

THE SPIRIT OF LAWS

BOOK XXIII

OF LAWS IN THE RELATION THEY BEAR TO THE NUMBER OF INHABITANTS

I.—*Of Men and Animals with respect to the Multiplication of their Species*

“Delight of human kind,^a and gods above;
Parent of Rome, propitious Queen of Love;

* * * * *

For when the rising spring adorns the mead,
And a new scene of nature stands display'd;
When teeming buds, and cheerful greens appear,
And western gales unlock the lazy year;
The joyous birds thy welcome first express,
Whose native songs thy genial fire confess:
Then savage beasts bound o'er their slighted food,
Struck with thy darts, and tempt the raging flood:
All nature is thy gift, earth, air, and sea;
Of all that breathes the various progeny,
Stung with delight, is goaded on by thee.
O'er barren mountains, o'er the flow'ry plain,
The leafy forest, and the liquid main,
Extends thy uncontroll'd and boundless reign.
Thro' all the living regions thou dost move,
And scatter'st where thou go'st the kindly seeds of love.”

THE females of brutes have an almost constant fecundity.
But in the human species, the manner of thinking, the
character, the passions, the humor, the caprice, the idea
of preserving beauty, the pain of child-bearing, and the fatigue
of a too numerous family, obstruct propagation in a thousand
different ways.

^a Dryden's "Lucrece."

2.—Of Marriage

The natural obligation of the father to provide for his children has established marriage, which makes known the person who ought to fulfil this obligation. The people *b* mentioned by Pomponius Mela *c* had no other way of discovering him but by resemblance.

Among civilized nations, the father is that person on whom the laws, by the ceremony of marriage, have fixed this duty, because they find in him the man they want.*d*

Among brutes this is an obligation which the mother can generally perform; but it is much more extensive among men. Their children indeed have reason; but this comes only by low degrees. It is not sufficient to nourish them; we must also direct them: they can already live; but they cannot govern themselves.

Illicit conjunctions contribute but little to the propagation of the species. The father, who is under a natural obligation to nourish and educate his children, is not then fixed; and the mother, with whom the obligation remains, finds a thousand obstacles from shame, remorse, and constraint of her sex and the rigor of laws; and besides, she generally wants the means.

Women who have submitted to public prostitution cannot have the convenience of educating their children: the trouble of education is incompatible with their station; and they are so corrupt that they can have no protection from the law.

It follows from all this that public continence is naturally connected with the propagation of the species.

3.—Of the Condition of Children

It is a dictate of reason that when there is a marriage, children should follow the station or condition of the father; and that when there is not, they can belong to the mother only.*e*

4.—Of Families

It is almost everywhere a custom for the wife to pass into the family of the husband. The contrary is without any inconven-

b The Garamantes.

c Lib. I. cap. viii.

d "Pater est quem nuptiæ demonstrant."

e For this reason, among nations that have slaves, the child almost always follows the station or condition of the mother.

ience established at Formosa,*f* where the husband enters into the family of the wife.

This law, which fixes the family in a succession of persons of the same sex, greatly contributes, independently of the first motives, to the propagation of the human species. The family is a kind of property: a man who has children of a sex which does not perpetuate it is never satisfied if he has not those who can render it perpetual.

Names, whereby men acquire an idea of a thing which one would imagine ought not to perish, are extremely proper to inspire every family with a desire of extending its duration. There are people among whom names distinguish families: there are others where they only distinguish persons: the latter have not the same advantage as the former.

5.—Of the several Orders of lawful Wives

Laws and religion sometimes establish many kinds of civil conjunctions; and this is the case among the Mahommedans, where there are several orders of wives, the children of whom are distinguished by being born in the house, by civil contracts, or even by the slavery of the mother, and the subsequent acknowledgment of the father.

