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Te petit Antinous : quid Hylæ sperare licebit,  
 Qui mutilus rediit dimidiumque sui?"  
 Illa, inter lacrymas ridens, " Mihi carior," inquit,  
 " Antinoo toto dimidiatus Hylas."—1843.

These last lines are psychologically curious. They were conceived, and mainly composed, during sleep. The author had been reading, the day before, that passage of Hesiod in which the thesis occurs ; but without any thought of writing an epigram.<sup>8</sup> That the subject, and the idea of its treatment, presented themselves to his mind in a sleep of the night, and that the verses were chiefly composed in that state, the author has no doubt whatsoever. He remembers, indeed, a short waking, or half-waking interval, in which he reviewed, and, it may be, retouched and completed the epigram : and to this circumstance it is probably owing that, when he awoke the next morning, the lines remained engraven on his mind, as they here stand. It had happened to him at various times during his life to compose verses in sleep : but, on waking in the morning, " ibi omnis effusus labor," there remained only the consciousness of having been so employed : sometimes, indeed, he has remembered the subject ; but the poetry itself was gone ; " ceu fumus in auras commixtus tenues, fugit diversa."<sup>9</sup>

Y.

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### III.

#### DR. WILHELM IHNE ON THE EARLY ROMAN CONSTITUTION.

FORSCHUNGEN AUF DEM GEBIETE DER RÖMISCHEN VERFASSUNGSGESCHICHTE, VON DR. WILHELM IHNE. Frankfurt am Main, 1847.

IN the present article, it is proposed to introduce to the reader some very original views brought forward in opposition

<sup>8</sup> By an odd coincidence, the very thesis (*πλίον ἢ μισοι παντός*) was given at Cambridge a few months afterwards, as one of the subjects for the prize epigrams.

<sup>9</sup> Our readers will probably remember Coleridge's account of a like incident in his life, and the rich fragment which that great genius saved from the wreck of his poetic dream.

to Niebuhr by the able author of these inquiries. It is impossible to give all of Dr. Ihne's arguments, or all the details of his opinions; but the responsibility will be here assumed of selecting those opinions which are most important, and those arguments which have most weight.

Niebuhr has endeavoured to establish, that in the earliest times of Rome the *clients* and the *plebeians* were distinct bodies. He holds that the Clients were generally townfolk,—artisans or traders,—attached as dependents to particular patrician houses, whom they were bound to serve with purse and sword; though there were some clients who lived in the country, as farm tenants to the patricians, and could be ejected at will; but that the Plebeians were country-people, living by agriculture, having received from the state, in freehold, *seven jugera* of land each, and standing in no social relations towards the great patricians. He likewise supposes the patricians to have no right of freehold, except to the extent of *two jugera*; but that this disadvantage was compensated by their exclusive right of occupying the public land, for which they paid to the state a trifling rent, that freed them from other taxes upon it. Moreover, he believes that before Ancus, there was no plebeian body; the nucleus of which consisted of the Latins whom that king conquered.

Nearly all of these points are impugned by Ihne. First, the evidence on which Niebuhr rests for his cardinal distinction between the plebeians and clients is to be considered. Against him stands the direct testimony of ancient writers; who believed that the population of earliest Rome consisted of two classes only—patricians and plebeians; that all clients were plebeians, and that originally all plebeians were clients. This is most pointedly stated by Dionysius, II. 9 and 10; by Cicero, *De Rep.* II. 9; by Livy, VI. 18; by Festus, p. 233, Müller; and Niebuhr is fully aware of the entire novelty of his own view. He rests it, however, on certain passages of Dionysius and Livy, who, in narrating the contests of the two orders, represent the patricians as defending themselves *by aid of their clients*. Niebuhr regards this as the truth slipping out, and treats the other more formal statement as an erroneous theory, to which no attention is due. But Ihne precisely reverses the argument. Dionysius, especially, is a garrulous writer; who

tries to fill up the meagre annals of early times by details drawn from later events and circumstances; a fact which no one knew better than Niebuhr. Now in later days, it is certainly true that the nobles armed their clients against the commons: this is the representation which Dionysius would be likely to transfer by anticipation to the primitive times. But it was not afterwards true that clients and commons were identical bodies; consequently, a careless historian was less likely to slip by error into a confusion of early clients and plebeians. The statement therefore of Dionysius, which Niebuhr rejects as a mere theory, ought to be received as a matter of testimony; and that which he adopts as a truth, ought to be exploded as one of the many errors arising from the vain attempts at a "pragmatical history," where no documents existed.

