







1796, 11.

DE

CALCVLO MINERVAE

ILLVSTRIS ICTORVM ORDINIS AVCTORITATE

PRO LOCO

IN EO RITE OBTINENDO

A. D. XXIX NOVEMBRIS A. O. R. c1810ccxcvi

HORIS ANTE ET POMERIDIANIS

DISPVTABIT

AVG. CORNELIVS STOCKMANN

ICTVS ET ANTECESSOR

SOCIO A MERIDIE

IOANNE GODOFREDO RADISCH

NIEDERSEIFERSDORFFIO-LVSATO

LIPSIAE

EX OFFICINA KLAYBARTHIA





DE  
CALCULO MINERVAE

INSTITUTIO IN ARITHMETICIS

PRO LOGO

IN FORTI OBTINENDO

A. D. MDCCLXXII

HONORIS CAUSA

DE

AVG. CORNELIVS STOKMANN

INSTITUTIO

SOCIETATIS

IOANNES GODOFRIDUS RADTSCHE

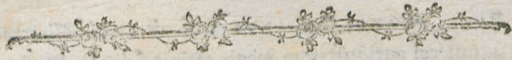
INSTITUTIO

LITTE

IN ARITHMETICIS







**P**oscimur ad inopinatam disputationis societatem. Si quid er-  
ge pretium operae fecimus elegantioris iurisprudentiae specimi-  
nibus, quae quatuor abhinc lustris excidere scriniis nostris passi-  
mus: age, iam, noua scribendi necessitate imposita, nouissi-  
mam iis symbolam addemus, et, quicquid restet, hac *de calculo*  
*Mineruae* scriptiuncula, in qua tamen chartae et temporis com-  
pendium est faciendum, a viris doctis istarumque deliciarum  
intelligentibus sub censuram vocata, vltimum Mineruae ipsi vale-  
sumus acclamaturi. Neque tamen ignoramus, de argumento, in  
quo illustrando opera nostra versatur, a multis multa, eaque ob  
difficultates, quibus implicitum tenetur, plane diuersa, propo-  
sita fuisse. Primus quidem, qui *de calculo Mineruae* academica  
Dissertatione *Argent. 1658.* et in *Eius Operibus ibid. 1712. 4. Tom. I.*  
*p. 200.* seqq. edita, magna doctrinae copia exposuit, Io. HENR.  
BOECLERVS, id potissimum egit, vt in calculi huius causam,  
parricidium Oresteum, diligenter inquireret, omnemque rem,  
collectis vtriusque partis, et accusantium, et defendentium, ar-  
gumentis, ad ciuilibus philosophiae veritatem reduceret. Hunc ex-  
cepit



cepit PAUL. FRANC. ROMANVS *Diss. de calculo Mineruae, Lips. 1668. 4.* qui rei antiquitatem magis attigit, quam illustrauit, et de iure suffragandi in vniuersum commentatus est. Elegans, fatente ipso Püttmanno, et laboriosa sane IO. ORTW. WESTENBERGII *de calculo Mineruae, seu, de lege ἰσοψηφίας eiusque iustitia Oratio, Harderouici 1715. 4.* ob raritatem et praestantiam in *Opusculorum academicorum Triade*, quam IOS. LVD. ERN. PÜTTMANNVS suis animaduersionibus, paucis licet, auctam, *Lips. 1795. m. 8.* edidit, recusa legitur *p. 1—54.* qua ille quidem, omnibus omnino praesidiis ad causam hanc perorandam necessariis instructus accurate disseruit, et vniuersae rei indolem ex ipsis fontibus limpidissimis adeo deduxit, vt omnibus palman praeripuisse videatur. Paucis plagulis absolvitur IO. VLK. CRAMERI *Programma calculo Mineruae suos terminos vindicans, Marb. Cattor. 1733. 4.* et in *Opust. Tom. II. num. 18.* lectu tamen dignissimum. Sed nec defuerunt inter Batauos, qui denuo eruditorum examini idem argumentum subiecerint. Sic, ne plenam libellorum perfectamque, quoad eius fieri possit, notitiam daturi, iniuria et oscitantia quid omisisse videamur, IAN VAN DER WOLFF, cui laborem Westenbergianum non innotuisse vehementer admiratus sum, *Dissertationem inauguralem de calculo Mineruae Lugd. Bat. 1754.* proposuit, sua quidem perspicuitate commendabilem, at ex Bœclero, saepius ne laudato quidem nomine, consarcinatam. Sic THEOD. FRANC. HAGE *Opusculum de suffragiis, seu, calculo Mineruae, Lugd. Bat. 1765.* in dias luminis auras emisit, quod, a nostratibus saepius, sed irritis semper precibus, a nobis expetitur, et ex annalibus litterariis tantum cogni-