It would be contrary to reason that the law should stigmatize the children for what it approved in the father. All these children ought, therefore, to succeed, at least if some particular reason does not oppose it, as in Japan, where none inherit but the children of the wife given by the Emperor. Their policy demands that the gifts of the Emperor should not be too much divided, because they subject them to a kind of service, like that of our ancient fiefs.

There are countries where a wife of the second rank enjoys nearly the same honors in a family as in our part of the world are granted to an only consort: there the children of concubines are deemed to belong to the first or principal wife. Thus it is also established in China. Filial respect,*g* and the ceremony of deep mourning, are not due to the natural mother, but to her appointed by the law.

By means of this fiction they have no bastard children; and where such a fiction does not take place, it is obvious that a law

f Du Halde, tom. i. p. 165.

g Ibid. tom. ii. p. 129.

to legitimize the children of concubines must be considered as an act of violence, as the bulk of the nation would be stigmatized by such a decree. Neither is there any regulation in those countries with regard to children born in adultery. The reclusive lives of women, the locks, the inclosures, and the eunuchs render all infidelity to their husbands so difficult, that the law judges it impossible. Besides, the same sword would exterminate the mother and the child.

6.—Of Bastards in different Governments

They have therefore no such thing as bastards where polygamy is permitted; this disgrace is known only in countries in which a man is allowed to marry but one wife. Here they were obliged to stamp a mark of infamy upon concubinage, and consequently they were under a necessity of stigmatizing the issue of such unlawful conjunctions.

In republics, where it is necessary that there should be the purest morals, bastards ought to be more degraded than in monarchies.

The laws made against them at Rome were perhaps too severe; but as the ancient institutions laid all the citizens under a necessity of marrying, and as marriages were also softened by the permission to repudiate or make a divorce, nothing but an extreme corruption of manners could lead them to concubinage.

It is observable that as the quality of a citizen was a very considerable thing in a democratic government, where it carried with it the sovereign power, they frequently made laws in respect to the state of bastards, which had less relation to the thing itself and to the honesty of marriage than to the particular constitution of the republic. Thus the people have sometimes admitted bastards into the number of citizens, in order to increase their power in opposition to the great.^k Thus the Athenians exclude bastards from the privilege of being citizens, that they might possess a greater share of the corn sent them by the King of Egypt. In fine, Aristotle informs us that in many cities where there was not a sufficient number of citizens, their bastards succeeded to their possessions; and that when there was a proper number, they did not inherit.ⁱ

^k Aristotle, "Polit." lib. VI. cap. iv.

ⁱ Ibid. lib. III. cap. iii.

7.—Of the Father's Consent to Marriage

The consent of fathers is founded on their authority; that is, on the right of property. It is also founded on their love, on their reason, and on the uncertainty of that of their children, whom youth confines in a state of ignorance and passion in a state of ebriety.

In the small republics, or singular institutions already mentioned, they might have laws which gave to magistrates that right of inspection over the marriages of the children of citizens which nature had already given to fathers. The love of the public might there equal or surpass all other love. Thus Plato would have marriages regulated by the magistrates: this the Lacedæmonian magistrates performed.

But in common institutions, fathers have the disposal of their children in marriage: their prudence in this respect is always supposed to be superior to that of a stranger. Nature gives to fathers a desire of procuring successors to their children, when they have almost lost the desire of enjoyment themselves. In the several degrees of progeniture, they see themselves insensibly advancing to a kind of immortality. But what must be done, if oppression and avarice arise to such a height as to usurp all the authority of fathers? Let us hear what Thomas Gage says in regard to the conduct of the Spaniards in the West Indies.^j

"According to the number of the sons and daughters that are marriageable, the father's tribute is raised and increased, until they provide husbands and wives for their sons and daughters, who, as soon as they are married, are charged with tribute; which, that it may increase, they will suffer none above fifteen years of age to live unmarried. Nay, the set time of marriage appointed for the Indians is at fourteen years for the man, and thirteen for the woman; alleging that they are sooner ripe for the fruit of wedlock, and sooner ripe in knowledge and malice, and strength for work and service, than any other people. Nay, sometimes they force those to marry who are scarcely twelve and thirteen years of age, if they find them well-limbed and strong in body, explaining a point of one of the canons, which alloweth fourteen and fifteen years, *Nisi malitia suppleat ætatem.*"

He saw a list of these taken. It was, says he, a most shameful

^j "A New Survey of the West Indies," by Thomas Gage, p. 345, 3d edit.

affair. Thus in an action which ought to be the most free, the Indians are the greatest slaves.

