



UNIVERSITÄTS-
BIBLIOTHEK
PADERBORN

**Syntagma Iuris || Vniversi, Atqve Legvm || Pene Omnivm
Gentivm, Et || Rervm Pvblicarvm Præcipvarvm,||**

Grégoire, Pierre

Francofurti ad Mœnum, M.D.XCIX.

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20 de reliquis oneribus matrimonii.

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Psalm. 143. Filie eorum compositae & circumornatae, ut similitudo templi. Ideoque non parcunt rapinis vestitusque artibus, ut satisfaciant molliciei.

12 **¶** Arguit **¶** Berofus *lib. 5.* Atrialium regem **¶** Assyriorum, quod primas adauxerit pompas, gemmas & muliebres delicias. Splendide viuere & delicate, & mollibus vestiri, indiger pecuniis maioribus: & idcirco his in rebus prudentes legiflatores antiquorum solliciti fuerunt, & curam non modicam adhibuerunt tum legibus sumptuariis, de quibus alibi diximus, & modum conuitiis adhibentes, & vestitum etiam prospicientes. **¶** Legem **¶** etiam quandam esse apud Corinthios scribit hoc pacto Diphilus in Mercatore, teste Athenaeo, *lib. 1. cap. 2.*

Est optime hic statutum apud Corinthios, Obsanis, si quem videmus splendide Semper frui, rogare: victus suppetit Huic unde, siue quid facit: si sufficit Huic victui redius, frui relinquimus. Si conuigit supra hunc omnes impendere: Libetur id non amplius fecisti: qui Ne pareat, poenam solent imponere. Si nihil habens prorsus videtur splendide Vixisse, carnis datur. Per Herculem Nulli licet vixisse si furis sine Inuelligi. Sed est necesse noctibus Spoliare, ferarive: vel eam quopiam Habere partem, falsatestari in foro Falso vel accusare. Pessimam genus Paruamus hoc, & per louem estissime.

Et eandem legem primum ab Amasi Aegypti rege latam scribit Herodotus, in *Euterpe, seu lib. 2.* indeque & mutatum Solonem.

14 **¶** At **¶** in vestibus cura, etiam gesserant Ephori Lacedaemoniorum, ut quoad id in perfectione obirent vestimentorum: ut si quid iam illis forte a decenti iustoque ornatu alie uenirent, cur-

15 rigerent. *Eluan, lib. 4. de var. histor. cap. 7.* **¶** Cui **¶** Lycargus ne iuuenes amplius, quam una veste vno anno vterentur, ne alius alio cultior egredereur. *Iust. in Trogo, lib. 3.* **¶** In **¶** qua taxatur superfluitas & stultitia Neronis Claudius, qui nullam vestem bis

17 induit. *Suet. in Neron. c. 30.* **¶** Habebat **¶** in an. mo Alexan. Severus Caesar, omnibus officiis genus vestis proprium dare, & omnibus dignitatibus, ut a vestitu digni scerent. *Lamp. in Alex. c. 7.* **¶** Gratianus, **¶** Valentinianus, & Theodosius statuerunt, ne Senatores mane chlamydes ferret, sed p. n. alati & togati, dum sederent, porphyrum in consilio, essent, officiales quoque, penuliam cum interiore toga cincti: sere-

18 ul non nisi byreis, aut cucullis vterentur. *l. 1. de habitis quo vti oportet. int. vrb. lib. 14. C. Theod. tit. 10.* **¶** Arcad. **¶** & Honorius in iudicauerunt iuxta verbum, vltim. *ing. vrb. art. b. a. charu, ex lib. 4. de officio bo-*

20 noru alioquin imminente. *l. 2. c. 10. tit. 10.* **¶** Honor. **¶** & Theodos. in iudicauerunt seruis maiores cruces & sellis iudicanda intra vrbem.