It is true that Livy also, in various passages, (II. 35, 56; III. 14, 16,) distinguishes *the clients* from *the plebs* in narrating the tumults: but at most, this would only prove that he held the plebeians not to be all clients. No modern interpreter before Niebuhr ever saw a difficulty in reconciling Livy with himself. This historian undoubtedly regarded the clients and licitors as plebeians, and took exactly the same view of their position *before* the Decemviral laws, as Niebuhr takes of them *after* those laws. It is a fiction, necessary for Niebuhr's theory, but uncountenanced by authorities, that the Decemvirs introduced clients into the body of the plebs; but as Livy knew nothing of this, and makes no change in his phraseology after their laws, his evidence is not to the purpose.

Niebuhr (p. 411, vol. I., 4th edition,) argues that the plebeians were conquered Latins, as follows:—1. Ancus Martius is said to have planted *the conquered Latins* on the Aventine; 2. The Aventine was made, by the Icilian Law, the chief seat of the *plebeians*; therefore, before the Latins were conquered, there were no plebeians. But, strange to say, Niebuhr himself does not believe in the transplantation on which his argument rests. He holds the plebeians to have been country-people; and he argues, if they had been brought to Rome, they could not have tilled the lands.

He acknowledges that there are many instances in history of such transferences of population, but he is persuaded that here some Greek historian, who knew of similar measures in

Sicily, has misunderstood the Latin formula *in civitatem recepti*, which was the lot of the conquered Latins; and translated it as if it had been *in urbem recepti*.<sup>1</sup>

Against Puchta, who imagines that this transplantation was intended to keep the conquered people in check, Ihne argues that the uniform policy of an aristocracy was the very opposite. They dreaded a mass of population in a town, and by scattering it in the country, (*διοικισμὸς*) made it powerless. That the obedient clients should have been town-artizans and shopmen, but the unruly plebeians country-people, is the reverse of all that Greek or Mediæval experience would suggest. Extreme oppression may, no doubt, rouse a peasantry or small farmers into rebellion; but a town population is always the soonest enfranchised from an aristocracy. *A priori* probability would lead us to conclude, that the bond of clientship was most powerful towards the country-people, and that those plebeians who were artisans or traders, were first to effect their emancipation from it.

And here it may be suitable to name a theory of Ihne's, which is recommended by great simplicity and probability. He conceives, that when the plebeians found it impossible to gain legal redress against their patrons, inasmuch as their cause could only come into the court under the patron's sanction and name, they demanded Tribunes, who should be to the plebs collectively in the place of Patrons; so that a plebeian who chose to disown his clientship, might not find himself cast out of the pale of the law. This appears happily to account for the very singular form of the office, by which the plebs sought to defend itself.

But to return to Niebuhr's views. He teaches, that the Albans, whom Tullus conquered and transplanted, were made patricians, but that Ancus could not be so liberal, since the patrician tribes were now full, and the number three was too sacred to alter: he adds, that these Albans were made into the tribe of Luceres; from which Göttling, Huschke, and Becker, have justly dissented.

As for the supposed fact, which in Niebuhr's view is so important,—that never once is any contest between patricians and

<sup>1</sup> The fact that the Aventine was afterwards given to the plebeians, might then induce legend to fix on this as the

part of the city which Ancus gave to the Latins.

clients whispered ; knowing what we do of the avarice and cruelty of the old patricians, it would be puerile to believe that their conduct to their clients was really exemplary. This ought in itself to have led to the conclusion, that Niebuhr's fact is nothing but a verbal one. There is no contest recorded of the clients against the patricians, simply because, when the contest arises, the clients are called by the generic term plebeians. At the same time, Livy (vi. 18) makes Manlius say to the plebs, *Quot clientes circa singulos fuistis patronos, tot nunc adversus unum hostem eritis* ; so that the imaginary fact falls to the ground. But, having seen how little positive support Niebuhr has for these points, we may now draw attention to the extreme improbabilities with which his theory is encumbered.

If there was a time when Rome consisted of patricians and clients, without plebeians, the clients must of necessity have been chiefly country-people. In fact, there was originally little of manufactures and commerce in the city ; and we cannot conceive of the mass of the people as having been any thing but a peasantry ; the army also must have consisted of these clients. If so, how could the clients, a little later, have been as it were driven out of the country, and out of the regular army, by the intrusive plebeians ?

Again, if Rome, under Tullus, adopted Albans into the state without inventing a new order, we want more definite testimony than Niebuhr can produce, to make us believe that the Latins conquered by Ancus were so differently treated.