8.—*The same Subject continued*

In England the law is frequently abused by the daughters marrying according to their own fancy without consulting their parents. This custom is, I am apt to imagine, more tolerated there than anywhere else from a consideration that as the laws have not established a monastic celibacy, the daughters have no other state to choose but that of marriage, and this they cannot refuse. In France, on the contrary, young women have always the resource of celibacy; and therefore the law which ordains that they shall wait for the consent of their fathers may be more agreeable. In this light the custom of Italy and Spain must be less rational; convents are there established, and yet they may marry without the consent of their fathers.

9.—*Of young Women*

Young women who are conducted by marriage alone to liberty and pleasure, who have a mind which dares not think, a heart which dares not feel, eyes which dare not see, ears which dare not hear, who appear only to show themselves silly, condemned without intermission to trifles and precepts, have sufficient inducements to lead them on to marriage: it is the young men that want to be encouraged.

10.—*What it is that determines Marriage*

Wherever a place is found in which two persons can live commodiously, there they enter into marriage. Nature has a sufficient propensity to it, when unrestrained by the difficulty of subsistence.

A rising people increase and multiply extremely. This is because with them it would be a great inconvenience to live in celibacy; and none to have many children. The contrary of which is the case when a nation is formed.

11.—*Of the Severity of Government*

Men who have absolutely nothing, such as beggars, have many children. This proceeds from their being in the case of a rising people: it costs the father nothing to give his heart to his

offspring, who even in their infancy are the instruments of this art. These people multiply in a rich or superstitious country, because they do not support the burden of society, but are themselves the burden. But men who are poor, only because they live under a severe government; who regard their fields less as the source of their subsistence than as a cause of vexation; these men, I say, have few children: they have not even subsistence for themselves. How then can they think of dividing it? They are unable to take care of their own persons when they are sick. How then can they attend to the wants of creatures whose infancy is a continual sickness?

It is pretended by some who are apt to talk of things which they have never examined that the greater the poverty of the subjects, the more numerous their families: that the more they are loaded with taxes, the more industriously they endeavor to put themselves in a station in which they will be able to pay them: two sophisms, which have always destroyed and will forever be the destruction of monarchies.

The severity of government may be carried to such an extreme as to make the natural sentiments destructive of the natural sentiments themselves. Would the women of America have refused to bear children had their masters been less cruel? *k*

12.—*Of the Number of Males and Females in different Countries*

I have already observed that there are born in Europe rather more boys than girls.^a It has been remarked that in Japan there are born rather more girls than boys:^b all things compared, there must be more fruitful women in Japan than in Europe, and consequently it must be more populous.

We are informed that at Bantam there are ten girls to one boy.^c A disproportion like this must cause the number of families there to be to the number of those of other climates as 1 to 5½, which is a prodigious difference. Their families may be much larger indeed; but there must be few men in circumstances sufficient to provide for so large a family.

k "A New Survey of the West Indies," by Thomas Gage, p. 97, 3d edit.

a Book XVI. chap. iv.
b See Kempfer, who gives a computation of the people of Meaco.

c "Collection of Voyages that contributed to the establishment of the East India Company," vol. i. p. 347.

