dier. l. 5. c. 16. but Commons, and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behinde, railed vp places with turfs of earth, which gaue the people occasion to call the place betweene those

C

turfs

^g Ioach. came-
rar. in orat.
pro L. Flacco,
^h Servius l. 2.
Virg. Georg.

turfes and the scaffold, *Cavea*, *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 plaies were acted; and it had diuerse parts, some proper to the actours, some to the spectators. To the actors first belonged the *proscenium*, *id est*, the house, whence the players came: where they apparelled themselves, though sometimes it is taken for the scaffold, or stage it selfe: secondly, the *puipitum*, *id est*, the stage or scaffold vpon which they acted: and thirdly, the *scena*, that is, the partition which was commonly made of wood not of hangings. Now that they might change their scene according to their pleasure, they made it *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 shepheards did act no more at a time, then one of our *Scenes*, hence haue we distinguished our plaies 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; & called therefore *Equestris*; the others wherein the Senators did sit were commonly called *Orchestra*: this may be collected out of *Lipsius*, in *Cael. Rhodiginus* faith, that the *Orchestra* was that place ioining to the stage, where *Chorus* spake to the people at the end of every act. Diverse authors are of *Cael. Rhod.* his opinion, deriying the word *Orchestra*, from the Greeke *ἀρχαῖος*, to dance: but it seemeth more probable, to haue bin a peculiar place, allotted for the Senators. *Iuv. Sat. 3*
Aequales habitus illic; similemque videbis
Orchestram, & populum. *id est*, *optimates & plebem*. The whole

¶ Servius, l. 3.
 Virg. Georg.

¶ Lipsius de
 amphith. c. 14.
 in Cael. Rhod.
 lib. 8, cap. 8.

whole building made for entertainment of the spectators, resembled a triangle, or wedge, sharpe towards the stage, and broad behinde; 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 called *popularia*, the place for the meaner sort of people, 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, only as the full moone doth from the halfe, or a compleat rundle, from a semi-circle: it resembled an edge. Vpon this kinde of scaffold did the Matters of defence play their prizes, and wilde beasts were baited. *In Amphi. theatro gladiatorij ludi, & conclusarum ferarum venationes exhibebantur*. The *Amphitheatre* it selfe in the iudgement of *Lipsius* was tearmed *Cavea*, *ab interiore parte qua 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 slipery for the combatants. Hence commeth that phraise *In arenam descendere*, to goe into the field: and the combatants were thence called *Arenarij*. Here we must note, that howsoeuer the *Amphitheatre* was strowed commonly with common and ordinarie grauell, yet sometimes in their extraordinary shewes that grauel was couered and as it were new coated, with the scrapings & dust of some extraordinary stones, to adde the greater lustre vnto it: thus much *Pliny* intimateth. *Inuenere & alium usum eius lapidis, in ramentis quoq; Circum maximum sternendi, ut si in commendatione & candor*. Againe, sometimes the hollow places or dennes vnder the *Amphitheatre*, in which the wilde beasts were kept, & likewise men to be committed with wilde beasts, out of which these were let loose by the lifting vp of trappe doores to be hunted or baited vpon the *Amphitheatre*, were called *Cavea*. For we must know

Sueton. in
Domitian.

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 reall ships and sea-skirmishes were often times exhibited vpon the *Amphitheatre*.

CAP. 20.

Moreover for the better vnderstanding of classically authors, it will not be impertinent to point at the general names, by which the religious places were called: and to declare the proper acception of each name; the names being these, *Templum*, *Fanum*, *Delubrum*, *Fides sacra*, *Pulvinar*, *Sacrarium*, *Lucus*, *Scrobiculum*, *Ara*, *Altare*, *Foci*.

De Templo.

¶ Rosin. Ant.
lib. 2. cap. 2.

¶ Lilius Gy-
rald, de diis
gentil, syntag.
17.

This word *Templum* doth sometimes signifie those spaces, and regions in the aire, and earth, which the *Augures* did quarter out with their crooked staffe at their south-saying. Sometimes it doth signifie a sepulchre or graue, 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;

¶ Li. 4. *Aenead.*
y. 457.

¶ *Præterea fuit antiquo de marmore templum.*

Coniugis antiqui.---

¶ Fr. Sylvius
in orat. pro
Muren.

Most commonly it doth signifie a *Church*, or *Temple*: in which sense as often as it is vsed, it is 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.

De Fano.

It is also called *Fanum*, a *fando*, from speaking: not from the speaking of the Priest, but because the people doe there speake

speake vnto God, & God againe to the people: Some are of ^fTurneb, ad. op. 10. that *Fanū* in propriety of speech signified the Church. ^{vers. lib. 3. c. 9.} yeard, or court before the Temple: *Templum* signifieth the edifice, or Church built.

De Delubro.

Thirdly, a Church was called, *delubrum Synecdochicū*, because it was the principall part of the Church, namely the place where their Idol God stood; and it was called *delubrum* from *Deus*: as we call the place where the candle is put, ^g *Rosin. antiq. lib. 2. c. 2. *candelabrum* from *candela*. As concerning the outward forme of the Churches, some were vncovered because they counted it an hainous matter to see those Gods confined vnder a roose, 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 *pronden*, 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*; and in these places it was lawfull for them to marchandise, make bargaines, or conferre of any worldly businesse; as likewise, in the *basilica*, or Body it selfe. But their Quire called *Chorus*, was counted a more holy place, set a part only for diuine seruice. The manner of hallowing it, was as followeth.*

^b When the place where the Temple should be built, had ^b *Rosin. ibid.* been 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 neede 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 fillets 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

ground now to be hallowed, Then certaine souldiers marched in with boughs in their hands, and after followed Vestall Nunnes leading young boyes, and maides in their hands, who sprinkled the place with holy-water. After this following the Prætor, some Pontific 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 bee vnhalloved by conuerting this stone, or gold, into any other vse.

De Ede sacrâ.

Fourthly, a Church was called *Edes sacra*, an holy house, because of the sacrafices, prayers and other holy exercises performed therein. Although (as *Gellius* hath long since obserued euery holy house was not a Church. For the proper note of distinction between a Church, and 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, and the common treasurie, called *Edes Saturni*. Wee may adde hereunto this word *Puluinar*, 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

Pulvinaria

Barthol. Latomus in Philippic. 4^{am}.

Pulvinaria from *pulvis*, because they were filled with dust or chaffe.

De Sacratio.

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

4 Cic. pro Milone.
1 Franc. Sylvius in orat.
p. o L. Muræ.

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 Scrobicula, Ara, & Altari.

The places vpon which they sacrificed either in their religious houses, or their groues, were of three sorts, which wee in english tearme altars; but the Romans distinguished the by three severall 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 bloud of the beast flaine, together with milke, hony, and wine, when they sacrificed vnto an infernall God.

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

De Ara.

The second kind of altar was called *Ara*, either *ab arden-do*, because their sacrifices were burned vpon it: or from their imprecations vsed at that time, which in Greeke they called *ἀράς*. 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 the ⁿ *Aras gramineas*, id est, grasse altars.

in Virg. Æn. 12

De Altari.

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

cause

¶ Serv. in Bu-
colic, eclog. 5.

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 celestiaall Gods only.

De Foco.

Focus is a generall name, signifying any of these altars. So called *à fovendo*: because as *Servius* hath obserued that is *focus, quicquid fovet ignem, sive ara sit, sive quicquid aliud, in quo ignis fovetur*. But in strict proprietic of speech, it is taken for that altar on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*. As it appeareth

¶ Aulular, act. by *Plautus* P:
2: Sc. 5.

Hec imponentur in focum nostro Lari

Vt fortunatas faciat gnata nuptias.

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

¶ Turneb.
Ady. lib. 10. c. 7

LIB.



LIB. I. SECT. 2.

The generall divisions of the Romane people.

CAP. I.

De populo Romano, & eius primâ divisione.



Hus hauing premised a short Treatise concerning the first situation of *Rome*, and the most remarkeable parts thereof, I purpose to proceed to the Inhabitants, which antiquitie hath stiled Citizens of *Rome*. And *Erasmus* rather describing a *Romane*, then defining him, saith, A *Romane* was graue in his conversation, severe in his iudgement, constant in his purpose: Whence *Cicero* in his Epistles often vseth this phrase, *More Romano*, for *ex animo*, *id est*, vnfeinedly. ^a *Sigonius* rendring the definition of a *Romane* citizen, averreth that no man is *lege Optimâ*, *id est*, in full and compleat manner a citizen of *Rome*, but he which hath his habitation there, which is incorporated into a tribe, and which is made capable of citie 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 iur.
Rom. l. i. c. i.

b Sigon. de iur.
Rom. l. 1. c. 3.

ner disfranchised. But whereas *Sigonius* saith that they must haue their habitation at *Rome*, he would not bee so vnderstood, as if a *Romane* citizen 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 bee seised and taxed in common with others toward the subsidie payments, and denieth to be incorporate into another citty. For *T. Pomponius* was a true citizen of *Rome*, though hee dwelt at *Athens*. The *Romane* citizens being by these priuiledges 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 diuerse places they then inhabited, as we read that *Seruius* the sixth king of *Rome* did, making therefore foure tribes *romæis*, local, namely *Suburanam*, *Palatinam*, *Collinam*, and *Esquilinam* (which number of local tribes in proceſſe of time increased vnto the number of 35.) but dividing them according to their senerall 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 their king *Tatius*. 2. the *Albanes*, called *Rhamnenses* from *Romulus*. 3. other nations promiscuously flocking out of other countries to the *Roman Asylum* placed in a groue called in Latine *Lucus*, which gaue *Romulus* occasion to name them *Luceres* he made in all three tribes *gens*es or nationall. After that *Romulus* had thus devided the whole body of the *Romanes* into three tribes, hee then subdiuided each tribe into ten lesser numbers, which he called *Curia*, or parishes: and then followed five other diuisions in respect of their different degrees, and callings: of which in their severall order.

CAP. 2.

*De prima divisione Romanorum in Senatores, sive
Patres, Patricios, sive Patronos, & Ple-
beios, sive Clientes.*

THe first division of the Romans in respect of their de-
gree, and place was this. The elder, wealthier, & gra-
vest sort of *Romanes*, were call'd sometimes *Patricij*, either because of their age, and gravity; or because they
had many children (for great privileges were granted vnto
fathers of three children:) and sometimes *Patroni*, because
they were as patrons, and fathers in helping and assisting the
causes of the common people seeking to them. The younger,
poorer, and simpler sort were called, as they had relation to
the *Patricij*, *Plebeij*, *id est*, the commons; as they had relation
to their *Patrons*, they were named *Clientes*, *id est*, Clients.
betweene whom 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 withall
faithfulnesse to cleaue vnto their *Patrons*: & that not only to
credit the with their attendance in publike assemblies, but to
disburse out of their owne purses towards the beflowing 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 aduersaries one against another without the
guilt of treason: for which crime of treason they were *dijs in-
feris devoti*, *id est*, cursed to hell, and the law gaue liberty for
any man to kill them. Out of the *Patricij* did *Romulus* elect
100 counsellors to assist him in determining matters concer-
ning the common-weale: to these did *Romulus* after a while adde a-
nother 100. and *Tarquinius Priscus*, as diuers Authors testi-
fie, made them a compleat 300. which they called *Patres*, or
Senatores

*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*, *ideſt*, *Senators* of the lower houſe. *Brutus* added the laſt 100: and 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 chap 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 Martin, Phil.
leticus in Cic.
1.1. Ep. fam. 1.

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

CAP. 3.

De ſecunda diſiſione 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, and perpetually abrogated: ſo that the office, which was before monarchical then was diuided betweene two, called *Conſulls*; neither were they admitted for any longer ſpace then one yeare. At which time of change, the *Romanes* were divided into three orders, or ranges, 1. into *Senators*, of whom before. 2. into *Gentlemen*, called of the *Romanes ordo Equeſtris*: by which we doe not vnderſtand thoſe 300. *Celeres*, *ideſt*, *Penſioners*, called ſometimes *Equites*, for that was a place of ſervice, this a title and token of gentility. Who although they were inferior to the chiefe Senate, yet they were of great eſteeme among the *Romanes*: 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 *angusti-*
clavium,

f Roſin. Ant.
iq. 4. cap. 17.

The generall divisions of the Romane people. 29

clavium, a garment differing from the former onely 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 election receaved 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 (they hauing their horses kept as well in peace as warre.) They receaved also a gold-ring, ^h whereby they were distinguished from the Populacie: 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, 6000^l. ^k Of a Gentlemans estate it was *quadringenta sestertia*, that is, of our English mony 3000^l. ³ The third order, or degree in the *Romane* 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 & downe to and fro, not settling themselves to any vocation, were not contained within this diuision: 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. dier. l. 2. c. 29.

ⁱ Suet. in August.
^k Plin. lib. 33. cap. 2.

CAP. 4.

De tertiâ diuisione in Nobiles, Novos,
& Ignobiles.

THis diuision was taken from the right or priuiledge of having images; for they were accounted Noblemen, which had the images of their predeceffours: Those which had their owne images onely were called *Novi*, idest, late-coyned nobles or vpstarts. *Salust* vseth this

word often in the disgrace of Tully calling him *Novum & reptitum 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 themselves. Before we proceed, we must understand, that it was not lawfull for who would to have his owne image, if he so desired; for none might bee 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 atchievements, when they would consider the diverse ceremonies vsed vnto these images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*; insomuch that this word *Imago* doth oftentimes signifie Nobilitie: and 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 ioy and mirth, those images should be beautified and adorned with garlands and flowres; vpon occasions of griefe & mourning they would take from them all their ornaments, making them in a manner 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, helmes, shipbeakes, and such other spoiles as formerly they had taken from 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.

^l Sig. de iur.
Rom. l. 2. c. 20.

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

ⁿ Barth. Lato.
in Verrin. 7.

^o Plin. 35. 2.

^p Iuv. Sat. 8.

*P Tota licet veteres exornent undiq; cera
Atria, nobilitas sola est atq; unica virtus.*

Again 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 vpwward.

CAP. 5.

De quarta divisione Romanorum in Optimates & Populares.

THis fourth division of the *Romanes* hath beene occasioned through the faction & siding of the citizens. 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 a desire of vaine-glory, would not so much consider, what was most right, as what should be most pleasing vnto the populacie. So that here by this word *popular*, we vnderstand not the commons, as formerly we did, but be he Senator, Gentleman, or inferiour, if he doe more desire that which shall bee applauded by the maior 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.

CAP. 6.

De quintâ & ultimâ divisione Romanorum, in Libertos, Libertinos, & Ingenuos: item de Manumissione.

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

Justin. inst.
lib. i. tit. de In-
genuis. vid.
Franc. Sylv. in
Catilinar. 4.

¶ P. Ramus in
orat. pro C.
Rabirio.

¶ Tert. de re-
fur. carn.

bertines, or both free-borne, yea whose mother only was free, was called *Ingenus*, id est, freeborne. But after *Appius Cacus* his Censorship, then began *Liberti* & *Libertini* to signifie one and the same degree of freedome: so that *Liberti* & *Libertini* were taken for those which serued for their freedome, and *Ingeni* were taken for those which were freeborne, whether their parents were *Liberti* or *Libertini*. Here is occasion giuen vs to consider the maner of their freedome, and such ceremonies which belonged therevnto. The freedome of the citie 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 nation, 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 Consul 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 and giuing him a cuffe on the eare he did *emittere servum e manu*: the Pretor then laying a certaine wand or rodde called *Vindicta*, vpon the servants head, replied in this manner *Dico eum liberum esse more Quiritum*. Thē 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 receiue a cappe as a token of libertie whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindicta liberare*. 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 ha-ving of three names among the Romans was rather a signe of freedome then of Nobility. And that of *Iuvenall*.

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LIB. 2. SECT. 1.

The generall diuisions of the Romane Gods.

CAP. I.

De dijs.



Hough *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 easilie perceiue, and therefore willingly acknowledge, that there was some supream gouernour, some first mouer, 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? he should be vrged to confesse the truth of that rather *argumento bacillino, quam Aristotelico*, rather with a good cudgell, then with any long dispute. But as they where most certaine, that there was a God, so were they againe very blinde in discerning the true God: and hence hath bin inuented such a tedious catalogue of Gods, that as *Varro* averreth, their number hath exceeded thirty 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. Only I purpose to shew what is vnder-

^a Alex. Gen.
dier. l. 6. c. 6.

stood by those generall distinctions of the Gods, which di-
vers authors haue vsed. *Tulli lib. 2. de legibus* reduceth all vn-
to three heads, Gods celestiaall, which *Varro* calleth select,
and others haue styled Gods *maiorum gentium, id est*, of the
greater nations, because their power was greater then the o-
thers. ^a *Alexander Neapolitanus* saith, that twelue of these
were the *Penates*, which *Aeneas* did take forth with him at
the destruction of *Troy*. *Ouid* calleth them *Deos nobiles*, noble
Gods: others call them *Deos consentes, quasi consentientes*, be-
cause *Iupiter* would doe nothing without the consent of all.
Ennius hath diluiered them in this distich,

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

^b *Servius* in
lib. *Georgic.*

The second sort of Gods were called *Semidei, id est*, Demi-
gods: ^d 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 other-
wise then by right of donation, being therefore translated
into heauen, because they liued as Gods vpon earth: but be-
cause their merit was inferior, and could not parallel the de-
serts of the Gods select, therefore were they called Gods
of inferior note. ^c *Servius* would haue these called *Diui*:
observing this difference betweene *Dij* and *Dini*, that *Dij*
should signifie those which had bin Gods perpetnally, but
Dini should signifie men made Gods, though commonly
they are vsed one for another. Whence they called all their
Emperours *Dini*, because for their deserts they thought
them worthy to be 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 ta-
bernacle, with three other lesser tabernacles one vpon top
of another, the lowermost hauing in it dry cumbustible
matter, but in the out-side adorned Richly with gold, Ivory,
and painted tables: Hither the dead corps was to be carry-
ed with great solemnities; the Senate, the gentlemen, and all
the

^d *Rosin. Ant.*
lib. 3. c. 18. vid.
Hospiniam de
orig. *Christ. F.*
p. 21. Vid. ex-
emplum huius
consecrationis
in *Seueri se-*
pultura. Hero-
dian: lib. 4. p.
298.

the chiefe magistrats going before, with hymnes and songs, and all kinde of honour, which was to be perfourmed 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 canonised 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*, ^c *quoniam anima humana verterentur in Deos*. This canonization was by the Greekes termed *ἀποθεώσις*, 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*, ^f *Rosin. antiq. lib. 2. c. 19.* 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 iudgment of others, to determine how iustly he hath restrained the Gods *minorum gentium*, of the lesser nations, only vnto this last *classis*: whereas my opinion is, that the demy-gods, the morall vertues which haue beene stiled 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 himselve, but to the necessities of mans living, 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 from the diversity of helpe, which they severally did aford vnto man. In this respect some were called *dij Patrij*, or *tutelares*, such as had vndertaken the protection of any citie, or towne which opinion had sometimes beene entertained by our Englishmen, and thence haue risen these, and the like speeches S. George for England, S. Denis for France, S. Patrick for Ireland, &c. And the Romans being fully perswaded of the truth thereof, whensoever they went about to besiege any towne, by certaine enchantments, or spells they would first call out these Tutelar Gods; because they deemed it matter impossible to captiuate the city, as long as these Gods werewithin; or at least they thought it a crime vnxpiable to take the Gods as prisoners. And least other nations might vse the same meanes in besieging Rome, therefore, as diuers authors haue thought, the true name of the Romane city was neuer knowne, least thereby the name of their Tutelar God might be descryed. Others namely the *Tyrrians* haue tied fast their God *Hercules* with a golden chaine, thereby the more to secure theselues 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 beleue that others had the charge of particular men; and that so soone as any man was borne two spirits did presently accompany him invisibly, the one tearmed the *bonus Genius*, or good angell, 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: inso-much that they thought all the actions 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 *Dij iratis*, id est, our *Genius* being displeased with vs *Virgill* calleth

g Syluius in
epist. virorum
illustrum.

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

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leth these bad Angels *Manes*, as it appeareth by that,

Quisq; 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 tuition of vs

so soone, as we are *Geniti*, *id est*, borne, it is most certaine that

old autors vsed *Geno*, for *Gigno* whence *Tulli* saith, *si mihi fi-*

lius genitur, and *Varo* *Antequam genat filiquas*, although

every place had also his *Genius*, as hereafter shall appeare.

This opinion was the more confirmed by a vision which ap-

peared vnto *Brutus* in *Asia* neere vnto the time of his death:

for *Brutus* watching vpon a certaine night in his pavilion,

the candle being neere spent, saw a fierce tragicall person ap-

peare vnto him, somewhat bigger then a man, & he present-

ly being of an vndaunted spirit, demãded whether he were a

God or a man? To whome the vision answered, *Brutus* I am

thy euill *Genius*, which haunteth thee, thou shalt see me at the

citie *Philippi* againe, and the same vision appeared vnto him,

as he was fighting at *Philippi*: which was the last fight that

euery mã hath not his two Angels but one Angel, & *Iu-*

no to obserue him, but it is agreed vpo by best autors, that as

the angels or spirits which did attend men were tearmed *Ge-*

nij: so those which guarded women were tearmed *Iunones*.

This *Genius*, as oftẽ as he is vnder stood for the good or euill

Angell, which hath charge of a mans body, is painted in

forme of a man as we read did appnare to *Brutus*; though

some time he is painted as a young boy, sometime as an olde

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 alter garnished with flowers: in the left

he held a scourge hanging downe. The sacrifice that was per-

formed vnto the *Genius* was wine, and flowers: whereupon

(as if by wine and fragrant odors, were signified all kinde of

plea-

Cic. lib. 2. de

orat.

Varro Rei,

Rust. li. 1. c. 31.

Plut. in Brut.

m Rosin. ant.

lib. 3. cap. 14.

n Vid, Erasmi,
adag.

n Cel, Rhod.
lib, 28, cap. 6.

pleasures) certaine proverbiall speeches have 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 himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: & *genialis* signifieth iocund or pleasant. 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*. The *Grecians* had a like custome, whence that cuppe was called by them, *κεῖς αἰνὰ δὲ 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 perfourmed yearly by euery one vpo his birth day) *Horace* notwithstanding doth more then 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 chief power ouer high waies and places, being therefore called *Genius loci*, was pictured in forme of a Snake, in which forme *Virgil* fained him to haue appeared, to *Aeneas*, when he performed the funerall rites due vnto his Father *Anchios*, *Aenead. lib. 5,*

--- *Adytis cum lubricus anguis ab imis*

Septem ingens giros, sceptena volumina traxit.

And *Persius*.

Pinge duos angues, pueri sacer est locus, extra.

Meiye, id est, duos Genios.

Sat. 1.

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

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 doggs, that is to seeme fierce, and angry towards strangers, but gentle & kinde to those of the household

The generall divisions of the Roman Gods. 41

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

Servat uterq, domum, domino quoq, fidus uterq, 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 *paruo 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 whatsoeuer was left at the offering, for they thought it an heinous matter to send any of that sacrifice abroad, either among their friends, or the poore: and therevpon when wee see a glutton leaue nothing in the platter, not so much as the curtesi-morsell, we say *Lari sacrificat, id est,* he sacrificeth to his household God.

F

LIB.





LIB. 2. SECT. 2.

Of the Roman Priests with some particular Gods.

Aunus the ancientest of all the kings in *Italia* was the first, that brought any forme of religion into *Italia*. He consecrated groues, gaue names vnto Cities, 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 *Aeneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whose examples *Romulus* and *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 feigned 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.

CAP.

Last, de fall.
rel. l. 1. c. 22.

CAP. I.

De Pane 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, having ^a Servius in hornes in likenesse of the sunne-beames, a long beard, ^{Virg. Ecl. 2.} 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 he holdeth a pipe, in the other a sheep-herdes crooke, and alwaies is imagined to laugh. ^b Hee was wor- ^b Feneft. de shipped first in *Arcadia*, and there called the God *Pan Ly-* sacerd. cap. 1, *caus*, but afterward hee was had in great esteeme at *Rome* ^c and in the honour of him certaine sacrifices, and games cal- ^c Feneft. ib. led *Lupercalia* were solemnized by the *Romanes*. ^d There ^d Pomponius he tooke the name *Inuus*, or as some say *Iunus*. Concerning ^e Latus de Sa- cerdot. cap. de the time, when thele sacrifices were to be performed; it was ^e Luper. vpon the ^e vnfortunate daies of the month *Februarie*, which ^e Plutarch, in hath his name *a februario*, from purging: whence the feast ^f Romulo. or game is as a purification; though the Latine word signi- fied as much as a feast of wolues, in a memoriall that *Ro- mulus* 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* *Lupercal*, *id est*, the place, where the wolfe nursed ^f *Romulus*. The ceremonies were these: the hoast (being two Goats) was to bee slaine; and two Noble mens sonnes were to bee present, whose foreheads being blouded with the knives of them that had slaine the Goats, by and by were to be dried vp with wooll dipped in miike. Then the young boyes must laugh immediatly after their foreheads were dry. That done they cut the goats skins, & made thongs of them, which they tooke in their hands, and

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Credenda Ceres aruis. Ouid. It is seed time. She is called *Ceres*, *quasi Gerēs, à gerendis frugibus*, from bearing fruit: be- i Cic. lib. 3. de
cause, as some say, by *Ceres* is vnderstood sometimes the nat. Deor.
earth it selfe: whence also *ἡ γῆ* being the Greeke name of
Ceres is said *quasi γῆ μήτηρ, id est*, the earth, which is the com-
mon mother of vs all. * Shee is painted in the habit of a Ma-
tron wearing a garland of corne, sometime sorrowfull with
a lampe in her hand, as if she 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 Ka-
lends of Aprill the *Romans* were wont to performe sacrifici-
ces vnto her, which they called *sacra Græca, id est*, the Gre-
cian 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 lamps 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
hence¹ we say *Cereri sacrificat*, he sacrifices to *Ceres*, when
he maketh a feast without wine.

Rosin. ant.
lib. 2. cap. 11.

Plautus in
Aulularia.

CAP. 3.

De Potitijs, & Pinarijs, Herculis sacerdotibus.

Hercules had an altar erected in the memoriall 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 heards-
man *Cacus*, the history being^m thus. *Hercules* after his con-

Seru. En.
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 bee in a sound sleep, he stole away two of his Oxen, which he hid in a caue, or hollow rocke, pulling them in by the taile backward, thinking that *Hercules* when he should look his oxen and see the print of his footsteps, would easily belecue, that his oxen had rather gone out from that rocke then into it, as indeed he did for a time beleue: but afterward by the bel-
lowing of the oxen within, answering their fellows without, *Hercules* entred the rock, and finding the theefe *Cacus* there with his oxen, he killed him, by reason of which murder he was brought before *Evander*, and after a while knowne to be the *Hercules*, of whom the Prophetesse *Carmenta* 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 bee 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 *Pinaris* 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 *Pinaris* was not the sur-name of this Noble man, but a name added vnto him, intimating his, and his successours punishment for not comming soone enough according to the time appointed by *Hercules*. For, as ⁿ diuerse writers testify, the entralls of hoast were almost eaten vp by the family of *Potitius*, before *Pinaris*, and his familie came; and in punishment of their negligence *Hercules* enioined the *Pinarij* never after to eat of the entralls, giuing them this name *Pinary* at that

Of the Roman Priests with some particular Gods. 47
that time, from the Greeke word *μῆν* signifying hunger.

C A P. 4.

De Fratibus arvalibus.

THis College or company of Roman Priests may be Englished the *Arvall fraternity*: the number of them being twelue, eleuen of them naturall brothers, sons to *Acca Laurentia Romulus* his foster mother; ° for which respect *Romulus* yeelded himselfe her adopted sonne, instituting this order in the honour of *Ceres* and *Bacchus* for the plentie of wine and corne vnto whom they did offer vp certaine sacrifices called *Ambaruales hostia*, *quod antequam matarentur ter circum arua ducebantur*, according to that of *Virg. Georg.* *Terq; novas circum foelix eat hostia fruges*, that they being therewith appeased might the willinger cause the earth to fructifie, & added himselfe to the former eleuen as the twelfth priest or brother to helpe in the performance of this publike sacrifice, moreouer beside the performance of this sacrifice, these twelue were appointed *arbitrators*, or iudges to decide controuersies concerning landmarks and bounds of the field, from whence they tooke their name *Patres Aruales*. Their sacerdotall ornaments was a garland of wheat bound vp with a white riband, this being, as *Pliny* writeth, the first crowne, or garland amongst the Romans.

° Feneft. de Sacerd. c. 3.

Hosp. de orig. Monach. c. 10.

Plin. lib. 17. cap. 2.

C A P. 4.

De sexaginta Curionibus.

AFTER that *Romulus* had diuided the whole body of the Romans into three tribes, or wardes, and subdiuided those three wards into thirtie parishes, called *Curie*, he ordained out of each *Curia* two parish Priests or Curats called *Curiones*, or *Flamines curiales*; which were pub-

q Dion. Hal.
lib. 2.

r Dion. Hal.
lib. 2.

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 be at the least fiftie yeare olde, of a life vnspotted, and a bodie vnmaimed. And over 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 *Curonia*. 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*.

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 we english Soothsayers, though the Latine words doe import a maine difference worth our obseruation: all are alluded vnto by Ovid.

Ovid. trist. l. 1.
Eleg. 8.

*Hoc mihi non ovium fibra, tonitrusve sinistri,
Linguae servata pennaue dixit avis.*

The *Aruspices* did divine, or foretell things to come by beholding the entrails 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 frō hearing the chatting or the crowing of the birds: whence they are called *Augures ab avium garritu*, from the chirping and 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 *Auspiciari rem* hath bene translated, to beginne

r Fr. Sylv. in or-
rat. pro Clu-
entio.

ginnea matter. The colledge of the *Augures* at Rome was first appointed by ^v *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 *Synecdoche*, signifying all kinds, and sorts of diuining whatsoeuer, whether it were by obseruing the entrails of beasts, the flying, screeching, and chatting of birds, or thundring, or lightning in the heauen, or marking the rebounding of crumms cast vnto birds, which kinde of diuining was called *Tripudium*.) ^x *Seruius Tullius* the sixt Romane king, when he diuided Roome 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 proesse of time *Quintus*, and *Cnius egulinus* being chosen *Tribuni plebis*, *id est*, protectors of the commons, obtained that fise 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 nnmber of fisteene: the eldest of which was called ^a *Magister Collegii*, the master, or *Rektor* of the colledge. The *Augures* excelled other Priests in ^b this respect, because if any of them had beene conuined of any heynous 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 hee 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 cleere, and faire without clouds, or raine, holding a crooked staffe, (called in Latine *Litnus*) in his hand, where sitting in his soothsaying robe, called *Lana*, and in Greeke *χλαῖνα*, παρὰ τὸ χλαῖναι, *à calefasciendo*, from heating, because it was well

^u Pomp. Læ-
tus cap. de
Augur.

^x Rosin. an-
tiq. lib 3. cap. 8.

^y Rosin. Ibid.

^z Rosin. id.

^a Alex. Gen.
dier. l. 5. c. 19.
^b Alex. ib.

^c Pomp. Læ-
tus, c. de Aug.

lined within, being garded in the out side 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 resolute the people, whether the Gods would assent that *Numa Pompilius* should be 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 Pompiliu, cuius ego caput teneo, regem Roma esse, uti nobis signa certa, ac clara sint inter eos fines, quos feci, id est*: If it be lawfull for this *Numa Pompilius*, whose head I hold to be king of Rome, shew some manifest tokens within these regions, 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, then did he *obnunciare*, or gaine-say, and shew that the matter proposed was not pleasing to the Gods. Whereby the way we must note, that nothing was confirmed by the *Augurs* without the appearance of two lucky tokens one after another; neither was any thing gaine-said by the appearance of one only euil token. The distinctions of the soothsayings haue beene takē, some from the event, & thence are they called *prospera*, luckie, or *aduersa*, vnluckie. Some from the manner of their appearing, ^d and that was either wished being called therefore *impetratiua*; or vnwished caled *oblatina*. Some from the diuersity of things which offered themselues in time of diuining, and so there were fīue distinct sorts: The first was by the obseruing of lightning, and thunder from heauen; the second from the flying, and chatting

d Serv. Aenei.
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 knownot whence; (as ^c *Cadmus* ^e *Vox subito audita est neq;* heard when he ouercame the serpent) the falling of salt towards vs at the table, the shedding of wine vpon our cloaths. From which casualties, and the like the *Augures* ^{erat cognoscere promptum Vnde, sed audita est} would pronounce either good fortune, or bad to ensue: And these tokens were therefore called *Dira*, because thereby *Dei* ^{Ouid. Met. lib. 3. fab. 1.} *ira nobis innotescit*, the Gods anger is made knowne vnto vs. Now the things that in diuining time appeared on the left-hand where 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 ^f *Serv. Ænei, lib. 2.* affaires signifieth as much as vnluckie, yet in those holy rites of diuining *sinistrum* is taken in a contrary sense as *Avis sinistra*, good lucke, *In tonnit lauum*, it hath thundered luckily, we shall haue good successe: and it is said *asinendo*, because the Gods thereby doe suffer vs to proceed in our purposed projects. And therefore *Tully* saith, *lib. 1. de diuinatione*, *A sinistra cornice ratum, & firmum augurium fieri*: and in the law of the 12 tables it is said, *Ave sinistra populi magister esto*, ^d The *Grecians* from hence in the iudgement of *Lipsius* haue called ^d *Lipf. Elect. lib. 2. cap. 2.* the left hand *αἰς ἐγὰρ* from *αἰσέω* signifying the best.

CAP. 7.

De Tripudiis & pullariis.

THis kinde of coniecturing is called *auspiciū coactū*, ^g *quoniam necesse erat offā obiecta cadere frustum ex pulli ore, cūm pascitur*. The word *Tripudium* is vsed ^g *Cic. de diu. nat. lib. 1.* by a syncopation for *terripudium*, which is as much as *terripavium*.

vinum, id est, a dancing or rebounding of any thing vpon the ground: for *pavire* is the same with *ferire*.^h Others say *Tri-
pudium* quasi *tritio* *peaum*. 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 coop 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 coope o-
pened, 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 displea-
sing vnto the Gods: but if contrarily the chicken did hastily-
leape out of the coop and eate so greedily of the crums; that
some should fall out of their mouths againe, then the *pul-
larius*, 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 *Tri-
pudium 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 eate them, it did be-
tide goodlucke; if otherwise they neglected the baites, 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. lib.

CAP. 8.

De Aruspiciis, Aruspiciâ, & Extispicio.

THis kinde of soothsayers as they were called *Aruspices* *ab aras aspiciendo* from beholding the beast vpon the altar; so were they called *Extispices*, *ab extra aspiciendo*, from beholding the bowels or entrals of the beast, called in Latines *Extâ*. In this kinde of soothsaying the *Aruspex* obserued in manner as followeth¹: 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 object 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-tel what would befall themselves, and their friends; the other they would call *partem hostilem*, whence they gathered predictions 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 tumbled in the aire, whether it were of any continuance or no: for all these were vnfortunate tokens, as the contrary did betoken a good and 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 *καπνός*, signifying smoke, & *μαντις*, id est, *vates*, or a soothsayer. The first instructiōs that the *Romans* receiued

¹ Senec. Ged.
Act. 2. sen. 2.

^m Oedip. Act.
2. sen. 2.

n Cic. de divi-
nat.

Indigene dixere
Tagem, qui pri-
mus Hetruscum
edocuit gentem,
casus aperire
futuros Ovid.
Met. lib. vii.

was from the *Hetrusci*, (who as they themselves say) receiued their knowledge from a little boy, which they named *Tages*, the history being thus. When the *Hetrusci* were plowing their lands, vpon a suddaine vpstart this *Tages* out of one of the furrowes vsing diuers speeches vnto the plow-men: but they being much affrighted at this sudden, & strange visi- on, beganne with a lowd cry to lift vp their voices; vpon oc- casion whereof many other people flocked thither, where he gaue many good instructions concerning this kinde of sooth- saying, which were presently recorded in books, and practi- sed afterward by the *Hetrusci*.

CAP. 9.

De Flaminibus

o Rosin. antiq.
lib. 3. c. 15.

p Rex. Anius.
rex idem homi-
num Phœbiq, sa-
cerdos. Virg.

THe mitre or head-ornament which these Priests did weare. was called in old time *Flama*, whence the Priests tooke their name *Flamines*. The custome a- mongst the *Grecians*, as likewise afterwards among the Ro- manes was, that the kings should aswell performe ceremo- nies, and holy rites of religion, as ciuill busineses. But *Numa Pompilius* perceauing that forraine warres did oftentimes occasion the kings absence, in so much that those religious ceremonies which he himselfe personally should perfourme were of necessity sometimes neglected, hereupon he ordai- ned out of the *Patricij* three Priests to perfourme that diuine seruice vnto *Iupiter*, *Mars*, and *Romulus*, which he himselfe otherwise ought to haue perfourmed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis* from *Romulus*, which was often called *Quirinus*.

Sine quod hasta quiris priscis est dicta Sabinis,

Bellicus a telo venit in astra deus.

Sine 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 diſtinction, 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 onlie the toppe of the bonnet) none might weare *Albo-galerum*, q Alex Gen. dier. 1.6. c. 12. id est, a white mitre, but only *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, hee 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 perſourme ſome ſacrifice therewith. None might barbe or poll him, 7 Seruius Æn. lib. 1. 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 ^f euery God ^f Fenest de one, yea ſometime thoſe threeſcore pariſh priests, which formerly were called *Curiones*, were called *Flamines Curiales*; and diuers Emperours after their death had alſo their *Flamines*. ^{t Atex. Gen. dier. 1.6. c. 12.} Moreouer wee muſt note that thoſe priests wiues were called *Flaminica*; Their miniſters (for they were wont, when they went to ſacrifice to take a boy or a maide with them) *Flaminij*, or *Flaminie*: And the Chiefe-flamens dwelling houſe waas called *ades 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 perſourme ſome ſpeciall ſacrifices themſelues.

n Serv. in Æn.
10.

themselues: whereupon 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. Pontife, and him they called, *Rex sacrificulus*, and *Rex sacrorum*, the King priest. To him once every yeare the vestall Nunns repaired, and vsed this forme of words, *Vigilasne Rex? Vigila.* King art thou awake? awake. For vnto him it did belong to bid holy-daies, and to prouide all things necessarie for publike sacrifices. He was to instruct those that sought vnto him, the causes of the holy-daies, and to tell them what was lawfull and vnlawfull euery moneth, & vpon the fifth of the Ides of Ianuarie 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 he 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*.

CAP. 16.