Again : Is it credible that the patricians gave to those conquered people freehold land—*seven jugera* each, when they kept them out of the pale of the constitution ; and when they did not allow to themselves, lords and masters as they were, any freehold land at all, except the miserable *two jugera* ? How unintelligible is it, that when the entire state was under their controul, they did not confer on themselves a freehold right over the public<sup>3</sup> land, but were satisfied to hold it in mere occupation !

<sup>3</sup> Niebuhr's opinion about the *two* and the *seven jugera*, may not seem well founded ; yet as regards the last objection, Ihne's own theory needs for defence a supplement which will equally shelter Niebuhr's, viz. the patricians did maintain that the old public land

was their private property ; and this was a safer policy with them, than to pass an enactment to this effect, which would have seemed to admit that hitherto it had not been private. Nothing but the growing strength of the plebeians defeated them.

In this view, it is wonderful that the plebeians could have made an outcry to possess freeholds, if they knew that that was beyond the pretensions even of the patricians.

Farther, if it be true that the strength of the patricians depended on their retinues of armed clients, why did they allow this important body of men gradually to vanish by the time that the history gets clearer? If indeed the clients are the oppressed plebeians themselves, then of course, as they gradually win their rights, they break away from the unpleasant tie; but if, as Niebuhr thinks, the clients bore no part of the oppression which fell on the plebeians, the whole course of their history is a riddle.

Finally, it is extremely difficult to believe, *either*, that the clients were free from all military duties, *or*, that they served against the enemy in the sole character of retainers to their patrons, and not in the regular army as soldiers of the state. Niebuhr believes the latter, partly on the evidence of certain descriptive passages of Dionysius, and partly because he holds that the clients were not enrolled in the tribes. Yet in deference to the passages of Livy already referred to,—on which he lays great stress,—he believes that the clients voted in the *Comitia Centuriata*. Now if any thing is clear concerning these early *comitia*, it is, that their arrangement was in close analogy to that of the national army; so it is not to be endured in a modern theory, to represent the clients as admitted into the *Comitia Centuriata* and yet excluded from the army.

Most of these difficulties are of Niebuhr's creation, and do not exist in the views held by all antiquity. But connected with these are real difficulties of the historians, (concerning which, all that we can say is, that Niebuhr has not relieved them,) in relation to the *debts* which so long afflicted the Roman commons. The following circumstances appear remarkable.—In later times the patricians are not money-lenders: that occupation belonged peculiarly to the knights: yet in the early days the patricians are the great usurers. Neither gold nor silver money as yet existed: heavy copper was the current coin: yet the patricians seem to have an unlimited command,—not over substance merely, such as cattle and stuff,—but over cash, which they lend with wonderful freedom to the plebeians, even after times of such general ruin as the Gallic invasion. Ancient writers assert that trade was forbidden to Roman citizens;

and though this is almost certainly an error, it seems to be true that it was forbidden to the noble patricians: how then can they have acted as money-lenders for usury, to men who stood in no relation to them,—as in Niebuhr's view was the case with the plebeians? Stranger still, no such thing appears as a knight lending money on interest; much less any of the rich plebeians whom Niebuhr concedes to have existed. And while nobody but patrician nobles lend, nobody but plebeians borrow. In short, we do not seem to read so much of individual lenders and borrowers, as of the patricians, *as a class*, becoming creditors, and the plebeians, *as a class*, debtors. Niebuhr has conjectured that the real creditors were often plebeians or foreign bankers, who transferred their rights over the debtor to the patricians, in order to recover the debt more easily; but this, if systematic, must surely have slipped out somewhere in the history. So arbitrary a notion serves only to attest to us how sharply its inventor felt the pinch of the common representation.

To relieve this difficulty, Ihne has advanced a theory, which well deserves to be considered. He believes that *the mass of the plebeians were farmers of the soil, paying rent to the patricians as to landlords: that the land, however, was in theory and in right the property of the state, from which the patrician had no right to expel a tenant.* Nevertheless, when the rent was in arrears, the tenant was liable to arrest; and as this happened frequently, the patricians took advantage of it to use the land as absolutely their own, by entrusting it to other parties, tenants at will, who paid whatever rent the patrician chose to exact. Such conduct was, in the opinion of the plebeians, an invasion of the public land; *grassari in agrum publicum; possidere agrum publicum per injuriam*, (Liv. VI. 5; II. 41; IV. 51;) and it gave rise to the struggle on their part to have land ceded to them absolutely as freehold, by which they would get rid of their landlord or patronus, for ever. The division of the Aventine by the Icilian law was the first example of land in freehold being legally conceded to the plebeians; hence the extreme importance of that measure as a precedent.