13.—Of Seaport Towns

In seaport towns, where men expose themselves to a thousand dangers, and go abroad to live or die in distant climates, there are fewer men than women: and yet we see more children there than in other places. This proceeds from the greater ease with which they procure the means of subsistence. Perhaps even the oily parts of fish are more proper to furnish that matter which contributes to generation. This may be one of the causes of the infinite number of people in Japan ^d and China, ^e where they live almost wholly on fish. ^f If this be the case, certain monastic rules, which oblige the monks to live on fish, must be contrary to the spirit of the legislator himself.

14.—Of the Productions of the Earth which require a greater or less Number of Men

Pasture-lands are but little peopled, because they find employment only for a few. Corn-lands employ a great many men, and vineyards infinitely more.

It has been a frequent complaint in England, ^g that the increase of pasture-land diminished the inhabitants; and it has been observed in France that the prodigious number of vineyards is one of the great causes of the multitude of people.

Those countries where coal-pits furnish a proper substance for fuel have this advantage over others, that not having the same occasion for forests, the lands may be cultivated.

In countries productive of rice, they are at vast pains in watering the land: a great number of men must therefore be employed. Besides, there is less land required to furnish subsistence for a family than in those which produce other kinds of grain. In fine, the land which is elsewhere employed in raising cattle serves immediately for the subsistence of man; and the labor which in other places is performed by cattle is there performed by men; so that the culture of the soil becomes to man an immense manufacture.

^d Japan is composed of a number of isles, where there are many banks, and the sea is there extremely full of fish.

^e China abounds in rivers.

^f See Du Halde, tom. ii. pp. 139-142.

^g The greatest number of the proprietors of land, says Bishop Burnet, finding more profit in selling their wool than

their corn, enclosed their estates; the commons, ready to perish with hunger, rose up in arms; they insisted on a division of the lands: the young king even wrote on this subject. And proclamations were made against those who enclosed their lands.—“Abridgment of the History of the Reformation.”

15.—Of the Number of Inhabitants with relation to the Arts

When there is an agrarian law, and the lands are equally divided, the country may be extremely well peopled, though there are but few arts; because every citizen receives from the cultivation of his land whatever is necessary for his subsistence, and all the citizens together consume all the fruits of the earth. Thus it was in some republics.

In our present situation, in which lands are unequally distributed, they produce much more than those who cultivate them are able to consume; if the arts, therefore, should be neglected, and nothing minded but agriculture, the country could not be peopled. Those who cultivate, or employ others to cultivate, having corn to spare, nothing would engage them to work the following year; the fruits of the earth would not be consumed by the indolent; for these would have nothing with which they could purchase them. It is necessary, then, that the arts should be established, in order that the produce of the land may be consumed by the laborer and the artificer. In a word, it is now proper that many should cultivate much more than is necessary for their own use. For this purpose they must have a desire of enjoying superfluities; and these they can receive only from the artificer.

The machines designed to abridge art are not always useful. If a piece of workmanship is of a moderate price, such as is equally agreeable to the maker and the buyer, those machines which would render the manufacture more simple, or, in other words, diminish the number of workmen, would be pernicious. And if water-mills were not everywhere established, I should not have believed them so useful as is pretended, because they have deprived an infinite multitude of their employment, a vast number of persons of the use of water, and great part of the land of its fertility.

16.—The Concern of the Legislator in the Propagation of the Species

Regulations on the number of citizens depend greatly on circumstances. There are countries in which nature does all; the legislator then has nothing to do. What need is there of inducing men by laws to propagation when a fruitful climate yields a

sufficient number of inhabitants? Sometimes the climate is more favorable than the soil; the people multiply, and are destroyed by famine: this is the case of China. Hence a father sells his daughters and exposes his children. In Tonquin,^h the same causes produce the same effects; so we need not, like the Arabian travellers mentioned by Renaudot, search for the origin of this in their sentiments on the metempsychosis.ⁱ

For the same reason, the religion of the isle of Formosa does not suffer the women to bring their children into the world till they are thirty-five years of age: ^j the priestess, before this age, by bruising the belly procures abortion.