cognitum, sitne quantiuis pretii, an vero, vt plurimae huius generis scriptiunculae, in academiis Belgicis recentiori aetate editae, et a nonnullis inter populares nostros vsque ad fastidium laudatae, trita solum ac decantata complectatur, aliis diudicandum relinquimus. Nuperrime tandem beatus Püttmannus, facta ante annos aliquot in *Element. iur. crimin. Lips. 1779. 8. Lib. II. cap. 23. §. 976. et 977. p. 482. sqq.* rei mentione, calci *Westenbergenorum*, quae supra laudauimus, *Opusculorum pag. 185. seq.* singularem Excursum adiecit, ac pro ea, qua viuít adhuc, eruditionis laude, pauca quaedam aduersus *Westenbergium* disputauit. In hoc litteratissimorum hominum conflictu liceat nobis, bona venia paullo morosiorum, si qui futuri sint, censorum, alacriore animo obseruationum, quae vel ad prius dicta contra nonnullorum adsertiones vindicanda atque firmanda, vel ad praetermissa supplenda et adicienda pertineant, quoddam spicilegium instituere, ipsumque de decisione per calculum *Míneruae* argumentum, quod neque a studiorum nostrorum rationibus, neque a noui muneris auspiciis prorsus alienum existimamus, iis cancellis circumscribere, vt, quae ad rei antiquitatem et historiam faciunt, delibemus, ac soli iuris positui disciplinae immoremur, sepositis omnibus, quae ab *HVG. GROTIO de iure belli ac pacis Lib. II. cap. V. §. 17. sqq.* *HENR. COCCIO Diss. de eo, quod iustum est circa numerum suffragiorum, Francf. 1705. et in Exercitt. curios. Lengou. 1722. 4. Tom. II. p. 700.* *CHRIST. SCHLOEZERO Comm. de iure suffragii in societate aequali, Gotting. 1795. 4.* aliisque iuris naturalis interpretibus, tum data opera, tum perfunctorie sunt in hanc partem proposita.



## C A P. I.

## DE CALCVLORVM IN IVDICIIS VSV.

Ac calculos quidem, quos Oceani spolia Caligula nominauit apud SVETONIVM *cap. 46.* quorumque de vsibus in Iudō adhibitis DAN. SOVTERII *Palamedes, Lugd. Bat. 1622. 8.* ANDR. SENTILEB. libr. *sing. de alea veterum in GRONOVII Thes. Ant. graec. Tom. VII. p. 1121.* IO. CORN. de PAVW *Diatr. de alea veterum, Trai. ad Rh. 1726. 8.* et IOS. AVERANIVS in *Monumentis latinis postumis, Florent. 1769. 8.* fusius exposuerunt, numeris et computationibus pariter, ac plurimis aliis veterum tum Graecorum tum Latinorum negotiis inseruisse, satis constat. In his, quae calculorum vsu admiserunt, negotiis eminet potissimum sententiarum cum in comitiis et in Senatu, tum in iudiciis latorum ratio. Producta enim, quod ritum iudicii in Graecia habendi attinet, vtrinque caussa, et oratoribus dimissis, moris fuit, vt in consilium mitterentur iudices, sive, quod idem fuit, vt permitterent calculum ac porrigerent. Euincitur hoc e Xenophontis Conuiuio, vbi, instituto de pulchritudine certamine, Critobolus *cap. V. οὐκέτι, inquit, ἔχω πρὸς σε ἀντιλέγειν. ἀλλὰ διαφερόντων τὰς ψήφους, ἵνα ὡς τάχιστα εἰδῶ, ὃ, τι με χεῖρ παθεῖν, ἢ ἀπορίσαι μόνον, εἴη, κερσῆ φερόντων.* Fuerunt ipsi hi calculi iudiciorum initio conchulae marinae, deinde fabae, folia, cespes, et alia sortitionis signa. Certe IVLIVS POLLVX *Onomast. ex edit. IO. HENR. LEDERLIN ET TIBER. HEMSTERHUIS, Amst. 1706. II. T. f. lib. VIII. cap. VI.* scribit: *πάλαι γὰρ χοιρίαις ἀντὶ ψήφων ἐχρῶντο. αἰτερὲ ἦσαν κόγχαι θαλάττιαι. αὐτῶν δὲ καὶ χαλκῆς*