In regard to the law of debt, Ihne endeavours to mediate between Niebuhr and Savigny. He holds that in the earliest times only the *person* of the debtor was answerable, this being looked on as a moral punishment; which also operated to induce the debtor to pay if able. A patron had no right to in-

stitute a civil action against his client who was in arrears for rent, because, the land being public property, the neglect to pay was a criminal offence, not a mere private wrong; so that the debtor was liable, not only to be arrested, imprisoned, and sold, but to be put to death. The severity of this law seems to attest that the plebeian tenants were a conquered race. Of course a tenant in arrears to the state would lose all rights as a citizen (which was the case even in Athens,) until he had paid every thing; but his connection with his land was not severed, and his debt descended to his children. Still the creditor gained little by the *Addictio* of the debtor, *who might not be forced to work*, and who seldom brought a large sum, if sold; while to kill him was useless cruelty. Hence the patricians brought in the principle of making the debtor's *property* answerable, in which case he was called *Nexus*, and was liable to be set to work as a slave. This state of things was in theory milder, but in fact worse than the former; and by the operation of it the plebeians were rooted up from the land, which was falling into the hands of the rich, as actual proprietors. But this course of events was stopped by the *Lex Pœtelia*, B. C. 326, which for ever forbade the process of *Nexus*. Such is Ihne's view of this tangled subject; but he does not add any other proof of the justness of his distinctions, than the appeal to their intrinsic probability. We presume, however, that he has been guided to his hypothesis by the classical passage (Dionys. VI. 83,) which becomes very clear by means of it. "We give consent that all who owe money and cannot pay, be forgiven their debt; and if any *are under personal arrest for being behind the legitimate days*, (of payment,) these we vote to be set free; and such as have been cast in *private* suits and given over to their plaintiffs, these also we will to be free, and that the awards against them be annulled." Here, the first class are debtors against whom has been no process as yet; the second are *addicti*, under arrest for not paying the state rent to their landlords; the third are *nexi* for private suits. The second class are not borrowers, it will be observed, nor is the fact of their being in arrears a private wrong; for in this they are contrasted with the third class. This agrees, so far, exceedingly well with Ihne's theory; but the interference of the Prætor to compel and ratify the *Nexus*, which, according to this view, Dionysius must imply, is contrary to what is generally believed.

Before stating the more particular grounds which may add plausibility to Ihne's agrarian theory, its power to solve the difficulties above stated must be considered. First, it accounts for the perpetual debts to the patricians, into which the plebeians fell as a consequence of the wars. Whether their lands were ravaged by the enemy, or they themselves were forced to neglect cultivation through absence with the army, they would naturally be disabled from paying the rent. No *lending* on the part of the patricians is then requisite to produce arrears of debt. We have no longer to wonder how it is that the patricians were always rich enough to lend, nor why the creditors were always patricians, nor whence so great an amount of coin came, nor why the law against trade was inoperative against the nobility. The theory at once satisfies the demand, that it shall exhibit the plebeians and patricians, as classes, in the relation of debtors and creditors. Without denying that in early, as in later times, any person destitute of full civil rights might become a client to one who possessed them, it represents every plebeian agriculturist as naturally a client to his patrician landlord.

To enable us to conceive how the patricians might receive rent from public land, it would perhaps suffice to lay down that the early kings of Rome dealt with conquered land as feudal sovereigns did; viz. established barons upon it, who were entitled to dues from the cultivators, though the property of the land was still theoretically vested in the sovereign, who received homage for it. If, at the same time, they strictly defined the amount of rent, and guaranteed the occupancy to the tenant as long as the rent was duly discharged, (which is what an Ancus or a Servius is likely to have done,) we should at once have such a state of things as the theory requires. For, on the expulsion of the kings, the patricians would undoubtedly hold that they were now the real and sole proprietors, as individuals; while the plebeian tenants would insist that their own rights were not affected by the expulsion, and that the *state* inherited the property in the land which previously was vested in the *king*. Ihne, however, does not take the king into consideration. He conceives of the early patricians as a race of conquerors, who claim the conquered land for the state collectively; but, inasmuch as no finance-officers as yet existed, nor the means of converting produce into gold and silver, the only mode