21 *l. 4. c. 10.* **¶** Inducti **¶** estal quo ad a Senatu senectus, ut seruos a liberis cultus distingeret. *deinde apparuit, quatuor periculis imminet, inquit Seneca, lib. 2. de Clem. si serui nostri nos numerare cogissent.*

22 **¶** Per **¶** insulae Vrope vna fortuna vestitus est, nisi qua sexus hab tu dicerat, & coelibatus a coniugio. *Tho. Mor. lib. 11. Top. c. 1.* **¶** Placuit

23 **¶** & Romanis, vestita dignitate quodammodo secerare, ideoque & praetextas vestes habuerunt quinquuplicis differentia, regales, argenteas, consulares, senatorias, equestres, quas explicat Wolphig. *Lazius, lib. 2. comment. reip. Rom. c. 3. c. 1. c. 2. c. 3. c. 4. c. 5. c. 6. c. 7. c. 8. c. 9. c. 10. c. 11. c. 12. c. 13. c. 14. c. 15. c. 16. c. 17. c. 18. c. 19. c. 20. c. 21. c. 22. c. 23. c. 24. c. 25. c. 26. c. 27. c. 28. c. 29. c. 30. c. 31. c. 32. c. 33. c. 34. c. 35. c. 36. c. 37. c. 38. c. 39. c. 40. c. 41. c. 42. c. 43. c. 44. c. 45. c. 46. c. 47. c. 48. c. 49. c. 50. c. 51. c. 52. c. 53. c. 54. c. 55. c. 56. c. 57. c. 58. c. 59. c. 60. c. 61. c. 62. c. 63. c. 64. c. 65. c. 66. c. 67. c. 68. c. 69. c. 70. c. 71. c. 72. c. 73. c. 74. c. 75. c. 76. c. 77. c. 78. c. 79. c. 80. c. 81. c. 82. c. 83. c. 84. c. 85. c. 86. c. 87. c. 88. c. 89. c. 90. c. 91. c. 92. c. 93. c. 94. c. 95. c. 96. c. 97. c. 98. c. 99. c. 100.*

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tit. 24. sicut & minorem triennio lactandi. l. penult. C. de patr. pot. Alioquin citra necessitatem, pater liberorum hoc alendi habet onus, non mater. l. pen. de libe. agnos. in P. Accedit & istis sollicitudo liberorum qualibet alia ultra, & vitæ & aliorum necessariorum.

Duxi uxorem, inquit Demea, apud Terent. in Adelphis circasinem. quam ibi miseriam vidi, nati filii.

Alia cura: porro autem dum studeo illis, ut quamplurimum facerem, contriui in querendo vitam, atq. aetatem meam.

Nunc ex aetate, hoc fructi pro labore ab eis fero.

Odium: meam autem mortem expectant.

Romulus auctore Dionysio Halicarnass. in 2. antiq. primum, necessitatem colonis imposuit educandi quicquid esset masculum, & e filibus primogenitas. ¶ Verum postea iura ad omnem patrum partem, vt diximus, hoc prerogaturus. Sicut & contra, liberi omnes, egeates patres alere tenentur, lsi quis a liberis, de libe. agnos. in P. cum siml. H enim natura suadet, qua beneficia rependere tenemur, l. sed et si l. s. consulsus, de petit. hered. P. & animalium, ferarumque quarundam exempla, quæ rependunt parentibus semibus, & defectis viribus officium & vicem. ¶ Erat ¶ & lex Atheniensium, quæ a dicendo vel verbo ad populum faciendum prohibet eam, qui patrem aut matrem verberauerit, vel non aluerit, aut intra habitationem suam non receperit: nam ab eo qui adiectus eos, quos æque venerari ac Deos oportet, est improbus, non potest nisi malum ciuitatis expectare, vt ait Æschinus aduersus Timarchum. Apud eosdem tamen alia lex, quam Alexis Poeta laudauit, non cogi filios eos parentes alere, a quibus aliquam artem edoceri non fuissent, vt ait Virgilius in proem. lib. 6. de architec. Refert eandem ad Solonem Plutarchus, in vita Solon. Meminit & Galenus, orat. exhort. ad art. Erat & alia huic similibus illis, non teneri filium alimere patri vel habitationem tradere, si eum mercede prostituisset. Æsch. præd. loco. Et iura etiam ciuilia, atheniensium, de episcop. ued. C. tollunt hac ratione patriam potestatem. Mortuum tamen sepelire iubebat, ac ei iusta facere: quia lex & numen ipsum hominem consequitur, et si non sentiat.