καὶς ἐποίησαντο κατὰ μίμησιν. Καὶ σπίνδυλοι ἐκαλοῦντο αἱ ψῆφοι  
 δικαστικαὶ χαλκοὶ πεποιημένοι. Καδδισκος μὲν εὖν ἐστὶ ἀγγεῖον, ᾧ τοῖς  
 ψήφους ἐγκάθεισαν. Κηρὸς δὲ, δι' οὗ κατήσαν αἱ ψῆφοι, ἐπιχει-  
 μένος τῷ καδδισκῷ. Sic inuenti tandem calculi, quibus iudices  
 utebantur, si albi et integri essent, ad absoluendum: sin nigri et  
 perforati; ad condemnandum. Innuerunt hoc SVIDAS *Lex. h. v.*  
 ψῆφος μέλαινα, ἢ καταδικάζουσα: λευκὴ δὲ, ἢ δικαιούσα: et VL-  
 PIANVS in *Timocratem Demosthenis*: αἱ ψῆφοι δὲ ποτὲ μὲν τετραμέ-  
 ναι καὶ ἀτρητοί, ποτὲ δὲ μέλαιναὶ καὶ λευκαί. αἱ μὲν τετραμέναι καὶ  
 μέλαιναὶ ἦσαν καταψήφουζόμεναὶ αἱ δὲ λευκαὶ ἀτρητοὶ ἦσαν αἱ σώ-  
 ζουσαι. Vnde OVIDIUS *Metamorph. Lib. XIV. v. 41. seqq.* cecinit:

*Mors erat antiquis niuis atrisque lapillis,*  
*His damnare reos, illis absoluere culpa.*

*Tunc quoque se lata est sententia tristis: et omnis*

*Calculus immitem dimittitur ater in urnam:*

*Quae simul effudit numerandos versa lapillos,*

*Omnibus e nigro color est mutatus in album.*

In Senatu autem Areopagitarum duas ad calculos immittendos  
 urnas, vnā aeneam, ligneam alteram, quarum diuersa cogno-  
 mina PORTERVS *Archaeol. Lib. I. cap. 19.* in GRONOV. *Thef. T.*  
*XII. p. 93.* exhibet, positas fuisse obseruauit SCHOLIASTES *Ari-*  
*stoph. in Vesp. v. 981.* In quibus cum ἐλέου, h. e. misericordiae, ac  
 θανάτου, h. e. mortis urna occurrat; haud immerito, quoniam  
 reum morte mulctandum decernit, ad eam refertur PERSIUS  
*Sat. IV. v. 13.*

*Et potis es vitio nigrum praefigere Theta.*

Dignus



Dignus est, qui super hoc loco et in vniuersum super recepta in iudiciis damnandi nota consulatur IANVS RVTGERSIUS *Var. Lectt. Lugd. Bat. 1618. 4. Lib. V. cap. XVII. p. 502. sequ.*

Graecos, in grauioribus potissimum causis, imitati sunt Romani, qui, cum antiquis temporibus viua voce ac palam suffragarentur, legibus tabellariis propositis, punctis et calculis vsi sunt. Huc respicit PROPERTIUS *Lib. IV. Eleg. 12. v. 47. sequ.*