of taking tribute for the *state* was by deputing individual nobles to take it for *themselves*. He strengthens this view, by denying that any quæstors of the treasury existed before B. C. 447, the consulship of Horatius and Valerius, a belief which Rubino has adopted on the authority of Tacit. *Ann.* xi. 22; which he understands to assert, that though quæstors (*viz.* Quæstores Parricidii) existed during the kingly period, yet quæstors *to accompany the camp* (*ut rem militarem comitarentur*) were first appointed sixty-three years after the expulsion of the Tarquins. The justness of this interpretation is confirmed from Livy, who, before that era, represents the *consuls* as selling the booty of war, (ii. 42; iii. 23, 29, 31,) but afterwards attributes the same uniformly to the *quæstor*, as iv. 15, 53; v. 19, 26. Quæstors of the treasury are first named B. C. 443, by Livy, iii. 69; and the speech which he puts into the mouth of Canuleius (iv. 4,) shows that he believed the office of *quæstor* to have been created later than that of *tribune of the plebs* and *ædile*. In the kingly times, (it is Ihne's belief,) there was no public treasury or public taxation; hence no treasurer was needed. Soldiers received no pay: contributions were occasional matters only, and were probably made after the census; though the organization of the centuries had not taxation in view so much as military arrangement. In such a state of things, state-land almost necessarily fell under the power of the individual nobles.

It may be questioned, nevertheless, whether Dr. Ihne does not underrate the financial development of kingly Rome. The celebrated works then executed, and the treaty of commerce with Carthage in the year of the first consuls, strongly confirm the view that Rome was far greater under the kings than for many years afterwards; nor is it easy to conceive that the idea of the land being *public* at all, could have established itself in such a state of things as alone he considers: but as soon as we introduce a king higher than the nobles, and solicitous to protect the commonalty from their too great power, the difficulty is relieved. Again, it is not clear why Ihne should identify the two ideas of *client*<sup>3</sup> and *tenant*. According to all the analogy of Greece, a Patron is the person who acts as legal representative for an alien or minor. A plebeian tenant would naturally go to his patrician landlord for such services, if the

<sup>3</sup> He suspects *clients* to be derived from *colo*, and almost equivalent to *colonus*.

two were on good terms ; but there is nothing in his position to make it legally necessary : as long as he had no occasion to appear before the judge, there seems no reason why he should be any one's client.<sup>4</sup> This certainly is Livy's idea,—that all clients were plebeians, but not all plebeians always clients : nor does there appear any ground for rejecting it. In troublous times, moreover, when patricians did not hesitate to assassinate a tribune, why should it be questioned that they kept round their persons retainers, who would be peculiarly spoken of as their *clients*, and might give occasion to Dionysius's exaggerated representations ? Of course such retainers could not reside away from Rome, and in so far would justify Niebuhr's assertion, that the clients (in this restricted sense) were townspeople. As such, the consul would not covet their presence in the army : indeed, there may have been a tacit understanding among the patricians, not to press into the public service any of the clients who served as a private guard to a patrician noble.

Ihne's view of the landed property is not only simple and ingenious, but really sweeps off many serious difficulties. Yet it encounters or makes new ones, in the distinction which it introduces between *old public land* and *new public land* ; the former being that which became public before there were finance ministers, and which consequently fell under the power of individual patricians by avowed regulations ; but the latter being farmed out by the censors for five years at a time, and being allowed to become patrician property only by connivance. We should have expected this distinction of the public land to be clearly made by the ancients ; but Ihne has not set himself definitely to establish that they do make it. Perhaps he argues that so large a part of the *new public land* also was made (in every practical sense) private property, as to obliterate the division of new and old. Among the passages to which reference is made in this discussion, there is one which seems to recognize the distinction, in Livy, (iv. 51,) as late as B. C. 410 ; therefore after the appointment of quæstors of the treasury and of censors. “ Hæc ipsa indignitas angebat animos, non in re-

<sup>4</sup> It is sometimes said that “ the client in Rome could not form and dissolve his relation to his patron at will, as in Greece ; ” but it is not clear on what evidence this rests. A client who left

his patron would probably have found it hard in early times to find another patrician *willing* to become his patron : but this is a different thing from legal incapacity.

tinendis modo *publicis agris*, quos vi teneret, pertinacem nobilitatem esse; sed ne *vacuum quidem agrum, nuper ex hostibus captum*, plebi dividere." Ihne believes that the struggle concerning the old Roman land was reproduced in the colonies, where the patricians or nobles endeavoured to keep to themselves the rights of lords of the soil, while the plebeian colonists expected that, at least *there*, they should be made freeholders. There is a great deficiency of documentary evidence on this whole subject; and general probabilities appear to stop short in this, that patricians are not likely to have been willing to join a colony, unless large landed rights were given them: these could often be had only at the expense of the Roman colonists; and as the senate must have desired to send out some patricians, in order to secure the allegiance of the colony, they are likely to have struggled to invest them with the character of patrons and landlords to the rest. Sometimes, however, their position could be maintained, at the expense not of the new colonists, but of the old inhabitants. Thus<sup>5</sup> in the Roman colony at Antium, the conquered people paid rent to the Roman colonists, who became their landlords. This precisely represents Ihne's view of the old plebeians, whom he supposes in all cases a conquered people, as the Antiates afterward. He also refers to the Campanian knights, who were Roman citizens and received rents from the commonalty, as representing at a later period the same relation between the orders.