17.—Of Greece and the Number of its Inhabitants

That effect which in certain countries of the East springs from physical causes was produced in Greece by the nature of the government. The Greeks were a great nation, composed of cities, each of which had a distinct government and separate laws. They had no more the spirit of conquest and ambition than those of Switzerland, Holland, and Germany have at this day. In every republic the legislator had in view the happiness of the citizens at home, and their power abroad, lest it should prove inferior to that of the neighboring cities.^k Thus, with the enjoyment of a small territory and great happiness, it was easy for the number of the citizens to increase to such a degree as to become burdensome. This obliged them incessantly to send out colonies,^l and, as the Swiss do now, to let their men out to war. Nothing was neglected that could hinder the too great multiplication of children.

They had among them republics, whose constitution was very remarkable. The nations they had subdued were obliged to provide subsistence for the citizens. The Lacedæmonians were fed by the Helotes, the Cretans by the Periecians, and the Thessalians by the Penestes. They were obliged to have only a certain number of freemen, that their slaves might be able to furnish them with subsistence. It is a received maxim nowadays that it is necessary to limit the number of regular troops: now

^h Dampier's "Voyages," vol. ii. p. 41.

ⁱ Ibid. p. 167.

^j See the "Collection of Voyages that contributed to the establishment of the East India Company," vol. i. part I. pp. 182, 188.

^k In valor, discipline, and military exercises.

^l The Gauls, who were in the same circumstances, acted in the same manner.

the Lacedæmonians were an army maintained by the peasants: it was proper, therefore, that this army should be limited; without this the freemen, who had all the advantages of society, would increase beyond number, and the laborers be overloaded.

The politics of the Greeks were particularly employed in regulating the number of citizens. Plato fixes them at five thousand and forty,^m and he would have them stop or encourage propagation, as was most convenient, by honors, shame, and the advice of the old men; he would even regulate the number of marriages in such a manner that the republic might be recruited without being overcharged.ⁿ

If the laws of a country, says Aristotle, forbid the exposing of children, the number of those brought forth ought to be limited.^o If they have more than the number prescribed by law, he advises to make the women miscarry before the fetus be formed.^p

The same author mentions the infamous means made use of by the Cretans to prevent their having too great a number of children—a proceeding too indecent to repeat.

There are places, says Aristotle again,^q where the laws give the privilege of being citizens to strangers, or to bastards, or to those whose mothers only are citizens; but as soon as they have a sufficient number of people this privilege ceases. The savages of Canada burn their prisoners; but when they have empty cottages to give them, they receive them into their nation.

Sir William Petty, in his calculations, supposes that a man in England is worth what he would sell for at Algiers.^r This can be true only with respect to England. There are countries where a man is worth nothing; there are others where he is worth less than nothing.

18.—Of the State and Number of People before the Romans

Italy, Sicily, Asia Minor, Gaul, and Germany were nearly in the same state as Greece; full of small nations that abounded with inhabitants, they had no need of laws to increase their number.

19.—Of the Depopulation of the Globe

All these little republics were swallowed up in a large one, and the globe insensibly became depopulated: in order to be

^m "Repub." lib. V.

ⁿ Ibid.

^o "Polit." lib. VII. cap. xvi.

^p Ibid.

^q Ibid. lib. III. cap. iii.

^r Sixty pounds sterling.

convinced of this, we need only consider the state of Italy and Greece before and after the victories of the Romans.

"You will ask me," says Livy,^s "where the Volsci could find soldiers to support the war, after having been so often defeated. There must have been formerly an infinite number of people in those countries, which at present would be little better than a desert, were it not for a few soldiers and Roman slaves."

"The Oracles have ceased," says Plutarch, "because the places where they spoke are destroyed. At present we can scarcely find in Greece three thousand men fit to bear arms."