¶ Decimum ¶ onus esse, patris, & matrimonii dotare filias: conueniunt Iuriconsulti, l. qui liberos, de ritu nuptiar. in P. l. fin. de dot. promiss. C. cum similib. cum Rabinis. Porro longa est conuouentia, num quos liberos teneatur nutrire vel alere inspecta gratia iuriscanonicis, & adulterinis & spuris, eisdem teneamur dotare constituere, quam non explico, quia extra matrimonii onus est, sed remittam lectorem ad Nicolaum Boerium qui eam explicat. de off. l. 27. num. 11. 12. 13.

¶ Porro ¶ vt oneribus summum & extremum, aliorumque causam subiciamus, & mulierem ipsam etiam valde onerosam dicunt vitis, & hoc onus malamque meliori quo possis condimento ferendum, vel tollendam. Aul. Gell. lib. 1. Noct. capit. 17. Vxorque ferenda, vt ait Plutarchus, in Præcept. conubial. et si vix fuisse neri possit. §. 1. ut sine prohib. matrim. debuit. & credit. & c. in aul. colla. 7. glo. in lex. bis, de legi. Sic Antiphanes quoque dixit, epist. 7. lib. 1. prorsus, onus graue mulierem. Plus namque aloes, quam mellis habet, vt ait Iuuenalis. Satyr. 6. Et iterum idem distia Satyr.

*Semper habet lites, alternatq. iurgia lectus,
In quo nuptia iacet, minimum dormitur in illo:
Tunc grauis illa viro, tunc orba iugis de petor,
Cum simulat gemitus occulti conscia facti,
Aut odit pueros, aut silet pellice plorat.*

¶ Scribit ¶ Alcibiades, lib. 2. parerg. c. 12. Romæ in saxo insculptum, Epitaphium, verum litigiosi matrimonii testimonium, quod nec post obitum quiesceret, hinc in modum.

*Hæc vitator, mirabilem hic vir & vxor non litigant.
Qui simus non dico: at ipse dicam, hic Behiu ebrius.
Ebrum menunciat: heu vxor, etiam mortua litigat.*

¶ Ceterum ¶ & liberorum habendorum gratia, plerique mores aduersos coniugum sustinent: veluti docuit Socrates, dum interrogatus ab Alcibiade, cur tam iurgiosam mulierem domo non abigeret: interrogatorem dissimulans dixit, cur tu clamorosas gallinas domo non abigis? & cum Alcibiades respondisset, quia mihi pariant oua: & mihi, inquit Socrates, vxor Xantippe parit filios.

Diog. Laert. in vit. Socra.

Axiomata quædam nuptiarum communia.

C A P. 21.

- 1 In matrimonii honestas inspicienda.
- 2 In matrimonii ius Pontificum sequendum.
- 3 In matrimonii dubiis pro matrimonio iudicandum.
- 4 Matrimonio dubio pro eo deferitur iuramentum cum uno teste, & alius adminiculis & que sunt adminicula, quæ probant matrimonium. & presumptiones.
- 5 Mulieri iuranti vel asserenti se ab aliquo fuisse cognitam, vel aliquid sibi matrimonium promississe non creditur.
- 6 Matrimonii causa. & num quis sit ex legitimo matrimonio procreatus, notio. pertinet ad forum ecclesiasticum, non ad laicum.
- 7 Coniuges vel sponsi possunt adire iudicem laicum, vt cogat aduersarium nubere, vel redire.
- 8 Contra matrimonium sententia lata non transit in rem iudicatam.