Again, if Ihne's theory is correct, an agrarian law was a different thing in earlier and in later times. With Spurius Cassius, it meant, to secure to a tenant as freehold (or perhaps rather as only a fixed tenure, liable to the payment of a quit-rent,) the land which he previously held as tenant-at-will, at least in the theory of the patricians, which they were often able to enforce. With the Gracchi, it meant to plant new proprietors on small farms which had previously been held in masses, and generally been used for pasturage only. At least we cannot conceive that Spurius Cassius could have wished to give the land to any but former tenants, except where these had died or vanished, under the pressure of distress. Perhaps, however, in the general obscurity which the ancients have left over the

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<sup>5</sup> Ihne quotes a passage as from Dionys. x. 60, in proof; but the reference is erroneous.

whole subject of agrarian laws, we ought not to expect this distinction (if it really existed, as Ihne's theory requires,) to have been made prominent by any early writer.

That there was a considerable portion of public land which was not practically leased out by the censors, Ihne proves from the difficulty which was experienced in the time of Tiberius Gracchus to discriminate what land was public, or at least what were the limits of it. In fact, the land really so reserved was quite exceptive: certain districts of Campania and Sicily could not otherwise have been so much talked of. We may probably infer, that the new aristocracy continued to practise as far as possible towards conquered lands, what the old patricians had done originally,—to get the state-plot into private possession, without the controul of censor or quæstor.

It is a very ingenious conjecture of Ihne's, that the zeal which so suddenly displayed itself in Rome, for founding *Latin* colonies, was intended to evade a law which enacted that the members of all future *Roman* colonies should be freeholders. At the same time, that the patricians (or rather, nobles) who chose to join a *Latin* colony might lose nothing, it was enacted that all the *magistrates* in such colonies should have a right to claim full Roman citizenship. This would be in perfect harmony with the proceedings of a Roman aristocracy, and seems to carry conviction to the mind, although there is a difficulty in finding the law which was to be evaded. Ihne believes it to be no other than the *Lex Genucia*, mentioned by Livy, (VII. 42,) as forbidding *fœnus*; according to which, not only must *fœnus* mean "rent of land," but an important limitation, unnamed by Livy, should be added to the law; viz. that "*in no future division of public lands shall fœnus be exacted.*" This certainly is not to interpret.

And here we perhaps hit on the main difficulty of the theory, viz. that we have no ground for translating *fœnus*, rent. The derivation of the word allies it to *fœtus*, as *τέκος* to *τέκος*, and shews that it strictly and originally meant interest of money. If land were purchased as an investment, the rent might be styled interest; but not else. Hence we shall be forced to conclude that all the ancients were in positive error, when they spoke of the Patrician nobles as *fœneratores*; unless we can be satisfied with the modified view, that the great, or at least the avowed, grievance of the plebs was, not the rent itself, but the interest

claimed upon the arrears. Certainly those who wished to rouse national odium against the patricians would select this circumstance for invective, and would thus stigmatize the patricians as *usurers*, not merely as hard landlords. This view of the case appears easier to receive, than to imagine, with Ihne, that *fœnus* ever meant rent. It will then certainly be *possible* that Genucius's law forbade, not interest generally, but interest on arrears of rent. But this will not suffice for Ihne's view of the Latin colonies, nor is it at all hard to believe that a tribune may have passed a plebiscitum to forbid *all* interest. When Tacitus (*Ann.* VI. 16,) speaks of a prohibition of *versura* (or compound interest?) Ihne himself understands him as alluding to the *lex Genucia*: and why are we called on to suppose him to have been in error?