*Mi natura dedit leges, a sanguine ductas,*

*Nec possum melior iudicis esse metu.*

*Quaelibet austeras de me fert urna tabellas:*

*Turpior assensu non erit vlla meo.*

ASCONIUS autem in *Orat. Cic. pro M. Scauro* ad populum repetundarum delato: *absolutus est*, inquit, *Scaurus quidem, sed ita, vt a tribus tribus damnaretur, a triginta duobus absolueretur, et in eis pauca puncta inter damnationem et absolutionem interessent.* Quo in loco male in exemplaribus nonnullis legitur: *triginta septem*: cum ipsos inter Dupondios constet, triginta quinque tribus fuisse. Quibus rebus effectum est, vt calculi vocabulum vsurpatum sit pro ipsa iudicis sententia in *L. 14. C. de iudiciis* et *l. 10. C. de appellat.* Iam vero vt, teste MACROB. *Saturn. I. 15.* album colorem laetitiae, nigrum moeroris proditorem esse iudicarunt: ita reorum absolutionem, quae laetitiam gignit, albis; condemnationem, tamquam rem funestam, nigris lapillis notarunt. Vnde interpretari voluerunt vexatissimum illum locum *Apocal. II. 17. τῶν κἀντι ψῆφον λευκὴν δάσω*: de quo consulendi sunt GVIL. SALDENVS *Exerc. de calculo albo* in *Eius Otis theolog. lib. I. p. 167. sequ.* CHRIST. DAY. FVNCIUS *Diss. de ψῆφον λευκῆν* in *Thef.*



*Thef. theol. philolog. T. II. p. 829. et SIGISM. FRID. DRESIG Diff. doctissime conscripta de usu alborum calculorum apud veteres ad Apocal. II, 17. Lips. 1731. 4.*

## C A P. II.

### DE IPSO MINERVAE CALCULO.

Quo certiora sunt, quae, in tanta rerum antiquarum obscuritate, calculorum usu non solum intermisso, verum etiam penitus amisso, cum lecturis communicauimus; eo magis hallucinantur doctissimi viri in Mineruae calculo explicando. Eius originem repetunt plerumque ex fabulosa antiquitate, qua Orestem, Agamemnonis et Clytemnestrae filium, adepta pubertate, patris sui a matre interfecti mortem vindicaturum, tradunt vna cum Pylade occidendae matris consilium cepisse, et Clytemnestram matrem pariter, ac adulterum Aegysthum noctu interfecisse: quo parricidio perpetrato, Orestem, certa Argis damnatione proposita, Athenas profugisse, et Mineruae supplicem factum in feuerissimo Areopagitarum senatu: quorum cum paria essent suffragia, Mineruae beneficio fuisse eum liberatum. Pluribus rem exposuit NATALIS COMES *Mytholog. Hanou. 1619. 8. lib. IX. cap. 2. p. 953. sequ.* Sic fabulae antiquae. Ab his diuersus est in tradenda rei origine IOSVA BARNESIUS ad Euripidis Iphigen. in Tauris v. 1469. P. II. p. 106. Cantabrig. 1694. 4. Et hoc primo, inquit, factum nonnulli putant Themistoclis causa, qui valde iuuenis cum erat adulter ἐν ἐντροφῶν deprehensus, cum paribus suffragiis non absolueretur, quidam e iudicibus paullo solertior dixit, aequum esse, vt