*De marte, siue Manorte, & Salijs
Palatinis Marti dicatis.*

M*Ars* otherwise called *Mavors* by the figure *Epen-thesis*, as wee 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. He 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 *Minerva*, shee by the counsell

counsell of the goddesse *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof she immediatly conceived the God *Mars*. This God by reason of his dominion in warre, the Romans painted fiery, sometimes in his chariot sometimes on horse-back: with a iavelin in one hand, and a scourge in the other. In old coines there was sometimes the picture of a cocke ioined with him, to shew the vigilancy, & carefulnesse that souldiers are to vse. He was called * *Gradius* à *gradiendo*, from marching in battell against his enemies. He had a Temple without the citie, whence he was called *Extramuraneus*. y Neere vnto this temple without the gate *Capena* did lie a stone of great note, which vpon great drouths the people would bring into the city, and presently raine would followe, wherevpon it was called the Raine stone, *Lapis manalis* à *manando*. *Numa Pompilius* in the honour of *Mars* surnamed *Gradivus* ordained 12 dancing Priests called *Salij* z à *saliendo* from dancing, which number afterward we finde to haue beene doubled by *Tullus Hostilius* in the warre 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 others *Collini* from the hill where their chappell stood; a and sometimes *Quirinales*, and sometimes *Agonales*: so that the whole college contained 24 Priests. b The occasion of their first institution was this: vpon a certaine time in the raig of *Numa*, the plague or some other contagious sicknesse was very hot among the Romans, insomuch that no sacrifice, or holy offering could remoue it: at that time a certaine brasen target, or scutchion 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. ant.
lib. 2. c. 10.

y Rosin. ibid.

z Plutarch in
Numa.

a Dion. Halic.
carn. lib. 2.

b Plutarch, in
Numa.

e Dion. Hali-
car. lib. 2.

d Horat. lib. 1.
Ode 37.

ther: (to the intent that if any should bee so wicked minded as to steale it, he might faile of his purpose by mistaking one for another.) These twelue Priests had the custody and keeping of them committed to their charge, & 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 *aneum tegmen* vpon that, and a robe of estate called *trabea* clasped 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 *ωβελος*, or *τιγαν*. They did somewhat resemble our head-peece in warre made close vnto the head, with a crest of cloath vpon the top, whence some haue called them *galeas*. They being thus apparled daunced about the *Forum*, or market place, and the Capitoll with short swords by their sides, a iavelin in their right hand, and their *ancile* in the other; vsing certaine songs either of the Gods, and those they called *Iannali*, *Iunoni*, and *Minervi*; or of men, and those they called *axamenta*, because in those songs they did *axare*, *id est*, nominate and call vpon the names of some well-deseruing men: as *Mamurius* which made those cleauen scutchions, was often called vpon in those songs. Vpon these their festiual daies they had excessse of cheere, whence ^d *Horace* hath vsed *saliarum dapes*, to signifie dainty fare.

CAP. II.

De Fœcialibus, & Patre patrato,

e Pomp. Lat.
de sacerdot.
f Dion. Hali-
car. lib. 2.

THESE *Fœciales* were officers at armes, or Heralds, to denounce warre, or proclaime peace, appointed therevnto at first ^c by *Numa Pompilius*. ^f The chiefe part of their office was to dissuade the *Romans* from molesting any confederate nation with vniust warre: and if any confederate nation

nation did offer iniurie vnto the *Romane* people, then did these *Fœciales* goe as Embassadours vnto them, perswading and exhorting them to yeeld the *Romans* their right: but if they continued thirtie daies obstinate refusing to yeeld vnto that, which should be iust and right, then did they presently denounce warre against them, casting forth a dart in token thereof: which denunciation was called *clarigatio à clara* ^{g Serv. Æn. lib. 10.} *voce, qua utebatur Fœcialis*. Others are of opinion that when soeuer warre was denounced, this Herald at armes should^b turne loose a Ramme vnto their enemies borders; signify-^{b Vid. Eras. adag.} ing 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-patrus*, a perfect father: for he onely could be *Pater-patrus*, 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 wee in Latine doe call *fœdus*, the *Romans* in olde timeⁱ did call *Fidus*, as *Ennius* and *Pighius* witnesse: whence these *Fœciales* were tearmed also *Fidei Flamines*. ^{i Pighius Septim. lib. 1.}

C A P. 12.

De Duumviris, Decemviris, & Quindecimviris sacris faciundis: item de Sibyllis.

THis priesthood had his first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keepe the oracles of those ten Prophetesses so famous throughout the world, called *Sibylle*. 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 books full of the *Sibylline* oracles to be sold: But *Tarquinius* thinking the books too deere, refused to buy them. The woman departing burned three of these books, and came the second time vnto *Tarquinius*, demanding as much for those sixe books, as formerly she had done for the nine. *Tarquinius* then began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, & asking as much for the three left, as she asked at first for all 9. Then began *Tarquinius* more seriously to bethinke himselfe thereof, and sent for his *Augures* asking counsell and advice of them. And they vnderstood by certaine signes obserued, that the king had refused some speciall goodnesse sent from the Gods: and for the bookes that remained they aduised that the woman should haue what shee asked: As soone as the woman had deliuered her books she presently vanished, and was neuer seene againe, only warning them to keep the bookes as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the noble men, or *patrici*, calling them *Duumviri*, appointing them as well by study to expound, as with care to keepe those oracles. In processe of time the people obtained, that tenne should be appointed to this office, five of them being chosen out of the commons and five out of the nobles: and then were they called the *Decem-viri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecim-viri*: nay the number was encreased by *Sylla* vnto forty, ^m as *Servius* thinketh, but still called by the name of *Quindecim-viri*. Of these women that had the spirit of prophecie tenne were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythraea*, the sixt *Samia*, the seauenth *Cumana*, the eighth *Hellespontia*, the ninth *Phrygia*, the tenth *Tiburtina*. They all prophecied of the incarnation of *Christ*. The place where these bookes were kept was within the Capitoll vnder ground.

Peneste. de
sacerd. c. 13.

Serv. Æn.
lib. 6.

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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 tearmed *Bona dea*, the good goddesse, because we reap so many good things from the earth. Shee is called also *Ops* the helping goddesse of *ope*, from helpe, because by her helpe we liue. She is called *Fatua*, and *Fanna*, id est, the goddesse of speech, because young children doe neuer speak vntill they are able to goe, and so haue touched the earth. The *Grecians* called her *ἡ γυναικεία θεὰς*, the female goddesse, because that no male might bee admitted to her sacrifices; nay the very pictures of men were at that time to bee couered. The inner roome, where her sacrifices were, was called *τὸ γυναικείον*, 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 *Fannius*, and vpon a time to haue bene taken drunke with wine by him, for which fault *Fannius* is said to haue beaten her to death with rods of mirtle tree. But afterward being sorry for that he had done, in amends he made her a goddesse: and as it were ever after detesting the mirtle tree, he allowing all other hearbs and flowers to be vsed in these sacrifices, forbad the mirtle tree. Some say she was so chaste, that she never was seene by any man but her husband, and in respect of her chastitie 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: 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 *Pompeia*, *Iulius Cæsars* wife, came vnto these sacrifices in womans apparell

q Cic. orat. de
Arusp. respon-
sis.

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

apparell, & was found out by *Aurelia Iulius Cæsars* mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that he occasioned a common proverb amongst the *Romans*, *Clodius accusat mæchos*, answerable to which our English saying 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 wilde beasts after ward became a woman of admirable beauty, and being found by a shepheards wife was brought vp by her as her owne child, and called *Cybelle* from the hill *Cybellus*. She excelled in all naturall gifts, and was the first that vsed a taber and a pipe, and cymbals among the Greekes. Moreouer shee tenderly loued children, and therefore was called *magna mater*: she was also cailed *mater Deorum*, the mother of the Gods:

Ipsa deum fertur genetrix Berecynthia. Virg.

She was called *Rhea à péa*, to flow, because she doth flowe & abound with all kinde of goodnesse. She was also named *Pessinuntia* from the citie *Pessinus* a Mart-towne in *Phrygia*, where shee had a temple. Moreouer she was called *Berecynthia* from the hill *Berecynthus* in *Phrygia*, where shee was worshipped. Her Priests were called *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 him selfe: (as in truth all her priests were enioyned to geld themselves 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

*Pomp. Læ-
tus de sacerdotibus*

*Cybeleus A-
tis Exuit hac
hominem trans-
coq, induit
illo. Ov. Met.*

*Rosin. ant.
lib. 3. cap. 27.*

fice vpon condition that he would keepe himselfe chaste perpetually: But not long after deflowred a Nymph, for which fact *Cybele* bereft him of wits and vnderstanding, so that he in his madnesse did geld himselfe, & would haue killed himselfe also, had not the Gods in their commiseration towards him turned him into a pine-tree. In remembrance of him, euer after her Priests were gelded. Every yeare the *Praetors* did sacrifice vnto this Goddesse. But the performance of the holy and 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*, and 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 plaied vpon: The Priests were also called *Corybantes* from one *Corybantis*, which was one of her first attendants. And herevpon we call the cymbals *corybantia*. In this manner dancing about the streets they begged mony of the people whom they met: and hence were they named *Cybele* her collectors, or her *circulatores*, *id est*, iuglers. Some called the *μῆτις* from *μήτις* which in this place signifieth *Cybele*, called the great mother, and *ἀγροῖνη* a begger or gatherer of almes. Others haue called them *Mitriaci*: But by what name soeuer they were called the place was so infamous by reason of their drunkenesse, and vncivilitie vsed at these times, that when they would point out a notorious naughty fellow, they would call him *circulatore Cybelleium*. *Cybele* her iuggler. Neither was it lawfull for any free borne to vndertake that office,

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 frō 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 only great piles, and posts of wood: * and that which is Plutarch, in most remarkable in it, was that it was ioyned together onely Numa, with wooden pinnes, without any iron at all. Others are of opinion that they were tearmed *Pontifices quasi potifices* from *potis* and *facio*, of which opinion *Lucane* seemeth to bee, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the number of them onely foure were appoynted by *Numa*, all which then were to be 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 seauen other. which afterward *Sylla* added, and ² called them *Pontifices minores*, inferiour Pontifies. The whole company of them was called the college of Pontifies. This college is priuiledged from all allegiance, being not bound to render an account of their doeings either to the Senate, or Commonaltie. They were to determine all questions concerning religion, as well betweene their Priests, as betweene priuate men. They had authority to punish any inferiour Priest, if he either detracted or added vnto those religious rites, which were prescribed him. They had their great Pontife, whom they called *Pontificem maximum*. These Pontifies were wont to exceed in their diet, insomuch that when the Romans would shew the greatnes of a feast, they would say it was *Pontificia cœna*, id est, according to

^aLib. 4. de
magnit. Rom.
cap. 9.

our english phrase a feast for an Abbot. *Cœna adycialis* 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 thereby a solempne feast made by Magistrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

CAP. 16.

De Epulonibus.

^aLazius de
Repub. Rom.
lib. 3. cap.

THE Pontifies in old time appointed three men, whom they ^acalled *Triumviros epulonum* (from *Epulum* a feast) to haue the ouer sight of the feasts made at sacrifices; after ward by reason of two twice added, they were called first *Quingueviri*, and at length *Septemviri Epulonum*.

CAP. 17.

De Titijs.

^bPancirollus
lib. rerum de-
perditarum
cap de mole
Hadriani.

ANother sort of religious men ther were which liued in the subvrbs of the citie an practised southsaying; They were called *Titij* ^b from the name of the birds which they obserued, which in latine were called *Titia*.

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 fowre, after 6. Virgins, or votaries elected

elected, was office was chiefly to keepe the sacred fire: the extinction whereof proued ominous, and did portende 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 Pontific 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 certaine instruments named *capreae* which were formed ^{e Plutarch in Numa,} in the manner of a *pyramis*, but hollow, so that the beames being collected within the circumference, and meeting in the *vertex* did easily kindle any cumbustible matter put vnto it; but chiefly if the matter was of blacke colour: because, as philosophie teacheth, a darke colour doth congregate, or collect the beames, whereas witnesse doth disperse them. A second part of their office was to worke reconciliation betweene parties offended, as appeareth by ^{d Suet. in Iulio.} *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 eleauenth yeare of their age: and they were to remaine in this Nunnerie 30. yeares space, 10. yeares to learn their ceremonies and misteries, 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 vndergoe that fearefull punishment * afore mentioned. But these 30. ^{*Vid. sup. p. 11.} 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 ende died fearefull deathes: wherevpon they chose rather to obtaine 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) he escaped punishment. They wer named *Vestals* from their ^{e Munst. in sua cosmog. l. 2. c. 9} goddesse *Vesta*, which word (as ^{e Munster writeth}) is deri-

ued from the Heabrew *radix* signifying fire. The eldest was callrd *Maxima Vestalis virgo*, *id est*, the Lady prioresse, or chiefe gouernesse.

CAP. 19.

De veterum sacrificijs & ritu sacrificandi.

WHatsoever was burnt or offered vp vnto the Gods vpon an altar it had the name of a sacrifice; and sometimes it was called *Vltima*, *quod vincta ad aras stabat*, because the beast to be sacrificd stood bound vnto the altar. Sometimes *Hostia*, from an absolute verbe *Hostio*, which is to strike: because certaine vnder officers called in latine *Popa* (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 enimie: according to that of *Ouid*. *Hostibus à domitis hostia nomen habet*; because either before warre to procure the Gods fauour, or after warre in token of thankfullnesse, they did *hostiam ferire*, *id est*, offer vp the sacrifice. The second difference of sacrifices haue beene occasioned in respect of the time, and so they haue beene called *Pracidanea*, or *sucidanea*, *quasi pracidanea & succidanea*. Those sacrifices which were offered vp the day before any solemne sacrifice, were called *Pracidanea hostia*, fore sacrifices, as wee english *præcursorum*, a forerunner: which fore-sacrifices if by any token they found vnlucky, then would they offer vp a second sacrifice which they tearmed *hostiam succidaneam*: And because these second sacrifices were to be offered only instead of the other, when they were vnluckie or faulty; hence hath *Plautus* vsed this speech *Meum tergum stultitie tue subdes succidaneum*? Must I be whipped for thy fault? The manner of sacrificiing was as followeth. Some certaine daies before any sacrifice was to be

be performed, the priest was wont to wash his whole body, 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 he enterprised any businesse without due reuerence or preparation therevnto.

Μηδὲ πύλ' ἐξ ἡῶς δὲ λείβεις ἄδοπα δινον

Χερσίν ἀνιολοσιν. Hesiod. ἐργ. κ' ἡμερ.

Moreover the priests 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 rod or wand in his hand (called *commentaculum*) 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 *τις τῷ δὲ*, *id est* who is here? the people answered, *πολλοί, καὶ ἀδοί*, *id est*, many men. and good. After this preparation, then did the Priest laying his hand vpon the altar, rehearse certaine praies vnto the God *Ianus* and the Goddesse *Vesta*: because the *Romans* were perswaded, that without their intercession they might not haue accessse vnto the other Gods. His prayers being ended then did hee lay vpon the beasts head a little corne together with a cake made of meale and salt, called in Latine *Mola*, *Mola erat far tostum, sale aspersum*. From this ceremony the act of sacrificing hath beene tearmed *Immolatio*. After this the soothsayer dranke wine out of an earthen or wooden chalice called in Latine *Simpulum* or *Gimpunium*: It was in fashion much like our eywers, whence we powre water into the bason. This calice afterward was caried about to all the people that they also might *libare*, *id est*, lightly tast thereof¹ which rite hath beene called *Libatio*. Now euery one hauing tasted thereof, the rest of the wine with frankincence mixt in it was to be powred vpon the beasts head, ^m betweene the hornes

^f Vid. Erasmo. Adag.

^g Plutarch. numa.

^h Seru. Aenei. lib. i.

ⁱ Pancirol. li. rerum deperdit. c. de sale Ammoniac.

^k Textor in sua officina.

Spargesalsa colla taurorum

mola. Sen. Oedip. Act. 2. sc. 2.

^l Pancirol. lib. rerum deper-

did. cap. de Ammoniac.

sale.

^m Media inter cornua fundit.

Virg. Aeneid.

in Rosin antiq.
lib. 3. c. 33.

in Ioac. Came-
rar. pro Flacc.

one crying out with a lowd voice, *Maesta est hostia*, id est, *Magis aucta*, more encreased and made more pleasing vnto the Gods; as *Virgill* saith *Maeste noua virtute puer*, id est, O good child which encrease in vertue. And hence euen from this tearme, wee may coniect, that the word *Maesto*, which signifieth to kill, and sometimes to sacrifice, hath had its originall, because they did immediatly after that voice, *maestare hostiam*, that is, slay the sacrifice, and that was done in this manner. First the Priest did pluck off some of the beasts haire 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 towards the East, draw a long crooked knife vpon the beasts back, commanding his vnder officers, which I called *Popae* (others *Cultrarij*, from their knife, *Vistimarij*, from the hoast; and *Agones*, because they standing ready to giue the stroke, often vsed this word *Agone*? for *Agone*, id est, must I to my work?) to kill the beast. The other people standing by, some did with vessels saue the bloud, others did flea or skinne the beast; others washed it. Anon some soothsayer or Priest did obserue the intrals, turning and winding the with a knife which was called *Secespita*, à *secando*: for he might not touch the with his hand, they conceyting that if the sacrifice had proued polluted, his hand would then haue perished. Now after the soothsayer or Priest had sufficiently turned the intrals, & found no ill token therein, the did those *Popae*, or Church-butchers, cut off from euery bowell some portion, which after they had rolled in barley meale, they sent it in baskets to the Priests, and the Priest taking it vp into a broad charger or platter called *discus*, or *lanx*, laid it vpon the Altar and burnt it, and this was properly termed *litare*, 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, and playing

ing on Cymballs, they danced about the altars; intimating thereby, that there was no part of their body, 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, in somuch that we since haue vsed to checke a glutton or greedy-gut, which cannot abstaine from his meate till grace be said, in this manner, *Sacra band immolata devorat.*

CAP. 20

De nuptijs, & nuptiarum rennunciatione.

SEeing that marriages and burials haue such dependence ypon the Priests, it will not bee amisse to conclude this section with two chapters, briefly opening the ceremonies of both. Before wee come vnto the solemne ceremonies, vsed by the Romanes in their mariages, we will 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, inunctamq; tabellis

Non es amaturus----

These tables were also sealed with the signets of certain witnesses there present, who were tearmed from their act of sealing, *Signatores*. Moreouer before they would begin the ceremonies of their contract, the man procured a soothsayer, & the woman another, with whom first they would consult. Whence *Iuvenall Sat. 10.*

---- Veniet cum signatoribus auspex.

The token or signe which these soothsayers in time of obser- uing accounted most fortunate, was a crow: *b Ea enim carui-*

*a Salmuth. in
panciroll. lib.
rerum deper-
dit, c. de.
nuptijs.*

*b Alex. Gen.
lib. 21*

cum

^eAul. Gel.

^dRosin. antiq.

lib. 5. c. 37.

^ePlin. lib. 21.

cap. 8.

^fSig. de iur.

Rom. l. 1. c. 9.

^gSalmuth. in
Panciroll. l.
rerum deper.
ditarum. cap.
de nuptijs.

^hBoeth. Topi-
cor. 2. Vid. Ccl.
Rhodig. lib. 28.
cap. 17.

ⁱSig. de iure
Rhom. l. 1. c. 9.

cum societas est, ut ex duabus socijs altera extincta, vidua altera perpetuo maneat. The man also gaue in token of good will a ring vnto the woman, which shee was to weare vpon the next finger vnto the little of the left hand, because vnto that finger alone proceedeth a certaine artery from the heart. The word *Nuptia*, which signifieth marriage had its deriuation ^d*Nubo*, which verbe in olde time signified to couer: the custome being that the woman should be brought vnto her husband, with a ^eyellow vayle (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 ^fthey continued a custome, that the man should come and take away his wife by a seeming violence, from the lap or bosome of her mother, or her next kinne. Shee being thus taken a way, her husband did disleuer & 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 calibaris*, ^g& the ceremonie 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-men and bride-womens friends met to make merry, this feast they called *Repotia*. We must note, that ^hthree manner of waies, a woman became a mans lawfull wife: *usu, confarreatione, coemptione*. A woman became a mans lawfull wife *Usu*, ⁱ1. By prescription or long possession, if that shee were wedded with the consent of her ouerseers, and so did liue with the man, as with her lawfull husband a whole years space, *nullo interrupto usu, id est*, ⁱshee being not absent from him three nights in the whole yeare. And some haue thought that the counterfeited violence, in taking a way the maide 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 Pontific or chiefe-bishop, when the woman was giuen vnto the man, vsing a set forme of words, ten witnesses being present, & a solemne sacrifice

sacrifice being offered, at which the couple married should eat of the same barley cake, which formerly had been used in the sacrifice. Which sacrifice was tearmed *à farre, confarreatio*, & the marriage it selfe *Farracia*,^k & sometimes *sacra simply*; the dissolution of this kind of marriage *Diffarreatio*. A woman became a mans wife *coemptione, id est*, by buying and selling, when the woman did vnder a feined forme of sale, buy her husband, by giuing him a peece of coine.^l *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant: atq; vnum quidem quem in manu tenebant, tanquam emendi causa 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 kinde of lottery: & of this they say *Sueton*: speaketh.ⁿ In that kind of marriage, which was *per coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaste and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priscus*: from whence sprang a custome among them that the new married wife, when she was brought home vnto her husbands house, was to vse this proverbe. *Vbi tu Caius, ibi ego Caia*; by which words she signified, that shee was now owner of her husbands goods, as well as himselfe: and therefore *Erasmus* hath expounded that saying, by these words; *Ut tu dominus, ita ego domina*,^o And shee that was thus married *Per coemptionem*, was properly called *Materfamilias*.^p If any of these ceremonies were omitted, then was the marriage tearmed, *Nuptie innuptæ*, in which sense we call our enemies gifts, no gifts; *ἐνδεῶν ἀδωγὰ δώρεα*. These ceremonies being ended, toward night the woman was brought home to her husbands house, with five torches; signifying thereby, the need which married persons haue of five Gods, or Goddesses, *id est*, *Iupiter, Iuno, Venus, Suadela, & Diana*, who oftentimes is called, *Lucina* (the reason of the name being rendred by *Ovid*.

^k Cic. orat. pro Murena.

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

^m Sueton. in Tiber. c. 35.

ⁿ Cic. orat. pro Murena. Item Fr. Si. lib.

^o Cel. Rhodig. l. 28. cap. 17.

^p Hieron. Ferrarius in Philippic. orat.

--Dedit hac tibi nomina lucis,

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 & aque*: for which reason the custome 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 ceremonie, some thinke to be thus. The fire because it is an active element, to represent the man: the water because it is passive, to represent the woman. Others say that in the community of these two elements, was intimated the community betweene man and wife, of all other their goods and possessions, which was more fully declared in that forequoted proverb, vsed by the wife. *Ubi tu Caia, ibi ego Caia*. The matter whereof these torches were made, was a certaine tree, from which a pitchie liquour did issue: it was called *Teda*, and thence haue the Poets figuratiuely, called both the torches and the wedding it selfe *Tedas*. When the woman had thus beene brought to the dore, then did she anoint the posts of the dore with oyle, ^qfrom which ceremony the wife was called *uxor, quasi unxor*. This ceremonie of anointing being ended, the brideman did lift her over the threshold, and so carried her in by a seeming force, because in modestie shee would not seeme to goe without violence into that place, where she should loose her maidenhead. At her carrying in all the company did cry out with a lowd voice, *Talassio, Talassio*: for which custome ^r*Plutarch* alleageth many reasons; 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 Citizens would haue taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well beloved

*Panciroli. lib.
rerum deperd.
cap. de nuptijs

^q Serv. Aen. l. 4

^r Plutarch. vit.
Pompeij.

ved among the *Romans*, at which naming of *Talassius*, they suffered her to be carried away, themselves accompanying her, and often crying *Talassio, Talassio*. From whence it hath beene continued a custome among the *Romans* euer at their marriages to sing *Talassio, Talassio*: as the Greekes did *Hymen, Hymenae*. From this custome of leading or bringing home of the new married bride, commeth that Comickall phrase *Ducere uxorem*, to marry a wife. Shee being thus brought home, receaued the keyes of her husbands house, whereby was intimated that the custody of all things in the house was then committed vnto her. The marriage bed was

called *Genialis lectus*, as we may suppose, *quasi Genitalis*.

* Sometimes it was called *Lectus aduersus*, *quod hunc lectulum religiose seruari mos fuit, & in atrio collocari, ianna ex aduersum, id est*, they placed this bed in their court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimonie. The next day after the marriage,

the bride-woman receaued gifts of her friends, which the lawyers tearmed *Nuptialia dona*. * But *Cicero* expoundeth

these *Dona nuptialia*, to be certaine tokens, which the husband sent to his wife before the betroathing. If after the marriage any discontent had fallen out betweene the man &

his wife, * then did they both repaire vnto a certaine Chapell, built in the honour of a certaine Goddesse, called *Dea*

viriplaca, *a viris placandis*, whence after they had beene a while there, they returned friends. Wee haue thus seene the

rites & ceremonies which the *Romans* vsed in their contracts & marriages; it would not be impertinent to annex the manner of their divorcements, which vpon iust causes were permitted. There * were two manner of divorcements, the one

betweene parties only contracted; the second between parties married. The first was properly called *Repudium*, in

which the partie suing for divorcement, vsed this forme of words, *Conditione tua non vtar*. The second was called *Di-*

uortitum, wherein the party suing for it, vsed these words. *Res*

Alex. Gen. dier. l. 2. c. 5. t Lips. Elect. lib. 1. cap. 17.

Vid. Fr. Silv. pro Cluentio.

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

x Rosin. antiq. lib. 5. c. 38.

tuas tibi habeto: vel res tuas tibi agito. Both these kinds were tearmed *Matrimonij renuntiationes*, a renouncing or refusall of marriage. Where we must note, that instead of this verbe *renunciare*, diverse good authors doe vse this phrase *mittere* or *Remittere nuncium*: as *C. Caesar Pompeia nuncium remisit*, y^e Ep. fam. l. 5. *C. Caesar* hath divorced *Pompeia*. And alluding herevnto, y^e *Cicero* saith *virtuti nunciū remisit, id est.* He hath cast of al goodnesse, he hath even divorced vertue. Secondly we must note, that this verbe *Renuncio*, doth not only signifie to renounce, or to refuse, but many times in *Tully*, it signifieth to declare, or pronounce a magistrate elected, as *Renunciare consulem, Praterem, &c.* The reason why in matrimoniall contracts, it signified to renounce, or refuse, was because in these divorces, they did oftentimes send to their wife *per nuncium*, by a messenger some bill or scroll of paper, containing the causes of the divorce. Moreouer we are to obserue, that in these divorces, the ceremonies were quite contrary to those in marriages; the iust causes of divorce being fore-signified to the censors, the marriage tables were broken, the dowry restored, the keyes of the house taken from the woman, and shee turned out of doores: all which ceremonies are at large treated of by *Thom. Dempster. lib. 5. Antiq. Rom. cap. 38.*

CAP. 21.

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

THe *Romanes* in ancient time when they perceaued a body dying, had such a custome, that the next of the kinne should receaue 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 si quis super halitus errat*

Ore legam---

[Virg. *Æn.* 4.]

And *Penelope* wishing that her sonne *Telemachus* might outlive 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 seaven daies vnburied, washing the corps euery day with hot water, and sometimes anointing it with oyle, hoping that if the body were only in a slumber and not quite dead, it might by these hot causes be reviued.

Per calidos latices & athena undantia flammis

Expediunt, corpusq; lavant frigentis & ungunt.

In these seuen daies space, all the dead mans 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 swone or sleepe, he might thereby be awaked. This action was tearmed *conclamatio*, whence when wee haue done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*: for this third conclamation or generall outcrye (which was alway vpon the seauenth day after the decease) was even the last refuge, at which if the body did not reviuie, then was it carried to buriall being invested with such a gowne as the parties place or office formerly had required. Those who had the dressing, chelting, or embaulming of the dead corps were called *Pollinctores*: After they had thus embaulmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face & heels outward toward the street, according to that of *Pers.*

--- *Tandemq; beatulus alto*

Compositus lecto, crassiq; lutatus amonis

In portam rigidos calces extendit.---

herewith accordeth *Homer* speaking of *Patroclus* his funeral.

Ὅς μοι ἐνὶ κλισίῃ δαδαιμένῳ ὀξείῃ χαλκῷ,

Κεῖ τῷ ἀνὰ τοῦ θύρου τετραμμένῳ. --- id est,
Qui mihi in tabernaculo confossus acuto are,
Iacet ad vestibulum conversus.

† Alex. Gen.
 dier. l. 3. c. 7.

¶ Lucanus.

× Alex. Gen.
 dier. l. 5. c. 26.

γ Rosin. ant.
 lib. 5.

× Alex. Gen.
 dier. lib. 3.

This ceremony was properly called *corporis collocatio*: and fast by this bed neere the gate also was erected an altar called in Latine *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 scarcitie of the tree, could vse no such testimonie of their mourning. *Et non plebeios luctus testata cupressus.*

In these seauen daies space certaine men were appointed to provide all things in readines for the funerall: Which things were commonly sold in the * Temple of *Libitina*, frō whence those providers were tearmed *Libitinarij*; though sometimes this word *Libitinaris*, doth signifie as much as *capularis* an old decrepit man, ready for the graue. Vpon the eighth day a certaine cryer in manner of a bell-man, went about the towne to call the people to the solemnization of the funeral, in this forme of words: *Exequias L. Titio, L. Filio quibus est commodum ire. Iam tempus est. Ollus ex adibus effertur.* After the people had assembled themselues 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 *præfica* following after, and singing songs in the praise of the party deceased. Where we must note that none but the better sort had a trumpet sounded before them; others had only a pipe. *Senatoribus & patricijs tuba; minoribus & plebeis tibia caneant siticines*; 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 Senatours or chiefe citizens, he was not carried out vpon a bed, but in a coffin vpon a beere. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselues to bear the corps,

corps, and because the poorer sort were not able to vndergoe the charges of such solemnities, therevpon were they buried commonly in the dusk of the euening; and hence *à vespertino tempore*, those that carried the corps were tearmed *vespa*, or *vespillones*. In the buriall of a Senator or chiefe officer certaine waxen images of all his predeceffours were carried before him vpon long poles or speares, together with all the ensignes of honour which hee deserued in his life time. Moreouer if any seruants had been manumized by him, they accompanied the mourners lamēting for their matters death. After the corps following the dead mans children, the next of the kin, & other of his frieuds *atrati*, *id est*, in mourning apparell. From which act of following the corps, namely *à sequendo*, these funerall rites haue beene tearmed *Exequie*, as *Donat* hath obserued vpon that of *Terrence*. *Funus interim procedit, nos sequimur*. Which rites because they were performed as debts due vnto the partie deceased, hence were they also called *Iusta*. *Eò dicuntur Iusta, quòd iure mortuis factitari debent à vivis*, *Polyd. de invent. lib. 6. cap. 9.* The corps being thus brought vnto their great Oratory called the *Rostra*, the next of the kinne *à landabat defunctum pro rostris*, *id est*, ^a *Suet. C. Iulius Cæsar, c. 6.* made a funerall oration in the commendation principally of the partie deceased, but touching the worthy acts also of those his predeceffours, whose images were there present. The oration being ended, the corps was in old time carried home againe in manner as it was brought forth,

Sedibus hunc refer ante suis & conde sepulchro.

But afterward by the law of the twelue tables it was provided, that no man besides the Emperour and Vestall Nunnes should be buried within the citie; though some vpon especial fauour 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 revenge would at their conquests digge vp the buried bodies, making

^b *Salmuth, in Pancir. lib. rerum deperd. de exequijs.*

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word *urna* is often vsed by Poets to signifie a graue or sepulchre, as.

--- *Unâ requiescit in urnâ. Ovid. Met. lib. 4.*

f Rosin. ant. l.

f Though properly *sepulchrum* was in old time a vault or arch-roofe, round about the wails whereof were placed certaine coffines called *loculi*, within which those former *urnæ* were laid vp and kept, namely two or three in each cofine. Now these funeralls sometimes were commonly rowards night, insomuch that they vsed torches; these torches they properly called *funalia à funibus cero circumdatis, unde & funus dicitur.*^h Others are of opinion that *funus* is so said from the greeke word *φθός* signifying death or slaughter. The bones of the burned body being thus gathered vp, then did the Priest besprinkle the company with cleane water thrise, and the eldest of the mourning women called *præfica*, with a lowd voice pronounced 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 beene omittedⁱ then was it tearmed *sepultura in sepulta*, in the same sense as *nuptiæ* formerly were tearmed *innuptæ*. The old and aged men were inuited after the buriall to a feast, or funerall banquet called *silicernium*^k *quasi silicernium, id est, cœna supra silicem posita*, their custome being to eate that feast vpon an altar of stone, and because this feast was only eaten at funerals, and by the elder sort, hence figuratiuely this word *silicernium* doeth sometimes signifie an old creeple ready for the graue. The poorer people instead of a feast, receiued a dole or distribution of raw flesh: this dole was searmed *Visceratis*. Moreouer there was a potation or drinking of wine after the buriall called *Murrata* or *Murrhina potio*, which afterward the law of the 12. tables for the avoiding of expenses did prohibit: as likewise for the moderating of griefe in the mourners it did prohibit the vse

g Seruius in
Æneid. lib. 1.
h Hub. in Cic.
ep. fam. lib. 4.

i Hier. Ferrari-
us in Cic. orat.
Philip.

k Seruius in
Æneid. lib. 5.

l Antefig. in
Ter. Adelph.
Acta. 4.

*m Alex. Gen.
dier. li. 3. c. 7.*

of this word *Lessum*, [*Neve lessum funeris ergo 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; ^mNamely 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 days; 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. *Polid de inuent. lib. 6. cap. 9.* Here wee may with *Renardus* obserue a distinction betweene *lugere* and *Elugere*. *Lugere* signifieth no more then to mourne some part of the time prescribed; *Elugere* to mourne the whole and full time.

LIB





LIB. 2. SECT. 3.

Of the Romane games.

CAP. I.

De ludis Megalensibus.

THe plaies vsually exhibited by the Romans, may be diuided into three sorts some were *Ludi sacri*, others *Honorarij*, others *Ludicri*. Those were termed *Sacri*. which were instituted immediatly to the honor of the Gods: such were these that follow in their seuerall chapters. *Megalenses ludi*, they were called simplie *Megalesia*, from the Greek word μέγας, finifying *Magnus*, because they were performed in honour of *Cybele*, called *Magna-mater*, of which I haue spoken formerly, and there also discovered the manner of this feast. Only here take notice of that which is not mentioned there, namely that these games beganne, à pridie *Nonas Aprilis*, id est, on the fourth of *Aprill*, and continued fixe daies 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 coelum versetur in axe,
Ter iungat Titan, terq; resoluat equos,
Protinus inflexo Bercynthia tibia cornu
Flabit, & Idaea festa parentis erunt.*

^a Liv. lib. 29.

This I note, that the errour crept into ^a *Linus* may be observed who treating of the matter in hand saith. *In eadem victoria, quae est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Dea in Palatium tulit; Lecti- sternium, & Ludi fuere, Megalesia appellata.* That is, that these plaies were celebrated vpon the twelfth of *Aprill*. But in the iudgment 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

^b Ant. Const. in Ovid. Fast. lib. 4.

purple and best robes, ^b hence grew that prouerb, *Purpura Megalensis*. To the younger sort at this time, liberty was graunted, to counterfeit all mens gestures and speeches, without distinction of degree or age. ^c They were sometime tear-

^c Iul. Scalig. poet. l. 1. c. 29.

med *Ludi scenici*, though properly *Ludi scenici*, signified stage playes, and wereperformed in the honour of *Bacchus*.

C A P. 2.

Ludi Cereales.

THat these games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* matrons, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the *Roman* men beheld these plaies in white gownes: the women 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 solemn going in procession & carrying about their Gods in the cirque, this solemnity was pro-

properly called *Pompa*:

Circus erat pompa celebr, numeroq, Decrum,

Primaq, ventosis palma petitur equis.

His 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* ^{d Ter. de spect. cap. 7.} *thense*, *armamaxæ*, *sedes corona*, *exuvie*, *id est*. First in this solemne possession, were carried about the Images of the Gods. Secondly, the Images of well deserving men. Thirdly, charriots led vp and downe for greater state, and magnificence; vnto this *Virgill* alludeth

---- *Hic illius arma*

Hic currus fuit----

Fourthly, Pageants, so I interpret *thense*, which were so called, *quasitense*, à *tendendo*, as *Asconius* noteth, because they were carried vp and downe, by the help of certaine ropes, which to touch they counted a point of religion. Fifthly, horse-litters, for that these *armamaxæ*, were not chariots, or wagons, appeareth by him ^{e Vid. Franc. lun. annot. in Tert. de spect. It. de tensis vi Turneb. 29. 27. f Herodot. l. 7.} *Qui ex curru in armamaxam deponebatur*. They seeme to haue beene of a compounded forme, in part like chariots, called *ἀμαξια*, in part like waynes, called *ἀμαξας*, and thence *ἀμαμαξα* hath its appellation: *ἀμαμαξα*, inquit, *Phavorinus*, ἢ ἀμαξια ἀνδρῶν καὶ ἑδῶν καὶ τεσσάρων ἀμαξια, ὅιον ἀμαξια καὶ ἀμαξια, ἢ ἀνδρῶν ἀμαξια τῆς ἑσπέρης, ἢ ἀγῶν καὶ ἀνδρῶν. In which words besides the etymologie expressed, the vse thereof is declared to be for the carriage of men. That as the chariots went empty for greater magnificence, and as in their pageants were carryed, the *Simulachra Deorum*, according to that, & *Thensa Deorum vehiculum*: so in these horse-litters were carryed men, or rather that same *agmen imaginum*. which was the second particular: Sixthly, chayres of state: Seauenthly, crownes: Lastly, spoiles taken from their enemies; these three last I take to haue beene vsed chiefly, and principally in the Roman supplications, or publique thanksgiuings

^bVid. Isaac.
Cafaub. in Su-
etron. Iul. c. 76.
ⁱHosp. de orig.
fest. Rosin. lib.
5. cap. 14. Alex.
ab Alex. lib. 6.
cap. 19.

giuings, for any great victory, the custome being in such shewes, when they came to such and such remarkeable places in the cirque, to pitch a certaine chaire, adorned with crownes of victory, and spoiles taken from the enemy, reputing it not the least office, ^h thus to honour their Emperour though absent with the prerogative of such a chaire: now in the preparation to this particular shew, we read that an egge was especially provided. It is obserued by ⁱ many out of *Macrobius*, whose words are; *Ovumq; in Cerealis Pompe appa-
ta numerabatur primum*. The obseruation is generall, but the reason thereof, *Inter arcana Cereris*, quite suppressed, & by none, that euer I could meete with, yet explained; if my coniecture may satisfie in a matter so obscure, conceiue it thus. These pompous shewes, were vacious, and in the honour of diuerse Gods, & accordingly the *Romans* made choice in every 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 circensis*, which was celebrated in the honour of the ^k Sun. great horses were led vp and downe, for greater state. ^l *Quia equis, & equestribus exercitamentis, sol praesse credebatur superstitione antiquissima*. Hence the cirque place it selfe was called *το ιππειον*, & *ιπποδρωμον*. After this same manner in this *Pompa Cerealis*, (which was also some times called *Circensis* from the place where it was exhibited) an egge was chiefly and principally provided, for seeing that vnder the name of *Ceres*, this solemnity was perfourmed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphicke of the whole world? As if they did intimate thereby, that euen heauen it selfe was beholding to the *Earth*.