"I shall not describe," says Strabo,^t "Epirus and the adjacent places, because these countries are entirely deserted. This depopulation, which began long ago, still continues; so that the Roman soldiers encamp in the houses they have abandoned." We find the cause of this in Polybius, who says that Paulus Æmilius, after his victory, destroyed seventy cities of Epirus, and carried away a hundred and fifty thousand slaves^u

20.—*That the Romans were under the Necessity of making Laws to encourage the Propagation of the Species*

The Romans, by destroying others, were themselves destroyed: incessantly in action, in the heat of battle, and in the most violent attempts, they wore out like a weapon kept constantly in use.

I shall not here speak of the attention with which they applied themselves to procure citizens in the room of those they lost,^u of the associations they entered into, the privileges they bestowed, and of that immense nursery of citizens, their slaves. I shall mention what they did to recruit the number, not of their citizens, but of their men; and as these were the people in the world who knew best how to adapt their laws to their projects, an examination of their conduct in this respect cannot be a matter of indifference.

21.—*Of the Laws of the Romans relating to the Propagation of the Species*

The ancient laws of Rome endeavored greatly to incite the citizens to marriage. The Senate and the people made frequent

^s Lib. VI.

^t Lib. VII. p. 496.

^u I have treated of this in the "Con-

siderations on the Causes of the Rise and Declension of the Roman Grandeur."

regulations on this subject, as Augustus says in his speech related by Dio.^v

Dionysius Halicarnassus^w cannot believe that after the death of three hundred and five of the Fabii, exterminated by the Veientes, there remained no more of this family than one single child; because the ancient law, which obliged every citizen to marry and to educate all his children, was still in force.^x

Independently of the laws, the Censors had a particular eye upon marriages, and according to the exigencies of the republic engaged them to it by shame and by punishments.^y

The corruption of manners that began to take place contributed vastly to disgust the citizens with marriage, which was painful to those who had no taste for the pleasures of innocence. This is the purport of that speech which Metellus Numidicus, when he was censor, made to the people: ^z "If it were possible for us to do without wives, we should deliver ourselves from this evil: but as nature has ordained that we cannot live very happily with them, nor subsist without them, we ought to have more regard to our own preservation than to transient gratifications."

The corruption of manners destroyed the censorship, which was itself established to destroy the corruption of manners: for when this depravation became general, the Censor lost his power.^a

Civil discords, triumvirates, and proscriptions weakened Rome more than any war she had hitherto engaged in. They left but few citizens,^b and the greatest part of them unmarried. To remedy this last evil, Cæsar and Augustus re-established the censorship, and would even be censors themselves.^c Cæsar gave rewards to those who had many children.^d All women under forty-five years of age who had neither husband nor children were forbidden to wear jewels or to ride in litters; ^e an excellent method thus to attack celibacy by the power of vanity. The laws of Augustus were more pressing: ^f he imposed new penalties on such

^v Lib. LVI.

^w Lib. II.

^x In the year of Rome 277.

^y See what was done in this respect in T. Livy, lib. XLV.; the "Epitome" of T. Livy, lib. LIX.; Aulus Gellius, lib. I. cap. vi.; Valerius Maximus, lib. II. cap. xix.

^z It is in Aulus Gellius, lib. I. cap. vi.

^a See what I have said in book V. chap. xix.

^b Cæsar, after the Civil War, having

made a survey of the Roman citizens, found there were no more than one hundred and fifty thousand heads of families.—Florus's "Epitome of Livy," 17th decad.

^c See Dio, lib. XLIII., and Xiphilinus in "August."

^d Dio, lib. XLIII.; Suetonius, "Life of Cæsar," chap. xx.; Appian, lib. II. of the "Civil War."

^e Eusebius, in his "Chronicle."

^f Dio, lib. LIV.

as were not married,^g and increased the rewards both of those who were married and of those who had children. Tacitus calls these Julian laws;^h to all appearance they were founded on the ancient regulations made by the Senate, the people, and the Censors.