B

Palladi



*Palladi, Ἀγοπόμεως, Praesidi suum quoque suffragium permitteretur: deos autem semper misericordes esse: atque hinc Themistoclem euasisse, et legem postea de paribus suffragiis ad absolutionem valentibus stabilitam. Verum enim vero longe grauior viris doctis altercatio intercessit super iusta huius calculi ratione formanda. In duas partes abeunt. Neque immerito, cum in ratione adiecti calculi veteres adeo auctores sibimetipsi non consent. Sunt, qui Aristidis, Iuliani ac Philostrati testimoniis fulti, intelligant de maioris partis suffragio, vt adeo calculo caeulis iudicum aequalibus a Minerua in absoluentem partem adiecto, pars damnans vno tantum calculo superata sit. Defendit hanc potissimum sententiam Io. MEYRSIUS *Areop. cap. X. in GRONOVII Thes. Bm. V. p. 2114. Absolutus*, inquit, *Orestes in hoc iudicio, cum aequalibus vtriusque suffragiis suum ipsi calculum Minerua adiecisset: vnde postea usurpatum in sententiis ferendis, cum suffragia essent paria, vt absolueretur reus, adiecto calculo, qui Mineruae in memoriam huius rei dicebatur. Idem statuunt THOM. STANLEYS Comm. in Aeschili Trag. Lond. 1663. 4. p. 842. IOS. BARNESIUS ad Euripidis Iphigen. in Tauris v. 965. P. II. p. 64. et v. 1469. p. 106. et PHIL. MARIA RENAZZI Diat. de ordine, seu, forma iudiciorum criminal. Rom. 1777. 8. p. 11. At vero alii, iique plures, quorum antesignanus Io. BOECLERVS Diff. laud. de calc. Min. censendus est, ea omnia negant, et calculum istum de lege parium tabellarum accipiendum esse autumant: qui quidem, quamuis neque elegantiae laude, neque acuminis subtilitate destituantur, nondum tamen satisfecisse videntur omnibus. Recte enim Io. FRID. GRONOVIVS Orat. de lege regia, Lugd. Bat. 1678. 8. p. 52. sequi pronunciauit: quis intelligat,**