--- *Pecori frondes, alimentaq; mitia fruges
Humano generi, vobis quoq; thura ministro*. *Ovid. Met. l. 2.*
And such an hieroglyphicke ^m *Cælius Rhodiginus* proueth an egge to be, partly from its ciclar & globe-like forme; partly from the matter whereof it consisteth; the hard shel, resembling

^m Cæli. Rhod.
lib. 27. cap. 17.

bling the soild earth; the more spirituouſ part there of, the aire: the moiſt and liquid part, the water, the yolke, the element of fire; yea he noteth alſo, that as there is *in mundo*, ſo likewise *in ovo, vis vitalis*. a kinde of quickning, and enliuening 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^o 108. d^o 11} in *Dio. lib. 49.* *inuiſyphanta*, markes of a long roundneſſe, in forme of an ^o *Tertul. de ſpect. cap. 8.* egge, in memory of *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 carryed vp and downe, as the chiefe and principall enſigne.

CAP. 3.

Ludi Florales.

THeſe Games or ſports, were inſtituted in the honour of the Goddeſſe *Flora*, that ſhee being there with appeaſed, the earth might bring forth flowers, & fruits in greater abundance. Of the Goddeſſe it hath beene ſpoken before. The time of the yeare when theſe ſports were obſerved, ^p was vpon the foure laſt daies of *Aprill*, and the firſt ^p *Alex. ab Alex. lib. 6. c. 8.* of *May*, whence is that of *Ouid. Faſt. 5.*

Incipis Aprili, tranſis in tempora Maij:

Alter te fugiens, cum venit alter habet.

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

--- Digniffima prorſus

Floralis matrona tuba.

More-

g Holp. de o-
tig. Fest.

v Suet. in Gal.
Plin. l. 8. c. 3.

Moreouer, whereas in other games, Boares, Lyons, & Bares, were publicely bayted, to recreate the spectators: here only Goates, and Hares, and such milder beasts were hunted, because the Goddesse *Flora*, had not the custody of woods, and Forrests where the wilder beasts ranged; but of gardens, and medowes. At this time also Elephants were brought forth into the publique view of the people, which were taught to walke on ropes, and that there is an aptnes in elephants to goe forward and backward on ropes, *Pliny* testifieth.

CAP. 4.

Ludi Martiales

z Dio. lib. 60.

u Ter. de spe.
cap. 5.

OF these sports there is not much spoken: they were obserued vpon the first of august, because on that day the temple of *Mars* was consecrated. They were first instituted by *Numa Pompilius*.

CAP. 5.

Ludi Appollinares.

* Liu. lib. 5.
dec. 3.

x Macro. l. 1.
Sat. c. 17.

y Sext. pomp.
Fest. vid. Hof.
de orig. fest.

HERE was an ancient Poet called *Martius*, * out of whose writings, as likewise out of the *Sibilline* oracles, the *Romans* were admonished to dedicate certaine games vnto *Apollo*. At the first celebration of them, x it is reported, that a suddaine and vnexpected inuasion of enemies, enforced the *Roman* people to forsake their sports, and to betake themselves to weapons: in which time of their distraction, a cloud of darts and arrowes was seene to fall vpon their enemies, so that they presently returned conquerours vnto their sports, where y at their returne they founde one *C. Pomponius*, an old man dancing to a minstrell, and being very ioyfull, that their sports had beene continued with.

without interruption they cryed forth, *Salva res est, saltat senex*. Which speech afterward became proverbiall, and is firly vsed, when a suddaine evill, is seconded with a good event, beyond hope or expectation.

CAP. 6.

De ludis Romanis, qui & Magni, & Consuales, & Circenses dicti.

THese solemnities are sometimes called *Romani ludi*, because of their antiquitie amongst the *Romans*, being first instituted by *Romulus*: sometimes *Magni ludi*, either because of the great charge and expence of mony at that time, or because they were performed in the honour of their great God ^a *Neptune*, called also *Consus*, because hee was reputed the God of secret counsels, whence the solemnities themselues are sometimes called *Consualia*: whereas many of the *Roman* temples, for certaine misterious significations, had their peculiar manner of building. ^b *Servius* noteth, that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that counsells must be secreted, and concealed. Likewise for the same reason, ^c his altar was made vnder the earth, not appearing in publique view, saue only in the time of these solemnities exhibited. The chiefe ceremonies vsed at this time, consisted in the adorning of their horses, and asses, with garlands, wherein they thought that *Neptune* was honoured, who was the first autor and inuenter of horse-riding: hence *Neptune* himselfe is called *ἵππος*. This festival was first instituted by *Evander*, in the honour of *Neptune*, vnder the name of *ἵππος*, & ^e thence the feast was called *ἵπποξалья*. Afterward it was renued by *Romulus*, in the honor of *Neptune* likewise, but vnder the name of *Consus*, because *Romulus* needed a God of counsell to assist him, in that designement of his, for the violent taking away of so

^a Tertul. de spect. cap. 5.

^b Serv. in Virg. Æn. lib. 8.

^c Alex. ab Alex. lib. 5. c. 26.

^d Vid. Suid.

^e Dion. Hal. lib. 1.

f Val. Max. lib.
cap. 4.

g Iul. Scal. lib.
poet. cap. 32.

h Alex. ab A-
lex. l. 3. c. 12.

i Cael. Rhod-
antiq. lib. 8. c. 2.

many *Sabine* women, as were takē away at the first celebra-
tion of these games. The reason of *Romulus* his institution
of them, being no other, but that vpon the fame of these
new sports, many *Sabine* women flocking thither to be spe-
ctatours, his proiect might be the sooner effected. These &
the cirque-shewes, so often mentioned in ancient authors, at
first were all one, as appeareth by that of *Valerius*. *Ad id
tempus circensis spectaculo contenta erat civitas nostra, quod pri-
mus Romulus raptis virginibus Sabinis consualium nomine ce-
lebravit.* Touching these cirque shewes, some are of opinion
that they were performed in the honour of *Ceres*, this *Iulius
Scaliger* disliketh, & he is of opinion, they were celebrated
in the honour of *Neptune*: others are of opiniō they were in-
stituted in the honour of the *Sun*. All opinions may be recon-
ciled, if we vnderstand first, those authors who ascribe these
cirque shewes to *Ceres*, to speake of the *Cereales ludi*, which
we read sometimes to be called *Circenses*, because they were
exhibited in the *Cirque*: Secondly, if we distinguish the *Pom-
pa Circensis*, from the *Circenses ludi*, and from the *Cereales
ludi*. The *Cereales ludi*, were instituted in the honour of *Ce-
res*; the *Circenses ludi*, in the honour of *Neptune*; the *Circen-
sis Pompa*, in the honour of the *Sun*. And furthermore for
the full vnderstanding hereof, we must knowe that the hor-
ses brought into the *Cirque* at this time, were of two sorts:
some were only *trouminal*, such as were led vp and downe for
shew & state; I vnderstand *Alex. ab Alex.* to speak of these
horses, when he saith ^h horses were consecrated to the sunne;
nay I vnderstand those horses mētioned *2. Kings*, 23. to haue
been of the like superstitious invention; where it is said: that
Iosiah did put down the horses giuen to the sun, & the *Chari-
ots of the sun*. That practise, I say, hath neere affinity with this
of the *Romans*, but I thinke it to haue beene originally deri-
ued to the people of *Iudah*, from the *Persians*, who also ac-
counted holy to the sun,ⁱ & the *Persian* king whē he would
shew himselfe in great state, caused an exceeding great horse

to be led vp and downe, which was called *Equus solis*. Other horses were for exercise and race, we may call them *Agouuds*, the institution of these I suppose to haue beene in the honor of *Neptune*. The prizes or masteries exercised in time of this cirque-shew were many. Fencing, and that vntill one of the combatants were killed in the place; fighting with beasts; wrestling; running of races on foot; iumping and leaping; horse-racing; sea-skirmishes exhibited in some riuer; coach-races; and fighting at whorle bats. Howsoeuer the nature & manner of these games, are in some measure vnderstood by the very names, yet a more large discourse concerning the two last, will be very behouefull, for the the more full vnderstanding of the *Roman* history. These coach-racers, when this maner of race was first instituted, were divided into two companies, which they tearmed *Factiones albas*, & *russeas*: distinguishing each faction or company, by the different colour of their ^k coats. Afterward they were divided into ^k Henr. Salm. foure companies, distinguished alwaies by their colours: in Pancir. cap. de Circo Max whence came that distinction; *Factiones Prasina, Veneta, Rusata, Albata*; which colours may thus be englished. The first signifieth a deep green; the next a kind of russet inclining to red; the third a Venice blew, or Turkey colour; and the last a perfect white. Of these ^l Tertullian speaketh as followeth: ^l Tertul. de *Aurigi, coloribus idololatriam vestierunt, & ab initio duo soli spect. cap. 9.* fuerunt, *albus & russeus. Albus hyemi ob nives candidas: russeus aestati ob solis ruborem voti erant: sed postea tam voluptate, quam superstitione provelta; russeum, alij Marti, alij album Zephyris consecraverunt: Prasimum vero terra matri, vel veno: Venetum coelo & mari, vel autumnno.* As the Emperour, so the people; sometimes fauoured one faction or company, sometimes another, & accordingly as they fauoured the company, they would lay wagers on their side, which wagers they tearmed by a peculiar name *Sponsiones*, this ^m Turnebus interprete^rth *Tertullian*, where he saith that the people flockt ^m Turneb. adu. lib. 8. cap. 4. to these races, sometimes for one reason, sometimes for another

z Tertul. de
spect. cap. 16.
o Suet. in Do-
mitian. cap. 7.

p Iul. Scaliger.
lib. poet. c. 22.

q Aldus Ma-
nut. lib. 2. de
quæst. per epi-
stolam. epist. 8
vid. Rosin. an-
tiq. l. 5. cap. 5.

* Rosin. antiq.
l. 3. c. 5.

ther, but sometimes ⁿ *Sponsionibus concitatus*, id est, stirred vp with a desire of abetting, or laying wagers. To these foure ^o *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but these latter remained not long in vse. Their fighting at whorle bats they tearmed *bellare cestu*. The maner of this fight conceaue thus, the combatants had in each hand a strap of leather, with which each stroke at the other (for we must knowe that this kind of fight, succeeded fistie-cuffes, & because in fistie-cuffes the party striking, did by the blow as well hurt his own fist, as he did him that was stroken, herevpon they invented this other kinde of fight with leatherne switches) these leatherne switches they called *Cestus*, from the ^p Greek *κεσος*, signifying a belt or girdle; to make the fight more dangerous, they did in after times tie peeces of ledde, or yron at the end of these leatherne straps, so that they did with the force of the stroke, often dash out one anothers braines, and vnlesse by the waight of the led or yron, the strap might chance to flye out of their hands, they caused each strap to bee tied fast to their armes, and shoulders: neither was this without reason, for those iron or leden poyses could not be but very weighty, being made in the bignesse, and ^q forme of Rams hornes. Lastly, these cirque shewes, had their appellation *Circenses*, either from the great cirque, or shew-place, called *Circus Max*: where the games were exhibited; or from the swords wherewith the plaiers were environed, as one would say *Circa enses*. They much resembled those Grecian games called *certamina Olympica*, where the runners with Chariots, were hemmed in on the one side with the running riuer, and on the other with swords pitched point-wise, that they should hold the race on directly, and not swarue aside without danger. ^{*} Some haue thought them to be the same with *ludi Gymnici*, so called from *γυμνος*, naked; because that those which did performe these kindes of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they

they might the more readily and nimbly performe their games; for which purpose they did also annoint their bodies with oyle. Whence we say, when a man hath lost his cost & labour. *Operam & oleum perdidit*; *oleum* in this place, signifying cost and charges, so that the proverbe was the same with that of the Coblers crow, *Opera & impensa perijt.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini.

THE first institution of these games: *Livy* sheweth, ^{Lib. 5.} where likewise hee intimateth the reason, why they were called *Capitolini*, to haue beene in the honour of *Iupiter Capitolinus*, because he preserved the *Capitoll*, when it was assaulted by the *Gauls*: wee must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, these *Agones* every fift yeare; In those was celebrated the deliverance of the *Capitoll*; In these Rhetoricians, & Poets, and men of other profession contended for the victory, & hence *Rosinus* thinketh the *Poets Laureat* to haue taken their beginning. He is likewise of opinion, that *Iuvenall* alludeth vnto these solemnities, ^{Sueton. in Domit. cap. 4.}

--- Sed cum fregit subsellia versu

Esurit, intactam Paridi nisi vendit Aganen. Sat. 7.

Although the allusion may be granted, yet herein I thinke *Rosinus*, though otherwise learned to haue beene mistaken, in interpreting *Fregit subsellia*, by *Non stetit*; *Excidit*, or *Non placuit*; as if the Poet of whom *Iuvenall* speaketh, had beene conquered at this time. In my opinion neither will the purpose of *Iuvenal*, nor that phrase of speech admit that construction. Not the purpose of *Iuvenal*, for the scope & drift of that Satyre, is to shew, that be the Poet neuer so pleasing, or let him giue full satisfaction to the people, yet he shall re-

ceae no benefit thereby, but a vaine and empty applause, so that he shal be compell'd to sell those very Poems, which are receaued with so generall an approbation, to buy victuals, and ~~preuent~~ hunger. Neither doth that interpretation agree with that phrase, for *Frangere subsellia*, doth rather on the contrary, signifie the vehement acclamation giuen by the people, in approbation of the Poem, it being a poetick elegancy, to expresse the vehemency and greatnesse of the applause. *Suidonius Apollinaris* vseth the selfe same phrase. *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem, socer eloquens ultro in familiam patritiam ascuit.* Neither is that of *Virgil* vnlike.

u Sidon. Ap. l. 5. epist. ad Sapand.

Et cantu querela rumpunt arbuta cicada.

x Polyb. in hist. 15.

Yea the *Grecians* vsed the same manner of speech, *x* *κατὰ πρῶτον* *ῥητορικῶς* *ὡς ὁ Κρότος*, *καὶ τὸ κενυγῆναι*. So that hereby, I think the Poet vnderstandeth, that *Grande sophos*, so often mentioned by *Martial*, it being a vsuall custome amongst the *Romans*, to signify their approbation of their Oratour or Poet, by the lowd acclamation of *Σοφῶς*, or *ὀρθῶς*. Vnto which *Horace* alludeth *de arte poet*:

---- *clamabit enim pulchrè, benè, rectè.*

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

But to returne whence we haue digressed, these later solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater yeare, called *Annus magnus*, by their *Iustra*, y now they made it by these *Agones Capitolini*. Againe wee must distinguish these *Agones quinquennales* instituted by *Domitian*; from those *Ludi quinquennales* instituted by *Augustus Caesar*, in memory of the victory, which he got against *Antonius*, vpon the promontory *Altiuum*, whence they were called *Altiaci Ludi*.

CAP. 8.

De ludis secularibus.

AUthors agree not vpon the iust period of time, when these secular names were to bee renewed; some are of opinion that they were to be celebrated every hundredth yeare; some every hundredth and ten, some once onely in three hundred: but in this all agree, that they were named *seculares*, from *saeculum* which signified at least an hundred yeares, ^a *saeculum in centum annos extendi existimabant*. Because the full and compleat age of a man, might extend it selfe to the hundredth yeare, and seldome to many aboue an hundred: thence it was, that the forme of words vsed by the publike crier in proclaiming these games was ^b *Venite ad Ludos quos nemo mortaliū vidit, neq; visurus est*. Vnto which ^c *Ouid* alludeth *Trist. l. 2.*

^{Herodian. lib. 3. in vita Seneri.}

^{a Rosin. antiq. l. 5. c. 21.}

^{b Pol. Virg. de invent. l. 8. c. 1. c Ov. Trist. l. 2.}

Iusserat & Phœbo dici, quo tempore ludos

Fecit: quos atas aspicit vna semel.

But the Emperours being ambitious of honour, & desirous to be spectatours of the games in time of their owne reigne, they did often anticipate the time. *Claudius Caesar* amongst the rest, proclaimed them within ^d sixty three yeares, after *Augustus* had obserued them, which occasioned the people to deride his crier, inviting the people to those shewes and sports, which no man liuing either had seene, or should see againe. Because ^e some who were spectatours, nay actors in those solemnities exhibited by *Augustus*, liued at the same time, when *Claudius* caused this to bee proclaimed. These plaies were also ^f called *Tarentini ludi*, not from the Citie *Tarentum* in great Greece; but from a certaine place of the same name neere *Rome*, adioining to the riuer *Tiber*. All the Theatres at this time were filled, & sacrifices offred through out all the *Temples*, for the space of three daies, and three nights

^{d Alex. ab Alex. l. 6. c. 19.}

^{e Suet. Claud. cap. 27.}

^{f Hospinian. de orig. fest.}

nights, which giueth light to that of *Ansonius*.

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperour, and the *Quindecimviri*, early in the morning ascended the *Capitoll*, and there offered sacrifice according to their wonted manner, thence they departed to the Theatres, to performe solempne plaies in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitoll*, they offered vp supplications vnto their Gods, they feasted and sung hymnes, in the honour of the Gods. The third day seuen and twentie boyes, going along three and three, and as many maides in like manner, all of them nobly descended, and hauing both father and mother aliue, sung verses, in which they commended the *Roman* state to the protection of the immortall Gods. This was tearmed *Peanas concinere*, which word *Pe-an*, though it signifie primarily an hymne, or song of praise made to *Apollo*, who was called *Pe-an*, & from *παῖς*, a *feriendo*; because of his victory gotten of the *Python*: yet sometimes, and so in this place, it denoteth the praises in generall of all the Gods. Againe the phrase intimateth an eleuation of the voice in singing, with a kinde of rising from one note to another. Thus *Turnebus* maketh *παῖς*, & *πυγίς* to be opposite *Videtur autem pean contentionis vocis esse, minoratio remissionis.*

g Cæl. Rhod.
antiq. lib. 7. c. 5
h *Servius* in
Æn. lib. 6.

i *Turneb.* adv.
lib. 1. cap. 12.

CAP. 9.

*De ludis plebeijs, compitalijs, Augustalibus
Palatinis, Taurilibus, & Votivis.*

Other games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow *Plebeij ludi*,^k which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of

k *Alex.* ab *Alex.*
lib. 6. c. 19.

of Kings: or as others say, in memory of the reconciliation, wrought between the Senators & the Cōmonalty, by reason of their great oppression at that time, when the Commons in a kinde of mutinie departed to the *Aventine* mount. 2 *Cō-pitalitij Ludi*, so called because they were vsually solemnised in *Compitis* (*id est*) in the crosse waies, and open streets, ¹ they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they tearmed *Lares*, in memory of his natiuity. The forme of words vsed by the *Prator*, when he signified to the people the time of these solemnities, was as followeth.

^m *Die noni post Calendas Ianuarij Quiritibus compitalia erunt.* Concerning which words, ⁿ *Gellius* noteth, *Die noni Prator dicit, non die nono, neq; Prator solū, sed pleraq; omnis veritas sic locuta est.* 3 *Augustales ludi*, performed in the honour of *Augustus Caesar*. 4 *Palatini ludi*, so named, because they were performed in the *Palatine* mount. Some are of opinion that they were instituted in the honour of ^o *Iulius Caesar*; others in the honour ^p of *Augustus*. 5 *Taurij ludi*, which received their name from *Taurus*, a bull: They were first ordained by ^q *Tarquinius superbus*, when there happened a great pestilence amongst the womē with child, occasioned by much bull-flesh sold vnto the people, for the remoueall of which plague, these games were instituted, in the honour of the infernall Gods. They are sometimes also called *Boalia*, & *Bu-petij*. 6 To those may we add their *Votivos ludos*, which were also performed in the honour of some God, vpon some speciall vow made. For whensoever the *Romans* did vndertake any desperate warre, then did some *Roman* Magistrat *Vovere ludos, vel templa*, conditionally that they got the conquest; whiles the Magistrat vttered this his vow, he was said *Vota nuncupare*, or *facere vota*, (*id est*) to make a solemne vow vnto the Gods; the vow being thus made, hee which made it did write it in paper, & with wax fastened it to the knees of their Gods, thereby binding himselfe the more strongly, to the performance; and this in *Pliny* his phrase is *signare vota*:

¹ *Plin. lib. 36. cap. vlt.*

^m *Macrobi. l. i.*

Satur.

ⁿ *A. Gel. noct. At. l. 10. c. 24.*

^o *Alex. ab Alex. lib. 6. c. 19.*
^p *Dio. lib. 56. cap. vlt.*

^q *Fest. vid. Hoespin. de orig. fest.*

^r *Turneb. ad ver. lib. 1. c. 17.*

Iuvenal tearmeth it,

Genna incerare deorum. Satyr. 10.

After this he was said to be *Voti reus*, *id est*, conditionally bound & 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 beene 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 accomplished. Thus haue wee gone ouer the chiefe and principall games which were meereley *Sacri*, tending to religion; the second sort were, *Ludi honorarij*, of which in the next chapter.

C A P. 10.

De Gladiatura.

SVch sports and plaies, which were performed by private men vpon their owne purlse & charges, they seeking thereby to winde themselues into the affections of the common people, and to make way for their own preferment and honour, were tearmed ^a *Ludi honorarij*; & howsoever any game or shew might be tendered 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 tearmed *Munerarij*. The first originall of this fencing, and sword playing, to the killing of one another, hath been derived ^c from a customary practise among the Heathens, at the burials of their friends, who being perswaded that the shedding of mans blood would be propitiatory for the soule deceased, hence would they buy captiues and slaues, purposely to be sacrificed at burials: after ward that this wicked spectacle

^a Isaac. Casaubon, in Suet. Aug. 32.

^b Lips. Sat. 1. 1. cap. 7.

^c Tertul. It. Servius in Aeneid. 10.

cle might be the more pleasant and delightfull, they changed their sacrifice into a fencing with art, where the combatants did fight for their life. This particular kind of fencers were called *Bustuarij* from *bustum*, the place where dead mens bodies were burned; but ambition and crueltie, made these bloody spectacles in after ages more frequent, insomuch that prizes at last were plaied not only at the toombes but in diverse 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 daies together, and the number of the combatants somtimes exceeded number. At the first none would thus hazard their liues, but captiues and fugitiue seruants, which were enforced therevnto, being bought for that purpose, afterward those that were freeborne suffered themselues to be hired, for which cause they were tearmed *Auctorati* hirelings; ^d yea noble men themselves 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 themselves 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. 100.

e Serm. 2.7.

*Quid refert, vri, virgis ferrog, 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 pronunciavit in filiae memoriam.* & Ye they did in tables hanged in publique view, paint and represent, not onely the description of the place, but also the very forme and gesture of the fencers.

f Sueton. in

Julio.

g Plin. 35.7.

---velut si

Revera pugnent, feriant, vitentq, moventes

N 2

Arma

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 speare, & wands, or cudgells, that they might tossie 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 *ἰσχυρομαχία ἀνδρία*, because of the little balls tied at the sharpe end of the weapons, to preuent dangers. Others were ^b *Decoratoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris dabantur*. These were those, with which they really encounterd each other for life or death, and therefore sometimes they are called *Pugnatoria*, ⁱ *Seneca* speaketh of both. *Remoue ista lusoria arma, decoratorijs opus est*. And that the Apostle doth not allude to both, I dare not gainsay, 1. *Cor. 9. 26. 27.* where hee saith *ὅτι πικρὸν αἶμα ἐν ἀσπὶ δέξομαι, ἀλλ' ὡς μάχῃ τοῦ σώματος*. He did not beat the ayre, and flourish with those lufurious, and preparatory weapons, but he did truly fight against his naturall corruption, to the wounding and subduing of it; for ^k so *μάχῃ* signifieth putrified wounds. That phrase of ⁱ *Seneca* alluding to the fore-flourishings, is not much vnlike. *Aliud est ventulare, aliud pugnare*. This fore skirmish with cudgells was properly rearm'd *prælium*: *Megara* speaking of *Hercules* his conquest over the two Serpents, assaul-
ting him being yet an infant, saith, ^m *Præliis Hydre, id est*, that combate was but the prologue, preface, or introduction to that greater, which should ensue betweene him & the *Hydra*. Afterward when they betooke themselves 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 themselves, and the readier wounding of their aduersary. This frame and posture of the body

^b *Lipl. Sat. 1. 2. cap. 19.*

ⁱ *Senec. epist. 117.*

^k *Suid. in voce μάχῃ.*

^l *Sen. 1. 3. cont.*

^m *Sen. Herc. fur. vers. 221.*

ⁿ *Lipl. Sat. 1. 2. cap. 19.*

body, was by a peculiar name called *Status*, or *Gradus*. Whence arose those elegant Metaphors *Cedere de gradu*, *Demigrare 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 received any dangerous wounds, laid down the weapons, which though in extremity was a token of cowardise, neither were they therevpon 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 crueltie of those times, that many prizes were proclaimed, wherein they fore-signified, that such discharges should neither be craued, nor granted: wherevpon *Augustus Caesar* made a decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatants that ouercame, receaued by way of reward, sometimes mony, sometimes a garland, or coronet of palme tree, wound about with certain wollen ribbands called *Lemnisci*; the coronet it selfe was therefore called *Palma lemniscata*, and hence figuratiuely hath *Palma* been translated to signifie the victory it selfe, & such a man as hath often gotten the prize, we say proverbially, 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 *9* diuers approved authors to be this; because the Palme tree, though you put never so ponderous and heauy waight vpon it, yet it will not yeeld, but rather endeauour the more vpward. Sometimes the reward giuen by the people, was one of those wands, or cudgells 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 sheading of blood, alluding to which custome, this word *Rudis* hath beene vsed to signifie any other kinde of freedom.

Suet. Aug 49

p Franc. Sylv.

in orat. pro

Sext. Rosc.

q Arist. probl.

7. Plur. symp. 8

q. 4. A. Gell. 1.

3. c. 6.

r Eras. Adag.

Rudem accip.

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

---- *Monet ecce tridentem,*

They did alwaies fight in their coats, whence that Epitheton floweth, *Retiarij tunicati*. The reason why they bore vp & downe sponges, which *Tertullian* calleth *spongiæ retiariosum* may be for the drying vp of the blood, and wiping, or stopping of the wounds, which vse of sponges *Pliny* noteth. Now because these *Retiarij* were so light armed, they were compelled every time they strooke with their net, to retire backe vntill they recouered their net againe: & hence the second sort of fencers, which fought with them, were tearmed *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 adversary; 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 *Parma-larius*, signifieth such a one as fauored this company, or faction of fencers. Their sword was a crooked falchion, tearmed by them *Sica*. The *Roman* souldiers did vse to weare two of these, along one on the left side, and a shorter on the right side, answerable to our sword and dagger, but the forme of the *Sica*, was alwaies crooked, according to that. *Sica Seg-uxndv ξίφος θηραμυρς*. Prvie murderers 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 *Tully*. 4^{ly} *Myrmellones*, they are sometimes called *Galli*, because they were appointed after the maner of the *Gauls*, their weapons were a sword, a target, an helmet with a crest in forme of a fish. 5^{ly} *Hoplomachi*, the name imports them to be armed in their fight, it is deriued from the Greek *ὅπλον* vel *ὅπλᾱ*, *arma*, and *μαχημα*, *pugno*: vntill *Augustus* his time they were named *Samnites*, their armour was an helmet with a tuft on the crest, a sword, a sheild, and a boot on the

Plin. lib. 31. cap. 11.

Lips. Satur. lib. 2. c. 7.

Turn. Adv. lib. 5. cap. 10. x Suet. in Domit. cap. 10.

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

*Veget. vide
Lipl. de milit.
lib. 3. dial. 7.

(Lips. Sat. 2.

the left legge. 6^{ly} *Provocatores*, sometimes called *Probañtores*, these usually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and bootes on both legges. For as the footmen amongst the souldiers; so likewise, some of the sword-plaiers vsed bootes, for the safeguard of their legges, these bootes were made of yron, and so common amongst the Grecians in warre, that bootes alone are oftentimes put to expresse the Grecians whole armature, as appeareth by that vsuall epitheton in *Homer*, *Ἀχιλλεύς Ἀχαιοὶ* id est, *Bene ocreati Græci*. These bootes they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7^{ly} *Essedarij*, such as fought one against another out of wagons, so called from *Essedum*, a wagon or chariot. 8^{ly} *Andabatae*, 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. 9^{ly}, *Dimachari*, called also *Orbela*, they fought each against the other, with two swords apeece, as the first name importeth. 10^{ly}, *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 adversaries 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. Only 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 thumb: or else to adiudge him to continue the fight, though in neuer so great danger, & this latter they signified *convertendo pollicem*, by turning vp their thumb.

---Et verso pollice vulgi

Quemlibet occidunt populariter. Inven. Sat. 3.

Moreover that there might be alwaies in readines, a sufficient

ent

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 *Lanistæ*, 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 signifie 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 other wise 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 aduersary: some thinke that *Perſius* had respect vnto this custome, in that phrase. --- *Digitum exere, peccas, Sat. 5.*

CAP. II.

De ludis Scenicis.

THE second sort of plaies bestowed on the people for their fauour, were *Iudi Scenici*, stage-plaies. The reason of this name *scena* may be scene 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 be 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

^m Sueton. Ca-
lig. 26. It. in
Domit. 10.

ⁿ Alex. ab A-
lex. 1. 4. c. 26.

^x Lazijs de
Repub. Rom.
lib. 10. cap. 17.

^y Alex. Gen.
dier. 1. 6. c. 19.

the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histri-
nibus est inditum. Polidor. de inven. lib. 3. cap. 13.* Concerning
the diverse kindes of stage plaies I read of foure, called by
the *Grecians*, *Mimica*, *Satyra*, *Tragœdia*, *Comœdia*: by the
Romans, *Planipedes*, *Attellana*, *Pretextata*, *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 tip-toe in dirision of the mincing dames; sometimes
would speak full-mouthed to mock the country clownes;
sometime vpon the top of their tongue to scoffe the citizen.
And thus, by the imitation of all ridiculous gestures or spee-
ches, in all kinde of vocations, they provoked laughter;
whence both the plaies and plaiers were named *Mimi*, from
μιμη an imitator, or one that doth ape like counterfeit o-
thers; as likewise they were called *Planipedes*, because the
Actors did enter vpon the stage *planis pedibus*, id est, *Excal-
ceati* barefooted. The second sort of plaies were called *Sa-
tyra*,^a from the lasciuious and wanton country-Gods called
Satyræ, because the Actors in these *Satyricall* plaies, did vse
many obscene poems, & vnchast gestures to delight their
spectators. Afterward these kinde of actors as we may cō-
iect, did assume such liberty vnto themselues; that they did
freely and without controlement, sharply tax & censure the
vices evē of kings, as well as of the commons, insomuch that
now we call every witty poem, wherein the liues & maners
of men are sharply taxed, A *satyre*, or *Satyricall* poem.^b *Sa-
tyra mordax fuit & salsum genus carminis.* These *satyricall*
plaies were also called *Attellana*, from the citie *Attella* in
Campania, where they were often acted. The third sort of
stage-plaies, were called *Tragœdia*, from *τράγος* a Goat, and
ὠδή an Ode or song; because the actors thereof had a Goat
giuen them as a reward. And likewise they were called *Pre-
textata*, from *Pretexta*, a certain *Roman* robe, which these ac-
tors

q Alex. ib.

a Antesignan.
in suis obser.
de metris co-
micis. Teren.
præfixis.

b Vid. Erasim.
adag. Καρπ-
αὐτὸς οὐλὸς καὶ οὐλὸς.

tors did vse to weare in their plaies. The fourth sort were *comædia*, from *κῶμαι*, which signifieth villages, & *ᾠδή*: because these kind of actors did goe vp and downe the countrey acting these *Comedies* in the villages as they passed along. They were likewise called *Tabernaria 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; or likewise 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 truely parts, as accidentall ornaments added to beautifie 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 *ᾠκισμός*, 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 *ἐπιτασις*, 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 *κατάστροφῆ*: whence by a *metaphor* it hath beene translated to signifie the end, or period of any other thing; or rather the inclination vnto the end, as *vite humana catastrophæ*, the end of a mans life. In respect of the plaiers forsaking the stage, the parts were fiue; namely the fiue Acts. For the Actors did fiue times in every *Comedie* and *Tragedie* forsake the stage, & make as it were so many interruptions. The occasion whereof is supposed to haue beene this, that the spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with varietie 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 *Tragedie* and *Comedie* must haue five *Actus*, and no more, according to that of *Horace*.

Nec minor quinto, nec sit productior actu

Fabula, ---

Againe wee must remember that it is not necessarie that the *epilogus* should alwaies 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 *mutatio personarum*: Whence we call a subtile *Gnatho*, which can humour himselfe for all persons & times *omnium ſcenarum hominum*, 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.

Nec quarta loqui persona laboret. Hor.

The partes accessoria in a *Comedie* are foure, *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy: the second is the Prologue, which is either *probelikos*, such as doth open the state of the fable, at which time there needeth no argument; or else *oucalikos*, such as commendeth the fable, or the Poet vnto the people; or lastly *anapoeikos*, such as shall refute the obiections and cauals of aduersaries. The third is *Chorus*, which speaketh betweene each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female: ^d 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 whatsoeuer the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

*¶ Vid. Erasmi.
Adag.*

*¶ Rosin. ant.
cap. de trag. &
com. lib. 5.*

---Non

---Non quid medios intercinat actus,

Quod non proposito conducat & hereat aptè. Horat.

It may seeme sometimes that in the midst of the play, some other sport was enterposed, as hunting, or fencing, or such like to delight the spectators with the greater variety, whence

Horat. Si discordet eques, media inter carmina poscunt
Aut versus aut pugiles.

These enterposed 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 players vestry, and the stage or scafold. This partition at the acting of a Tragedy

was vnderpropped with stately columnes and pillars, and beautified with paintings resembling princely buildings, & 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 *Satyrical* plaies the painting was overcome with shadowes of mountaines and woods: The first of these partitions they called *Scenam*,

Tragicam, the second *Comicam*, the third *Satyricam*. The difference betweene a Tragedy and a Comedy, which may be collected out of *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 fictiones, and petty matters, the one being *Αεινών μελοχῆ*; the other *νῶχus μελοχῆ*. 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

e Alex. Gen.

dier. l. 5. c. 16.

Antesig. in

suus observ. de

metris comi-

cis Terent,

præfixis,

Antesig. in

suus observ. de

*Nigra medium
impedit crux
Pellibus. Horat.
Ser. l. i. Sat. 6.*

calme and quiet, the end fearefull 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 knowe, 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 bene occasioned, that *Cothurnus* is translated to signifie a Tragicall and loftie stile, as *Sophoclea digna Cothurno*, matters beseeming *Sophocles* his stile: and sometimes a Tragedie 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

g Antefig. ib.

Hunc socci cepere pedem, grandesq; Cothurni. Horat.

g All these sorts of stage plaies both *Mimicall*, *Satyrical*, *Tragicall*, and *Comicall*, if they were acted according to the *Grecian* rite and custome, then were they called *Palliata*, from *Pallium*, a certaine mantle which the *Grecians* did vse to weare: if according to the *Roman* manner, then were they called from the *Romane* gowne *Togata*.

CAP. 12.

De Troiano ludo, sine Troia.

*a Hospin. de
orig. fest.*

IT was a custome among the *Romans*, sometimes in the yeare to haue a generall muster of the younger sort, who meeting in the cirque, exercised there, 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 inventutis*. They divided themselues into distinct companies, sometimes marching forward, one against

gainst another, sometimes retiring backward, sometimes skirmishing, sometimes imbatling themselves in one forme, sometimes in another, as if it were a true field pitch. A large and full description hereof we haue in *Virg. Æn. 5.* This game was called *Troianus ludus*; or simply ^d *Troia*, without ^d Suet. in Iul. the addition of any other word, because *Ascanius Æneas* cap. 39. his sonne first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place,

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

Among other sports vsed at this time, ^e there was also a kind ^e Alex. ab A- of moriske daunce, wherein the young men danced in har- lex. l. 6. cap. 19. nesse, 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 themselves, as to annoy & offend the enimie. This kinde of dance is generally called *Pyrrhica saltatio*; because it was invented by ^f *Pyrrhus*. Yea ^g some ^f Plin. l. 7. c. 56 say, that *Suetonius* taketh *Troianus ludus*, and this *Pyrrhica* ^g Serv. in l. 5. *saltatio*, for one and the same thing. Nay *Alexander* con- *Æn. It. Alex.* foundeth both these, with those other games tearmed *Iuvenales ludi*. But doubtlesse herein he was mistaken, for those ^{ab Alex. loco} *Iuvenalia*, were instituted by ^{supra citato.} ^h *Nero* ^h *at the shauing of his* ^b *Sueton. in* beard, and had not their name, because young men were the ^{Meton. c. 11.} chiefe actors, ⁱ ⁱ *but because old men would now by the pra-* ⁱ *Cœl. Rhod.* ^{lib. 19. cap. 22.} ^k *atise of youthfull sports, turne young againe. The actions at* ^k *Rosin. Rom.* ^{antiq. l. 5. c. 22.} this time were so farre, from sauring of military discipline, that on the contrary, they were for the most part ^e *feminat* and wanton.

CAP. 13.

De tesseriis, talis, & latrunculis.

Alex. ab A-
lex. lib. 4. c. 2.

Sueton. Aug.
cap. 40.

BEfore we treat of the game callad *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 antiquitie, First it signified a watch word among the souldiers in the campe, whereby they discerned their enemies, or spies, from their own fellows; *Alexand. ab Alexandro* giuech many examples hereof: *Augustus Caesar* in his camp, gaue for his watchword *Venus genetrix*. *Pompeius magnus* gaue for his *Hercules invictus* &c. & this was called *Tessera militaris*. 2^{ly} There was *Tessera frumentaria*, a certaine ticket, or token giuen by the Magistrat vnto the poore, at the tendring whereof, 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, even 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 instead of corne, or happily ouer and aboue the corne, there were at certaine times, doales of mony giuen to the poore, which doale 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*, ha-
ving

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 deriued, *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 *Talis*, to denote the vncertaintie of both games. *Tessera*, properly signifieth a dye; *Talus*, an huckle-bone, such wherewith children play *Cockall*. In determining the severall 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 severall 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, & these two were termed *Kāos*, & *χλος*, ὁ μὲν γὰρ χλος ἐδύρατο ἔρ, δὲ Κᾶος ἔξ, *id est*, *Chius* answered our *Ace*, *Cons* our *Sice*. And this is confirmed by a prouerbe in vse among the Græcians. *Kāos ἀγὸς Χίον*, which the learned interpret to be, a comparison of vnequalls: 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 poynts in them, appeareth by the testimony of *Turnebus*: And hence *Numeri*, is sometimes, vsed for *Tessera*.

q Suidas in voce κᾶος.