The law of Augustus met with innumerable obstacles, and thirty-four years after it had been made the Roman knights insisted on its being abolished.ⁱ He placed on one side such as were married, and on the other side those who were not: these last appeared by far the greatest number; upon which the citizens were astonished and confounded. Augustus, with the gravity of the ancient censors, addressed them in this manner:—^j

“While sickness and war snatch away so many citizens, what must become of this state if marriages are no longer contracted? The city does not consist of houses, of porticos, of public places, but of inhabitants. You do not see men like those mentioned in Fable starting out of the earth to take care of your affairs. Your celibacy is not owing to the desire of living alone; for none of you eats or sleeps by himself. You only seek to enjoy irregularities undisturbed. Do you cite the example of the Vestal Virgins? If you preserve not the laws of chastity, you ought to be punished like them. You are equally bad citizens, whether your example has an influence on the rest of the world, or whether it be disregarded. My only view is the perpetuity of the republic. I have increased the penalties of those who have disobeyed; and with respect to rewards, they are such as I do not know whether virtue has ever received greater. For less will a thousand men expose life itself; and yet will not these engage you to take a wife and provide for children?”

He made a law, which was called after his name, Julia and Papia Poppæa, from the names of the Consuls for part of that year.^k The greatness of the evil appeared even in their being elected: Dio tells us that they were not married, and that they had no children.^l

This decree of Augustus was properly a code of laws, and a systematic body of all the regulations that could be made on this

^g In the year of Rome 736.
^h “Julias rogationes.”—“Annal.” lib. III.
ⁱ In the year of Rome 762.—Dio, lib. LVI.

^j I have abridged this speech, which is of tedious length; it is to be found in Dio, lib. LVI.
^k Marcus Papius Mutilus and Q. Poppæus Sabinus.—Dio, lib. LVI.
^l Ibid.

subject. The Julian laws were incorporated in it, and received greater strength.^m It was so extensive in its use, and had an influence on so many things, that it formed the finest part of the civil law of the Romans.

We find parts of it dispersed in the precious fragments of Ulpian,ⁿ in the Laws of the Digest, collected from authors who wrote on the Papian laws, in the historians and others who have cited them, in the Theodosian code which abolished them, and in the works of the fathers, who have censured them, without doubt from a laudable zeal for the things of the other life, but with very little knowledge of the affairs of this.

These laws had many heads,^o of which we know thirty-five. But to return to my subject as speedily as possible, I shall begin with that head which Aulus Gellius informs us was the seventh, and relates to the honors and rewards granted by that law.^p

The Romans, who for the most part sprang from the cities of the Latins, which were Lacedæmonian colonies,^q and had received a part of their laws even from those cities,^r had, like the Lacedæmonians, such veneration for old age as to give it all honor and precedence. When the republic wanted citizens, she granted to marriage and to a number of children the privileges which had been given to age.^s She granted some to marriage alone, independently of the children which might spring from it: this was called the right of husbands. She gave others to those who had any children, and larger still to those who had three children. These three things must not be confounded. These last had those privileges which married men constantly enjoyed; as, for example, a particular place in the theatre;^t they had those which could only be enjoyed by men who had children, and which none could deprive them of but such as had a greater number.

These privileges were very extensive. The married men who had the most children were always preferred, whether in the pursuit or in the exercise of honors.^u The Consul who had the most

^m The 14th title of the “Fragments of Ulpian” distinguishes very rightly between the Julian and the Papian law.

ⁿ James Godfrey has made a collection of these.

^o The 35th is cited in the 19th law ff. “de ritu nuptiarum.”

^p Lib. II. cap. xv.

^q Dionysius Halicarnassus.

^r The deputies of Rome, who were sent to search into the laws of Greece, went to Athens, and to the cities of Italy.

^s Aulus Gellius, lib. II. cap. xv.

^t Suetonius, in “Augusto,” cap. xlv.

^u Tacitus, lib. II.: “Ut numerus liberorum in candidatis præpolleret, quod lex jubebat.”