On the whole, the interpretation of the *fœnus* just suggested seems to be the least violent and most satisfactory way of presenting what is (fundamentally) Ihne's notion; for we thus avoid to come into collision with our only authorities:—to do which, is to confess that we are in the regions of mere conjecture. For the same reason, we may shrink from holding with him that *all* plebeians were clients, in the sense in which Livy uses the latter word. Slight modification<sup>6</sup> appears to enable us to adopt all that part of Ihne's theory which tends to remove difficulties, without casting aside Livy's authority too rudely. We can only afford room slightly to sketch his views on some other points. He regards it as certain that the Sabine conquerors of the Capitol became supreme masters of Rome; which is the first conquest, and made the name of *Quirites*, for ever after, express full citizenship. A second conquest was by the Etruscans, under Tarquin, who depressed both the Sabine and the Latin element.<sup>7</sup> Servius is the organ of a reaction *which united the two homogeneous races in final ascendancy over the Etruscans*; and in so far, elevated the plebeians into *citizens* in the English sense. His *comitia* were intended to establish the Latin supremacy. When the last Tarquin was ejected, Ihne believes that an arbitrary government was for a while essential,

<sup>6</sup> This view appears to be taken by Mr. Long, in his article on CLIENTS (Smith's Dictionary,) as far as positive opinion can be ascertained from his very cautious writing.

<sup>7</sup> We are disposed to ask, Was not Tarquin only the *first king* of an Etruscan dynasty, whom tradition has made to represent the whole? Roman religion denotes a long Etruscan rule.

and that Valerius was elected Protector (as we should now style it,) to conduct the revolutionary war: that he held this power for years, and resided in the royal house on the Velia: that hence came the alarms lest he should found a new tyranny; but that when he had fully organized the State, and had put it into the hands of two consuls, he came to dwell at the foot of the hill; hence his fame and name as Publicola. As he had the fullest power of a dictator, though not the name, to this may be referred the fact, that some said Valerius was the first dictator.—The author's discussion itself must be read, to judge of the erudite ingenuity with which these points are supported.

He further believes that the *Comitia Centuriata* were decisively patrician, and that the right of appeal against magistrates was to be made before this assembly, according to Publicola's law: but that this gave no redress to a plebeian, who, in a dispute which concerned the interests of the orders, had nothing to hope from such a body: but, after the Decemvirate, the *Duilian* law enabled a plebeian to appeal to the *Comitia Tributa*, by which at length the plebs gained the desired legal protection.

He also attempts to explode the law of *Publilius Volero* as an entire mistake. He cannot believe that the people, when they extorted Tribunes, could have been cheated into allowing them to be chosen in a patrician assembly. To us this seems very credible, and not unlike the end of an English popular movement: nor, if we found it definitely stated in an ancient author, that the first tribunes, being *Sacrosancti*, were chosen in *Comitia Calata* with a pontifex presiding, (as Becker imagines,) should we see any internal improbability in this. But in all these matters, we must beware of confounding the possible with the true: and all that we seem certainly to know, is, that before *Volero*, the tribunes were *not* chosen in the *Comitia Tributa*, but in some other way.

On the subject of the colonies, *Ihne* endeavours to add to *Madvig's* able researches. It is now, perhaps, generally held, that the members of Roman colonies, as such, *had*, and those of Latin colonies *had not*, originally the rights of the Roman state; that is, *suffragium*, honores, commercium, connubium. *Ihne* so far modifies this as to assert, that the plebeians and patricians who went out to a *Roman* colony, retained respectively the same rights as they had always had at home: hence the earliest colonies exhibited the plebeian interests in the same depression

as in early Rome. Of these, Velitræ, Satricum, and Lavici, disappear from history, the two first being violently destroyed, and the third fallen to ruin. But the rest,—Signia, Circeii, Norba, Sutrium, Nepete,—are afterwards called *Latin* colonies; namely, (says Ihne,) because the populace retained from their first foundation only those inferior rights which were afterwards called Latin. Madvig has on the contrary inferred, that they must all have been originally Latin: but though this cannot be disproved of Signia and Circeii, which are referred to the regal period, Ihne will not admit it of Norba,—from its site beyond the Latin limits; nor of Sutrium and Nepete,—because they were planted during hostilities with Latium; the former, seven years after the Gallic conflagration according to Valerius, the latter B. C. 382,—Liv. VI. 21. When the plebeians had established full and equal rights with the patricians in Rome itself, we may perhaps believe that, even without express enactment, (for no one can refer to the Lex Genucia de Fœnore,) full and equal rights in the Roman colonies followed of course. The zeal for *Latin* colonies which presently springs up, is then well explained by Ihne, as a new artifice of the nobility. He adds, that C. Flaminius's colony in Picenum, against which the aristocracy was so furious, and by which the people were so delighted, must have been a *Roman* one. The words of Cicero (*De Senect.* 4.) “*agrum viritim contra senatus auctoritatem dividenti,*” imply that the mode of division was in some sense a new thing, of which the senate disapproved; and in so far it countenances Ihne's idea, that in the ordinary colonies the plebeians did not receive a perfect and clear freehold. Since *Latin* colonies were founded with the senate's sanction at Brundisium (B. C. 244,) at Spoletum (242,) and again at Cremona and Placentia (218,) in the Gallic land itself, he infers that the Picenian colony of 232, which so displeased the senate, must have had strictly *Roman* rights. *A priori* (all will probably concede to Ihne,) the whole policy of Rome, and the confessions of ancient writers that every colony was an image of the mother city, justify us in believing, that at a time when the plebeians were depressed at home, they were also depressed in the colonies, as far as all *political* right was concerned: but it is not so clear that no greater *substantial* rights, as of land, were there granted them; and if there had not been any, it is difficult to