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

Sen ludet numerosque manu iactabit eburnos.

P

Ovid

Ovid. 2. de Art. Amand.

That they vsed more *Tali* in their plaies, then they did *Tessera*,^b *Turnebus* obserueth from that verse.

^b Turn. adu.
lib. 6. cap. 10.

Non sum talorum numero par tessera.

Martial. l. 14. epigr. 15.

^c Coel. Rhod. ^c *Calius Rhodiginus* speaketh more distinctly, saying that in lib. 20. cap. 27. their play they vse three *Tesserae*, but foure *Tali*. These *Tali*, were sometimes called *Vulturij* as appeareth by the same ^d *Rhodiginus*, and likewise *Reguli*, the reason of both is rendered by ^e *Turnebus*, he being of opinion, that these *Tali* had not points in them as the *Tesserae*, sayeth, *pro numeris effigies animalium habebant, ut vulturum, aut regulorum*, that they were termed *Vulturij*, is probable by that of *Plautus*.

^d Coel. Rhod.
lib. 20. cap. 18.
^e Turn. adu.
lib. 5. cap. 6.

Tace parumper, iacit Vulturios quatuor.

Plant. 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 euers chaunces name, or to reduce euery chaunce determinatly, either to the *Tesserae*, or the *Tali*, I thinke it impossible. Only some may be thus reduced, and in generall wee may conceiue probably, which chaunces were fortunate, which vnfortunate. The vnfortunate chaunce in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*:

^f Lipf. antiq.
lib. 3. c. 1.

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 the 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*.

Laſto

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 *Gracians*, not only called *συμμοχλαεχες*, but also *Caesars*, The King, Prince, or chiefe commander at the table. This cast was then brought to be thrown, when all foure cocklebones appeared not one like the other, but all with different faces, *Venus consurgebat ex talis quatuor iactatis, ubi diuersam omnes ostendissent faciem*: with whome accordeth *lib. 20, c. 27.*
Turnebus. *Venus erat, cum nullus eodem vultu stabat talus.* *lib. 5, cap. 6.*
Hercules was also a lucky throw, but whether the same as *Venus* I haue not yet learned.

The games with the *Tesserae* I make no question were diuerse, 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 *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendered by *Rhodiginus*, because *Stesichorus* 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 columnnes; eight stepps, or greefes. In their common game, the most fortunate throw is thought to haue beene three *Sices*, we call it in passage, a *Royall passe*, whence it was commonly called *Senio*;

--- *Quid dexter senio ferret*

Scire erat in votis, damnosa canicula quantum

Raderet, angusta 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 tearmed *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, and Cocklebones, was by casting them, not immediately

diatly out of their hand, but out of a dish, or narrow mouth-
ed vessell, that there might be faire play, withour striking, or
cogging the dye; this vessell *Persius* calleth *Orca*, and descri-
beth it to haue a narrow mouth, or streight necke. *Horace*
applyeth it vnto the *Tali*, *Satyr. 7. l. 2.*

Mitteret in Pyrgum talos---

Calling it *Pyrgus*, vsing the Greeke word Πύργος a towre, or
steeple so called from πυρ fire; because the forme thereof, be-
ing *acuminata*, resembleth the rising of fire: the word inti-
mateth *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 strengthened, by that common prouerbe:
Aut tres sex, aut tres tessera, id est, either three *Sices*, or
three *Acies*. And the first of these being the best, the other the
worst chance in the Dice: The prouerbe 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
I Dempst. an- accordeth *Dempster*, prouing it out of *Suidas*.

riq. Rom. lib. 5.
cap. 1.

Mydas ó ἐν εὐβοίῃσι ἀβελότατος

Mydas in tesseris consultor optimus.

This name signifying 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. l. 1.*

Senio nec nostrum cum cane quassat ebur.

Erasm. adag.
Chius ad
Coum,

It is noted by *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. *Sue-*
torius is cleere in the prooffe hereof, if for *Aut* wee substitute
Et, which vnlesse we doe, it will be a matter of great difficul-
ty, to make congruity of sense. His words are, *Talis enim ia-*
ctatus, ut quisq; Canem aut Senionem miserat, in singulos talos,
singulos denarios in medium conferebat, quos tollebat vniuersos,
qui Venerem iecerat. Turne *aut* into *&*, the sence is obuious.

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 ffourty, 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 uidetur unus fuisse Euripides praefectorum quadraginta, post triginta Tyrannos Aethonis exaltos.* 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*, *Cons*; the *iactus supinus*, or *iactus inanis*: was likewise commonly knowne, by no other name then *Canis*, *Canicula*, or *Chius*, we may English it Blanke.

^o Some haue deliuered their minde touching these plaies thus; that the *Tali*, or Cocklebones had but foure faces or sides, and therefore yeelded fowre 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 tearme *Venus*, or *Cons*, and is accounted the best: *Merula* against sense vnderstandeth the number of seauen by it, it may stand for our Sice. The third bore the name of *Chius*, proportioned to Trey with vs, and the last *Senio*, which is as much as Quatre. For in these *Tali* there is no chaunce of Deaur, 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 cocklebones, as they were tearmed *Iactus*, & *Missus*, castes: so also were they called ^p *Manus*, figuratiuely, as e-
very stroke in the fencing schoole, was termed *Manus*: The first acception of *Manus*, is prooued out of ^q *Suetonius*,
where

ⁿ Coel. Rhod.
lib. 20. cap. 27.

^o Barthol. Me-
rula in Ov. de
art. amand. l. 2.

^p Lips. Satur.
lib. 2. cap. 20.
^q Suet. Aug.
71.

where *Augustus Caesar* speaketh thus. *Si quas manus remis-
cuiq; exigissem, aut retinuissem quod cuiq; donavi, vicissem &c:*
id est, If I had exacted those chaunces which I remitted euery

r Quint. lib. 5.
cap. 14.

one, and kept that which I bestowed, I had gotten &c. The
second acception of *Manus*, is confirmed by r *Quintilian*,
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 signify an hired souldier, such a one as serued
for pay: whence *Latro*, whose diminutiu *Latrunculus* is, hath
his denomination ἀπὸ τοῦ λατρεῖν ἀσervingdo. In this sense
the word is vsed by r *Plautus*.

f Plaut. mil.
glor. Act. 1. sc.
1.

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

Secondly, because souldiers are so prone, and apt to commit
robberies, hence *Latro*, and *Latrunculus*, hath beene vsed al-
so to signify a theife or robber. And thirdly in a borrowed
sense, these words ar applyed to signifie table-men, or chesse-
men; because this game hath the expresse forme and repre-
sentation of a warre, or batle, fought betweene two armies:
Insomuch that r *Pyrrhus* King of Epire, being skillfull in
plotting stratagems, first taught his souldiers that art of pro-
iecting, by playes and representations thereof in the table-
men. Some are of opinion, that it was first inuented in the
siege of Troy, by *Palamedes*, who that he might keepe his
souldiers in better order, allowed them this kinde of recrea-
tion, whence these chesse-men, are sometimes called *Palame-
diaci 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. O-
ther games there were of lesser note for recreation, of which
fort were principally these that follow; *Petaurum, Discus,*
Pila, Trochus, Nuces, πεταυρον, from whence this latine word
Petaurum

s Donat. in
Terent. Eun.
Act. 4. Sc. 7. ad
Illud, Idem
hoc iam Pyr-
rhus facitavit.
u Suidas in
voce τὰ βλά

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 running, they would not touch the hoope or wheele, to this purpose *Alex. Neop.* speaketh. ^a *Fuit quoq; petauri ludus admirationis precipua, cum per circulos quissiam veloci cursu transvolat, corpore ita librat, ut circulum non offendat.* Such tumblers as were practized in this kinde of actiue were thence called *Petaurista*. *Discus* was a round stone in manner of a bowle, sometimes made of yron, or brasse, whosoever could cast it farthest got the victory: the players thereat were called *δοκωδολοι*, from *δοξω* and *βαλλω* 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 ffoote ball; ^b This ball being put downe in the midle, two companies of young men, stroue who should driue it through the others goale. 2^{ly} *Pila* which signified a distinct kinde of ball so called from the haire with which it was stuffed. 3^{ly} *Follis*, a light kinde of ball, so called because it was stuffed with a bladder: with this old men, and young children played. 4^{ly} *Paganica*, this had its name *à pagis*, from villages and country townes, where it was chiefly 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 pila.

Fistly *Trigonalis*, 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 tennis-courts, which because they were three square, in manner of a triangle, hence was the ball with which they played in such courts termed *Trigonalis*. The players themselues, were termed *factores*; those that did cast in the ball into the court, were called simply *datores*; and ^d hence *datatum ludere*, is to play at ball

^a *Alex. ab Alex. lib. 3. c. 21.*

^b *Alex. ab Alex. lib. 3. c. 21.*

^c *Cœl. Rhod. lib. 12. c. 18.*

^d *Turneb. ad vers. 1. 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 legges, to haue the ball flung at it. *Trochus*, it signifieth a top, as it was 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 nutts they had many plaies, some of which are at this day in vse. One holding an vncertaine number of nutts in his hand, his fellow that played with him, was to diuine whether the number was even or odde. This *Horace* calleth.

Ludere par impar----

The *Grecians* *ζυγὰ ἢ ἀζυγὰ*. of this *Ouid. de nuce.*

Est etiam, par sit numerus qui dicat, an impar:

Ut diuinatus auferat angur opes.

Sometimes they piled their nutts, three beneath and one on the toppe, in manner of a castle, of this *Ouid*: speaketh likewise.

Quatuor in nucibus non amplius alea tota est,

Cum sibi suppositis additu una tribus.

Yea, these nutte-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, vntill they forooke these nutte-sports, whence *nucibus relictis*, sounds as much, as childishnes being past: and this is thought to be the reason, why the ^c bride-man, as soone as he was married vsed to cast nutts 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*

*e Rosin. ant.
Rom. lib. 5.
cap. 37.*

*f Anton. Con-
stan. in Ouid.
Fast. lib. 1*

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.

CAP. 14.

De mensis & convivij Romanorum.

BEfore we proceed vnto the description of the *Roman* tables, we will explaine those five tearmes, *Ientaculum*, *Prandium*, *Merenda*, *Cœna*, & *Comessatio*. Which five words doe signifie the five severall feedings each day; which children, old men, labourers, travellers, & such like, did vsually obserue; for others of healthier and 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, à *ieiunio*, 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, hee 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 *ἀείνω* signifying a dinner, doth intimate, it being so called, *quasi ἀείνω*, from *ἀύγιον*, which signifieth the morning. The name *Prandium*, which wee render a dinner, was so said *quasi παρ' ἑσπέρου*, signifying noone-tide, or mid-day. The third time of taking meat, was called *Merenda*: we may english it our afternoones beauer: it was called also *Antecanium*, because it was taken a little before supper. ^c *Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proximè cœna; unde & Antecanium à quibusdam dicitur.* The fourth time, was their supper, called *cœna*, *quasi κοινή*, which signified 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 *Comissatio* by some, by most *Comessatio* à *comedendo*. ^e *Ioan-*

^a Rosin. antiq. lib. 5. cap. 27.

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

^c Iust. Lips. cent. 1. ep. 65.

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

^e In orat. pro M. Cœlio.

fLazius de
repub. Rom.
lib. 3. cap. 3.

nes Tislinus saith, that it is a beauer taken after supper, or a night drinking. But the chiefe feast, whereat they 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 *Cenaculum à cœna*, as our dining chamber is so called from our dinner. It was also called *Triclinium* or *Biclinium*, from *τρίκλιον* 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 diuerse colours, sometimes with silver, and it stood vpon one whole intire foot, made of Iuory, in the forme of a great lyon, or Leopard, &c. Vnto the meaner sort of these tables Horace alludeth.

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

Vnto the other Iuuenal. Sat. 11. vers. 122.

---- *putere videntur*

Vnguenta atq; rose, 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*, & 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.

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 con-

iection

g Rosin. antiq.
lib. 3. c. 28.

ieſture 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 conuenient roome to attend: therevpon it ſeemeth not improbable vnto mee, that this crooked arch was made for the waiters. I acknowledge that this *Sigma*, hath beene tranſlated diuerſly by diuers 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 *Cælius*. 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 continued bed, able to take ſix or ſeuene gueſts. But *Brodæus*, 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 tapeſtrie, or ſome other kinde of couering, according to the wealth and abilitie of the perſon, and thus

---- *Strato diſcumbitur oſtro;*

the beds being ready furniſhed, the gueſts lay downe in manner as followeth. Each bed contained three perſons. ſometimes foure, ſeldome or neuer 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 vpon his left elbow the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermoſt did lie at the beds head, laying his feet behind the ſecond his back; the ſecond reſted his head in the others boſome, hauing a cuſhion 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, ſeldome times exceeding nine: whence *Agellius*^b 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 been the reaſon of that adage. *Septē convivium, novem convitiū faciūt.*

^b A. Gel. noſt.

Att. l. 13. c. 11.

Tribus aut no-

uem miſcentur

cyathis pocula

commodis. Qui

muſas amat im-

pares, Ternos ter

cyathos attenti-

us petet

Vates: tres pro-

hibet ſupra

Rixarum metu-

ens tãgere Gra-

tia Nudis iun-

cta ſororibus.

Horat. carm.

l. 3. Od. 19.

i Alex. Gen.

dier. l. 5. c. 21.

Helio-

Stuokius de
convi. l. 2. c. 2.

Heliogabalus seemeth to haue beene delighted with the number of eight, ^k whence he inuited to supper *octo calvos, octo luscus, octo podagrosos, octo surdos, octo rancos, octo insigniter nigros, octo insigniter longos, octo prae pingues, & octo nasutos, delectatus illo* Graco proverbio, *ἄταυτοτά*. Those that were not invited, but came of their owne accord vnto a feast without bidding, by *Plautus* they are called *Musca*, flies; by others they are called *Umbra*, shadowes. Hence is that of *Horace*.

---Locus est & pluribus umbris.

The party which inuited the guests, sometimes expressed his earnestnesse, by pulling and hailing one by the cloake: whence *Stuokius* obserueth, that when they would shew how earnestly they were invited, they would say, *Penulam mihi scindit*; 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 v-
sually pluckt off, that they might not foule the beddes, on which they did lie^l.

Heautont.

Accurrunt serui, soleas detrahunt,

Video alios festinare, lectos sternere, cenam parare.

m Coel. Rhod.
l. 27. c. 26.

in 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 use garlands of yuie, and mirtle-tree, and roses; the coolenesse of which comforted the braine. These garlands were also *Symbolum plena 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 carving and cutting vp of the dishes, *Carptor*. *Tryphervus*, as appeareth by *Iuuenall. 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

manner

manner of caruing: which that he might the better do, he furnished a table with severall dishes of meat, formed and fashioned in wood, with a dull knife, shewing his schollers 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 *Cæna ulmea*. 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 eggcs: as likewise in the last course (whether the second, or third) were serued, nuts, figs, grapes, but alwaies apples: 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 cænæ*: In *Lipsius* his phrase, it is called *q Fundus & fundamentum cænæ*. 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 φεγγίδες σοφώτεραι*, id est, *Secundæ cogitationes sunt sapientiores*. If the table were well furnished with plenty and variety of dishes, it was called *Cæna recta*, or *cæna dubia*: *Recta* in this place signifieth as much as *vera*: thus *ῥῆθς* among the *Gracians*, 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* denoteth any kinde of dole either of meat or mony, which as often as it was giuen in lieu of a suppper, it was opposed to *cæna 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 *cæna dubia*,

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

p Panciroll.
lib. rer. deper-
dit cap. de cibi
capiendi mo-
do.

q Stuk. lib. 3. de
conviv.

Turneb. adv. v.
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. I.

*Of the Roman Assemblies.**De Comitijs.*

I THER-VNTO haue wee in-
 sisted vpon the description of
 the most remarkable parts of
 the *Roman* citie, together with
 the seuerall divisions of the
Roman people, as also the *Ro-*
man religion, where wee haue
 scene the generall divisions of
 their Gods and their sacrifices,
 with their ceremonies there-
 vnto belonging, and likewise
 of the *Roman* games both greater and lesse. Now are we to
 proceed to that part of gouernment, which is politicall or ci-
 vill: where we will first speake of their assemblies called *Co-*
mitta, then of their ciuill magistrates, afterwards of their pu-
 nishments, and lastly of so many of their ciuill lawes, as I
 haue obserued needfull for the vnderstanding of *Tully*, and
 that principally in his Orations. For the more easie concea-
 ving of all which I haue prefixed 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. 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 bee 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 *ἔνιαυδος* signifieth) *ἐν ἑαυτοῦ ἑστῶς*, id est, *in se convertitur annus*; which was the reason, why the Egyptians in their mysticall cyphers (called *litera hieroglyphica*) did vse the picture of a serpent, hauing his taile in his mouth, to signifie an yeare. The time or space, of this yeare hath bene diuerse, according to the diuersitie 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 *μῆν*, signifying the Moone, they called *Annum Lunarem*. Some allowed foure moneths, some six months, some tenne. And thus *Romulus* measured his yeare, counting the months either from the number of our fingers, or from 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 utero 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 cum Lunareceperat orbem,

Hic numerus magno tunc in honore fuit:

Sen quia tot digiti per quos numerare solemus,

Sen quia bis quino femina mense parit,

Sen

Seu quod ad usq; decem numero crescente venimus;

Principium spatij sumitur inde novis. Ovid. Fast. lib. 3

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

At Numa nec Ianum, nec avitas praterit umbras.

Mensibus antiquis addidit ille duos. Ovid. lib. 1. Fast.

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

R

Now

^c Vid. Geor.
Merulam in
orat. pro Q.
Ligario.

^d G. Merula
in orat. pro
Q. Ligario.

† G. Merula
in orat. pro
Q. Ligar.

† Rosin. ant.
Rom. lib. 4.

* Hubert. 1. 3.
epist. fam. 18.

† Suet. Octav.
Aug. c. 87.

Now the day following being the foure and twentieth of Februarie, was alwaies the sixt of the Kalends of March,^c & therefore because of the interposition of that day, they called the leap yeare *Annum bissextilem*, that is, the yeare where in there fell out two daies, which they called *Sext. Calend. Martij*. And the day thus interposed, was called *dies bissextus*. This computation, which *Iulius Caesar* found out, wee haue embraced, & doe at this day follow, calling our yeare *Annum Iulianum*,^f and *Annum magnum*, hauing relation to the monthly yeare called *Annus Lunaris*; and sometimes this great yeare is called, *Annus vertens à vertendo*, because it is alwaies turning, and running on. * Moreouer wee 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 Caesar*, 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 Caesar*, was by them called *Sextilis*, because it was their sixt month. Thus then the great yeare being diuided into twelue months, every month was diuided into three parts, *id est*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were so proper vnto the Romans, that *Augustus Caesar*, 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 proverb, *At latter Lammas*, neuer. For the better vnderstanding of which, I shall insert three common verses.

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

That is, the first day of every 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 fift day (for example sake)

fake) of January was called *Nona Ianuaria*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vsed alwaies to say *Pridie Cal. Pridie Nonar.* and *Pridie Iduum*, instead 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 daies in every 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 Iduum*, vel *Idus Ianuar.* The eleventh *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum*, vel *Idus Ian.* the ninth 5^o *Id. Ian.* the eighth 6^o *Id. Ian.* the seauenth 7^o *Id. Ian.* the sixt 8^o *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. Febr. &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 preposition *Ante* is eclipsed; Againe every month had in its compasse three great markets, which because they were obserued euery ninth day, were called *Nundinae*, and the latter of them being the greatest is called by *Athenaus* τριτη νυνδια, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I should treat of the daies, which are the lesser parts of the yeare: where before we proceed, wee will consider the parts, which the *Romans* divided their day into.

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

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

The day and night againe were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three houres. The first of the night began at sixe of the clocke in the evening, and the fourth ended at six of the clock in the morning. These watches were distinguished by severall notes and sounds of Cornets, or Trumpets, that by the distinction and diuersitie thereof, it might easily be knowne what watch was sounded. Moreouer we must vnderstand that the *Romans*, vpon a superstitious conceit, & observation of misfortunes and evill events falling out on some daies, and more happy successe vpon others, haue called the former sort of daies *Atros dies*, or *dies postriduanos*, & *Egyptiacos*: ἀποπράδαι; *Graci nuncupant*, perinde ac *sin efandros dicas*. The reason why they were called *Postriduanis* was because they thought *Dies postridie Calendas, Nonas, & Idus id est*, The next day after the Calends, Nones, & Ides, of every month to be vnfortunate; and the latter sort they called

Albos

Of the Romane yeare.

133

Albos dies,^h borrowing the names from the *Scythians*, who vsed to chalk out the fortunate daies in their Kalenders with white characters, whence *Horace* saith,

^b Vid. *Erasm.*
Adag. vnione
signare.

Cressa non careat pulchra dies notâ.

Other some, as their vnfortunate and unluckie daies, were noted with a coale or black character, according to that,

Nigro carbone notatus.

Again their Kalender distinguished some daies for Holy daies, which they called *Dies-festus*, festiuall daies, or *dies Feriatus*, & *Ferias*, Holy-daies,ⁱ because they did vpon such daies *Ferire victimas*, *id est*, offer vp sacrifices. Others were distinguished for working daies, which they called *Profestus quasi procul à festis*. The third distinction was of halfe holy-

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

daies, which *ab intercidendo*, they called *Dies intercisos*, as it were daies cut asunder: the one part of them being allotted for worldly businesses, the other for holy and religious exercises.^k These *feriae* were either *privatae*, and so they belonged

^k *Rossin. ant.*
lib. 4. c. 3.

sometime to whole families, as *Familia Claudia*, *Emilia*, *Julia*, &c. sometimes to private persons, as every one his birth day, particular expiations, &c. or else they were *Publi-*

cae, such as the whole common-wealth did obserue: and they were of two sorts, the one called *Anniversariae*, which were

alwaies to be kept on a certaine day,^l and therevpon they

^l *Alex. Gen.*
dier. lib. 5. c. 7.

were called *feriae statinae*; the other *conceptivae*, which were

arbitrary, and solemnised vpon such daies as the Magistrates and Priests thought most expedient, whereof the *Latinae Fe-*

riae were chiefe: which *Latinae Ferae* were kept on mount *Albane* to *Iupiter Latiar*, for the preferuation of all the *La-*

tine people in league and confederacie with the *Romanes*, and were solemnised in memorie of the truce between those

two nations. Those *Feriae* which were called^m *Imperativae*,

^m *Alex. Gen.*
dier. lib. 5. c. 7.

andⁿ *Indictivae*, because the *Consul*, *Prator*, or chiefe *Ponti-*

ⁿ *Serv. Angell.*
lib. 11.

fie, according to their pleasure *imperabant*, & *indicebant has*, *id est*, commanded them, may in my opinion bee contained vnder that member of *Feriae conceptivae*, in respect of the vn-

o Carminum
lib. 2. Ode 13.

p Ioach. Ca-
merar. pro
Flacco.
q Bersman. in
suis annot. in
Rom. Calend.
ad finem Ov.
Fast.

certainerie of them. Another distinction of daies is found in the Roman Kalender, to haue beene in *Fastos*, whole court or leet-daies; *Ex parte Fastos*, Halfe court daies; *Ne fastos*, Non-leet daies; though this word *Nefastus* 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 so called *à fando*, from speaking; because vpon those daies which were *Fasti*, the *Prator*, or L. chiefe Iustice might lawfully keep court and administer iustice, which was not done without the speaking of these three words, *Do, Dico, and Addico*; *Dabat actionem; dicebat ius; Addicebat tam res, quam homines*. Where by the way we must note, that sometimes these court daies were also called *dies comitiales*, because that vpon every such day which was noted in the Kalender for a comitiall day, if the publique assemblies were not held, it was lawfull to keep court: whence not only *comitalis dies* doth signifie a law day, but *comitalis homo* also doth signifie a wrangler in the law, or a litigious person.

CAP. 2.

De comitijs, idq; Calatis precipue, 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 voices, is *à cocundo* tearmed *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 inaugurating 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 kind of assembly is sometimes called *comitia pontificia*, and *comitia sacerdotum*, ^{a Ioan. Tili-} in that sense as others are called *Consularia*, or *Edilitia co-* nus in orat. mitia; namely because the pontifices in these, as the *Consuls*, pro Caelio, and *Ediles plebis* in the others, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselves by parishes, called *Curia*; or by hundredths, called *Centuria*; or by wards, called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Centuriata*, the last *comitia Tributa*. ^{b Sigon. de iu-} Where by the re Rom. lib. 1. 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 approved *comitiis Curiatis, Centuriatis, vel tributis*. Secondly we must note, that neither children vntill they were seuentene yeares old, nor old ^{c Pars putat ut} men, after the sixtieth yeare of their age, were allowed to suf- ^{ferrent iuvenes} frage in these assemblies, whence arose that adage *Sexagenarij de ponte deiijciendi*: ^{suffragia soli:} & old men were hence called *Depontani*, ^{Pontibus infirmos precipitasse} 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 Philip. Bero-} The custome was at first, that the ^{aldus in orat.} Romans should bestow their suffrages *Viva voce*, but after- Phil. 11. ward that every 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 euery suffrager receaued two tables, in the one of which were written these two great letters V.R; in the other was writtē a great Roman A. Those who deliuered these tables vnto the

the people; did stand at the lower end of those bridges (which were erected vp for the suffrages to ascend vnto the *ouilia*) 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 *Vti 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 *antiquū volo*; I like the old law, I loue no innovations. The tables being thus cast into the chests, certaine men, appointed for that purpose in manner of Scrutators (they called them *Custodes*, & sometimes *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 kind of accounting 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 autors 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 wee 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 inventiō of this Ægyptian paper, *Ptolomy* the king of Ægypt restrained the common making thereof, because of the great emulation betweene him and *Eumenes* King of *Pergamus* concer-

e Plin. l. 33. c. 2.

e Plin. lib. 13. cap. 11.

concerning their libraries; not long after therefore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamena*. At this time did the *Romans* use to write in tables of wood, covered with wax, called in latine *cerata tabulae*. They wrote their wills and testaments in tables, ^b*Hinc secundum & contra* ^bP. Pellitar. *tabulas bonorum possessio*; The possession of goods either ^{ac} in orat. pro *cording or against the testator his will*. Because of the wax ^{A. Cæcinn.} wherewith these tables were covered, *cera* is often used in the same sense, as *Hæredes prima cera*, id est, *prima tabula*, & *in primo gradu instituti*; by which words I thinke are understood such heires as ^c*Alexander* calleth *Hæredes ex toto asse*, ^cAlex. Gen. that is, heires to the maine inheritance, opposing them to ^{dier. l. i. c. i.} those which did receive only legacies, whom he calleth there, *Hæredes in imâ cerâ, secundos hæredes, & legatarios*. ^d*Sylvius* ^dFr. Silvius. *not vpon improbable grounds doth thinke, that Tully doth* ^{pro Cluentio.} *understand by Hæredes secundi*, such heires as were nominated to succede the chiefe heire or heires if they died. They wrote their accounts in tables; hence *tabulae accepti & expensæ*, signifying reckoning bookes. These count-bookes were of ^etwo sorts, some monthly without order or method called ^e*Adversaria*. ^e*Quod adversa parte etiam scriptis implerentur*. ^eCoel. Rhod. *Others perpetuall, being the transcript of the forme, called* ^{lib. 12. cap. 22.} *Tabula accepti & expensæ*. They wrote their statutes also in tables, whence *Tabulae publicæ*, are englished statute books, or rather books of record. Those writings or instruments which the Senate or Emperour caused to be hanged vp in the market place, to release and discharge any bankrupt from paying his debts, they termed ^f*tabulas novas*, we may ^fFr. Sylv. in. 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 missive letters, and *tabellarius* which properly signifieth a carrier of ^g*Suidas* in *tables*, is now used to signify a letter carrier; yet they ^g*voce μύλυσ-* ^{dos.} some- ^{times}

^h Sueton.
Nero. 10.
ⁱ Plin. lib. 13.
cap. 11.

^k Fr. Sylv. in
orat. Catil. 3.

^l Just. Lips.
pistol. inst. c. 4.

^m Cic. 4. in
Verrem.
ⁿ P. Pellitar.
in orat. pro A.
Cæcinnæ.

^o Vid. Erasmi.
Adag.

^p Herman.
Hugo. de. pri-
ma scrib. orig.
cap. 9.

^q Cic. orat.
cont. Catil.

times wrought also in plates of lead, *εἰς ἐλασμὸς κορυβδαῖον γράφοντες*; And thus we may vnderstand what ^h Suetonius meaneth by *charta plumbea*: concerning all these, *Pliny* writeth excellently: before the vse and making of paper was inuented, men wrote at first in palme tree leaues, afterwards in the rindes of certaine trees, afterward publike monuments were recorded in volumes or roles of lead, at last priuate matters on fine linnen or wax. ^k The manner how they sealed their letters was thus: they did binde another table vnto that wherein the inditment was, with some strong thread, sealing the knot of that thread with wax, whence *Cicero* saith *Linum incidimus*, that is, we opened the letters, hence also is that of *Plautus*, *Cedo tu ceram ac linum: age, oblige, obsigna cito*, ^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 kinde of tempered chaulke, which occasioned that phrase of *Tullies*, ^m *Signum ille animaduertit in cretula*. ⁿ Lastly they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *caudex* signifying properly the truncke or stocke of a tree, whereof these tables or books were made. We must note withall that they wrote not with inke or quille, but with an instrument of Steele; or yron, hauing ^o a sharp point at the one end, and 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 written: Whence *Stylum inuertere* is to say and vsay a thing, to turne his punch the wrong end downeward, as it were to scrape out that which one had formerly written. The Romans did afterward vse instead thereof, an instrument made of bone, prohibiting the vse of yron ones, as ^p *Isidore* noteth by that law, *Cerā fore ne credito*. And as we vse this word *Manus* to signify the writing it selfe, according to that of ^q *Tully*, *cognouit manum, & signum suum*: so

so in the like sense we vse this word *Stylus*, to signifie the peculiar tenure or straine of phrase, which any man obserueth in the composing of an oration, epistle, or such like; in which sense Tully vseth it, as the antitheton to *gladius*, in that speech of his, *Cedat forum castris, otium militiae, stylus gladio*, Cic. orat. though in another place he vseth it to signify, if not a sword, pro Muræna; yet a pocket dagger, as *Et si meus ille stylus fuisset*; in which place *Stylus* doth signifie as much as *pugio*. And here seeing Mic. Toxita. in orat. Phil. 2. we are fallen into the manner and custome of auncient writings, it will not be 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: *Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash, vsually subioyned to the end of books: others are of opinion that the auncient *Romans* did in like manner adorne the frontispice, or beginning of their books, with the picture of an halfe moone, which obseruation giueth light not only to that adage ἀπὸ τοῦ ἀριστεροῦ καὶ τοῦ δεξιῦ τοῦ ἀρχαίου, From the beginning to the end. But also that of *Martial* lib. 10. Cael. Rhod. lib. 15, cap. 20. Turn. adv. lib. 22, cap. 10.

Si nimis videor, serâq; coronide longus

Esse liber, legitopauca, libellus ero.

And of *Ouid*.

Candida nec nigra cornua fronte geras.

For in *Turnebus* his iudgement those halfe moones prefixed, were called *Cornua*. Howsoeuer this may bee true touching the dash, or character at the ende 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 is 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 then cut their books into many leaues, and binde them vp in that manner as we doe; but that one entire page in which alone the whole book was written

*Pier. hierog. lib. 34

written, was wont to be roled vp vpon a staffe fastned at the end thereof, in manner as many large mappes are now adaies with vs. Hence it is à *voluendo*, that we call our books, *Volamina*, Volumes: this staffe on which the booke is roled, was called *Vmbilicus*, the same word signifieth a nauill, which because it is the middle part, and as it were the centre of a mans body, hence approved authors vse the word to signifie 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: howsoeuer 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 pumels, or ends of this staffe, which did iutt 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 euery booke, was tearmed *frons*. This seemeth more probable then that of *Turnebus* his, and giueth greater light to that of *Ouid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we haue digressed, it remaineth that we should declare the manner how they enacted their lawes. All the *Romans*, though free Cittizens had not power and authority of preferring the lawe, but onely eight of their Magistrats, which they called *Magistratus maiores*: namely the *Prator*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *Military Tribunes*, the *Kings*, & the *triumviri*, vnto these eight was added one of those who they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrats thought it fit to preferre a law, then did hee first write it downe at home, and consult with some lawyer, whether or no it might bee 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 be considered

dered, before it was preferred, yea some would haue the approbation of the whole Senate after the aduise of their lawyer, though diuers times that hath beene omitted. And the lawyer alone allowing it, the law was hanged vp publickely in the market place for the space of three market daies, which kinde of publishing the law was tearmed, *Legis promulgatio, quasi promulgatio*, during which time of promulgation, reasons were alleaged *pro & con* by the spectators: and all the people had so much time to consult of the conueniency thereof, and euery one vpon iust reason, had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposall. 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 conuocate, the people to that place where the law was to be proposed: there the Towne-clerke, or Notary reading the law, the common cryer proclaimed 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 inconueniency thereof. After the orations had been ended, an urne 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*; or of the parishes, if *curiata*: then *sortibus aquatis*, that is, the lots being shake together they drew their lotts; and that tribe or centurie whose name was first drawne, was called *Tribus, vel centuria prerogativa, à prerogando*, because they were first asked their voices. *Turnebus*, interpreting that of *Tully*, *Maiores voluerunt prerogativam omen esse iustorum comitiorum*, interprets it; That the *Romanes* did so depend vpon the prerogatiue Centurie, that they would alwaies declare him Consul that was cho-

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

r Cic. pro
Muran.

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

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

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

sen by them. *Turneb. adv. l. 3. c. 23.* That *Curia* vpon which the first lot fell, was called *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 vocatae*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe, or Centurie, is said to haue *Omen prerogativum*: which good fortune whoeuer could attaine vnto, was in great hope of obtaining the other voices of the *Iure vocatae*; for they neuer, or very seldom would swarue from the determination of the prerogative Tribe, or Centurie. Whiles the people were busie in their lotterie, in the meane time if any *Tribune* of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly therevpon should bee 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 *Ferie Latinae*, vel *Imperatoriae* to bee obserued 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 *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 ciuill Magistrate his obseruing of signes and tokens in the heauen, and that was called *Spectio*, and sometimes *de caelo observatio*; the very act of this obseruation, though no vnlucky token did appeare dissolued the assembly: or else it was caused by the *Augures*, and ciuill magistrate promiscuously, whensoever any ciuill token was seene or heard, either by the Magistrate, or *Augur* (amongst which thunder was alwaies counted the vnluckiest) at which time the assemblies were in like manner to bee dissolued: this manner of dissolution was tearmed *obnunciatio*, or *Nunciatio*. *Obnunciabat, qui contra auspicia aliqui fieri nunciabat.* Both these kindes are easily to be collected out of

of that speech in Tully, * *Nos Augures nunciationem solam habemus, Consules & reliqui magistratus etiam spectationem.* Here we may fitly in way of conclusion vnto this tract, adde a iust difference to be obserued 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 conueniency thereof. *Rogare legem* was to vse a certaine oration vnto the people, to perswade the conueniency of the law, which Oration because it began with this forme of words, *Velitis, iubeatisne 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, and so to lay it vp into the treasure-house; *Cum approbata fuisset lex, in as incidebatur, & in arario condebatur, & tunc demum lata dicebatur.* Lastly *Figere legem*, was to publish the law after it had beene approued and recorded, ^z by hanging it vp in tables of brasse in their market-places, or at their church dores: Hence it is that wee vse ^a *Tabulum figere* in the same sense, namely to enact or establish a law, and *Refigere legem*, to disproue or cancell a lawe. ^b And that which was determined *Comitijs curiatis*, was tearmed *lex curiata*; that which was *Comitijs centuriatis*, *lex centuriata*, that which was *Comitijs tributis*, was not called a lawe, but *Plebiscitum*.

y Fr. Maturan-
tius in Phil. 1.

z Corn. Tacit.
annal. lib. 11.

& Fr. Matur-
in Philip. 12.

b Sig. de Iure.
prou. lib. 3. c. 1.

C A P. 3.

De Comitijs Curiatis.

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

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 diuided into ten parishes,) yet in proceſſe of time the increaſe of the *Romane* people was ſuch, that a great part of the *Romane* fields were filled with buildings and places of habitation, in ſomuch that the tribes of the *Romans* were encreaſed to thirty five: but the parishes (becauſe none that dwelt out of the city were tied to the rites and ceremonies of the *Romane* 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 Juſtice, 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 ſeriants (each pariſh hauing for that purpoſe his ſeriant) ſhould call the people together; as likewiſe three *Augures*, or at leaſt one ſhould be preſent to aſſure them by their obſeruations, either of the fauour, 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. 4.

De Comitij's Centuriatis.

AS those former assemblies were called *Curia à curijs*, so were these called *Centuriata à Centurijs*. *Servius Tullius* caused generall valuation of every citizens estate throughout *Rome*, to be taken vpon record, together with their age: and according to their estates & age, he diuided the *Romans* into six great armies, or bands, which he called *Classes*; though in truth there were but five of speciall note: the sixth contained none but the poorer sort, and those of no worth or esteeme. The valuation of those in the first *Classis* was not vnder two hundred pounds, and they alone by way of excellency were tearmed *Classici*: and hence figuratiuely are our best and worthiest authors, called *Classici scriptores*, *Classicall authors*.^d All the others, though they were enrolled in the second, third, or any other *Classis*,^{d A. Gel. lib. 7. cap. 13.} yet were they said to be *Infraclassem*. The valuation of the second band was not vnder seauen score 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 twentie five pounds. The sixth contained the poorer sort, whom *Horace* calleth *Tenuis census homines*, men of small substance; and also they were called *Proletarij, à munere officioq; prolis edendæ*, as if the only good that they did to the common weal, were in begetting of children: and sometimes they were called *Capite censæ*, that is such as paid very little or nothing at all towards subsidies, but only they were registered amōg the citizens, as it appeareth by *Sigonius*. These six great bands or armies were subdiuided into hundreths,^{e Sig. de iure Rom. lib. 1. c. 4.} called in Latine *Centuria*. The first *Classis* contained fourescore centuries of foot men, and eightene of horsemen: the second contained twentie centuries of footmen, and two of

T workmen,

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

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, & such like, who vpon iust occasion did *Classicum canere*, sound the alarme, & vpon iust occasion did againe *receptus canere*, sound the retreat: the fifth *Classis* contained thirtie centuries of footmen: the sixt, or last *Classes* contained one centurie: so that in all the six *Classis* 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 citty. All that hath beene hitherto spoke of these *Centuriata comitia*, may be collected out of *Sigonius* in the place aboue quoted. The chiefe commander of euery ceturie 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 perceauce, 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 adipsi*. ^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 giue their voices. But this custome continued not long, for thereby they did disarme the citie, & giue 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 citty: and when the assembly was to be dissolued, then did the watch depart, and the

the flag was taken down: 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 themselues, the other centuries were neuer asked their voices. This kind of suffraging being somewhat partiall, in as much as the richer & wealthier being placed in the first *Classis*, did ouersway the elections against the poorer sort of people; thence did the after ages appoint that that century should haue the prerogatiue of suffraging first, vpon whom the lot fel. The other centuries were all called *Centuria Iureuocata*, & did giue their voices not by lots (as the *Tribus Iureuocata* did) but the elder and wealthier centuries did suffrage next after the prerogatiue century accordingly as their place required.