IN coniunctionibus legitimis semper & quod licet, quod vè honestum inspiciendum. l. semper. de regul. iur. P. l. semper. de rit. nupt. P. ¶ In ¶ matrimonii iudicandis, & in his quæ ad ea pertinent, præponimus sanctiones Pontificias ciuilibus. c. si de sec. nup. ap. Greg. §. vlt. quomo. oper. episc. in aul. coll. 1. §. fin. vt cleri. ap. prop. episc. col. 6. ¶ In ¶ ambiguis, pro matrimonii iudicamus, & pro coniunctionibus potius, quam pro solutionibus. ¶ Idcirco ¶ si quis petat uxorem ad iudicari sibi, vt pote cum qua dicat matrimonium contractum, si probet per vnū testem, defertur ei iuramentum necessarium in supplementum probationis pro matrimonio, deci. 71. Capel. Thol. Hostien. & collectarius, in c. mulieri, de iure iur. et si quidam repugnet, c. lator. de sent. & re iud. gl. in l. 3. §. 1. in v. b. agatur, de iure in P. non autem cōtra matrimonium. gl. & Pan. in c. mulieri, de iure iur. gl. in l. 3. §. 1. eod. in P. Idem statuitur in vxore petente maritum, si modo iudicia & presumptiones, aliunde concurrant, veluti annulorum delatio, c. illud, de presum. frequer s familiaritatis, in libe. de rit. nupt. P. & similia his, adhibita consideratione qualitatis æqualitatis personarum, num fraus vel aucupatio fuerit matrimonii. Et proinde per has peristales melius est committi delationem tunc iuramenti arbitrio iudicum, vt monet Siculus, in d. cap. mulieri. per ca. fin. de iure iur. in c. a. l. 3. §. quæcūq. eo. vt. Atque vnus testis cum fama præbabit matrimonium contractum & factum, dummodo alteri matrimonio non fiat præiudicium, quod fuerit manifestum, cui per clandestinum iura probatum non obest, deci. 172. Capel. Thol. Imoc. in ca. præterea de re fib. & in c. illud de presum. facit gl. in c. 1. de appellat. c. veniens, in 1. de re fib. etiam si ambo confiteantur clandestinum, cum teste vno & fama. Ioan. And. in c. 2. de cland. despons. Adminicula quoque, presumptionesq. matrimonii, instrumenta dotalia, & pacta dotalia sunt, l. neq. ab initio, de nupt. C. §. nuptias, eod. in aul. tamen cum tabulis perpendenda censet Papinianus, l. donationes in concubina 3. de donatio. libe. 39. P. tit. 5. facit. l. si vicinis. C. de nupt. si præcesserit, vel aduerit maritalis affectio, vel honor. personis comparatis, vitæque coniunctione considerata: neque tabulas facere matrimonium. Addunt etiam adminicula & semiplenas probationes, epistolæ a maritis vel coniugibus missæ, si de fide earum constiterit: vt nonnullam fidem instrumentorum esse decretum respondit Sævola in l. pede probat. lib. 2. P. tit. 3. Et Papinian. l. Publia. 26. §. fin. de pos. lib. 16. tit. 3. facit. l. cum quis, §. codicillis, de leg. 3. l. emor. §. si de part. in P. verba enuntiativa in epistola prolata obligationem quidem nullam producere, sed probationem impleri posse ait. Et quamuis plena probatio ex epistolis non oriatur, l. nō epistolis, l. non nudis. C. de probat. l. pen. in fin. qui potio. C. l. generaliter, de non num. pecun. C. l. nec professo. C. de testibus, tamen confessionis species contra confiteentem multam cum adminiculis aliis probabit.

¶ Placuit ¶ tamen supremis curiis non esse dandam fidem dicenti, se stupratam vel raptam fuisse ab aliquo. Scribit Nicolaus Boerius, deci. 299. & respondit Barbæria, consil. 27. & Stephanus Bertrandi Carpentoratenis, consil. 143. col. 3. nec creditur iuramento vel asserationi mulieris sine alia probatione asserentis, virum in eam consensisse per verba de præfenti, c. mulieri. c. 31. 34. de iure iur. lib. 2. Decret. rit. 14. sicut nec ei creditur, qui dixit ab aliquo sibi mortis etiam vim illatam, nisi aliis id ipsum fulciatur probationibus. P. l. 13. §. 1. ad Sc. Syllaria.

¶ Causa ¶ matrimonii validi vel invalidi, debet agi & decidi