imagine how the patricians ever expected to induce men to expose themselves on the frontier. •

That Dr. Ihne rightly rejects Niebuhr's doctrine, of the plebeians possessing the decisive majority in the Comitia Centuriata, appears to be testified by every page of the history : but we need not infer that all of that order were sedulously kept down. If plebeians were introduced into the senate in the regal times, or by the first consuls, we must surely look upon it merely as an *ennobling* of them into patricians, so as to draw off from the commoners those who would else have been their leaders against the aristocracy. Instead of doubting the fact, with Ihne, we should rather be disposed to think it one of the causes which left the poor plebeians so helpless ; for such a measure would elevate only individuals, and weaken the order which they had left. That, as an order, they were exceedingly depressed immediately after the struggle against the Tarquins, is too plain to insist upon ; and it seems wonderful how any one can have imagined that they were supreme in the Comitia Centuriata, which was the sovereign power of the nation. Niebuhr was, perhaps, led into this paradox by his theory, that the patricians formed only six centuries of knights in the Servian comitia ; whom he identifies with the Sex Suffragia of Festus. But he names Festus only to say that he was quite mistaken ; and then deliberately sets aside the testimony of Livy, Dionysius, and Cicero, who describe these Comitia as giving all power to the rich, and hereby to the noble and few. We may admit to him that it is *remarkable*, if the centuriate assembly was timocratic, and the curiate aristocratic ; but there is no real contradiction here, any more than between a House of Commons and of Lords in England : and, on the whole, such a constitution agrees very well with the history. But to infer with Niebuhr, that " the preponderance, nay, the whole power in the Centuriata, lay with the plebs," would involve exactly the state of things which he had just pointed at (vol. I. p. 433,)—the rending asunder of the nation between two co-ordinate and hostile bodies. If the plebs had really been predominant in the centuriata, what could have made them so eager for the tributa comitia ? and what could possibly have forced them to contend by Secessions, and by the Intercessio of the tribune, not by the assembly itself ? Niebuhr may, in many places, seem to reply,—Because the *clients* outvoted the *plebs*. But this is to allow that

the plebs was *not* decisively predominant, and it swells the clients into a nation of rich men. For, that wealth predominated in that assembly, (only not patrician wealth,) is fully conceded by Niebuhr.<sup>8</sup>

F. W. N.

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IV.

COMMENTARIES ON, AND ILLUSTRATIONS OF, THE  
ENEIS OF VIRGIL.

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PART I.—COMPREHENDING THE FIRST 350 LINES  
OF BOOK I.

*Ille ego, &c.*—Imitated both by Spenser and Milton:—

Lo! I, the man whose muse whylome did maske,  
As time her taught, in lowly shepheard's weeds,  
Am now enforst a farre unfitter taske,  
For trumpets sterne to changeue mine oaten reeds,  
And sing of knights' and ladies' gentle deeds.

*Faerie Queene*, st. 1.

I who erewhile the happy garden sung.

*Par. Reg.* v. 1.

V. 1. *Martis arma*.—*Martis* joined with *arma* is not (as a hasty view has led some commentators to suppose,) supererogatory; because *arma* is not a specific term, corresponding to the English *arms*, and like it applicable only to *martial weapons*, but a general term, applicable to *all kinds of implements, martial, agricultural*, (*Georg.* i. 160,) *nautical*, (*En.* v. 15,) *culinary*, (*En.* i. 177,) &c. *Martis* is therefore a proper adjunct to *arma*, and

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<sup>8</sup> Dr. Ihne writes as if it were a new thing to dissent from Niebuhr's view of these Comitia: but even Dr. Leonhard Schmitz, in his *History of Rome*, (p. 75,) acquiesces in the common view,

that "patricians and plebeians met on a footing of equality; for there the importance of every citizen was determined by no other standard than that of property and age."