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

CAP. 5.

De Comitijis Tributis.

FOR the better vnderstanding of these assemblies by Tribes, or wardes, 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 citty, or the fields belonging therevnto according to that; *3 Tributa comitia erant cum ex regionibus & locis suffragabantur.* It was so called either *a tributo danda*, euery seuerall region or quarter paying such a tribute; or *quia primò tres tantum fuerunt*, the whole citie being at first diuided 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 inhabit the mount *Palatine*, and the mount *Caelius*, and those two hills made the first locall tribe. The second nationall

A. Gel. l. 1, c. 17.

tribe called *Tatenses*, did inhabit the *Capitoll*, and the *Quirina* 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 diuision of the Roman people. Only here we must note thus much, that in proesse of time after the cittie 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 *Urbana*, others *Rustica*; ^h *Urbana ab urbis regionibus, Rustica ab agri partibus erant nuncupata*. And of these two sorts the *Tribus rusticae* were accoüted the more honorable. Morcouer 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. l. 1. c. 3.

CAP. 6.

De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the *Romane* petitors or suiters for bearing office: where we wil obserue these three phrases *ambire magistratum, inire magistratum, and abire magistratum*. 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 difference of these phrases, *Conficere legitima suffragia, & Ex- plere suffragia*. ⁱ The first signifieth to haue so many voices as the law doth require. The second signifieth to haue more

Rosin. ant.
Rom. l. 20. c. 6.

voices

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

These persons were tearmed *Candidati*, à *toga candida*, from the white gowne which they did weare, as appeareth more at large, where we haue spoken *De Romana roga*. 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 euery citizens name as he passed by, and hence this prompter was sometimes called

^a *Nomenclator*, which word doth properly signifie a cōmon crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old latin word to call; sometimes ^b *Monitor*; sometimes *Fartor*, *ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of some complemen-

^k Rosin. ant. Rom. l. 7. c. 8.

^a Cic. erat, pro L. Mur.

Mercemur servum qui dicit nomina, &c.

^b Hor. l. 1. ep. 6.

^c Cic. loco. fuit pra citato.

tall name, as well met friend, brother, father, &c. Thirdly, *Affiduitas*, that is, an hot canuassing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of mony called *Congiarium*, from the measure *Congius* containing a gallon, because their ¹ dole was at the first made of oyle or wine distributed in those measures.

¹ G. Trapez. in Phil. 2.

Howbeit *καταχρηστικῶς* any dole, gift, or largesse in mony, or otherwise is called *congiarium*. The distributers of this dole

^m Sig de iud. lib. 2. c. 19.

were called ^m *divisores* & ⁿ *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shews vnto the people, &c.

ⁿ Barth. Latomus in orat. pro M. Caelio.

Where we must obserue, 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.

^a *Benignitas liberalitatem magis significat quam largitionem.*

^o Cic. orat. L. Muran.

CAP. 7.

De Romanis vestibus.

W E E may obserue in reading old autors, that as well the *Romans* as the *Grecians* had diuerse 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 certainly distinguished from the other, that this word *Togatus* was often vied to signifie a *Roman*, and *Palliatu*s, a *Grecian*. ^f *Togati pro Romanis dicti, ut Palliati pro Grecis*. Before we proceed, wee will first obserue 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 dignitie of the person, sometimes of courser, sometimes of finer wooll. As we may collect by that of *Horace*,

--- *Mihi sit toga, quæ defendere frigus*

Quamvis crassa queat.---

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

^h Mic. Toxica ib.

ⁱ Rosin. ant. Rom.
^k Sig. de iud. lib. 3. cap. 19.

^l Sig. ib.

We must note with *Toxica*, that no women of any credit did weare the *Roman* gowne, but instead thereof did vse a garment called *stola* from *στέλλω* signifying *demitto, quod usq; ad talos demitteretur*: whence old Poets, when they would point out vnto vs an infamous or lewd strumpet, they would tearme her ⁱ *Mulierem togatam*. ^k This *toga* sometimes was worne open and vtuckt; then was it called *Toga aperta*: other times it was tuckt vp, and then it was called *toga praecincta*. This cincture or girding vp 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 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 *Vnde, Alte praeincti pro expeditis dicti* ^m Sig. lib. 7. *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 kinde of girding was so called from a certaine cittie of *Campania* called *Gabii*, because vpon a time the inhabitants of this cittie being at sacrifice; were set vpon by their enemies; at which time they casting their gownes behind them, and girding one lappet or skirt about them, went immediatly to warre, euen from the altars, and got the conquest. ^o In memory of which ever 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 euery souldier in time of warre 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 toga*, is equivalent to that of the Oratours. *Cedant arma toga*. Touching the difference of the *Romane* gownes, I finde them distinguished by ^p *Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Pratectam, Paludamentum, Pic-tam, Trabeam*. *Toga pura* was the common ordinary gowne worne by new married women, and, *Tanaquil prima texuit rectam tunicam, qua simul cum toga pura tyrones inuenerunt novae nuptae*. *Plin. lib. 8 cap. 48.* and by priuate men at mans estate, about the sixteenth yeare of their age, at which time they were said, *Excedere ex ephēbis*, that is, to bee past strip-lings. Notwithstanding the sixteenth yeare was not alwaies strictly without exception obserued; ^q for *M. Aurelius* was permitted to weare this gowne being but fisteene yeares old; ^q *Rosin. anticq. lib. 5. cap. 32.*

Et toga non ta-
ctus vincere
iussa nives
Martial.

† Rosin, antiq.
Rom. l. 5. c. 32.
† Aldus Manu-
tius, v. Ros. ib.

† Cic. in orat.
pro Caelio.

† Sig. de iud.
lib 3. cap. 19.

† Sigon, ib.

† Sigon, ib.

old; and *Caligula* did not weare it till the nineteenth yeare of his age. This kinde of gowne besides that it was called *Pura* it was also sometimes called *virilis*, sometimes *libera*. It was called *pura* in respect of its pure white colour, being free frō all admixtures of purple, or any other colour and therefore some haue tearmed it *ἀλόλευκον*, all white, others *ἀπ' ὀύρου*, void of purple. It was called *virilis*, because it was giuen to striplings now growing to mans estate. Whence we vse 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*, because then they did receaue some beginning of freedome as being about that time freed from their school-masters, & overseers. This kind of gown was not made open but sowed downe to the bottome, and also it was made without sleeces, so that if at any time they had occasion to vse their armes, they would take vp 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 *Cicero*, *Nobis annus erat unus ad cohibendum brachium toga constitutus*. The like liberty it seemeth was denied those that stood for places of office; and thence is it, that *Horace* wisheth such to hire them a servant

--- *Lenum*

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

In which place by *pondera* is vnderstood the Roman gowne, as *† 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* aboue 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 *† Sigonius*

nus

nus hath obserued out of *Isidorus*, *intendenda albedinis causâ cretam addiderant*, that is, they chalked it to encrease the whitenesse thereof. And hereunto *Persius* alludeth

---- *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam lauepâv*, that is, shining or splendent. Moreouer whereas the *alba toga* was the ordinary Roman gowne which commonly the *Romane* cittizens did weare; this *candida toga* was only worn by those which did *ambire magistratum*, iue for a magistracy or place of office, who during the time of their sute were called from their gowne *candidati*: and *Quintilian* borrowing his metaphor from them, hath called an young student *eloquentie candidatum*. The third sort of gowne which I tearmed *togam pullam*, was a black gowne, and thereof was two seuerall kinds; the one cole-black, which was worne *luctus causa*, in token of mourning and the mourners were thence called *Atrati*, and as often as they did were this gowne, they were said *Mutare vestem*,² which phraise in old autors doth signifie nothing else, but to goe in mourning apparell: The other not cole-black, but only fouled or stained, and that was worne *reatus causa*, in times of arraignemēt, & those that wore it were called *sordidati*, *â sordibus in veste*, from the spots or stains in the gowne. Where we must note, that in proesse of time *Toga pulla* became the ordinary gowne which the common people did weare; at which time the ordinary gowne, which the cittizens of better place and esteeme did weare, was the *toga candida*: wherevpon there did then grow a distinction of the cittizens vnknown 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 liue in better repute then others, from whence it is, that^a he whose office was to reade the Emperours letters in the senate was called *Candidatus principis*, or *Questor candidatus*. It did somewhat resemble the office of the King his maiesties chiefe Secretary.

² Sig. de iud. lib. 3. c. 19.

Cic. orat. pro P. Sext.

Summ dolorem veste mutata 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 pratexta*, so called, *quia ei purpura pratexta erat*, because it was garded about with purple filke. This kinde of gowne at the first was vsed only by the Romane priests, and chiefe magistrats: Neither was it lawfull for such as did weare that gowne to be arraigned, or sentence to be giuen on them vntill that gowne was put off. In continuance of time this *toga pratexta* was permitted first to Noble-mens children: afterward to all Romane children in generall: wherevpon, *Togatus à pratextato differt, ut priuatus à magistratu, & vir à puero*, and *etas pratextata*, is taken for childhood; and *pratextati* sometimes for magistrates, but commonly for young children. The fift sort of gowne was called *Paludamentum*; It was a military garment, which ^c 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 Grecian Emperour was wont to weare called *Chlamys*; yea now it is ^f called *Chlamys*; we may enghsh it an *Heralds* coate of Armes. The sixt sort of gowne was called *toga picta*, ^g because in it were imbroadered goodly pictures with needie work: it was also called *Purpurea*, not because of any purple gard (in which respect the *pratexta*, and the *paludamentum* were called *purpurea*) but because it was all ouer 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 emperours in their triumphs did weare such gownes. The last sort of gowne was *Trabea*, whereof there were ^h three seuerall kinds; the one wouen all of purple, which was consecrated vnto the Gods: the second was purple wouen vpon white, and this only kings and *Consuls* might weare, the third was skarlet wouen vpon purple, and this the *Augures* onely did weare. ⁱ This last sort vvas there-

^b Pet. Pellitarius, in orat. pro A. Cæcin.

^c Alex. Gen. dier. l. 5. c. 18.
^d Sig. de iud. lib. 3. c. 19.
^e Sigonib.

^f Rosin. antiq. lib. 5. c. 31.
^g Sig. de iud. lib. 3. c. 19.

^h Serv. Aenci. lib. 7.

ⁱ Alex. Gen. dier. l. 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 *Tunica*; and that they were worne vnder the gowne it appeareth by that A dage, *Tunicapallio propior est*, that is euery one for himselfe first; or according to our english proverbe, Close sitteth my shirt, but closer sitteth my skinne.^k This *tunica* was both narrower and shorter than the gowne: at first it was made without sleeues, afterward with sleeues, and by it, as well as by the gowne were the cittizens 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 *Laticlania*, or *Latus clavus*; and the persons wearing the coat were Senators called thence *Laticlaviij*. The second sort belonged vnto the *Romane* knights, and it differed in making from the first, only that the purple studs or embroadred works of this, were not so broad as the former: whence the coat was called *Angusticlania*, or *Angustus clavus*, and the persons wearing it were called *Angusticlaviij*. 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 giuen together with the *Virile* gowne to striplings past fixeene yeares old, and to new married women. And as the *recta tunica* was giuen with the *virile* gowne; so was the *tunica clauata* giuen together with the *toga pretexta*; & the *Laticlavia* otherwise called *tunica palmata*, giuen with the *toga picta*. The fourth and last sort belonged vnto vvomen, being a long coat reaching dovvne vnto the heeles; they called it *stolam*.^m Vpon it they did vveare an outvvard garment^m called *palli-*

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

^l Salmuth, in Pancirol. lib. rerum deperdit. cap. de fibula. Vid. Turneb. aduers. l. 1. c. 2.

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

⁂ Sig. de. iud.
lib. 3. cap. 19.

⁂ Sigon. ibid.

⁂ Sigon. ibid.

um, and sometimes palla, quia palam gestabatur. ⁂ Sigonius saith, that this palla was a certaine gowne vsed by stage-plai-ers: howsoeuer certaine it is, that not only women, but men also and children did weare this kinde of garment. Besides the Roman gown and coat there remaine other parts of their apparell to be spoken of: such are these which follow, *Lacerna*, which some doe english a cloake, but ⁂ Festus would haue it to be a little kinde of hood, which men should weare to defend themselues from the raine and weather; It was made that either side might be worne outward; and at first it was worne only in warre, so that *lacernati* stood in opposition with *togati*. ⁂ Isidorus *Togator pro urbanis, lacernatos pro militibus usurpatos scribit*, Afterward as we may coniect, it was made longer in manner of a cloake, for it was diuers times worne vpon their coats instead of gownes. Another kinde of garment was the *Penula*, so called *quasi pendula*, wee may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signifie a certaine attire for womens heads, as a coiffe 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, were when they went to warre, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*, And ἄρσασθαι, to be girt, signifieth ἐρδύειν τὰ ὅπλα, *Arma induere*. *Cael. Rhod. l. 22. 19.* happely because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to euery mans particular *Genius*, the armes to *Iuno*, the breast to *Neptune*, the reines to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*, *Alex. ab Alex. l. 2. c. 19.* Young maides when they were married were wont to haue a marriage girdle tied about their middle, which their husband at the first night of their marriage should vntie: whence *zonam solvere* hath beene translated to deflowre a Virgine: this marriage girdle

girdle in former times was called *Cestus*, from whence com-
meth the Latine word *incestus*, and the english word *Incest*:
which in truth signifieth all kinde of pollution committed by
vndoing, or vntying this girdle called *cestus*: but now in a
more strict acception it signified only that kinde of naugh-
tinesse, which is committed betweene two of neere kin: and
that other folly which is committed with a strangers wife, is
now properly called *adulterium*; and that which is commit-
ted with a maide or widdow *stuprum*. The last thing touch-
ing their apparell is their shooes. *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 leatherne
straps or buckles, and so worne instead of shooes: the diuers
kinds of these shooes did distinguish the Roman people
also. To omit the difference in colours, wee may reduce the
chiefe kinds to five heads, *Mullei*, *Uncenati*, *Perones*, *Cothur-
ni*, *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 ma-
ny of our boots are now adaies; or clasped with taches or
haspes. The first sort called *Mullei* from the fish *mullus*, be-
ing like vnto it in colour, were also called from their claspes
calcei lunati, because the claspes were made in forme of an
halfe moone; which halfe mooned clasp resembling a *Romane*
C, signified an hundred; intimating thereby that the num-
ber of the *Senators* (they onely being permitted to weare this
kinde of shooe) were at first a full hundred and no more. O-
thers are of opinion that they wore 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 receiued as a token of Nobility
only at *Rome*, but in other places, to which purpose they in-
terpret that of the Prophet *Esay*, cap. 3. *In die illo auferet Do-
minus ornamentum calceorum & lunulas*. *Cael. Rhod. lect. An-*

*q Caelius in
orat. pro. Mi-
lone.*

*r Rosin. antiq.
Rom. lib. 5. c.*

*36. diuersi
ad Iohannem
regis mure
diuersi*

*f Salmuth in
Panciroli. lib.
rerum deper-
dit. cap. de fi-
bula.*

*r Appositam n-
graelunam sub-
textit alute.*

*Iuenal.
u Salmuth. in
Panciroli. lib.
rerum deper-
dit. cap. de fi-
bula*

2 Salmuth in
Pancirol. lib.
rerum deper-
dit. c. de fibula.

tiq. l. 20. c. 28. *Vncinati calcei*, vvere those, vvhich the souldi-
ers vvere vvont to vveare, I take them to be the same vvith
those vvhich they called *Caliga*, from vvhich kinde of shooes
C. Caesar Caligula had his name, because he vvas borne in the
army. *Quia natus in exercitu fuerat, cognomentum calceamenti
militaris, id est, Caligula sortitus est.* *Aurel. Vict. Epitom. de vi-
ta imperat. Perones* (as vve may coniecture) vvere laced vp the
legge, for *Tertullian* making but two sort of shooes, saith
there vvere the *Mullei* called from their claspes *limati*, and the
Perones made vvithout such halfe mooned claspes, called also
calcei puri, quoniam ex puro corio facti; and these *perones*, or
puros calceos all the other *Romans* did vveare* vvith this note
of distinction, that the magistrats shooes vvere beset vvith
pretious stones, priuate mens vwere not. Thus much concer-
ning both the kinde and fashion of the shooes may be col-
lected out of *Rosinus* in the place aboue quoted. The descrip-
tion and vse of the *Cothurnus*, and *Soccus*, may be scene in the
tract *de Romanis ludis*.

LIB.





LIB. 3. SECT. 2.

Of the *Romane* Magistrats.

CAP. 1.

De Magistratibus Romanis.



E being to treat of the *Romane* Magistrates
 vwill first see vwhat the definition of a Magi-
 strate is. A magistrate is he ° vwho receaueth
 by publique authority, the charge and ouer-
 sight of humane affaires belonging to the
 commonvvealth. These *Romane* Magistrats
 vvere either to bee chosen only out of the better sort of *Ro-*
manes, called the *Patricij*; or else only out of the commonal-
 ty. The first vvere thence called *Magistratus patricij*, the
 second *Magistratus plebeij*. The *Patricij* had povver to hin-
 der the assemblies of the people; namely their *Comitia*, by ob-
 serving signes and tokens from the heauens: howvbeit some
 of them had greater povver, others lesse; insomuch that some
 vvere called *Maiores Magistratus, quoniam habebant maiora*
auspicia, id est, magis rata. Others vvere called *minores ma-*
gistratus, quoniam habebant minora auspicia. Of these in their
 order.

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

p Sig. de iure
 Prouinc. l. 3.
 cap. 1.

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

CAP. 2.

De Rege & Tribuno Celerum.

Plutarch. in
Romulo.

(Plin. lib. 33.
cap. 2.

IN the infancy of Rome, it was governed by a king untill *Tarquinus Superbus* his time, vvho by maintaining that shamefull act of his sonne towards *Lucretia*, did so incense the poople, that they did not only for the present exile him, but decreed that their city should neuer after that bee governed by a king. This king had absolute rule and government ouer the city. For the safety of his person hee had three hundred chosen young men alvvayes to bee attendant about him, much like vnto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They vvere called *Celeres à celeritate*, from their readinesse in assistance: sometimes they vvère called *Trossuli*, because they alone vvithout the helpe of any foot-men did take a certaine city in *Etruria* called *Trossulum*. Other times they haue beene called *Flexumines*, vvhereof as yet there hath beene no certaine reason rendred. Each hundred of them had their severall ouerseer called *Centurio*: and ouer them all there vvwas one generall ouerseer, and chiefe commander, vvhom they called *Præfectum vel Tribunal 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 *παβλῆχοι*, which we may render Virgers from *παβλῆς* a rodde, and *ἔχω*, to haue: though sometimes *παβλῆχοι* doe signifie the same as *παψαδοί*. The rehersers of *Homers* verses, or in generall of any other *Poets*: *ὧδὲ τὸ παψαδιστὰς*, from patching together other mens Poems. For the reciters of *Homers* verses were wont to hold a rodde or wand in their hand during the time of rehersall. *Cal. Rhod. l. 7. c. 29*. They did somewhat resemble our Seriants, there being in number twelue of them. Their office was to carry certaine bundles of birchen

birchen rods with an axe wrapped vp in the midst. of them: the rods in Latine were called *Fasces*, the axe *Securis*. 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 wraped vp together was not only that they might thereby be more portable, but that the anger of the magistrate 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 vsed to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracie or dignity. And *Fasces submittere* to giue place, or yeeld vnto. *Valerius Publicola* gaue the occasiō of the prouerb. He to insinuate himselfe into the harts of the people is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the seruants quite to departe out of the assembly with their rodde, which opinion *Plutarch* in *Publicola* confuteth writing thus: αὐτὰς τὰς ῥάβδους εἰς ἐκκλησίαν παρών, ὑφῆκε τὸ δόμῳ, καὶ κατέκλιτο. *Fasces ipsos in concionem progressus populo submitit inclinauitq;* So that the phrase signifieth properly, the not holding vp of the rodde, or rather the laying them downe as it were at the feete of the people. *Cal. Rhodig. l. 12. c. 7.*

Ioac. Camerarius in orat. pro Flacco.

Immedicabile vulnus Enserendum. &c.

C A P. 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 deliuered in the second diuision of the *Roman* people; as likewise in the third diuision hath beene shewne the habit

or gowne by which the *Senators* were distinguished from the *Roman Gentlemen*. Here therefore it shall be sufficient for vs to vnderstand, that euery 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 onely, S. C. In like manner their preface to these decrees was commonly these two capitall letters B. F. That is *Bonum factum*. *Sueton. Iul. Cas. cap. 80*; and it had the same vse as, *In nomine Dei* with vs. The place where this consistory was had they called *Senaculum*. None was ordinarily admitted into the place of a *Senator*, before the fve 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 borne such office went on foot: * whence these latter were called *Senatores pedarij*. They determined their acts which they called *Senatus-consulta*, sometimes by departing downe their branches, and dividing themselues 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 signify 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 *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 companies

* Mart. Phile-
ticus. in Cic. l.
1. ep. fam. 1.

* Mart. Phile
ticus ibid.
It. A. Gel. noct
Attic. l. 3. c. 18.

* Hubert. in
Cic. lib. 1. ep.
fam. 2.

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

Pancirol. l. rerum deperd. cap. de cibi capiendi modo, & Cic. pro Milone.

CAP. 6.

De Prætoribus.

THE *Consuls* by reason of their many troubles in warre, hauing no time to administer iustice vnto the *Roman* 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 controuerfies between forreiners: The first they called *Prætorem urbanum*, & *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 Urbanus*, vntill the cases and suites 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 controuerfies touching sediments of trust, called thence *Prætores fidei commissarij*.^d *Causarum duo genera sunt: alie priuate, alie publicæ; has criminosas, illas civiles appellant.* In those cases which were priuate, that is, ^e touching equitie and vprightnes of any act, or the restitution of any mony, or goods vnlawfully detained from the right owner, it belonged principally vnto the two first *Prætors* to iudge, but vnder them vnto the *Centumviri*, who oftentimes are called by *Tully*, *Re-*
cupera-

a Pighius æ-
quiper, comp.

b Alex. Gen.
dier. l. 2 c. 15.
c Fenest. de
mag. Rom.
c. 19.

d Fr. Syluius
in orat. pro
Muran.
e I. Saxonius
in Cic. orat.
pro. S. Roscio.
f Rosin. ant.
lib. 7. c. 11.

g I Saxonius
ibid.

b Fr. Sylu. in
orat. pro Mur.

l Rosin. ant.
l. 9. c. 18.

l Rosin. ant.
lib. 7. c. 11.

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

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

cuperatores, and *Iudices hasta*; the court *Hasta centumviris*; 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, bying of voices in the canvassing of offices, &c. were called also *causa capitalis*, and *capitis dimicatio*, that is, ^h such cases wherein if the party accused had beene found guilty he was *capite damnatus*; by which phrase we must not vnderstand alwaies *Ultimum 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 thereunto by the people, being called from their inquisition *questores parricidij*. In continuance of time the examination and hearing of these publique cases was turned ouer 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 *Pratores Questores*, and the cases were tearmed *Questiones perpetuae*:^k because in these cases there was one set forme of giuing iudgement perpetually to remaine; whereas in those priuate or civil causes the *Praetor* did commonly euery yeare change the forme of giuing iudgement by hanging vp new edicts.^l Here we must note that these *Questores Parricidarum*, otherwise called *Pratores Questores*, had not the examination of all publique cases; but sometimes vpon extraordinary occasions either the *Consuls*, the *Senate*, or the people themselues would giue iudgement. Now as those former *Pratores* had a speare erected vp, whereby their court for priuate causes was known; so had these *Questores* a sword hanged out in token of their court.^m *Pratorum insignia duo fuisse, hasta, & gladius; illa ad iurisdictionem, hic ad questionem significandam.* The officers which did attend these *Pratores* were *Scribae*, that is, certaine notaries much resembling the Clarkes of our *Affises*, their office being to write according as the *Pratores*
or

or chiefe Iustices did bid them, taking their name *a scribendo*. The second sort were called *Accensi ab acciendo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffes errant. The third sort were *lictors* of which before: ⁿ The authority of the *urbane Prator* 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 *Prators* edict was that *Ius honorarium*; ^p the *Prator Urbanus* 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 *Prators*, according vnto which hee would administer iustice all the yeare following. And lest the people might be ignorant of the contents thereof, he caused it to be hanged vp to the publike view. This forme of iustice was tearmed *Edictum, ab edicendo, id est, imperando*; because thereby he did command, or forbid something to bee done. Whence *Pellitarius* in the place now quoted doth translate *consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrats edicts. It was commonly called *Pratoris edictum*. And as *Pighius* obserueth in the place about quoted, it was called *edictum perpetuum*; not absolutely, because the vertue therof was perpetuall (for that expired together with the *Prators* office, and therefore ^r *Tully* calleth it *legem annuam*;) but in respect of other edicts made in the middle of the yeare vpon extraordinary and vnexpected occasions, which latter sort of edicts ^s *Tully* calleth *peculiaris & nova edicta*. Afterward, ^t *Salvius Iulianus* collected an Edict out of all the old edicts of the former *Prators*, wherein almost all the whole ciuill law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prators* euer after did administer iustice according to the Edict, by the appointment of *Hadrianus* being then Emperour. The Edict being giuen out, the administration of iustice consisted in the vse of one of these three words, *Do, Di-*

ⁿ Fenest. de
Rom. magist.
cap. 19.

^o P. Pellit. in
Cic. orat. pro
A. Cœcinna.
^p Pighius Æ-
quipet. comp.

^q Pellit. in
Cic. orat. pro
A. Cœcinna.

^r Cic. in Ver.

^s Cic. in Ver.
^t Sig. de iud.
lib. 1. cap. 6.

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

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

y Fr. Matu-
rantius in
Philippic. 13.

co, & *Addico*, id est, "Dat actionem, Dicit ius, Addicit tam res quam homines. That is, he is said *Dare*, when he granteth out an action or writ against a man. *Dicere* when hee paiceth iudgement on him, and *Addicere* when he in the court doth see & allow the deliuey of the thing, or the person on which iudgement is passed. The forme of Addition 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, siue 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. *Anton. in Fast. lib. 1.* For explanation whereof wee must knowe, 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 approued by the Gods; the opposite herevnto is *Abdicere*. Sometimes this verbe *Addico* is a tearme of law signifying as much as to deliuer vp into ones hands, or into ones possession: whence we doe not only call those goods that are deliuered by the *Prator* vnto the right owner *bona addicta*, but those debtors also which are deliuered vp by the *Prator* vnto their creditors to work out their debt, are tearmed *serui Addicti*: yea moreouer because in all port-sales it was necessary that the *Prator* should *Addicere bona* deliuer vp the goods sold: 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 præuendo quoniam iure præibant*. And y those alone were properly tearmed *viri pratorii*, which had borne this office, not they which were capeable thereof: in the same sense we say *Viri censorij*, and *viri Edilitij*, &c.

CAP. 7.

*De Imperatoribus, Caesaribus,
sive Augustis.*

WHen *C. Julius Caesar* had overcome *Pompey* his sonnes in *Spaine*, at his returne to *Rome* the Senate welcomed him with new inuented titles of singular honour, styling him *Pater patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus* and *Imperator*, all which titles were afterward conferred vpon *Octavius Caesar*, & all the Emperours succeeding desired to be called *Imperatores* & *Cæsares* from him. Where wee must vnderstand that this name *Imperator* was not altogether vnknewne before, for by that name the *Roman* souldiers were wont (euen at that time) to salute their *L. Generall* after some speciall conquest. These *Romane* Emperours were afterward called also *Augusti* from *Octavius Caesar* 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 *Maenius Plancus*, that he should be styled by the name of *Augustus*: which wee may English *Soveraigne*, & they counted this a name of more reverence and maiestie then that former name of *Romulus*, because all consecrated and hallowed places were called *Loci augusti*. The authoritie of these Emperours was very great, euen as great as the Kings in former times.

2 Serv. An. 16

Y 2

CAP. 8.

CAP. 8.

*De principibus iuventutis Caesaribus, &
nobilissimis Caesaribus.*

a Rosin. ant.
l. 7. c. 13.

A^a custome was receaued amongst the *Romane* Emperours in their life time to nominate him whom they would haue to succeed them in their Empire; & him they called *Princeps iuventutis, Caesar, & Nobilissimus Caesar*. 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 bee 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.

CAP. 9.

De Praefecto urbis.

b Despaute-
us in sua syn-
taxi.

R*omulus* for the better gouernment of the citty appointed a certaine officer called *Vrbis Praefectus*, 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 Praefectus* did assume vnto himselfe such authority, that hee would examine and haue the hearing of all causes, of what nature soeuer, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome* (for *b* *Lapis* in old time signified a mile, because at every miles end a great stone in maner of a marke-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

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

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

CAP. 10.

De Decemviris 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 peruse the *Grecian* lawes: to the intent that at their returne, both a supply might be made of those lawes that were wanting in *Rome*, and the other which were faultie, might thereby be rectified and amended. At the returne of those three men, the *Consuls* were deposed, & both their authority and ensignes giuen vnto ^b ten men newly selected for the gouernment of the state, and were thence called *Leg. Decemviri*. The first elected into this Decemvirat were, *Ap. Claudius*, *T. Genutius*, *P. Sextius*, *Sp. Veturius*, *C. Iulius*, *A. Manlius*, *Ser. Sulpitius*, *P. Curiatius*, *T. Romulus*, *Sp. Postumius*. 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 brasie: 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 *Romane* people: at first by these ten men appointed therevnto, whose authority was as large euen as the *Kings* and *Consuls* in old time, only it was annuall, one of them only had the ensignes of honor carried before him; one alone had the authoritie of conuocating the *Senate*,

*d Fenest. de
magist. Rom.
cap. 14.
a Robin. lib. 7.
cap. 19.*

b Lips. Reg.

e Rosin. ant.
Rom. l. 7. c. 19. confirming their decrees, and the discharge of all state busi-
nesses. The other did little differ from private men in their
habit; only when the first had ruled a set time, the others suc-
ceeded by turnes. This kind of gouernment did not continue
long in Rome, for in the third yeare all their power was abro-
gated, because of their tyranny and oppression vsed by them
towards the Roman people.

CAP. II.

De Interregia potestate.

f Dion. Halic.
l. 2. **A**fter the death of Romulus the Senators diuided
themselves into seuerall companies called *Decurie*,
committing the gouernment of the kingdome to that
Decurie, that is, to those ten men, vpon whom the lot fell, cal-
ling them the *Interreges*: where wee must knowe, that these
ten did not rule altogether, but each man ruled for the space
g Rosin. lib. 6.
cap. 16. of fīue daies, whence Rosinus calleth this magistracie *Ma-
gistratum quinqueduanum*. After that fīue daies gouernment
had passed through the first, then did they go to lots to haue
a second *Decurie* chosen, and so a third, &c. This office of an
Interrex remained eue 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 gouernment of the kingdome, and him they called *In-
terregem*.

CAP. 12.

De Dictatore.

Whensoever the Romans found themselves en-
combred with dangerous wars, or any other e-
minent 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 six months, and at the expiration thereof, if need required, hee was chosen againe for another six months. He was also called *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 he called *Equitum Magister*: his authoritie much resembled his, whom they called *Urbi Praefectum*: for as the *Praefectus urbi* in the absence of the king, so this *Magister Equitum* in absence of the *Dictator* had full and vncontroleable authoritie of doing what he would.

Pighius in Tyran.

Stadius in Flor. l. i. c. ii.

CAP. 13.

De Tribunis militum.

These 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 protectors of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capeable of the consular dignity as the Nobilitie: in This was followed so hot, that in the end though the Nobilitie 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* authoritie: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were knowne

Rosin. ant. lib. 7. c. 20.

Rosin. ibid.

ⁿAlex. Gen.
dier, lib. 6. c. 18

^oResin. antiq.
lib. 7. cap. 20.

knowne by the name of *Tribuni militum* without any addition. ⁿSometimes 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 we may coniect, 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 named *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 proesse of time notwithstanding I finde the number not only of those *Consular Tribunes*, ^o but of those other alio to haue beene encreased to six, accordingly 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, we may english *Knights Martiall*: In respect that their authoritie was ouer foot men only, we may english them *Seriants maior*: only 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 ouer all the foot-men, bee there never so many thousands.

CAP. 14.

De Triumviris Reipub: constituende.

THis tyranny of the *Triumviratus* beganne by a conspiracy betweene *Augustus Caesar*, *Antonius*, and *Lepidus*. For these three vnder the pretence of revēging *Iul. Caesar* his death, obtained chiefe power and authority for the space of five yeares throughout *Rome*, ^p pretending that they would settle the commonwealth, which at that time by reason of *Iul. Caesar*s death was much out of order. Those five yeares being expired, they refused to resigne their authority, evercising excessive crueltie towards all the *Romans* of what degree soever. ^q This kinde of gouernment 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 proscribē and banish any *Roman* at their pleasure; and as often as we read *de Triumviratu* simply without any adiunction, or *de Triumviratu Senatus legendi*, wee are to vnderstand it of this, though some vpon vnſure grounds doe diſioine them.

^p Feneſt. de
mag. Rom.
cap. 21.

^q Suer. Octay.
Aug. cap. 27.

CAP. 15.

De Quaestoribus ararij.

THis office of the *Quaestors* seemeth not vnlike to a publique Treasurers, which colicte the subsidies, customes, mony, yearely revenues, and all other payments belonging to any state or corporation. And hence ^r *quoniam publica pecunia quarenda prapositi erant*, they took their name *Quaestores*: Sometimes they are called *Quaestores Urbani*, to distinguish them from the provinciall *Quaestors*,

^r Feneſt. de
Rom. magist.
cap. 3.

Z

which

ſig. de iure
Rom. l. 2. c. 8.

which bare office in the *Roman* Provinces: sometimes they are called *Quaestores ararii*, to distinguish them from those that were called *Quaestores parricidii*, or *rerum capitalium*, of which you may see more in the tract *de pratoribus*. Lastly they were called *Quaestores ararii*, to distinguish them from the *Tribuni ararii*, that is, those Martial treasurers, or Clerks of the band, which did receaue the souldiers pay from these city 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 truely 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. Moreouer whatsoeuer spoiles were taken in warre, they were deliuered vp vnto these city-*Quaestors*, & they selling them, laid vp the mony in the great Treasure house called *Aedes Saturni*.

CAP. 16.

De Tribunis Plebis.

ſ I. Rosa in
Epit. rerum,
Rom.

THE *Roman* commonalty finding themselves oppressed by the wealthier sort, departed vnto the *Aventine* mount, threatening the *Roman* nobility, that they would forsake their city, and neuer againe aduenture themselves in warre for the defence thereof, vnlesse they did finde some release and easement, from those excessiue payments of vs & 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 *Sacrosancti*, that is, such as might not be hurt or violently vsed, not so much as in words; and if any had violated that law, whereby they were made *Sacrosancti*

ſ Rosa, ant.
l. 2. c. 23.

sancti, then was he accounted *homo sacer*, that is, an excommunicate person, or such an one whose soule should be vowed vnto some God; insomuch that if any after had killed him, he should not be liable vnto iudgement: ^a *quoniam illius anima dijs devota amplius humani commercii non sit.* To those ^b *magistrats* the protection of the commons was committed who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retain 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 ^c some haue thought: ^d Others say five: afterward (as it is yeelded by all writers) they increased vnto ten. Their authoritie 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. ^e *Sed eorum autoritas magis in intercedendo, quam iubendo.* And hence was it that in old time these protectours of the commons were not permitted to come into the *Senate*: but ^f they sate without at the dore, whether whatsoeuer was determined within the *Senate* was sent vnto them, to be pursued by them, and if they did approue it, then did they subscribe a great *Roman T*, being the first letter of this word *Tribuni*. ^g The houses of these *Tribunes* stood open night and day, as a common refuge or place of succour for all that would come; ^h neither was it lawfull for them to bee absent out of the towne one whole day throughout the yeare.

^a Alex. Gen. dier. l. 6. c. 14.
^b Rosin. ant. lib. 7. c. 23.

^c Pighius in suo Tyrannifug.
^d Pomp. Lat.

^e Stadius in Flor. lib. 3. c. 2.

^f Pigh in suo Tyrannifug.

^g Rosin. ant. Rom. l. 7. c. 23.

^h Pigh in suo Tyrannifug.

CAP. 17.

De *Aedilibus*, & *Præfecto annonæ.*

WE may read of three sorts of *Roman* magistrats called *Aediles*; the two first had their names *ab aedibus curandis*, hauing in their charge to repair

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

g Alex. Gen.
dier. 1.4.c.4.

h Alex. Gen.
ibid.
i Pighius in
Iuo tyrannif.

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

both temples and priuate dwelling-houses which belonged vnto the citie. The first sort were called *Ædiles curules*, & *sella curuli*, from the chaire of state, wherein it was permitted them to ride; and these were chosen ^f 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 wee 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 *Actiões redhibitorias*, that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take the againe. Moreover they had the charge of the publique conduit or water-conveiances, of provision for solempne 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 ἀγορευόμενοι*. 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 dearths; 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.

CAP. 18.

De Triumviris.

BEside that *Triumviratus Reip. constituende*, of which we spake before, there were divers kindes of *Triumvirates*; namely *Triumviri capitales*, three high Sheri-ffes, who had the charge of prisons, and were to see male-factors punished: for which purpose eight *Lictors* did attend them. There were also ¹ *Triumviri Mensarii*, three men, we may tearme them Bankers, who had authority to pay out of the common treasurie poore mens debts. Sometimes there were appointed five to this office, whence they were called also ^m *Quinquenviri Mensarii*, both being called *Mensarii* from *Mensa*, a table, whereon they told their mony. Another sort of *Triumviri* there were appointed to presse soldiers, 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 Colonie deducenda*: but sometimes for this purpose they elected seven, ten, or twenty, & so named them *Quinquenviri*, *Septemviri*, *Decemviri*, and *Vigintiviri Colonie deducenda*. 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. A. F. F.* that *Auro*, *Argento*, *Aere*, *Flando*, *Ferundo*; 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 give notice of fire.

¹ Alex. Gen.
dier. l. 3. c. 16.

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

ⁿ Ioh. 26

ⁿ Alex. Gen.
dier. l. 3. c. 16.

CAP. 19.

De Prefectis Aerarij.

Augustus Caesar 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 city an yearely subsidie for the maintenance of those souldiers: but being denied it, hee built a certaine Treasure-house, which hee called *Aerarium 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 be enriched enough, either by that money 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 kin, or to the poor) should fall vnto this Treasurie. For the charge and custody hereof he appointed three of those souldiers, which alwaies attended about him for the safeguard of his person, calling them *Prefectos Aerarij*.

CAP. 20.

De Prefecto Pratorio.

*o Pancirol. in
notitiam im-
per. orient. c. 5
p Pighius in
Equipet.
compos.*

ALL Captaines and Gouvernours to whom the rule of any army belonged, were in ancient time called *Pratores*; This word *Prator* 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 *Pratores*, *quasi Praetores quoniam iure & exercitu praebant*. Answerable to which threefold acception, this word *Pratoriu* hath three severall significations: sometimes it signifieth a Princes palace or manour house; sometimes a great

great hall or place where iudgement was wont to be giuen; and lastly the L. Generall his pavilion in the campe; ⁹ from ⁹ Asconius in which last signification it is, that those souldiers that gaue ^{Verrinam} 3. attendance about that pavilion for the gard of their Captaines person, are sometimes called *Milites Pratoriani*, sometimes *Cohors pratoria*; and he to whom the ouersight ^{Fr. Sylv. in} of these souldiers was committed was thence called *Prato-* ^{Catil. 2^m.} *rio praefectus*.

CAP. 21.

De Advocato fisci.

FOR the right vnderstanding of this office, wee must first note a difference betweene these two words, *Aerarium*, & *Fiscus*. *Aerarium* was a common treasury belonging vnto an whole state or corporation, whence all publike and common expences are to be 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 autors; and as often as they are mentioned, their names doe explaine their office.

CAP. 22.

De praeipuis magistratibus provincialibus.

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

alwaies, namely accordingly as the number of Provinces did encrease. The wars & tumults in the Provinces sometimes were so great, that the *Prator* was not sufficient both to manage war & execute iustice: whereupon the *Senate* thought fit to send another magistrate into the Provinces, who they called a *Consul*, because properly the managing of war belonged vnto the *Consul*. So that there were at first two ordinary Provinciaall magistrates, a *Consul* to manage warre, and a *Prator*, or *L.* chiefe Iustice to sit in iudgement. And if these two by a second grant from the *Senate* did continue in their office about the space of an yeare, then were they called *Proconsules*, & *Propratores*. But in proesse of time this custome was altered. For then none could be *Proconsuls*, but those alone who had beene *Consuls* in *Rome*; neither could any be *Proprators*, which had not beene *Prators* at *Rome*. Their manner being, that the next yeare after the expiratio of their offices in *Rome*, they should depart into some certaine Province, to beare the same offices againe, being not called *Consules* or *Pratores* as before, but *Proconsules* & *Propratores*; 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 themselves, 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 *sortire provincias*; howbeit sometimes the *Senate* did interpose their authority, and dispose the same. Vnder the Emperours the gouernours of some Provinces were appointed by the *Senate*, and the people, and those were called *Proconsules*, and the Provinces, *Provincia Consulares*; others were appointed by the Emperours, and they were called *Propratores*, and the Provinces *Pratoria Provincia*. For all this, which hath bin noted touching the Provinciaall Magistrates, it is almost *verbatim* translated out of *Resinus*. To which we adde this, namely that every *Proconsul* and *Proprator* did usually

[Alex. Gen.
dier. l. 3. c. 3.]

[I. Camerar.
pro L. Flacco.]

[B. Rosin. ant.
l. 10. c. 24.]

vsually choose a Lieutenāt such a one as should be assistant vnto him in matters of gouernment; whom they called *Legatum*: So that this word *Legatus* signified three seuerall *Magistrats* amongst the *Romans*, two whereof may bee proued out of *Sigonius*: first that it signified such a Lieutenant, or L. Deputy vnder a *Proconsul*, or *Proprator* in a Prouince; secondly, that it signified such a one as is employed in the deliuey 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 counsell; whence *Polybius* commonly ioyneth these two together, *πρεσβυλᾶς καὶ συγγέλως*, that is, *Legatos & Consiliarios*, that the latter word might expound the former. *Lips. de mil. Rom. l. 2. dial. 11.* Moreouer euery *Proconsul* and *Proprator* had with them certaine Treasurers, called *Questores 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: sometimes extraordinarily by vertue of speciall Act or decree, this or that speciall man hath obtained this or that Province without any lottery. By the way wee must note, that all Provinciall *Questores* could not be called *Proquestores*, as all Provinciall *Consuls* and *Prators* were called *Proconsules* and *Propratores*. For these only were called *Proquestores*, which did succeed these provinciall *Questores*, when they did either die in their office, or depart out of the Prouince, no successor being expected from *Rome*: at which times it was lawfull for the *Proconsul*, or *Proprator* to choose his *Proquestor*. Moreouer there were beside these *Legati & Questores* other military officers; such as are the *Tribuni militum*, *Centuriones*, *Præfetti*, *Decuriones*, together with other inferior officers, as their Secretaries, Bayliffs, Cryers, Seriants, & such like.

^x Pomp. Læt.
de mag. Rom.

^y Sig. de iure
prou. l. 2. c. 2.

^a Sig. de iure
Prou. l. 2. c. 3.

^b Sigon. ib

^c Rosin. Ant
Rom. l. 7. c. 45

^d Sig. de iure
Prou. l. 2. c. 2.



LIB. 3. SECT. 3.

Of the Roman Punishments.

CAP. 1.

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

Touching the military punishment, which be-
longed to military discipline, it shall be trea-
ted of in its proper place. Here only of the
Citty discipline, and the vsuall punishments
exercised therein, which we may divide thus.
Punishments publicly inflicted on malefa-
ctors 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 guiltie, and then
it was called *Mulcta*: or his whole estate was seased on, &
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: *Su-
prema mulcta erat duarum ouium, & triginta boum, pro copia
scilicet boum, & penuria ouium: sed cum eiusmodi mulcta peco-
ris, armentiq; a magistratibus dicta erat, adigebantur bones
onesq; alias pretij parui, alias maioris, eaq; res faciebat inequa-
lem mulcta punitionem. Idcirco postea lege Ateria constituti
sunt*

^a Gellius, l. 11.

sunt in oues singulas aris deni, in boues aris centeni: Minima vero multa fuit ouis unius. Moreover as he obserueth in the same place, whensoever the Magistrat did set a fine or Mult vpon the offenders head, hee vsed the word *Ouis* in the Masculine gender; as, *Ego ei unum ouem multam dico, &c.* The law which *Gellius* calleth *Ateriam legem*: ^b *Festus* calleth ^b *Festus* in *Legem Tarpeiam*, because *Aterius* enacted it, when he was ^{voce peculāt.} Colleague or fellow-Cōsul with *Tarpeius*. Likewise we may take notice of the clemency vsed in those times. It was provided by the law, that seeing there was great plenty of Oxen then of Sheepe, and to be fined an Oxe, was not so much as to be fined a Sheepe, therefore the Magistrate pronouncing the Fine ^c *Bouem prius quā Ouem nominaret, ut innotesceret* ^{P.in.lib.18. cap.3. It. Alex. ab Alex lib. 3. cap.5.} *Romanis mitiores semper pœnas placuisse.*

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua, & Igni interdicti. Proscriptio, Lata fuga, Deportatio ^{οὐλομένη, ἐν λυτρίων, ἄραιο, ἐν} *ararios relati, Religatio, Lanij cum tintinnabulis.*

THE corporall punishments are either such as^r were Capitall, depriving a man of his life: or Castigatory, such corrections as serued for the humbling and reforming of the offender, not for the destroying of him. Capitall punishments were sometimes taken in a ciuill acception, for the losse of freedome, which the *Romanes* called *Capitis diminutionem*, Disfranchising, because in euery free-man thus disfranchised, one head of the corporatiō 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 frō

^d *Rosin. ant. Rom. l.9. c.3.*

e Sig. de iure
Rom. l. i. c. 17.

f A. Gell. noct.
Attic. lib. 4.
cap. ult.

g Camerar.
in orat. Cic.
pro Muran.
h Cael. Rhod.
lib. 15. cap. 17.

i Rosin. ant.
lib. 9. cap. 12.

an higher Tribe, downe to a lower and lesse honorable, or when by any censure they disabled a man from suffraging, or giuing his voice in the publike assemblies: such as were thus in the last manner punished, were tearmed *Ærarij*, and *In ærarios relati*: ^c *quia omnia alia iura ciuium Romanorum, præterquam tributum & æris conferendi amiserunt*. This kinde of punishment, as it may seeme, was many times exercised for irreuerend gesture, or speeches vsed by such as were questioned by the *Censors*. Three seuerall examples are noted by ^f *Gellius*; the last is this: *P. Scipio. Nasica*, and *M. Pomilius* 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 answer was. *Quoniam ego, inquit, me curo; equum Statius meus seruus*. *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 *Cælius Rhodiginus*, to bee all one with that kinde of banishment, which the *Romans* called *Proscriptio*, though it cannot 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 manner, they committed 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 Citty in forme as followeth. ⁱ *Ille debitor noster in eiusmodi causa est, ut bona eius diuendi debeant, nos creditores patrimonium eius distrahimus: quicumq; emere volet, adesto*. But for the reconciling of both opinions, we may tearme the first to be *Proscriptionem hominum*: the other *Proscriptionem bonorum*: which distinctiō being not obserued, breedeth a great confusion in the Authors that treat of this punishment; and
because

because both was performed by solemn and publique proclamations, hence the name *Proscriptio* agreed as well to the goods confiscated, as to the persons banished: according to that, ^k *Quoniam eorū nomina in publico scribebantur, hinc pro-* ^k Fr. Matur. in Philip. orat.
scribi dicebantur. Hence the ^l *Grecians* use not only the word ^l Suidas in voce *σκλη*
σκληρα, but also *σκληρεύειν*, to signifie the act of *Proscription*, because they wrought 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, & the freedome; & this I take to be the same which in other tearmes was called *Lata fuga*, or *Depotratio*, namely a perpetuall exilement: all standing in oppositiō to that other kinde of banishment, called *Relegatio*, which was the exilement * only for a season, happily for five yeares &c: see *C. Rhod: lib. 10. cap. 5.* though I deny not but that *lata fuga* was so called not onely 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 deprived of life in ordinary use, and of which there is most frequent mention in *Roman* Authors, are these which follow. *Furca Crux, Carcer, Culeus, Eculus, De rupe Tarpeia deiectio, Scala, Gemonia, 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 noysomnes which such abundance of blood 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 counted a kinde of pollution: this ^o *Turnebus* obserueth out of ^o Turn. adv. lib. 11. cap. 21.
Zonaras: and from hence the executioners are called ^p *Lanij* ^p Plaut. pseud. 1. 3. ^q *q* *Rofin. ant. 1. 10. cap. 29.*
cum tintinnabulis. And for this reason ^q it was, that a little bell

Tertul. Apo-
log. cap. 33.

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 & then plucking him behind, & bidding him looke back, vsing this forme of words, *Respice post te, hominem memento te*, that is, Sir looke behind you, remember your selfe to bee 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 whippes, but euen with death it selfe.

CAP. 3.

Furca. Furcifer. Supplicium more maiorum, & heu.

Isidor. orig.
lib. 10.

Plurarch. in
Coriol.

Epit. Liuij
dec. 6. lib. 5.

AVncient autors which do write of the *Roman furca*, do rather mention it, then explaine it, but if we diligently obserue what they speake of it, we shall finde the vse thereof to haue beene three fold. The first ignominious. which ^a was when the master forced the seruant for small offences *furcam circa urbem ferre*, to carry this *furca* vpon his shoulders about the city, confessing his fault and admonishing others to beware of the like offence, and ^b hence such a seruant was after ward 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 publike place, and on the way to bee whipt, but not vnto death; ^c thus *C. Matienus damnatus sub furca diu virgis casus erat, & sestertio nummo venit*. He was after-

afterward sold, and therefore died not vnder the punishment. 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 maiorum*. This yet differed from ^d Sueton. in that beheading with an axe which was in vse among the Ro- Ner. 49. mans, and called by the *Grecians* πελεκισμὸς from πέλεκυς signifying an axe or hatchet; it differed I say from this, because howsoeuer there were in this *σαυρώ* πρόσδεσις, a tying the party to a stake or post, and also *μαστίγωσις*, a whipping, in both which it agreed with the former punishment, 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 execution of *Antigonus* ^e Dio. lib. 49. the King of the Iewes. But to proceed in the description of the *furca*, the forme thereof I take to be like the beame of a wayne vnto which the yoakes are fastned; it resembleth a forke, & the *furca* is called ξύλον διπλὺν, διπρῦν, διδύρον, *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, ^f *Plut. in Co-* ξύλον ἀμάξης ὃ τὸ ῥύμον ὑπερείδουσι, that is, a piece of timber riol. about the wagon or wayne, wherewith they vpheld the beame; and he addeth, that what the *Grecians* call ὑποστήριγμα, that the *Romans* call *furca*: now *Hesychius* describeth *στήριγμα* to be τὸ διπρῦν ὃ πρὸ ὑποστίθεται τῷ τῆς ἀμάξης ζυγῷ, that is, the forked piece of timber, which they put vnder the yoke of the wayne; correct *Plutarch* by *Hesychius*, & for τὸν ῥύμον reade τὸ ζυγόν, & you haue in both the description of the beame in the wayne. Some thinke that *Plutarch* compareth the *furca* to a certaine forked peice of timber, wherewith the wayne was vpheld whiles it was vnloaded, but how this can stand with *Hesychius* his description of *στήριγμα*, I am yet to learne; notwithstanding if we admit this interpretation, that which

which I would hence inferre, is rather confirmed, then any way weakened: namely that the forme of the old *Roman furca* was forked; neither do there appeare any testimonies so evident to me, as to persuade that among the auncient *Romans* any other was in vse. True it is, that in after ages the forme thereof was the very same with our gallowes 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.

Sozom. eccl. hist. lib. 1. cap. 8.

CAP. 4.

Cruce. Seruile supplicium. Titulus.

CRucifixion hath beene a punishment in auncient vse among the *Romans*, it was abrogated by *Constantine*. It was a death that commonly seruants were sentenced vnto, seldometimes free-men; whence it is many times noted out by the name of *seruile supplicium* by *Tacitus*, yet sometimes freemen though of the baser sort, and for notorious offenses were adiudged to this kind of death: nay a cleare example hereof we haue in that *Guardian* which *Galba* crucified, for poysoning his ward; for the *Guardian* calling for the benefit of the law, and avouching in his plea, *That he was a Roman cittizen*. *Galba* as if he would allay his punishment with some comfort and honour, commanded the crosse already made to be changed, and another to be rared farre higher then the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their crosse vpon his shouleers to the place of execution. *Malefici cum ad supplicium educuntur, quisq; suam effert crucem.*

Plut. de fera numinis vind.

Vid. Lips. de cruce. l. 2. c. 5.

Artemidorus is as plaine *Εοικα δ' αὖτε τοῦ δαυατοῦ, καὶ δ' μέλ- λων πρὸς ἀνάμνησιν, καὶ ὅτι τοῦ αὐτοῦ βασιλῆως*, that is. The crosse is like vnto death, and he which was to be crucified did first beare it. The party that suffered this kinde of death was first strip-

ped

ped of all his clothes, for he suffered naked; then was he fastened vnto the crosse and that commonly with nayles, the Greek word *σπένδωσις* clearly evinceth as much, we may render it *Clauisfixio*. Now that the equity of the proceeding might clearly appeare to the people, the cause of his punishment was written in capitall letters, hence *Dio* speaketh of a servant dragd to the crosse, *μετὰ γεγραμμένων τῶν αἰτίων τῆς θανάτου*, that is, with letters declaring the cause of his death. This inscription was called *ἀντίγραφον*. It was also called *τίτλος*. *Ioan.* 19. 19. from the latine word *titulus* vsed in the same sense. And sometimes *ἐπιγραφὴ τῆς αἰτίας*. *Marc.* 15. 26. or simply *ἐπιγραφὴ*. *Luc.* 23. 38. *Tertullian* & *Apol.* cap. 21. *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 vnusuall in other capitall punishments; as *Attalus* the Martyr was led about the Amphitheatre, *καὶ αὐτὸν περὶ τὸν σταθμὸν τοῦ Ἰουδαίου, ὅστις ἐστὶν Ἀττάλδου χριστιανός*. i. A table being carried before, in which it was written in latine, *This is Attalus the Christian*. That of *Suetonius* his is not much vnlike. *Patremfamilias detractum ē spectaculis in arenam, canibus obiecit, cum hoc titulo: Impie locutus Parmularius*. What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the chapter of *Centers*. 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: *Verbera intra aut extra pomerium*, secondly: *Arbore infelici suspendito*. This whipping was sometimes *sub furca*, for this *Valerius* is plaine. *Cum servum suum verberibus multatum sub furca ad supplicium e gisset: sometimes ad columnam*. *Artemidorus* is cleare in this, *περὶ δὲ τοῦ κλονι, πολλὰς ἐλαβε πλῆγας*, that is, being tied to the pillar, hee receaved many stripes. Happily *Plautus* alludeth to the same.

--- *Abducite hunc*

Intrò atq; adstringite ad columnam fortiter.

Bb

Yea

* Prudentius
Hieronym. Be-
da. vid. Lipl. de
cruce. l. 2. c. 4.

* Plaut. Mil.
2. 6.

* Plaut. Most.
1. 1.

* Cael. Rhod.
lect. antiq.
lib. 10. cap. 5.

Yea the auncient *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, & that with scourges. Τὸν ὃ Ἰησοῦν ὁραχόμενον παρὰ δούλους ἰνα ταυροῦν. *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 be goaded on the way with pricks and goads by the Executioner. That there was *stimuleum supplicium*, a kinde of punishment with pricks and goades is euident; and hence cometh that phrase *Stimulo fodere*; and hence that other phrase of *Kicking against the prickes*. Parrallell to which is that of *Plant. Truc. 4. 2. Stimulos pugnis cadere*. But this kinde of punishment I take to haue beene exercised only by Masters towards euill seruants; and that not as præparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled was termed **Car-nificinium 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 authoritie, 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 bee confessed; * for to that ende 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, signifying the whole crosse on which malefactors suffred: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we 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 *Roman Furca*, whence *Patibulatus* and *Pur-cifer* are vied as words equivalent, and in both senses it may

may borrow its name from *Pateo*, to lie open; because as the malefactors hands were spread abroad being fastned 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, Nervus, Collum-
bar, Numella, Codex.*

HOWsoever *carcer* & *ergastulum* are vsed promiscuously by moderne writers, yet if wee diligently enquire vnto each words origination, and how they haue beene vsed by more ancient autors, wee shall finde them thus differenced. *Ergastulum* was a prison much resembling our house of Correction, into which servants 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 servant to the *Ergastulum*, was proper and peculiar to the master of the servant, without approbation from publike authoritie: but the power of the committing to the prison called *Carcer*, was onely in the publike 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 men 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, these two places were assigned for execution. In that which they called the *Tullianum* (we may english it their Dungeon) they strangled malefactors.^b It had its name from *Servius Tullius* a Roman King, the first inventer & autor thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur ubi paulatim*

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

^b Sigon. ibid.

e Plaut. pæn.

5.3.

d Plaut. pæn.

5.6.

e Hor. lib. 2.

od. 13.

f Turneb. adv.

lib. 23. cap. 21.

g Plaut. in

Curc. act. 5. sc.

5.

h Valer. J. 5. c. 4

i Plaut. Aulul.

2.5.

k Cic. pro Mi-

lone.

tim ascēderis ad laenam, circiter duodecim pedes humi depressus: eum muniunt undiq³ parietes, atq³ insuper camera lapideis fornicibus iuncta, sed inculta tenebris, odore fada, atq³ 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 answereth it) they broke malefactors necks, by a kinde of præcipation or tumbling them headlong, ^f from a certaine stock of a tree fastned there in the earth; vnto this *Tully* alludeth. *Quaro fregeris ne in carcere cervices illi ipsi Vellio*. But more expressly *Plautus*. *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 Sheriffs. The whole proceeding is set down by *Valerius*. *Mulierem damnatam Prator Triumviro necandā in carcere tradidit, quam receptam is qui custodia præerat, misericordiā motus non protinus strangulavit; aditum etiam filia dedit, sed diligenter excussa, ne quid cibi inferret, existimans futurum, vt inediā consumeretur; cum verò animadvertisset, filiam matrem lactis sui præsidio sustentantem, rem ad Triumvirum, Triumvir ad Pratorem, Prator ad consilium indicum per tulit, & remissionem mulieri impetavit*. It is much controverted 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 *arcā*, 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 pri-
times *Tully* speaketh. ^k *Subita arrepti in quaestionem, tamen se-
paran-*

parantur à cæteris; & in arcas conijciuntur, ne quis cum his colloqui possit. Another kinde of prison there was called *Sextritium*, thus it is commonly rendred in Latine, but the Greeke word is *συστήριον*, and accordingly ^a *Turnebus* renders it *Sextritium*, being of opinion that it was so called from the quantity of ground it contained, namely two acres and halfe. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places vnlike, but herein not hee alone, but diuers others haue bin deceaued: for *Sextritium* is apparently a place of 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 *Spoliarium*, that the Greeks tearmed *ἀποδυστήριον*, both doe signifie primarily little cells or chambers neere adioyning to the bathes, where such as washed themselues laid vp their cloathes: In a borrowed sense, both are vsed to signifie chambers and cells adioyning neere vnto the Amphitheatre or fencing place, wherein the fencers did put vp their clothes in time of fight, and because such as were wounded in fight were carried into those chambers, where they languishing with much pain at last notwithstanding expired for the most part, & that not without much torturing of the Chirurgion, hence such a Spittie-house is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, ^c *Numquid aliquem tam cupidum vite putas, ut ingulari in spoliario, quam in arena mallet?* Whereby it appeareth, that *Spoliarium* was not a prison vnto which malefactors were iudged, but rather as I said a kinde of Spittie-house. Other kinde of punishments there were of a neere likenesse with imprisonments, and casting into the pillory, laying one by the heeles, &c. of these little is spoken more than the very names; of this sort those that do most commoly occur in autors, are these. *Nervus*, *Collumbar*, *Numella*, *Codex*. *Nervus* is generally thought to resemble our Stocks, ¹ some take it to bee made of wood, others of yron, ^m *Nervum appellamus ferreum vinculum, quo pedes im-*

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

^b Plutarch. in Galba,

^c Sen. ep. 94. De spoliario Vid. Lips. Sat. 1. 18.

¹ Vid. Taubman. in Plaut. Aulul. 4. 10.

^m Festus. Vid. Lam. in Plaut. Aulul. 4. 10.

peduntur: quanquam Plautus eo etiam vinciri cervices ait.

Two of the last seeme to have some resemblance with our Pillory. *Collumbar* had its name from *Collum*, because the necke was chiefly pained in this kinde of punishment. *Nu-*

Turneb. ad-mella was also a kind of Pillory, being so called *quasi* *Nu-*
vers. l. 23, c. 21. ella, quod qui eo vinculo constricti erant, nuere demissoq; capite
esse cogebantur. *Codex* was a certaine block or Clogge, so ti-
 ed vnto the malefactors, that they vsed it as a stool to sit on;
 the vse of this may seeme to haue beene only in priuate hou-
 ses, thereby to keepe evill seruants the closer to their work;
 of this *Iuvenal* speaketh *Sat. 2.*

Horrida quale facit residens in codice plex.

Turneb. ibid. *Turnebus* describeth it thus. *Codex est ligneus stipes, quem*
alligati serui, qui deliquerant trahebant, cuiq; insidebant vincti

CAP. 6.

Culens.

THE crime which in Latine we 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, signifying any murder betweene man and man, and then it was called *Par-*
ricidium, quia par parem occiderat. The word taken in his first
 and proper signification, denoted a fact so vnnaturall, that
 neither *Solon* nor *Romulus* would determine any punish-
 ment against such offenders, because they thought none so
 wicked as to commit it; and the prohibition it selfe might
 proue a kinde of irritation, to provoke some to the commis-
 sion of that crime, which otherwise would neuer haue entred
 into their hearts. But the wickednesse of the avertimes, enfor-
 ced lawgiuers to invent a sharpe punishment against such
 vnnaturall offences. The punishment decreed against *Parri-*
cides in *Senecaes* age, was, that such malefactors should be
 sowed

p Cic. pro
Sext. Roscio.

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

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

Cuius supplicio non debuit una parari

Simia, nec serpens vnus, nec culeus vnus.

^a *Modestus* describeth the manner thereof thus. The Parricide being first whipt with rods untill the bloud came, then was he sowed vp in this sacke 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 parric. vid. Coel. Rhod. l. 11. c. 21.
^b Cic. pro Sexto Rosc.

CAP. 7.

Eculeus. Lamina. Vngula. Fidicula. σχινομὸς.

E *Culeus* had its denomination from *Equus*, quasi *Equuleus*, as may be collected from that description which ^c *Turnebus* giueth. But not so much from the posture or situation of the offenders body on the engine as *Turnebus* would haue it, for he in no wise resembled a man on horsebacke; but rather from the hoising or horsing vp of the party fastned with ropes vnto the *Eculeus*, so that his hands being tied fast at the vpper part of the engine, and his feet at the neather part, hee was hoised vp into the ayre like vnto one fastned on a crosse. The forme of the *Eculeus* I conceive 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, who

d Sigon. de
Ind. 1.3. c. 18.

e Sozom. hist.
Eccles. lib. 5.
f Prudent. in
hymno Vin-
cent. Martyr.
g Turneb. adu.
lib. 4. cap. 3.

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 racke 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 & iron pinsers, burne and teare his flesh from his sides, and all this we shall finde warranted by ^dSigonius, 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 vero genus erat huiusmodi, vbi catasta huic brachia pedesq; eius, qui torquendus erat, nervis quibusdam, qua fidicula dicebantur alligauerant, tum catasta intenta atq; in altum erecta, vt ex eo quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius diuellebant, deinde candentibus eiusdem corpori laminis admotis, atq; bisulcis ungulis ferreis lateribus laniatis doloris acerbiter augebant.* And thus wee see what the vse of those *Lamina* and *Ungula* were, namely that they were not severall torments of themselves, but adiuncts to this, to encrease the paine. The *Eculeus* was sometimes called ^e*lignum tortorium*: sometimes ^f*stipes noxialis*. The torturing engine called *Fidicula* 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 ^gTurnebus writeth. *Fidicula quæ in tormentis numerantur, mihi videntur lascivia quadam ioci nomen inuenisse, quod vt in fidibus nervi item quoq; vt nervi hinc & inde multis funibus homines distendebantur.* The torment *σχοινός* vsed by the *Gracians*, was either this same or very like.

CAP. 8.

*De rupe Tarpeia deiectio. De lapide empti. A furca
redempti. Scala Gemonia. Tunica. Dam-
natio in gladium, in Ludum,
ad bestias.*

Malefactors for notorious offences were tumbled
downe headlong from a certaine rock in the *Tar-
peian Mount*: This kinde of punishment was cal-
led either simply *Deiectio è saxo*; or *Deiectio è Tarpeia rupe*.
In some cases notwithstanding, by the intercessiō of friends,
or some other 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 therefore they were tearmed *de lapide empti*: which
phrase ^h *Cælius Rhodiginus* hath parallel'd with that, *a furca* ^b *Cæli. Rhod.*
redempti, that is, *sauesd from the gallows*. In the *Aventine* ^{ant. l. 25. c. 22.}
Mount was a place of like nature, called *Scala Gemonia*: cer-
taine stayres whether condemned persons were dragged, &
so cast headlong into the riuer *Tiber*. *Cælius Rhodiginus*
seemeth to be of another opinion: ⁱ who describing this pu- ^{i Cæli. Rhod.}
nishmēt, saith, that an hook was thrust into the malefactors ^{lib. 10. cap. 5.}
throat, and so hee haled by the Executioner vnto these stay-
ers, where hauing his thighs broken he was burnt. Further-
more he addeth, that they were called *Scala Gemonia*, or *gra-
dus Gemonij*, because, as some are of opiniō, the first that suf-
fered this kinde of punishment his name was *Gemonius*: or
as others would haue it, because it was *locus gemitus*, & *ca-
lamitatum*. If we 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 daybed in the inside with pitch and brim-
stone

Sen. ep. 14. stone. Thence is that of ^k Seneca, *Cogita illam tunicam alimentis ignium & illam & intexam*. This giueth light to that of Iuuenal. Sat. 8. *Tunica punire molesta*.

Tertul. ad Martyr.

m Vid. Lips.
Satur. l. 2. c. 3.
n Lips. Satur.
lib. 2. cap. 23.

o Alex. ab Alex.
lib. 3. cap. 5

p A. Gel. lib. 5.
cap. 14.

¹ Tertullian also mentioneth it in this sense. To these may be added two other punishments vsually inflicted vpon fugitiue servants, but yet not so restrained vnto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*. A condemning one into a fence-schoole, there to be traine l vp in the art of fencing, vn till 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 ⁿ Ulpian, as ^u Lipsius elsewhere obserueth, 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 vpo him; if he scaped the danger of those publike prizes, & alwaies got the vpper hand of his aduersaries, at three yeares end, he receaued the *Rodem*, or wand, which was a token of discharge from those bloody combats: yea at five yeares end, he receaued the *Pileum*, or cap, which was a token of his infranchisement or freedome in the city. The second sort was *Damnatio ad bestias*. A condemning of a mā 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 seruant called *Androclus*, ^p who hauing runne from his master liued in a wildernesse, 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 stuck fast in his foot; *Androclus* at first beganne to be affrighted, but the Lion comming neerer & neerer vnto him, and 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

being apprehended & adjudged to this punishment, it happened that this very Lion was brought into the shew-place for *Androclus* to fight with, where instead of a fierce on-set, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* & the Lion, they released the servant and freed him from his punishment. Where we must note that this pardon was extraordinary ^q for usually if any ^q H. Salmuth. so condemned happened to overcome a beast or two, yet in Pancirol. was he not thereby discharged, but was to encounter with de veter. ludis. others untill hee 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 *Præclara adilitas, vnus leo ducenti bestiarij.* By which ^r Cic. in. orat. pro Sestio. we see many mē one after another did thus fight with beasts ^s Suid. in voce at the same meeting: yea the ^t *Græcians* called such as succeeded the first combatants ^t *ἐφ' ἑσπερ*, the Apostle *S. Paul* calleth ^t 1. Cor. 4. 9. them ^t *ἐσπερ*, because they were reserved untill the last. ^u *Tertul.* ^u Tertul. lib. de pudicit. *tullian* readeth that place in this sense, and the words themselves enforce as much, for what shall we understand by ^θ *ὁ δὲ ἐπ' ἐσπερὶν δεικνύων*, but the very spectacle or shew it selfe, and what by ^δ *ὁ δὲ ἐπ' ἐσπερὶν*, which signifieth properly *Ostendit*, but allusion to him who was the chiefe author and exhibiter of these bloody spectacles vnto the people. ^{*} *Lipsius* hath paralleld that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*; both signifying the setting forth or bestowing the sight of such masteries, & fightings. And that it was no vnusuall kinde of Martyrdome in times of the primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who reioyced to bee grownd betweene the teeth of wild beasts, that he might bee found pure bread. Whose words were ^{*} *Frumentum sum Christi, & per dentes bestiarum molor, ut mundus panis Dei inueniar*: yea the word ^{*} *ἐκ δαυαλλίης*, *mortu addictos*, helpeth this interpretation: the word intimateth ^{*} *Iren.* ^{*} Iren. advers. hæres. l. 5. c. 28. ^{It.} ^{It.} Euseb. hist. Ecc. l. 3. c. 33. that

y Suet. Claud.
cap. 34.

z Senec. ep. 7.

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

C A P. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damuari in Antliam. Metallum. Inscripti. Stigmatici. Literati. Varga. Flagella. Talio.

TH E state & condition of servants was various and different amongst 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 seruants as were bought for that purpose; or such as for notorious crimes were adiudged therevnto in way of punishment, whence the word *Ergastulum* is iustly deriued from the Greek *Ἐργάσιον*, because it is *τόπος ἐν ᾧ οἱ δεσμῶντες ἔργαζονται*; locus in quo vincti operantur. For even in the day time when they were sent forth to work they had shackles and bolts about their legs to prevent their escapes, or running away, though not so bigge as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in ancient writers (peradventure from the forme of their links) tearmed *Annuli*, & themselves said to haue *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Iuuenals* 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 *Suetonius* his phrase is *In Antliam damnari*. Those Criticks *m Suet. Tiber. cap. 51.* who for the word *Antlia* doe substitute *Anticyra*, or *Andia*, or such like names of Ilands, doe vterly faile of the Autors scope, and drift; for the punishment which *Suetonius* speaketh of, is some strange or vnsuall punishment: now seeing that Senatours themselves were often exiled, it could not seeme strange that *Roman* knights should be banished into forreigne lands. But this was a matter vnsuall, and vheard of, that a *Roman* knight should be imploied in such drudgeries. Againe the word *Antlia* fitly denoteth such a kind of labour, whether we respect its Etymology *ἄντλις ἀνάληψις*; or its signification in Latine autors, it being vsed by them to signifie a great bucket, or water-scoupe to draw vp water. Thus *Martial.* *Curta laboratas antlia tollit aquas.*

The handmill is often exprest by the latine word *pistrinū*, a word frequent in Comickall Autors. It much resembled our *Bride-well* or place of correction, being called *pistrinum à pinfendo*, from pounding. For before the vse of mills was knowne, the *Romans* did pound their corne in a great mortar, calling the place where they pounded it *pistrinum*: wherevpon our hand-mill hath retained the same name to this day. And because of the great paines that men did suffer in pouiding, as likewise the strict discipline vsed towards seruants thus punished (for their neck was thrust into a certaine wooden engine called *pansica*, made for the purpose *⁊ Turn. ad v. lib. 4. cap. 13.*) least happily in time of grinding they might eat of the meal) 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 punishment *Metallū* was not much vnlike: the digging in *Metall*

o Vid. Cæl.
Rhodig. l. 10.
cap. 5.

p Tertul. apo-
log. cap. 44.

q Plin. l. 18. c. 3

l Cæl. Rhod.
lib. 7. cap. 31.

tall-mines, and working in metall houses, appeareth not on-
ly to haue beene a base and servill, but also a very laborious
and painefull worke; whence it was esteemed a grievous pu-
nishment to be adiudged to Metall-workes, or cast into a
Metall-house. And either for the encrease of such mens
paines, or for to keep them from escapes, they were enforced
to worke with their fetters and geiues about them, as is im-
plied by *Ulpian*,^o who makes the difference betweene these
two phrases: *Damnari in metallum*, and *Damnari in opus me-
talli*, to be thus; that the first sort did weare heauier & grea-
ter fetters then the last. How true the difference is I leaue it
to the enquire of others, but that it was a great and infam-
ous punishment ^p *Tertullian* witnesseth, in that speech of
his against the Heathen people. *De vestris semper estuat car-
cer, 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 Fur-
ca* in the market place, or elsewhere in publike view, where-
of 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 *σῑγμα*, which signifieth to brand with marks;
As *Nebulo stigmaticus*, A rogue burnt in the hand, or any
way marked: sometimes such are called *Literati*. The *Athe-
nians* being enimies to the *Sami*, as often as they took them
captiues, they did vse thus to burne them for rogues, which
occasioned that proverbiall scomm; ^l *Samijs neminem esse li-
teratiorem*.

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 rodds called
Virga;

Virga; the other with scourges called *Flagella*. That there was a difference betweene *Virga* and *Flagella*, is plaine by *Tully*, where by way of Ironie 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 operiere loris. Sann: loris liber?*

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

ⁿ *Sectus flagellis hic triumphalibus.*

n Epod. od. 4.

They are called *Flagella Triumvralia*, from those *Triumviri* whom formerly I translated *Shretiffes*, because to them belonged the oversight of this punishment. *Eustathius* calleth them *ἀσκησάτωρ; μάστιγας*, id est, *Flagra talaria*, seu *taxillata*, because to augmēt the paines, they did vsually in these scourges tye certaine huckle bones or plummets of led at the end of the whip-cords or thongs, and such scourges they tearmed *scorpiones*. The cruelty of these 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 in 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 punishment. ^o *Rem habuit facultatem paciscendi, & non necesse habuit pati talionem, nisi eam elegisset*. It were endlesse to speake of all the punishments, and happily not worth the labour, their very names being sufficient comments to explaine them. As, *Effossio oculorum*. *Amputatio manuum*, *crurifragium*, *Talifragium*, and such like.

*Tholof. a. synag.
iur. vniuers.
cap. 11. lib. 31.*

o A. Gel. li. 11.
cap. 1.



LIB. 3. SECT. 4.

Of the Roman Lawes.

CAP. I.

De Legibus.

¶ Sig. de iud.
lib. 1. cap. 7.

¶ Fr. Sylv. in
orat. pro Mil.

Aving spoken of the civill Magistrates, and punishments, we will now also descend vnto the ciuill 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, wheresoever 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 priuate 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 Plano*: and hence is it, that *In ius vocare* signifieth to cite one into the Court. Secondly, *Lex*, signifieth only the written law, but *Ius* signifieth equitie; so that ^b *Ius permaneat semper, nec unquam mutetur: Lex vero scripta sapientis*. Notwithstanding these two words are vsed promiscuously one for the other; and therefore leauing all curious differences betweene those words (whether the
Roman

Roman lawes were truely *Iura* or *Leges*) thus much we may obserue, that the lawes vsed among them were of three sorts; either they were such as were made by seuerall Roman kings, and afterward collected and digested into a method by *Papirius*,^c from whence it was called *Ius Papirianum*: or ^c Fr. Sylu. in epist. virorum illud. l. 5. ep. 11. 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 Magistrats did preferre, whence euery seuerall 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 chiefly in his orations. My proceeding shall be first to shew the diuers kinds of iudgements; and then to descend vnto the lawes themselves, beginning with those which shall concerne the Roman religion, and then proceeding to the others, which concerne the common-wealth.

CAP. 2.

De Iure publico & privato.

THE Cases to be decided by the law were either publike or priuate; and accordingly were the iudgements,^d *vel priuata, in quibus ius suum priuatus quisq;* ^d Sig. de iure Rom. l. 2. c. 18. *persequabatur: vel publica, in quibus iniuria qua reip. facta erat vindicabatur.* The priuate (as we obserued before) belonged vnto the *Pratori urbano & peregrino*, that is, the *L. cheife Iudices*, who did either giue iudgement themselves, and then were they said *Iudicare*, or they did appoint others to sit in iudgement, and^e then were they said *Iudicium dare*: in the absence of the *Prators* there were ten called *Decemviri Stiles* ^e Sig. de iud. lib. 1. c. 7. *tibus iudicandis, id est, Super lites indicandas*, who in the same ^f Rosin. ant. l. 7. c. 29. manner, as the *Prator*, might either giue iudgement themselves, or appoint others; for they were euen in ^g Alex. Gen. dier. l. 3. c. 16. one place and

b Pet. Ramus
in 2^a de lege
Agrar.

i Sig. de Iud.
lib. 1. c. 28.
h Sig. de Iud.
lib. 1. c. 29.
i Cic. pro
Quin. Roscio.

m Rosin. ant.
lib. 2. cap. 18.

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

a Sig. de Iud.
lib. 2. cap. 6.

p Sig. ibid.
q Sig. de iur.
Rom. l. 2. c. 28.

and instead of *Prators*. Those which either the *Prator* 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 every Tribe or ward; so that in all, the number of them amounted vnto an hundred and fiew, 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 *Pratoria Decemviralis*, or *Centumviralis hasta*: In some cases their forme of acquittance was thus: ^k *Secundum illum litem do*, whence ^l Tully saith, *Quo minus secundum eos lis datur, 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 *Pratores Quaestores*. Some haue ^m thought them to be the same with those, whom *Rosinus* calleth *Iudices Quaestionum*, and that I thinke not altogether vpon vnure grounds: first because most of these publike cases, which they tearmed *Quaestiones*, had their ⁿ severall *Prators* to enquire them; whence they were called *Quaestores*, and may in my opinion be called *Iudices Quaestionum*, especially seeing that those which would haue them bee different officers, cannot well shew the difference of their offices. Now as the *Vrbane Prator* had an hundred commissioners vnder him: so had these *Pratores Quaestores* certaine Iudges chosen ^o by the *Vrban* or *forreigne Prator*, when he tooke his oath; and that not according to his pleasure as many as he would, or whom hee would, but sometimes more, sometimes fewer, sometime, 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 (ouer the number was, ^q were called *Iudices selecti*, and were di-
vided

vided into severall companies called *Decuria*. These Iudges were vpon any citation from any of the *Prators*, to giue their assistance in the Court vpon the day appointed by the *Prator*. Now the manner how they did proceed in their iudgement followeth in the exposition of one of the lawes, and therefore I will referre the reader thither. Only let him by the way vnderstand, that whereas *Tully* is quoted in euery law, it is not so much for the prooffe of the law, as to signifie, that he in that place maketh mention thereof. For the prooffe 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 Cic. pro Do- consecration or halloving of places, that it should mo. be vnlawfull for any to consecrate either houses, grounds, altars, or any other things *Iniusu plebis*, that is, without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies tearmed *Plebiscitum*.

Roscia Lex.

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

Fr. Matur.
in Philip. 2.

Chr. Hegendorphius in
Verrinam 1.

P. Nannius
in Verrin 5.
Ch. Hegendorphius in
Verrin. 5^m.

Here wee must note that this character H-S. standeth for a silver 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) and *Semissem*, which is intimated by the latter S. Where if *Libra* doth signifie no more then the *Roman* coyne called AS, then is this opinion touching the character L-L-S easie to be confirmed. For diuers authors ^r rendring a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a coyne as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common coyne among the *Romans*,^r that *Nummus* and *Sestertius* became at length one to be vsed for the other; ^d *Mille huiusmodi sestertij vel nummi faciunt unum sestertium in neutro genere, & conficiunt plus minus viginti quinq; coronas*. According to which rate, *quadringenta sestertia* amounteth to 3125: and every particular *Sestertius* is according to this rate, in value three halfe-pence farthing q.

And here we 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 bee a noūne adiectiue agreeing in case gender and number with the substantiue *Sestertius*, then it signifieth precisely so many *Sestertij*: For example sake; *Decem sestertij* doe signifie so many times ^d ob q² 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 *Sestertij*: For example, *Decem sestertiū*, signifieth ten times ^{7^l 16^l 3^d}. Thirdly if the numeral ioyned with *Sestertiū* be an adverb, then it designeth so many hundred thousand *Sestertij*, ex gra: *Decies sestertiū*, doe signifie ten hundred times ^{7^l 16^l 3^d}. Yea the numerall being an adverb, is oftentimes put simply by it selfe, without the addition of any other word to signify in the same manner, the genitiue case *Sestertium* being vnderstood.

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

Decē sestertij	valent	10 Sestertios	De nostro	0000 ^l	01 ^l	6 ^l	ob	q ^a
Decē sester-		10 Millia se-		0073	02	6	0	0
tium		stertium						
Decies sester-		10 Centena						
tium		Millia		7812	10	0	0	0
Decies		stertium						

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue where- of 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 depriued of his Priesthood; and the Temple built in the honour of this Goddesse should be bestowed vpon *Brotigarius*, of *Gallo Gracia*.

Cic. pro Sext.
item de Arusp.
respon.

Domitia lex.

Cn. Domitius Ahenobarbus 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 seauenteene Tribes should elect whom they thought fit, and afterward he should haue his confirmation or admission from the Colledge.

Cic. Agrar. 2.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priuiledged from their seruice in all warres, except onely in vproares or ciuill tumults. And these priuiledges were tearmed *Vacationes*.

Cic. Philip. 8.
& pro Font.

B. Latomus
in Philip. 7.

CAP. 4.

De Civitate, & iure civium Rom.

Porcia lex de civitate.

Cic. pro Ra-
bir. & sape
alias.

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

Lex Sempronia.

Cic. pro Clu-
entio, & sape
alias.

C. Sempronius Gracchus Trib. Pleb. preferred a law, where- by he 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 cittizen *Indicta causâ* he should be liable to the iudgement and cen- sure of the people. A third clause to this law was, *Ne quis coiret, conveniret, quo quis iudicio publico circumveniretur In- dicta causa.* He was said to bee condemned *causa indicta*, which was condemned before he had spoken for himselfe. Al- though y *Indicere pro non dicere, sicut & insidere pro non vide- re vix reperiatur; tamen indictum & inuisum, pro non dicto, & non viso sape reperiuntur.* ² 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. ³ The verbe *Circumvenio* doth commonly signifie as much as *Circumscribo*, to deceaue or cheat one: but in this place, to op- presse one with false iudgement, procured by bribery or con- federacy.

y P. Ramus in
orat. pro Ra-
birio.
Fr. Sylv. in
orat. pro Clu-
entio.
I. Camerac.
in orat. Cic.
pro L. Flacco.
Fr. Sylu. in
orat. pro Clu-
entio.
Cic. pro Balb.

Lex Papia de peregrinis.

The priviledges of the Roman citizens became so great, that almost all the inhabitants of the confederat nations, would forsake their owne dwellings, and vse meanes to be- come free denisons in the Roman citty; insomuch that the Embassadours of the Allies, and associates, did grieue much and

and complaine of the losse of their inhabitants: wherevpon a law was made by *Papius*, that all forreiners and strange comers 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.

Serulia lex de ciuitate:

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

Quis Latinus] Here wee will obserue with *Sigonius*, that the Latine people were not alwaies called *Latini* & *Italici*: Cic. de iure Ital. l. 1. c. 2.
Sed & *socij*, & *Latini socij*; & *socij nominis Latini*, & *socij nominis*, *Latinus*, & *socij ab nomine Latino*, & *socij ac Latium dicti sunt*.

Sylvani & Carbonis lex de peregrinis.

Silvanus and *Carbo* being *Tribuni Pl.* preferred a law, *ut qui federatis ciuitatibus adscripti essent, situm, cum lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, ciues Romani essent*. Cic. pro Ar. - l. chia.

Adscripti.] For the right vnderstanding hereof wee must note, that there were two sorts of citizens; some *ciues nati*, that is, citizens by birth; others *ciuitate donati*, that is, citizens by donation, or gift; who because they were added vnto, & registred with the first sort of citizens, were thence called *Adscripti ciues*. d Fr. Sylu. in orat. pro lege Manil.

Professi apud prætorem.] This verbe *profiteri* is sometimes *Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to tender 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 priuiledge of hauing commons in the Roman fields. Cic. pro Dq. mo.

Gellia

Cic. pro Balb. L. Gellius Publicola, and Cn. Cornelius Lentulus being Cōsuls decreed a law, that all those private persons vpon whom Cn. Pompeius in his wisdome should bestowe the freedome of the Roman cittizens, should euer be accounted free demissons.

CAP. 5.

De legibus ad comitia spectantibus

Cic. multis in locis,

QÆlius Pætus asked a law in time of his Consulship, *ut 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.

Ageretur cum populo.] Here wee may note the difference betweene these two phrases, *Agere cum populo*, and *Agere ad populum*. He was said *Agere ad populum*, whosoever made any speech or oration vnto the people, and this might bee done vpon any day indifferently: But then only was it said *Agere cum populo*, when the people were assembled to the giuing of their voices by a lawfull Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done, but vpon one of those daies which they called *Dies Comitiales*.

g Berfman. de
vet. dier. ratio-
ne ad finem.
Ovid. Fast.
Cic. in suis o-
rat. scpe.

Fusia lex.

Pub. Furius sine 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.

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

Gabinia lex.

At first, for many yeares the *Roman* people in their as- *Cic. 3. de leg.*
semblies did suffrage *Viva voce*: at which time many of the
inferiour sort, gaue their voices contrary to their wills, fea-
ring the displeasure of those that were of higher place. For
the better helpe in this point, *Gabinus* asked a law, that the
people in all their elections might not suffrage *Viva 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 tabel-*
lariae.

Cassia lex.

After *Gabinus*, *Cassius* also preferred a law, that both the *Cic. in Laelio.*
Iudges in their iudgements, and the people in their assem-
blies should suffrage by rendring such tablets: ^h but this is ^h *Rosin. ant.*
to bee vnderstood onely of those assemblies by wards cal- *lib. 8. c. 3.*
led *Comitia Tributa*: wherein they treated of mulcts and
mercements.

Caelia lex.

Caelius Trib. Pl. established a law, that not only in mulcts *Cic. 3. de leg.*
and mercements, but also *In perduellionis iudicio*, that is, in
taintments of treason against any person of state (namely
such as were *sacrosancti*) or against the common-weale, this
Tabellary liberty should haue place, when the people should
iudge thereof.

In perduellionis iud. ⁱ This word *perduellis* doth signify an ⁱ *Caelius Sec.*
enemie vnto the state, a traitour: and hence commeth this ^{Curio in orat.}
word *perduellio*, signifying not only the crime of treason, but ^{pro Milone,}
the punishment also due therevnto, ^k *Si crimen quod erat gra-* ^k *Sig. de iud.*
vissi. ^{lib. 3. cap. 3.}

vissimum inter crimina, nempe imminuta maiestatis: si poena, 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 Associates 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 soeuer, 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 *Amphora*, deeming that sufficient for the transportation of their corne from the *Roman* field. Secondly, by this law the Senators were forbidden the vse of trading.

Alex. Gen. dier. 1. 2. c. 20.

Amphora,] *Alexander Neopol.* obserueth two sorts of these measures, namely *Amphora Italica* containing 2 *Vrnas*; & *Amphora Attica* containing 3 *Vrnas*: every *urna* contained two gallons and a pottle. This in probability is vnderstood of the *Italian Amphora*.

Tullia lex.

Cic. Philip. 1.

When as a custome had growne, that many of the Senators hauing by speciall fauour obtained *Liberam legationem*, vpon

upon all occasions would abuse that their authoritie, procuring thereby their private gaine, & the increase of their own 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 never bee granted to any longer, then the space of one yeare.

Legatio libera.] We may obserue in ancient autors three severall kindes of embassages. The one, which is a message sent from the Prince or chiefe governours of one countrey vnto another, and that is exprest commonly by this one word *Legatio*, without any addition therevnto; sometimes it is called *Legati 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 votiva*. The third is the office or title of an Embassadour, granted vpon speciall favour vnto a *Senator*, that he might with the greater authority prosecute his private suits in law, or gather vp his debts in that Province whether he went, this last was termed *Legatio libera*. All three sorts are briefly touched by *M. Toxita*.

M. Toxita
in orat. *Phil. 1.*

CAP. 7.

De Magistratibus.

L Cornelius Sylla being *Dictator*, made a law, that all *Cic. in Pison*; such as would follow him in the ciuill warre, should be capeable 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 bee made vncapeable of the *Roman* magistracies.

Ee 2

Before

Before they came to their full age] For *L. Villius* preferred a law, whereby he made such as were vnder age, to bee vncapeable of the city preferments: and those he accounted vnder age, who had not attained vnto that number of yeres which he had prescribed each seuerall office: and this law was tearmed *lex annalis*.

P. Ramus, in
Agrar. 2.

Proscripti were such persons as were banished. For the fuller vnderstanding, looke *Proscription* in the tract of punishments. *Julius Caesar* did contrary to this law. *Admisit ad honores & proscriptorum liberos*. *Sueton. Iul. 41.*

Hircia lex.

A. Hircius made a law, that all those that followed *Pompey*, should bee made vncapeable, of all places of office.

Cic. Phil. 13.

Cornelia lex.

L. Cornelius Sylla finding the *Pratores*, 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 euery *L. chiefe Iustice* should administer iustice according to that his first Edict, hanged vp at the beginning of his office. An addition vnto this law was, that the *L. chiefe Iustice* should not be absent out of the city about ten daies.

Cic. Philip. 2.

Clodia lex.

In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censor* did plainly gaine say 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 *Senatores*; neither should they brand any with disgrace, except such as had beene accused vnto them, and beene condemned by them both.

Cic. pro Sext.

Valeria lex.

The office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus* being *Inter-*

Cic. Verrin. 4.

rex

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 *Cic. 3. de leg.* 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.

CAP. 8.

De legibus.

Cæcilia Didia lex.

Q *Cæcilius Metellus*, & *Titus Didius* being *Consuls*, *Cic. pro domo* 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. Moreover 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.

Iunia Licinia lex de trinumdino.

Iunius Silanus, and *L. Licinius Murena* being *Consuls* established that law of *Cæcilius & Didius*, annexing a more seuer punishment for the breakers thereof. *Cic. Philip. 5.*

Clodia lex de intercessione.

P. Clodius Trib. Pleb. 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 Sexto*

Cic. pro domo
sua ad pont.

Licinia Aebutia lex.

Licinius and *Aebutius* being *Trib. Pl.* ordained that if any preferred a law touching the oversight, the charge, or cure of any business in hand; neither he, nor any fellow-officer with him, nor any allied vnto him should haue this oversight, or charge committed to him.

CAP. 9.

De Provincijs.

Sempronia de Provincijs.

Cic. de prov.
consularibus.

C *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate euery yeare before the election of their *Consuls*, should as it seemed best to them, appoint out what Prouinces the *Consuls* now to be elected, should after the expiration of their office goe vnto; for which Prouinces after ward 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 *Roman* assemblies, henceforward they should haue no authority.

Cic. ep. 9. ad
Lentul.

Cornelia de Provincijs.

L. Cornelius Sylla being *Dictator* preferred a law, that whosoever went into a Province *cum imperio*, *tamen dimittend imperium retineret, quoad in urbem reuersus esset*: whereas 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 Prouince, the old *Provinciall President* should depart within thirtie daies.

p Sig. de iur.
Prov. l. 3. c. 13.
q Sig. eiusd.
lib. cap. 6.

Esse cum imperio, that is, *Exercitui praesse, & vel habere ius administrandi, & suis auspicijs gerendi belli.*

Tatia

Titia lex de Provincia.

Titius, or (as some say) *Decius* preferred a law, that the Provinciall Treasurers called *Quaestores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell vpon *Seruius Sulpitius*, yet in as much as it fell *Lego Titia*, that is, by casting lots, hee could not therefore challenge any superiority aboue *L. Murana*, *Sed utriusq; nomen confedit in Quaestura*, that is, their fame and renowne was equall in their *Quaestorship*.

Julia lex de Provincijs.

C. Julius Caesar established two lawes touching the Roman Provinces: one that no *Prator* should gouerne a Province aboue twelue months; nor *Proconsul* aboue two year. The seuerall 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*, *Theffalia*, and all *Gracia* should bee free, neither should any Roman Magistrate sit in iudgement in those Provinces (*Cic. pro domo*) Secondly, that the Provinciall gouernours & their *Comites*, that is, assistants, or attendants should haue hay, and all other necessities prouided them on the way, by those Townes and 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 copy 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.*)

Aurum coron.] There was a custome among the Romans

(*Lipf. de mag. Rom. l. 2. c. 9.*)
in

in times of victory to present vnto the L. Generall Coronets of gold, instead whereof the after-ages presented a certaine summe of mony, which was thence called *Aurum coronarium*.

Vatinia de Provincijs.

Cic. pro Balb.

P. *Vatinus* Trib. Pl. procured a law, that *Iulius Caesar* should haue the gouernment of *Gallia Cisalpina*, and *Illyricum* for fīue yeares space, without any decree from the *Senate*, or casting lots. Secondly, that they also should goe as Legates, or L. Deputies vnto *Caesar*, without any decree from the *Senate*, whosoever were nominated in that law. Thirdly, that *Caesar* should receaue mony out of the common Treasurie-house towards hauing an army. Lastly, that hee should transplant a Colony vnto a certaine towne of *Cisalpina Gallia*, called *Nonocomum*.

Clodia de Provincijs.

Cic. pro Dom.

P. *Clodius* being Trib. Pleb. procured a law, that the gouernment of *Syria*, *Babylon*, and *Persia* should be committed to *Gabinus*. The gouernment of *Macedonia*, *Achaia*, *Thessalia*, *Gracia*, and all *Boetia* should be committed vnto *Piso*; and they should receaue together with an army, mony out of the common Treasurie towards their iourney.

Clodia altera de Cypro.

Cic. pro Sext.

P. *Clodius* preferred another law, that the Iland *Cyprus* should be made a Province. That *Ptolemaeus* the king of *Cyprus* sitting in his purple, with his scepter & other his princely ornaments, *Praconi publico subiceretur*, & *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 Pratorio*, *adiecto etiam Questore*, hauing by commission the office of a L. chiefe Iustice, & another Treasurer to accompany him, should bee sent into the Iland *Cyprus*, both to make sale of the kings goods & estate, and also to bring backe the money. Lastly, it was decreed by this law, that those who liued in exilement at *Byzantium* being

condemned for some capitall crime, should be brought back vnto the citty, vnder the name of *Romanes*.

Praconi publico subiceretur.] 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 praconem sub hasta*, that is, by the cryer vnder a speare flicked vp for that purpose, and some Magistrate making good the sale by deliuey of the goods. Whence I take *Publico praconi subijci*, and *Hasta subijci*, to signifie one and the selfe same thing, namely, to be set at sale: and *Cicero* Cic. Phil. 11. vseth almost the selfe same phrase, *Bona Cn. Pompeij, voci acerbissime subiecta praconis*. 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 *Cic. Id quod a malo auctore emissent*, that is, that which they had bought of one which had no authority to sell: and from this custome of setting vp a speare in this kinde of sale, this word *Hasta* alone is vsed to signifie port-sale, as *Hasta Caesaris*, the sale of *Caesars* goods. Those who bought these goods *Tully* doth call *Sectores* *quia 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 redceme the goods, then did he *deycere libellos*, that is, put in bands and secritie to answer the matter. The phrase is vsed by *Tully Cic. pro Quintio*. And also by *Seneca, de benef. lib. 4. cap. 12. Suspensis amici bonis libellum deycio, creditoribus eius me obligaturus*. It is thus explained by *Turnebus adv. l. 12. cap. 9*. If the sale proceeded on, then such as propoied to be chapmen, signified their desire by holding vp their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.*

CAP. 10.

De legibus Agrarijs

THose lawes were tearmed *Leges Agraria*, which did concerne the diuision of the publike, or common fields. And these were either giuen by *Romulus* and other kings; or taken from the enimies, or from priuate men which had made incloasures; or lastly bought out of the common *Treasurie*. *Vid. a Sigon.*

a Sig. de iure Ital. l. 2. c. 2.

Sempronia lex Agraria

Cic. pro Sext.

b Sig. de iure Ital. l. 2. c. 2.

Titus Sempronius Gracchus Trib. Pleb. preferred a lawe which forbad, that any of the *Romans* should haue to his owne part aboue fise hundred acres of the common fields, the one halfe of which it was lawfull for his sonnes to enioy. If it had so hapned that any should enlarge these common fields, three suruayers called the *b Triumviri agro diuidendo*, did marke out which was common, which priuate ground. Moreouer it was by this law provided, that the mony of king *Attalus* who made the people of *Rome* his heire might be bestowed vpon those cittizens, 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 yearly tribute should be paid to the people.

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 be vnderstood chiefly of those fields in *Thuscia*, neere vnto the City *Volaterra*, & the citty *Fesula*, which grounds *Sylla* diuided amongst his souldiers.

Cic. in Rullum.

CAP. 12.

CAP. II.

De frumentarijs legibus.

Sempronia lex.

T Sempronius Gracchus being tribune of the commons provided, 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 frumentariae*. This place was called *Horrea Sempronia*. The quantity of corne laid vp in euery Citty for this purpose is by the latter Lawyers tearmed *Canonas* (*Canon Alexandrinus*, *Canon urbis Romae*, &c. *vid. Stuk. de conviv. lib. 1. c. 35.*)

Cic. pro Sext.

Rosin. ant.
lib. 8. c. 12.

Semisse & triente] It appeareth by the next law, that *Semissis* in this place, must signifie the same as *senis aris* doth there. Whereby wee may note, that *semissis* doth not alwaies signifie the halfe part of the *Romane* coyne called *As*, but sometime it signifieth a greater coine valuing almost our sixpence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corne which heretofore was sould to the poore *senis aris & trientibus in singulos modios*, that is, for six pence farthing a bushell, should hereafter be giuen *gratis*, & the charge and ouersight of this dole was committed to *Sext. Claudius*.

Terentia Cassia.

M. Terentius and *C. Cassius* being *Consuls* presided a law, *Ut altera decumae a provincijs coemerentur, pretio singulos modios HS trium constituto. Item ut ciuitatis aequaliter imperaretur, pretio in singulos modios HS quatuor constituto.*

Cic. pro Sext.
in Pilone.
Cic. Verrin. 5.
& 7.

¶ Sig. de iure
Prov. l. i. c. i.

¶ Fr. Sylv. in
orat. pro Clu-
entio.

¶ Cic. in l. 4.

For the better vnderstanding of this law, wee must note a threefold tithe payd by the Provinces. The first was the tenth part of the graine, growing in the Province 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 riches was a certain quantitie of corne taken vp for the L. President or chiefe governour of the Province, to keepe his house, and that was called *Frumentum aestimatum*, that is, corne gathered vp by way of taxation: for so this word *aestimo* coming from *as*, doth signifie. *Est autem aestimare ab asare 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 Provinces to sell them a quantity of corne at a prise set downe by the *Senatores* themselves; and this corne sold vp on inioyction 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 [*altera decumae*] is meant *Frumentum emptum*; in the second clause, by these words [*omnibus aequaliter imperaretur*] is vnderstood *Frumentum imperatum*.

Lex Hieronica.

Hiero king of Sicily 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.

CAP. 12.

De legibus sumptuarijs sive cibarijs.

In ancient times there was a commendable frugality among the *Romans* in their feasts, but after ages grew to immoderate excesse therein, so that whole Goates and Boares

Boares &c. were set on the table at one time. Such a hogge thus dressed *Cancius* was wont to call *Porcum Troianum*, al-
luding to the Trojan horse; because the belly thereof was
stuffed with variety of fowle and rabbits, & such like, as the
Trojan horse was with armed men. This kinde of excesse *Ti-
berius Caesar* laboured to redresse, by serving at table his cold
halfe-eaten dishes at solemne feasts, using this proverb *Di-
midatus aper omnia eadem habet que totus*. Hence also men of
feuerer discipline enacted lawes tearmed *Leges sumptuarie*, or
Cibarie, 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 be
inuitd, that they should not exceed such a number. The
chiefe of these lawes were these that follow.

Lex Orchia.

C. Orchius being protector of the commons, by the con-
sent of the Senate, the third year 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.

Twentie two yeares after *Orchius* his law *C. Fannius* be-
ing Consul enacted another, for the moderating of expences,
allowing; *Non plures denis assibus* to bee spent in their ordi-
nary feasts: But vpon those more solemne feasts dedicated
vnto *Saturne*, and from thence called *Saturnalia*, likewise
when any publique games were exhibited to the Roman
people, he then allowed *Centum asses*, ordaining that no other
fowle should then be dressed but only one hennie, & that not
fatted for the purpose.

Non plures denis assibus] The Roman coyne *As* was so
called *quasi as*. because the matter thereof was *brasse*; 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 euey pound of brasse fixe of those coynes, each valuing as

much as they did at first. In the second *Punic* warre then 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; * for tenne of these were the price of a sheepe, and an hundred the price of an oxe.

6 A. Gell. l. ii.
cap. i.

Lex Didia.

Eightene yeares after *Fannius*, *Didius* ordained that the former sumptuary lawes should be of force, not onely in *Rome*, but throughout *Italy*; Moreouer that not only the feast-master transgressing, but all the guests should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in a manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, then 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 vsfull law, to moderate expenses 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 ey-witnesse of the contempt of that law, which himselfe had caused. If any desire to see more lawes of this nature, let him read *Stuk. conviv. lib. 1. cap. 3. Ant. Gell. lib. 2. cap. 24.* And *Macrob. Saturn. lib. 3. cap. 17.*

CAP. 13.

*Dere militari & bellis.**Gabinia lex.*

A *Gabinus Tr. Pl.* preferred a law that the managing of the war against the Pyrats should bee in such manner committed vnto *Pompey* for three yeares space, that ouer the whole sea betweene *Hercules* his pillars, and in the maritime provinces vnto the foure hundreth *Stadium* from the sea, he 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. Pleb. perswaded a law, that the managing of warre against *Mithridates* should be committed vnto *Cn. Pompeius*. That the whole Province where *L. Lucullus* ruled together with his whole army should be resigned vp vnto him. Moreouer that *Bithinia*, where *Glabrio* ruled, should be added, together with all those bands and forces, which hee had vpon the sea against the Pyrats, and all those provinces, over which the law *Gabinia* did entitle him gouernour, as *Phrygia*, *Lycaonia*, *Galatia*, *Cappadocia*, *Cilicia*, *Colchis superior*, and *Armenia*.

Cic. pro lege Manilia.

CAP. 14.

De Tutelis.

T His word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof *Camerarius* obserueth foure sorts, & we may with *Petitaris* adde the fift. Either the ouerseers were appointed by will; or else the next of the kinne were ouerseers; or the magi-

f. l. Camerari in orat. pro L. Flacco.

g I. Omphal.
in orat pro
Cæcinnæ.

h Pellitarius
pro Cæcin.

i Cic. pro
Muren.

k Vid. leg. 12.
tabul.

l Sig. de iure.
Rom. l. 1. c. 10.

m 3. de offic.

magistrate did appoint whom he thought fit: and these three sorts *g Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam, que eorum est, qui emancipati desissent esse agnati*. the fifth *h Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certaine chiefe overseers were appointed to see the will performed, who were called *Tutores honorarij*.ⁱ Where wee must note, that the law provided overseers, not for children vnder age only, but for women also.

Emancipati desissent esse agnati] By the Roman law every 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 alienation 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 oversight of this child fall vnto the next of the kinne, tearmed *Agnati*, but *Quoniam desit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the child belong vnto the father in trust, tearmed *Pater fiduciarius*, whence the guardianship it selfe was called *Tutela fiduciaria*.

Latoria lex.

This law made by *Latorius* provided, that there should be overseers appointed for those which were distracted, or did

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 english prouerb, 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 themselves, we will explaine those three diuers sorts of wills 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 themselves 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 foure of his fellowes, and in the audience of them did by word of mouth pronounce his last will and testament. Thirdly, *Testamentum per emancipationem familiae*, that is, by making ouer his goods and possessions vnder a fained forme of sale, vnto a second party called *Heres 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 prooffe of this, which hath been deliuered, touching the three sorts of wills I

^m Sig. de iure
Rom. l. i. 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 manumited him, or some other certaine persons *supra mille asses*, that is, aboue fiftie shillings or thereabout, 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 census esset, virginem, neve mulierem supra quadrantem suorum bonorum heredem institueret, plusne cuiquam legaret, quam ad heredem, heredesue 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, signifying such an 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 *Sesterces*. (*Vid. Asconium in Verrin. 3.*)

ⁿ Barch. Latom.
in orat.
pro Cecinna.

Supra quadrantem suorum bonorum] that is, No woman should be heire to more then one quarter of such a richmans goods. For the right conceauing of this, we must note with ⁿ *Latomus*, that the whole inheritace (were it neuer so great) was tearmed *As*, and that was divided into twelue parts, which the lawyers called *Uncia*: *Dua uncia dicebantur Sextans, tres Quadrans, quatuor Triens, quinq, Quincunx, sex Semissis, septem Septunx, octo Bessis, novem Dodrans, decem Decunx, undecim Deunx, Totum As, ut dictum est*, Againe every *Uncia* was divided into six parts called *Sextula*: *Dua sextula Duellam, tres Semunciam faciunt*. So then according to the lawyers (as ^o *Alexander* obserueth) if there were one heire alone instituted, he was tearmed *Heres in Assem totum institutus*; if other wise there were many co-heires, then was it according

^a Alex. Gen.
dier. l. i. c. i.

cording.

ording as the *Testator* did appoint. Some were *ex Decem heredes*, that is, heires to eleuen 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 *Heredes ex semuncia*, that is, they had the foure and twentieth part: others were *Sextula aspersi*, that is, they had the threescore and twelue 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 heres in totum Assem, & ex toto Asse*. For all those, which were nominated *Heredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howsoeuer, yet were they tearmed *Heredes ex toto Asse*, that is, they were not *Legatarij*, such as receaued legacies. Now none can be said *In totum assem institui*, but he which is the alone and sole heire vnto the whole.

CAP. 8.

De vsu-capione.

Atinia lex.

ATINIVS made a law, that the plea of prescription or long possession should not auaile in things that had beene stolne, but the interest which the right owner had in those stolne goods, should remaine perpetuall. The words of the law are these: *Quod surreptum est, eius rei aeterna auctoritas esset*. Whereby *auctoritas* is meant *ius domini*. ^{p Sig de iure} This crime of theft, as likewise of vsury, was so odious vnto ^{Rom l. i. c. ii.} the Romans, that whosoever was found guilty thereof was condemned ^{q Fr. Sylv. in} *Lege quadrupli*, that is, to pay foure times as much: whence the informers against such, were tearmed *Quadruplatores*. ^{Verrin. i.}

CAP. 17.

De Iudiciis, & Iudicijs.

Lex accusatoria.

Cic. pro Mur. **T**ully 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 party accused, not onely the present crime then questioned, but all other scapes and faults committed long before to the bettering of his matter: that at length this accusatory custome became in manner of a law, and so was called *Lex accusatoria*. vid. *Franc. Syluium in orat. pro Mur.* Their custome also was to procure others to ioine with them in their accusations; those Tully callieth *Subscriptores*, because they did subscribe vnto the accusation.

r Alex. Gen.
dier. l. 3. c. 5.
f Cic. pro
Muran.

Lex Servilia & Sempronia.

Curio in orat. pro Scauro. Whereas *Sempronius* had preferred a law, whereby hee tooke away the authority of sitting in iudgement from the *Senatours*, and appropriated it to the *Roman Gentlemen*; *Q. Servilius Capio* being *Consul* did afterward preferre another law, whereby the administration of iudgement was diuided betweene the *Senatours* and the *Gentlemen*.

Rupilia lex.

Cic. in Ver. 2 Sig. de iure Prov. l. 2. c. 5. *Rupilia lex vetabat diebus triginta sortiri dicam.* Here we must note with *Sigonius*, that this law was of force only in the prouince 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.

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law the *Senators* were made capeable of the office of a Iudge, yet they were not 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.

Plantia 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 fiftene 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 *Tribuns ararij*. Cic. in Verr. saepe.

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 *Senatours*, Gentlemen, and *Martiall Treasurers*; also hee added that the number of Iudges to examine causes should be seauentie and five. Cic. in Pison.

Iulia lex.

C. Iulius Caesar ordained, that the election of Iudges should be out of the *Senators* and Gentlemen only, leauing out the *Martiall Treasurers*; and this *Tully* calleth *legem Iudiciariam Caesaris*. Cic. Philip. III.

Antonia lex.

M. Antonius tulit *legem*, *ut tertia iudicium decuria e Centurionibus, Antesignanis, Alaudis, Manipularibus fieret.* Cic. Philip. 1.8.5.

Iudicium decuria: When the *L. chiefe Iustice* had takē his oath, he chose out some *ex certis ordinibus*, nō *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 *causae publicae*: and these Iudges hee afterward diuided into lesser

numbers called *Decuria*. vid. *Sigon. de iure Rom. lib. 2. c. 18.*

E Centurionibus.] *Centuriones* were Captaines ouer an hundred footmen.

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 *Triarii*, 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 themselves: (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 seuerall proofes of this, *Lips. milit. Rom. lib. 2. dial. 3.*

Alaudis.] *Iul. Caesar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward hee 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. Matu- rantius in Phil. 1.*

Lex Cincia de donis & muneribus.

M. Cincius being protector of the Commons, *M. Cornelius*

lius Cethegus, and P. Sempronius Tuditanus being Consuls preferred a law, that no man should receave gift or bribe from his client for pleading his cause. Of this we read in *Plautus*, & 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 *Index Questionis*, 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 Clu-
entio.

Memnonia lex.

This law (made by *Memnius*) provided, that no action should be entred against those, who were imployed abroad in busineses for the common-wealth. An addition vnto this law was, that whosoeuer should *calumniari*, that is, forge an accusation against another, a certaine letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here wee may with *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 undertaketh ones suit, and either will not vrge reasons in the behalfe of his client, or answer the objections of his aduersary when he is able, is said *Prævaricari*, that is, to play the false *Proctour*. He which doth desist in his accusation, and let his suit fall, is said *Tergiversari*.

Cic. in Vatin.

Cic. pro Sext.
Roscio.
u Fr. Sylv. in
orat. pro Clu-
entio.

Lex incerta de Nexu.

In ijs rebus que mancipi sunt, in periculum iudicij prestare debet, qui se nexu obligauit, that is, if the buyer of any thing in that forme of sale called *Nexu* be troubled in law, the seller thereof must secure him, and saue him harmelesse.

Cic. pro Mur.

Mancipi sunt * 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 five witnesses, all *Romane* Cittizens and of full age, besides.

x Fr. Sylv. in
orat. pro Mur.

fides one called *Libri-pens* (from holding of a paire of ballances) should be present: and the chapman or buyer should come with a certain brasse coyne in his hand, and say (for example sake, if it were a bondslaue to be sold) *Hunc ego hominem ex iure Quiritium meum esse aio, isq; mihi emptus est hoc are;* & forthwith striking the ballance with the brasse coyne he gaue it to him that made the sale. This kinde of chaffering was tearmed *Nexus*, as wee may suppose *a nectendo*, becaule it did binde the seller to make good the sale; y sometimes it is called *Per as & librum venditio*, because of the ceremonies vsed in it.² Now it is commonly called *Mancipatio* ^a *a manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are vsed to signifie a bondslaue, 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 ut appellant immobilem, ab aliquo mancipare, seu accipere ea lege, ut 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 bargain by paying coined mony, which was called *Æs signatum*, but by paying a certaine weight of mony, whence such mony was tearmed *Æs graue*. And hence it is, that metaphorically we translate *Pendo* and *rependo*, to pay and repay.

^y *Sylv. ibid.*

² *Melanct in orat. pro Mur. a I. Camerar. in orat. pro Muræ.*

^b *Priscian l. 3. wd. Fr. Sylv. in orat. pro Mur.*

^e *Alex. Gen. dier. l. 4. c. 15.*

CAP. 18.

De Maieftate.

Lex Varia.

Q *Varius Trib. Pl.* made a law, that the *Pratores* Cic. pro Cor-
Quaestores should sit in iudgement vpon those, by nel.
 whom the Allies or Affociates had beene moued
 to attempt warre against the Roman people.

Iulia lex.

C. Iul. Caesar ordained, that such as were condemned of trea- Cic. Philip. 1.
 son, or causing vproares in the common wealth, should bee
 banished.

CAP. 19.

De ambitu.

T hose lawes were tearmed *Leges de ambitu*, which
 were made against vndirect or vnlawfull courses v-
 sed in canuasses 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*, bein *Consuls* Cic. pro
 Marcen.
 made a law, that such as were conuined of sinister and vndi-
 rect meanes vsed in their canuasses, should be fined at a cer-
 taine summe of mony set on their heads, and they should be
 made both vncapable of bearing office, and vneligible into a
Senators place.

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 be plaied, within two yeares that he either had stood, or should stand 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 punishment 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 he did vrge his sicknesse for his not appearance, then should he vndergoe a penaltie.

d Sig. de iud.
lib. 1. cap. 28.

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 sontoico impeditur, iudicij dies diffusus esto.*] that is, If either Iudge, Plaintiffe, or Defendant were sicke, they should *diffundere diem, id est, proferre & in aliud tempus reicere*, prorogue the time of judgement. And vnlesse some might thinke, that by *morbus sontoicus* was meant some strange desease, *Sigontus* inferreth that euery desease is tearmed *Sontoicus*, which hindreth vs in the performance of our businesse: *Sontes enim nocentes dicunt.*

Cic. pro Plan-
cio.

Licinia de Sodalitijs.

M. Licinius Crassus being *Consul*, perswaded, *vt in Sodalitijs Indices ab accusatore ex tribubus ederentur.*

Sodalitia

Sodalitia.] In the latter times the Romans in their canvases would gather together a certain company of their side or faction to follow them, teaching 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 Ind. lib. 2. cap. 30.*

Indices 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 *Leſti ſortitione*, of which more may be 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 *Indices editiij*, or the Plaintiffe ſhould chooſe one halfe, and the Defendant the other, and then were they called *Indices alterni*. *Melancthon in Cic. pro Muren.*

CAP. 20.

De pecunijs repetundis.

FIrſt touching the word *Repetunda* *Sigonius* ſaith, that ſuch mony was tearmed *Pecunia repetunda qua 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 Associates, or from the Roman citizens 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 Verinis*) But as it ſeemeth very probable theſe lawes againſt bribery were firſt occaſioned, for the eaſe and reliefe of the Roman Provinces and Allies, called in Latine *Socij*, who were much abuſed in this kinde by the Prov. *Cenſuls*, *Prators*, and *Queſtors*, &c. Whence Tully

ly calleth this law against bribery, *Legem Socialom*. Here also
 Cic. in orat. may we note, that ^dTully vseth this phrase, *Pecuniam occupa-*
 pro L. Flacco. re, for *Fœderari*, to put money to vse. *Occupare pecuniam est*
collocare inquit Nonius, id est, Fœnori dare. Vid. Lambin annot.
in Cic. orat. pro L. Flacco.

Iunia lex.

M. Iunius Pennus Trib. Pl. preferred a law that no such as
 were convinced of bribery, *Prater litis æstimationem exilium*
etiam damnato esset irrogatum.

Litis æstimationem. Here we will consider the difference
 of these three phrases, *Litis contestatio*, *Litis redemptio*, & *Li-*
 e Sig. de ind. tis æstimatio.^c The first signifieth the producing of witnesses
 lib. 1. cap. 27. when both sides shall openly in the court vse the forme of
 words, *Testes estote*: which was not done, *antequam satisfactio-*
nes factæ essent, before sureties were put in, by the one, that
 he should *Iudicatum solvere*, pay that which he was condem-
 ned: 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 composition or an argument agreed vpon
 by both sides betweene themselves: ^f*Redimere lites est pa-*
 f Fr. Sylv. in orat. pro Q. Roscio. *ctationem facere; qui enim paciscitur, facit ut lis non sit.* The third
 is when the party which is cast in the suit is adiudged to pay
 the money, or the worth of the goods called in question, toge-
 ther with the cost and damages in law vnto his adversary.
^g *Litem æstimare est pecuniam, de qua lis fuit, & propter quam*
 g Fr. Sylv. in orat. pro Clu- *condemnatus est reus, in summam redigere, qua de bonis eius re-*
 entio. *digatur.*^h And *Æstimare litem est, quod vulgo dicitur, Taxare*
 h L. Tiffin. in orat. pro Ra- *litis expensas.*

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused
 of bribery, *Neg. ampliari, neg. comperendinari possent*, that is,
 they must out of hand receiue iudgement.

For the right vnderstanding of these two words [*Amplia-*
ri & 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 vpon 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 bale 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 be written in their actions: which letters *Probus* expoundeth; Sig. de Iud. thus: *In diem tertium, sine perendinum*. So that then properly. lib. 1. cap. 27. *lis vel reus dicitur comperendinari*, when the giuing of sentence is differred till the third day. Moreouer before the *Prætor* would suffer the action to be entred, he would sweare the Plaintiffe, that he did not accuse the Defendant *calumniandi causa*, that is, fallely or maliciously, and this kinde of swearing was tearmed *Calumniam iurare, calumniam dejurare*, and *In litem iurare*. Now if either party were absent from the court vpon the third day, except he were sicke, he 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 Processes or writs, before the *Edictum peremptorium* could be obtained; sometimes it was graunted at the first, and then was it^k called *unum pro omnibus* Sig. ciuld. l. cap. 28.

[Sig. ciuld. l.
cap. 21.

*bus.*¹ Now if both parties came into the court and did appeare, then were they said *sestitisse*: so that this word *sisto* amongst the lawyers did signifie to shew ones selfe in the court. Vpon the third day the *Prator* also with the whole bench of Iudges did meete, and the *Index Quaestionis* (whom *Rosinus* maketh a distinct officer differing from the *Prator*) did cause all the *Select* Iudges to pull out certaine lots, out of an urne or pitcher brought thither for that purpose, & those Iudges vpon whom the lot fell were to sit in Iudgement: This was called *Sortitio Indicum*. Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he accept against them, and that was called *Iudicum reiectio*: Then the *Index quaestionis* would in manner afore said choose other Iudges in their places, and that was called *subsortitio*. Which being ended, those Iudges which were thus chosen received every one of them from the *Prator* three tables, the one hauing this letter *A* written in it, betokening *Absolution*: wence *Tully* calleth it *litteram 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 *Prator mittere vel dmittere iudices in consilium*, that is, sent them to cast their tables into the urnes, there being three urnes 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 urnes, then the *Prator* pronounced the defendant 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 termed *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 have beene receaued also among the Græcians, who had three letters of their alphabēt, answerable to those among the Romans; Θ was *damnationis symbolum*, which occasioned that of Persius,

Et potis es nigrum vitio præfigere theta.

Τ; a token of absolution; Α of ampliatiō. *Vid. Erasmi. Adag.* Θ *præfigere*. Some as it appeareth by *Erasmi*. giue a reason of Θ, because it resembleth the heart of man wounded in the midst with a dart; others because it is the first letter of *θάνατος*, signifying death according to that,

Infelix multis theta est, mihi littera felix.

Si θάνατον scribit, scribit & illa Θ σοφ.

Cornelius Sylla Being Dictator ordained a law that the chiefe Iudge called *Index Questionis* with the whole bench of Iudges, should sit vpon life and death on such as had killed a man; on such as had with an euill intent set any place on fire; on such as should walke with any weapon either to kill or robbe a man; on such as had either made, bought, sold, had, or giuen any poyson, thereby to kill a man; on any magistrate, whosoever should cause any conventicle 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. Moreover *De eius capite querito &c.* that is, Let them sit vpon life and death on that man, which shall beare false witnessse, that another might be 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 kinsfolke, but in *Numa Pompilius* his time it signified as much as *homicidium*, that is any man-slaughter whatsoeuer.

Lex. 12. tabularum de Vindictis.

SI qui in iure manum conferunt, utreiq; superstitionibus presentibus vindicias sumunto.

Si qui in iure. Here wee must note that the custome among the Romans in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the Prator did goe vnto the house, field, or the thing questioned, being accompanied thither with the plaintiffe and the defendant, together with others whom the law required to be present as witnesses. This place wheresoeuer it were, though in the open field, during the time that the Prator sate there to giue iudgement, was tearmed in Latine *Ius*, in English a Court. Wherein the presence of the Prator and the witness, the plaintiffe and Defendant did *manum conferere*, 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 said *manum vel manu conferere*, when they fight hand to hand. [*Vtreiq; superstitionibus presentibus*] that is, let both parties in the presence of witnesses (so *n Festus* expoundeth *superstitos*) [*Vindicias sumunto*] that is, let them take a turffe of the ground: for so *o Sigonius* expoundeth *Vindiciae*; though properly (as he obserueth) it signified the possession of a thing, rather than the thing possessed. This turffe being taken vp, was carried to the Prator, and iudgement 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 Prator, vpon which as vpon the whole he gaue iudgement. In processe of time, the Prator by reason of the tumult of other employments; not finding convenient leasure to review euery particular

*m I. Camerar.
pro L. Muræ.*

*n Rosin. ant.
lib. 8. c. 29.
o Sig. de iud.
lib. 1. cap. 21.
Vindiciam ferre
est sententia de-
cretoq; rem obti-
nere: Dicebat
Vindicias index
ferebat Vindici-
as qui rem obti-
nebat Turneb.
adv. 4. 13. 27.*

cular ground, or house called in question, P it was ordained pA. Gell. noct. contrary to the twelue tables, that the plainteiffe in such ca. Attic. l. 20. c. ses should come into the court, and challenge the defendant 19. 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 inioyneth. Then did the defendant either yeeld the possession of the ground, or else did reply. *Unde 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 *Prator inire viam*, that is, goe into the ground bringing back a turffe thereof, vpon the which (as in manner shewne) the *Prator* gaue iudgement at their returne.

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 q De iud. lib. x of these did arise from the Roman law, the other from a cu- cap. 1. stome amongst the Romans: the first of these is to be seen in *Tully* his oration *pro Murana*, the other *pro Cœcinnâ*. To these *Sigonius* addeth a third kinde of seeming violence; which how iustly he hath tearmed a violence, I shal leaue to the indifferent iudgement of the vnpartiall reader. The right of the Lordship or owning any thing was sued for in this manner: The plainteiffe 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

Don. lib. 2. c. 1.
2. 2. 2. 2. 2.

¶ Sigon. de iu-
dic. lib. 1. cap. 21.

¶ Cic. orat. pro
Muræna &
pro Cæcinnâ.

¶ Sig. de iud.
lib. 1. cap. 21.

¶ Sigon. de iu-
dic. lib. 1. c. 27.

put in a gage of money 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 money to be forfeited, if he preuailed not in his suit. This gage of money was tearmed *sacramentum*; and in this sense, *Tully pro Milone*, saith, *In iustis vindicijs, & sacramentis alienos fundos petunt*, that is, they sue for other mens grounds, with vniust actions and gages of money. Thirdly, *An satisfaret*, that is, whether he would put in surety, that during the triall in law, the ground or house called in question should not be impaired. The solemne forme of words vsed in the first demand, is thus to be scene in *Tully*, *Quando in iure te conspicio, postulo aures auctor*? If the defendant held his peace, then was hee ad- iudged to pay all costs and damages; 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 Prator say vnto the plaintiffe, *Quando negat, sacramento quarito*: 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 replied, *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 *sponsiane & sacramento provocare*, *sacramento rogare, querere, & stipulari*, that is, to challenge one to pawne a summe of money 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 maner. This money was tearmed *sacramentum*, because when it was forfeited, it was bestowed *in rebus sacris & divinis*. Touching the last interrogatory, I read no set forme of words, but by the word *satisfactio*, the intelligent reader may coniect, that it did somewhat symbolize with our English custome of putting in bale. ^a This putting in of bale was twofold. The one was *satisfactio indicatum solui*, to bind himselfe to

to pay what should be adiudged. The second, was *satisficare 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 plaintiffs Proctour or Atturny. But if the Action were an Action of debt, then the Proctours alone became bound; the Plaintiffs Proctour that he would stand to the indgement; the Defendants Proctour, that the debt adiudged should be paid.

I 2

LIB





LIB. 4.

*Rites and customes observed by the Romans
in their warres.*

De Militiâ.

Ouching the art *Military* vsed among the *Romans*, it will not be impertinent to consider, first how warre was proclaimed, & peace established by them: Then to march on to the description of their bands, or companies, where we may first obserue the office of their chiefe Captaine, and their subordinate leaders, together with the seuerall wards into which the vniuersall army was diuided. After this we may descend vnto the diversitie of punishments vsed toward Captiues, & likewise towards refractarious and disobedient souldiers: Adding as a *Corollary*, or *Period* to our whole discourse the seuerall rewards, which the L. Generall with his souldiers after the performance of certaine noble archieuements receaued,

CAP. I.

CAP. I.

Deritus, quem Romani observârunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione 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 & vling this solemne forme of words: *Si rectè & sine dolo malo hoc fœdus atq; hoc iniurandum facio, dij mihi cuncta felicia præstent; sin aliter aut ago aut cogito (ceteris omnibus saluis) in proprijs patrijs, in proprijs legibus, in proprijs laribus, in proprijs templis, in proprijs sepulchris solus ego peream, ut 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. ^a 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, ut ego hunc porcum hodie feriam*: alluding to which custome *Virgil* saith,

Et caesa iungebant fœdera porcâ.

The manner of denouncing warre hath beene already 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; & whatsoeuer souldier was discharged of his ser-

^a Polyb. vid. Rost. antiq. l. 10. c. 2.

^b Sig. de iure Ital. l. 1. c. 1.

e Orat. pro
lege Manil.
d Serv. l. 2. &
7. Æncid.
e Lipf. de mil.
lit. Rom. lib. 1.
dial. 8.

f Vid. Lipf. de
mil. Rom. l. 1.
dial. 6.
g Lipf. de mil.
Rom. l. 1. dial. 4

Vario.

h Serv. Æn. l. 8

vice, as having served out his whole time, he was called *miles emeritus*, & by ^c Tully, such an one is said *stipendia confecisse*. ^d Servius hath observed 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 *Servius*; but the explanation of them partly from *Servius*, and partly from *Lipsius* in the places now quoted. Ordinarily souldiers at their presse did each severally take their oath not to forsake their Captaine or country; & this oath was called *Sacramentum militare*. The words thereof are rendred by ^f Polybius 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 severely 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 suspicion of imminent danger) the chiefe leader of the souldiers did goe vnto the Capitoll, & bring forth two banners or flaggs, the one red called therefore *Vexillum Roseum*, vnto which the footmen repaired; the other sky-coloured called therefore *Ceruleum*, which the horsemen followed. The reason why the horsemens banner was sky-coloured, is ^h rendred thus, because it did most resemble the colour of the sea, which color 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 severally be sworne, therefore did they take their oath in common altogether, onely one chiefe souldier throughout

throughout a whole legion, tooke his oath at large, and in expresse words, the rest followed in order one by one, saying *καὶ ἐγὼ οὕτως*, that is, that hee swore the same as the first. If the Tribune distrusted his souldiers fidelitie, then would he swear the every one severally in tearmes at large. And thence were they called *Milites per conirationem*; 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 seruice were discharged from giuing in their names at a muster. And these are generally by all authors tearmed *Milites euocati*; and *Lipsius* deemeth them all one, with those whom *Servius* calleth *Milites per euocationem*. The souldiers being thus pressed, if they purposed to make war vpon their enemies, then did the L. Generall summon them to prepare themselves by a sound of Trumpets; & this was tearmed *Classicum canere, 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 commo adage did first arise, *Conferre signa, & Col-latis signis pugnare*, to ioyn battle. Immediately vpon this they did *Barrutum tollere*, make a great shout or noise with their voices to the greater terror of their enemies: & that the noise might be the greater, they did *Arma concutere*, ruffle together with their armour, and clash their swords. These foure ceremonies are to be scene more at large in *Lipsius*. Vnto which we may adde the fift, obserued by *Fr. Sylvius*; namely that at the remouing of their camp, they did *conclamare vasa*, giue a great shout or cry in token that the souldiers should trusse vp their bagge and baggage: & hence it is that *Plautus* vseth 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

vnto

Lips. de mil. lib. 1. dial. 6.

Lips. de mil. Rom. lib. 1. dial. 8.

Lib. 4. de mil. lib. Rom. dial. 11. & 12. In ep. viror. illust. l. 4. ep. 1. m Plaut. in Pseudolo.

n Pigh. in sua
præf. ad lib. 1.
septim.
o Alex. Gen.
dier. l. 1. c. 20.

vnto them: & a souldier thus girt was called *Cinctus*, that is, (saith n Pighius) *Cinctus tantus*.^o *Inde Discinctos ignavos, & militia minime aptos putarunt, 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 discincti vivere Naccus? Pers. Sat. 3.

CAP. 2.

De Legione, Auxilijs, & legionis partibus.

2

THE Roman forces were in old time divided into two severall parts; namely, in *Legiones & Auxilia*, into Legions and Auxiliary bands.² The Auxiliarie bands were such forces as the neighbour and confederate countries did send vnto the Romans.¹ The Legions were taken out of the body of the Romans.^p *Legio, à diligendo dicta est*, from the choice and selecting of souldiers. ^q *Romulus* is said to have beene the first author of these Legions, making every Legion to containe three thousand footmen, & three hundred horsemen, ^r one thousand footmen & one hundred horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himselfe into foure thousand footmen,¹ whence it was called *Quadrata legio*. And in pro-
cesse 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 seuen-
teenth 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 whatsoever. 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. ant.
lib. 10. cap. 4.

r Sig. de iure
Rom. l. 1. c. 15.

s Sigon. ib.

z Alex. Gen.
dier. l. 1. c. 20.
u Pancirol. l.
rerum deper-
dit. 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, Turme in decurias.* The word *Cohors* doth signifie that part of ground, which is commonly enclosed before the gate of an house, & which from the same word wee call a Court: and *Varro* giueth this reason of the Metaphor. As in a farme house (saith he) many out-buildings ioyned together make one enclosure: so *Cohors* consisteth of seuerall maniples ioined together in one body. It is manifest (saith *Alexander*) that the *Romans* in ancient time did very seldome, yea neuer (except in great necessity) intoll into their vniuersall army about foure legions: & in an ordinary legion, which he termeth *Legionem instam*, ten *Cohortes*; euery *Cohors* containing 3 maniples, euery maniple two Centuries, euery Century an hundred souldiers: whence they from *Centum* were called *Centuria*, a century. ^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 pavilion or lodging it selfe, as the souldiers lodging therein: and it may be so called *quasi Contabernium*, from *Taberna* signifying any slight lodging made of boards. Those that ruled ouer a thousand footmen we may in English call Seriaunts maior: They called then *Tribuni militum*. Those that governed 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 *Turma*, euery *Turma* containing thirty horsemen. Againe euery *Turma* was subdiuided into three lesse companies called *Decurie*; euery

Edmunds in his obseruati-
vpon Cæsars
Comment. lib.
lib. 2. c. 3.
& Varro, lib. 3.
de re rustica.
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 captaine was called *Decurio*, and the captaines ouer the greater troopes, namely ouer the seuerall wings of the horsemen, were called *Equitum praefecti*. Now the chiefe gouernour ouer the vniuersall army was called commonly *Imperator*: we in English call him a L. Generall. His Lieutenant or L. deputie was called *Legatus*,^e who in old time was sent *non tam ad imperandum, quam 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 affinitie with the office of our L. Generall. Secondly for such a L. Generall, who by his prowesse hauing put^f one thousand of his enemies 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 solemn 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 Caesar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age, and experience, some being welthier, 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 severall person. We are therefore likewise to vnderstand, s 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 the 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 enemies as forelorne hopes. According to^h *Lipsius* these *Velites* were commonly placed either *In Fronte*, *Vijs*, or *Cornibus*.¹ In the front of the army. 2^{ly} in the flances

^e Lips. de mil.
Rom. lib. 2.
dial. 10.

^f Barth. La-
tom. in Phil.
orat. 14.

^g Lips. de mil.
Rom. l. 1. dial. 3

^h Lips. de mil.
Rom. lib. 4.
dial. 3.

stances, or spaces between the severall Maniples. 3^{ly} 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 *Soccy* 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 two 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 velitationem*. Having 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 iaveling, 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 men, 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 *Thraso* his speech, *Ego ero post principia*, that is, I Will followe the *Principes*, thereby choosing to himselfe the best, & safest place. The last sort of souldiers, which stood in the third place or rereward, were called *Triarii*. They were of all, the most approved, and the very last help and refuge; so that if they failed, all was lost: and hence ariseth that forme of speech, *Ad triarios ventum est*,^k whereby we signifie that a thing is come to the last push. As I suppose, the weapon, wherewith 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 *Triarii* was called *Primum pilum*, and their centurion *Primopilus*, and *Primipilus*, and *Primus centurio*, because hee was the chiefe centurion in a whole legion, as having 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*

in *Pancrasius* *de* *historia* *ecclesiastica* *lib. 2. c. 12.*

Terent. Eun. Act. 4. Scen. 7.

Alex. Gen. dial. 1. 5. c. 15.

Lips. de mil. Rom. lib. 2. dial. 8.

Lips. de mil. Rom. lib. 2. dial. 8.

Lips. de mil. Rom. lib. 2. dial. 8.

Lips. de mil. Rom. lib. 2. dial. 8.

pilum, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediatly before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next should be the *Milites Pilans*; and by consequence their weapon should be that kinde of dart which they called *pilum*. Their manner of embattling was divers. 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 *Hauntgard*, and the two lesser companies wee call *Wings*; as likewise in *Latine* they called them *Alas aciei*, and *dextrum vel sinistrum cornu*. ^m *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing, then belonged to one banner called in Latin *Vexillum*. The gouernours of these wings he calleth *Alarum Praefectos*. Sometimes they embattled so, that the forefront of the Army being small, it was enlarged bigger and bigger backward in manner of a triangle: By ⁿ *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 metaphore being borrowed not only frō the resemblance it had with a wedge, but also from the vse of a wedge: for they neuer embattled in that forme, vnlesse it was to breake through their enemies, 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 embattling 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 *Bandum*: whence we doe at this day call so many souldiers, as doe fight *sub eodem bando*, a hand of souldiers: as *Romulus* called those that fought *sub eodē manipulo fœni*, an handfull of hay being vsed at that time in stead of a flagge) *Manipulum militum*. *Ouid.*

^m *Pancir.* in
notit. orient.
& occident.
imper. c. 32.

ⁿ *Lips.* milit.
Rom. lib. 4.
dial. 7.

^o *Lips.* milit.
Rom. lib. 4.
dial. 7.

^p *Festus.* vid.
Pancir. in not.
orient. & oc-
cident. *imp.*
cap. 32.

Pertica

observed by the Romans in their warres.

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Pertica suspensos portabat longa maniplos,

Unde manipularis nomina miles habet.

* Suidas is plaine, Βανδον καλῶσι ῥωμαῖοι τὸ σημεῖον τῶν πολέμων. * Suid in voce
that is, The Romans called their military ensigne a Band: Βανδον.
hence others haue vsed Βανδοφόρος to signifie as much as Sig-
nifer, an Auncient-barer.

CAP. 3.

De oppugnatione urbis, & ijs qua ad opugnationem requirantur.

IF the siege of a towne seemed difficult and hard to compassse, then did the Romans vse certaine meanes of policie for the better effecting thereof. They inuironed the towne with a broad & deepe ditch, adding therevnto 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 ouertop the city, and fight with the greater aduantage. Now that this great 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 verbe *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 *Cervi*, because of their forked and sharpe tops, but more properly *Valli*, and *Valla*. The distance or space betweene each stake was called *Intervallum*; though now *Intervallum* doth signifie not onely such a distance, but any distance either of space or time, as is appeareth

q Lips. pollior.
lib. 2. dial. 2.
r Serv. Aeneid.
lib. 10.
Cic. ep. fam.
lib. 1. ep. 7.

fCic. ep. fam.
lib. 1. ep. 7.

reth by that of Tully: *Intervallo locorum; & temporum dis-*
iuncti. Sometimes *Vallus* doth signifie a pole or stake, where-
vnto vines are tyed; according to that receiued adage, which
we vse when a specia'l friend forsaketh one, *Vallus vitem de-*
cepit. From the first signification it is, that *Vallum* doth often
signifie the inclosure, or hedging in of trees & stakes, where-

A. Gel. Noc.
Attic. l. 1. c. 15.

with the bulwarke is vpheld: Alluding whereunto: A; Gellius
translateth *Ἐπὺς δ' Ἀορίων*, *Vallum dentium*. The meanes of their
defense, whiles they were making this their rampire, was a

Rosin. ant.
Rom. lib. 10. c.
16.

certaine engine or ordinance of warre made of planks and
hurdles running vpon wheelles, vnder which they might rest
secure from all stones and darts cast from the wals of the ci-
ty: 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 approach vnto the wals

Lipf. polior.
lib. 7. dial. 9.

of the city, and vndermine them. Thus much * *Lipsius* see-
meth to inferre, when he rendreth the reason of the name:
Musculus id: d: dictus, quia instar eius animalculi foderent sub
eo terram. A third meanes of their defence was *Militaris testu-*
do. This word *Testudo* in the art Military had a double ac-
ception, both being borrowed from ther resemblance of the

Rosin. ant.
R. l. 10. c. 16.

this word. In the first acception *Testudo*, y doth signifie a
warlike engine or fense 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. In

Stadin Flor.
l. 4. c. 10.

the second acception it signified a target-fense, which was a
close holding together of targets ouer head like a vault or
roose, wherewith the footmen did defend themselues from
the thicke shot of arrowes or flinging of stones. Their rampier
or countermure being finished, they vsed certaine great tim-
ber towers made vpon wheelles to run too and fro, which
they called *Turres ambulatorie*, moueable turrets. These
towers had many stories one ouer the other, wherein they
carrying ladders and casting bridges thereby to scale the

Rosin. ant.
Rom. lib. 10.
cap. 16.

wals

wals. The engines hithervnto haue beene defensiuē, such wherewith the Romans defended themselues in their siege: others there were offēsiue, wherewith they did assaile the city; and of those the chiefe were *Balista sine Catapulta*, *Scorpius* sive *Onager*, *Aries*, & *Malleoli*. The first of these engines, as it was called *Balista ἀπὸ τοῦ βάλλειν*, from darting or casting forth any thing, ^bso was it in old time called *Catapulta ἀπὸ τοῦ πτεῖν* ^bLipf. polior. lib. 2. dial. 3. which signifieth a shaft or dart; Though it cannot be denied, 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.----

The forme thereof followeth, translated word for word out of ^c*Marcellinus*. [Between two planks there is set in frame, ^cAm. Marc. lib. 23. cap. 3. and fast ioyned a strong and bigge yron, reaching out in length after the manner 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 skrewes; 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 wheelles. 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 firmiter compaginatū & vastum, in modum regule maioris extentum: cuius ex volumine teretis, quod in medio aris polita componit, quadratus eminet stylus extensus recto canalis angustis meatu caviatus, &* ^{bas}

hac multiplici chorda nervorum tortilium illigatus: eiq; cochlea duo lignea coniunguntur aptissime, quarum propè unam adstistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam spiculo maiore conglutinatam: hocq; facto hinc inde validi iuvenes versant agiler rotabilem flexum.

Quum ad extremitatem nervorum acumen venerit summum, percita interna pulsu à balista ex oculis evolat. In respect of its use we may english it a *Crosse-bow*: 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 hewn out, and somewhat banded, so that they seeme to bunch out in backes; and these in manner of a* saw 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 aunder: * From betweene those bunches, another wooden beame reaching forth ouerthwart, & in manner of a waine-beame erected vp, is tied with such devises vnto certaine ropes, that it may be pulled vp higher, or let down lower at ones pleasure; and at the top thereof certaine yron hookes are fastned, from which hookes 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 bricke: When therefore it cometh to the point of skirmish, a round stone being put into the sling, foure young men on one side loosning 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, wherevnto 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, & hitting against the soft haire-cloath, it hurleth out the stone, that

* Machine
Serratorie

* Ab. hac medietate testium] Here we must note that this significatio of testes is borrowed from the Anatomists, which doe call certaine eminent parts behind. *Ann. des des Testes. Vid. Fuchs. instit. med. l. i. 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 Assie, 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 *ὄνυξ*, that is, *Asinus & ἄγρις*, rus vel ager. Now if any aske mee, why that sackcloth 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 recoil might be by degrees slacked. 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 Citty. It was hung vnto a beam, which lay a crosse ouer a couple of pillars, and hanged thus equally 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 most on wheelles: which kinde of Rammes are described by *Iosephus*. There be, saith he, other manner of engines, as an iron Ram vpon 4 wheelles, bound with yron, and fastned with yron nayles, to this they make foure feet answerable to the bignesse of the beame, & every foot hath his seuerall wheele, & when they will batter the wall, certaine men first pulling it backe, they recoil it by the helpe of foure wooden leuers put in the hin-

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 inuolato* Ελω, that is, *capio*, and *πάλαι*, that is, *civitas*. The forme of it is to be seen also in *Marcell. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthened with very long peeces of timber: it was couered ouer with Oxe hides, and greene wicker hurdles: the vpper part or conuexe 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 certain *Cuspides trifurcae*, 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 wheelles & 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 nocke 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 preuaile by these engines called *Machina*, 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 appeareth by that of *Plutarch*, *Cesar non iam cuniculis*, sed

Plutarch. in
vit. C. Cæf.

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 devictos.

ALbeit after the victory the Romans inflicted diuerse 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 ingum*; or merced them in taking away their territories; or made them tributary states. ^c 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 ingum*, ^e 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 mā, viz. such as were able and of best sufficiencie to make and establish a publike councill, ^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

^c A. Gel. l. 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 *Colonia Latina*; others *Italica*. 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, ut provincia solebant. Turneb. aduers. l. 1. c. 11.* Diuers times the Romans would be content after the conquest to grant to their enemies a peaceable inioying of their lands & possession, conditionally, that they would yeeld all faithfull allegiance vnto the L. Deputy, whomsoever the Senate of Rome should place ouer them. The L. Deputy was either stiled by the name of a *Proprator*, a *Proconsul*, or a *Præfectus*. Those places where the two first sorts of gouernours did rule, were tearmed *Provincia*; the other from the gouernour was tearmed *Præfectura*. Where we must obserue that this word *Provincia* hath a threefold acception. First it is taken for a country, which by the force & power of armes is subdued to the Roman Empire, and gouerned by some Roman Deputy sent from the Senate; & this is the proper & primitiue signification thereof, it being so called, ^b *Quod populus Rom. eam prouincit, 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 vnderaken, or imposed; according to that of ⁱ Terence, *Provinciam cepisti duram*, that is, thou hast vnderaken an hard taske. Now the tribute to be paid was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; & those who paid it were tearmed *Tributarij sive Stipendiarij*: and this Tribute was of two sorts, either ordinary, such as was required from everyhouse yearely, euen in the time of peace; or extraordinary, such as was leuied by a law or decree of the Senate towards vnexpected

^b Pigh. lib.
Tyrannif.

ⁱ Terent. in
Phor.

pected charges. The vncertaine tribute ^k properly called *Ve-*
ligal, was ^l either impost-mony, such as was collected in ha-
ven townes for the transportation of marchants wares, and
that was called from *Portus Portorium*, or frō *Porta Portar-*
ium, and the receauers thereof *Portitores*. The wares after
the impost mony had beene paid were sealed by the *Publi-*
cans 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 Decumæ*, and the receauers
thereof *Decumani*, though *Decumanus* when it is an adiec-
tiue signifieth as much as *Maximus*, according to that of
Ouid. lib. 1. de Trist.

^k Sig. de iure
Rom. l. 1. c. 16.
^l Stadius in
Flor. l. 3. c. 13.

Qui venit hic fluctus fluctus supereminet omnes;

Posterior nono est, undecimq; prior.

The reason of this signification is ^m supposed to be, because
in *Arithmetike* 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 &
forrests. This kinde of tribute was called *Scriptura*, and the
pastures *Agri Scripturarij*; because (as ⁿ *Festus* saith) the
bay liffe or receauer of this mony, called *Pecunarius*, did *scri-*
bendo conficere 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*, euē in *Rome* it selfe. Secondly though
each collector of these Tributes was distinguished by a pe-
culiar 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 tearmed *Prædes*. Many times the *Romans* did
bestow the freedome of their citie vpon forraign countries;
and the degrees of freedome was proportioned accordingly

^m Fr. Sylv. in
viror. illust. ep.
2. lib. 1.

ⁿ Sig. de iure
Rom. l. 2. c. 4.

^o Cic. de A.
rusp. respons.
& alias saepe.

as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own lawes and magistrates. This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris huius honorarij participes*. By *Munus honorarium* in this place is understood 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 preserving the holy things of *Rome* in the time of the warre against the *Gauls*, were rewarded with the freedome of the citie, but without power of suffraging; From whence it is, that those tables, wherein the *Censors* inrolled such as were by them depriued of their voices, were called *Cerites tabule*; *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*, & *Municipium cum suffragio*. Other countries which could not be admitted into the freedome of the cittie, haue obtained, and that not without speciall & deserued respects to be associats and confederats 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 & Socius Senat. & Pop. Rom.* Here we 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 & limited space of time, is properly called *Pactio*; we commonly call it *Inducia*; and it differed from *Fœdus*; first, because that *Fœdus* is a perpetuall truce or league; secondly because it was necessary, that one of those *peratores* at armes called *Fœciales*, should by

p A Gel. noct.
Attic. lib. 16.
cap. 13.

p A Gel. ibid.

q Sig. de iure
Ital. l. 1. cap. 1.

r Sigon. ib.

a solemne proclamation confirme this league called *Fœdus*; neither of which conditions was absolutely requisite in their truce tearmed *Pactio*.

C A P. 5.

Multa militares, quibus milites Romani ob delicta afficiebantur.

T Ouching 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, whē he is with disgrace remoued from the army. Secondly, *Fraudatio stipendij*, that is, a stopping of their pay: & such souldiers which suffered this kind of mulct, were said to be *are diruti*,¹ because *Es illud diruebatur in fiscum, nō in frosin. anz.* *militis sacculum*. Thirdly, *Censio hastaria*, whereby the souldi
er was inioined 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 whol
Cohors, which had lost their banners, were compelled to eat nothing but barley bread, being depriued of their allowance in wheat; and every Centurion in that *Cohors* had his souldiers belt or girdle takē 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.
5^{ly}, for petty faults they made them to stand barefooted before the L. General his pavilion, with long poles of ten foot length in their hands; & sometimes in the sight of the other
souldiers

souldiers to walke vp and downe with turfes on their necks. In the last of these they seemed to imitate their city disciplin, whereby malefactors were inioyned to take a certaine beam resembling a forke vpon their shoulders, and so to carry it round about the towne; It hath some affinitie 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 lesler punishments, was the opening of a vaine, or letting them 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 Fustecedi*, to be beaten with rods; or with staues & cudgels. None were ordinarily beatē with cudgels, but those who had not discharged their office, in the sending about that tablet called *Tessera*, wherein the watchword 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 thrise for the same fault: those which were in this maner cudgelled, were often killed in the place; but if they escaped aliue, they were to liue in perpetual exilemēt. The ceremony vsed in this kind of cudgelling was, that the † 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 wee may say of one that deserueth a good cudgelling in * *Tully* his phrase *Fustnarium meretur*. *Polybius* calleth it *ζυλοκομία*. *Vid. Lips. de milit. Rom. lib. 5. dial. 18.* If a *Roman* souldier had broken his ranke by going out of order, then *Virgis cadebatur*, that is, he was scourged with rods. Sometimes the knight Martiall vpon iust occasion would cause them to be sold for bond slaues, to be beheaded, to be hanged. All these punishments were

† Alex. Gen.
dier. 1. 2. c. 13.

† Trib. milit.

* Cic. orat.
Phil. 3.

were personall or particular; there remaineth one which was generall, namely when the fault was generall, as in their uproares, 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 cudgeling aboue spoken of; all the others escaped either without punishment or with very litle. The punishment it selfe was tearmed *Decimatio legionis*, and the reason of this kinde of punishment, is rendered by y^e Tully: *ut metus viz. ad omnes, poena ad paucos perveniret*. Sometimes such was the clemencie of the L. Generall, that he would punish only the twentieth, nay the hundreth man, & then was it called *vicefimatio, vel centesimatio legionis*.

CAP. 6.

De donis militaribus ob rem fortiter gestam.

Concerning the rewards which were bestowed in war, some were by the *Senate* conferred 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 proceffion continued for many daies together, sometimes more, sometimes fewer: all which daies the *Roman* people did obserue as holy daies, offering 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 be confirmed & approued by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemne supplications. Thirdly, they honoured him at his comming home also with a triumph. *Triumphus vel maior, vel minor erat*, saith

Mm

Alex

Alexander. The lesser kind of triumph was properly called *Ovatio* ^{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 redouble this letter O, & 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 autor of this greater triumph; from whose ^b name also divers autors doe deriue this word *Triumphus*, he being in greeke called *Δηλαυκος* 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* themselves 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 myrtle tree ^d commonly going on foote, sometimes permitted to ride on a horse; the gentlemen and commonaltie of *Rome* alone without the *Senators* did meete him. Moreover for a perpetuall memory of this their triumph in some publike place certaine trophies were erected. ^e *Trophaeum monumentum dixere nunc marmoreum, modo aeneum, cum inscriptione & titulis aeo perpetuo duraturis.* ^f *Dictum est ἀπὸ τῆς ἐπιστροφῆς, id est, à conversione*, fro 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 known by the name of *Arcus triumphales*, yet sometimes they are called *Forpices*, ^g whence it is that *Tully* calleth *Fabianes* triumphall arch

^a Salmuth. in Pancir. l. rerū deperd. cap. de triumph.

^b Ode. 2. lib. 4.

^c Salmuth. in Pancir. l. rerū deperd. cap. de triumph.

^d Alex. Gen. dier. l. 6. c. 17.

^e Dion. Halicar. lib. 5.

^f Alex. Gen. dier. l. 1. c. 22.

^g Serv. Aenei. lib. 12.

^h 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, because as the Romans conceited without the speciall assistance of *Iupiter*, *Dux ducem ferire non poterat*: these spoiles had the name of *Opima 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 signify such laude and praise, as is due vnto a souldier. But after ages for the better encouraging of the souldiers, haue found out more honourable rewards, of which these were the chiefe; *Armilla*, that is, a brace. let for the hand-wrest; *Torquis*, a chaine to weare about their necke; *Phalera*, horsetrappings; *Hastapara*, that is, a speare hauing no yron at the end of it; (it is sometimes called *Hastadonatica*, and *Hastagraminea*;) Lastly *Corona*, crownes, of which *A. Gell. lib. 5. cap. 6.* obserueth these to haue beene the chiefe: 1. *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 *Pliny* obserueth, they did *Terza & ipsa altrice humo & humatione etiam*

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

i Alex. Gen. dier. l. 4. c. 18.

k Sig. de iure Rom. l. c. 15.

l Rosin. ant. lib. 10. c. 27.

m Plin. lib. 21. cap 4.

z Salmuth. in
Pancit. l. rerū.
deperd. cap. de
coronis.
p Pigh. l. Ty-
rannif.

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 himselfe conquered: 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 cittizens life, though in proesse of time it was also bestowed vpon the L. Generall, if he spared a Roman citizen, when he had power to kill him. It was commonly made of oake; whence it was called *Corona quercea*. 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 Emblems denoting two worthe vertues required in all Emperours and Princes, first, such whereby the enemy might bee conquered; secondly, such whereby cittizens might be saued. Vnto this *Ovid* seemeth to allude, speaking of the lawrell tree.

p Ouid. Met.
lib. Fab. 9.
q Dion. Hali-
car. lib. 10.

p *Postibus Augustis eadem fidissima custos
Ante fores stabis, mediamq; tuebere quercum.*

p Pigh. l. Ty-
rannif.
s A. Gel. noſt.
Attic. l. 2. c. 11.

Fourthly, *Corona Muralis*: Hee onely was honoured with this, which did first scale the wals, and enter first into the enemies city: and hence this crowne was cut vpon the circlet or top like vnto the battlements. Fifthly, *Corona Castrensis*. This the L. Generall bestowed on him, which first entred into the enemies tents; it did beare in it the resemblance of a bulwark, or at least of the mound, wherewith the bulwarke was strengthened; which mound was called in Latine *Vallum*, and thence the crowne it selfe was often called *Vallaris corona*. Sixtly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle vpon sea: it was portrayed with many ship-beakes called in Latine *Rostra*, whence the crowne it selfe was often called *Corona Rostrata*. That Roman *Hercules Siccus Dentatus* obtained almost all those seuerall rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle-ctee, the L. General

nerall vsed it in the lesser kinde of triumphes called *Ovationes*, from whence the Coronet it selfe was named *Oualis*. It was then bestowed when the Herald had committed some error 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 enimies yeelding without resistance. *In quibus impulvereis & incruentis victorijs, aptam esse Venetis frondem crediderunt, quod non Martius, sed quasi Venerens quidam triumphus foret.* A. Gell. l. 5. c. 6.

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