vt



~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ ~~138~~ ~~139~~ ~~140~~ ~~141~~ ~~142~~ ~~143~~ ~~144~~ ~~145~~ ~~146~~ ~~147~~ ~~148~~ ~~149~~ ~~150~~ ~~151~~ ~~152~~ ~~153~~ ~~154~~ ~~155~~ ~~156~~ ~~157~~ ~~158~~ ~~159~~ ~~160~~ ~~161~~ ~~162~~ ~~163~~ ~~164~~ ~~165~~ ~~166~~ ~~167~~ ~~168~~ ~~169~~ ~~170~~ ~~171~~ ~~172~~ ~~173~~ ~~174~~ ~~175~~ ~~176~~ ~~177~~ ~~178~~ ~~179~~ ~~180~~ ~~181~~ ~~182~~ ~~183~~ ~~184~~ ~~185~~ ~~186~~ ~~187~~ ~~188~~ ~~189~~ ~~190~~ ~~191~~ ~~192~~ ~~193~~ ~~194~~ ~~195~~ ~~196~~ ~~197~~ ~~198~~ ~~199~~ ~~200~~ ~~201~~ ~~202~~ ~~203~~ ~~204~~ ~~205~~ ~~206~~ ~~207~~ ~~208~~ ~~209~~ ~~210~~ ~~211~~ ~~212~~ ~~213~~ ~~214~~ ~~215~~ ~~216~~ ~~217~~ ~~218~~ ~~219~~ ~~220~~ ~~221~~ ~~222~~ ~~223~~ ~~224~~ ~~225~~ ~~226~~ ~~227~~ ~~228~~ ~~229~~ ~~230~~ ~~231~~ ~~232~~ ~~233~~ ~~234~~ ~~235~~ ~~236~~ ~~237~~ ~~238~~ ~~239~~ ~~240~~ ~~241~~ ~~242~~ ~~243~~ ~~244~~ ~~245~~ ~~246~~ ~~247~~ ~~248~~ ~~249~~ ~~250~~ ~~251~~ ~~252~~ ~~253~~ ~~254~~ ~~255~~ ~~256~~ ~~257~~ ~~258~~ ~~259~~ ~~260~~ ~~261~~ ~~262~~ ~~263~~ ~~264~~ ~~265~~ ~~266~~ ~~267~~ ~~268~~ ~~269~~ ~~270~~ ~~271~~ ~~272~~ ~~273~~ ~~274~~ ~~275~~ ~~276~~ ~~277~~ ~~278~~ ~~279~~ ~~280~~ ~~281~~ ~~282~~ ~~283~~ ~~284~~ ~~285~~ ~~286~~ ~~287~~ ~~288~~ ~~289~~ ~~290~~ ~~291~~ ~~292~~ ~~293~~ ~~294~~ ~~295~~ ~~296~~ ~~297~~ ~~298~~ ~~299~~ ~~300~~ ~~301~~ ~~302~~ ~~303~~ ~~304~~ ~~305~~ ~~306~~ ~~307~~ ~~308~~ ~~309~~ ~~310~~ ~~311~~ ~~312~~ ~~313~~ ~~314~~ ~~315~~ ~~316~~ ~~317~~ ~~318~~ ~~319~~ ~~320~~ ~~321~~ ~~322~~ ~~323~~ ~~324~~ ~~325~~ ~~326~~ ~~327~~ ~~328~~ ~~329~~ ~~330~~ ~~331~~ ~~332~~ ~~333~~ ~~334~~ ~~335~~ ~~336~~ ~~337~~ ~~338~~ ~~339~~ ~~340~~ ~~341~~ ~~342~~ ~~343~~ ~~344~~ ~~345~~ ~~346~~ ~~347~~ ~~348~~ ~~349~~ ~~350~~ ~~351~~ ~~352~~ ~~353~~ ~~354~~ ~~355~~ ~~356~~ ~~357~~ ~~358~~ ~~359~~ ~~360~~ ~~361~~ ~~362~~ ~~363~~ ~~364~~ ~~365~~ ~~366~~ ~~367~~ ~~368~~ ~~369~~ ~~370~~ ~~371~~ ~~372~~ ~~373~~ ~~374~~ ~~375~~ ~~376~~ ~~377~~ ~~378~~ ~~379~~ ~~380~~ ~~381~~ ~~382~~ ~~383~~ ~~384~~ ~~385~~ ~~386~~ ~~387~~ ~~388~~ ~~389~~ ~~390~~ ~~391~~ ~~392~~ ~~393~~ ~~394~~ ~~395~~ ~~396~~ ~~397~~ ~~398~~ ~~399~~ ~~400~~ ~~401~~ ~~402~~ ~~403~~ ~~404~~ ~~405~~ ~~406~~ ~~407~~ ~~408~~ ~~409~~ ~~410~~ ~~411~~ ~~412~~ ~~413~~ ~~414~~ ~~415~~ ~~416~~ ~~417~~ ~~418~~ ~~419~~ ~~420~~ ~~421~~ ~~422~~ ~~423~~ ~~424~~ ~~425~~ ~~426~~ ~~427~~ ~~428~~ ~~429~~ ~~430~~ ~~431~~ ~~432~~ ~~433~~ ~~434~~ ~~435~~ ~~436~~ ~~437~~ ~~438~~ ~~439~~ ~~440~~ ~~441~~ ~~442~~ ~~443~~ ~~444~~ ~~445~~ ~~446~~ ~~447~~ ~~448~~ ~~449~~ ~~450~~ ~~451~~ ~~452~~ ~~453~~ ~~454~~ ~~455~~ ~~456~~ ~~457~~ ~~458~~ ~~459~~ ~~460~~ ~~461~~ ~~462~~ ~~463~~ ~~464~~ ~~465~~ ~~466~~ ~~467~~ ~~468~~ ~~469~~ ~~470~~ ~~471~~ ~~472~~ ~~473~~ ~~474~~ ~~475~~ ~~476~~ ~~477~~ ~~478~~ ~~479~~ ~~480~~ ~~481~~ ~~482~~ ~~483~~ ~~484~~ ~~485~~ ~~486~~ ~~487~~ ~~488~~ ~~489~~ ~~490~~ ~~491~~ ~~492~~ ~~493~~ ~~494~~ ~~495~~ ~~496~~ ~~497~~ ~~498~~ ~~499~~ ~~500~~ ~~501~~ ~~502~~ ~~503~~ ~~504~~ ~~505~~ ~~506~~ ~~507~~ ~~508~~ ~~509~~ ~~510~~ ~~511~~ ~~512~~ ~~513~~ ~~514~~ ~~515~~ ~~516~~ ~~517~~ ~~518~~ ~~519~~ ~~520~~ ~~521~~ ~~522~~ ~~523~~ ~~524~~ ~~525~~ ~~526~~ ~~527~~ ~~528~~ ~~529~~ ~~530~~ ~~531~~ ~~532~~ ~~533~~ ~~534~~ ~~535~~ ~~536~~ ~~537~~ ~~538~~ ~~539~~ ~~540~~ ~~541~~ ~~542~~ ~~543~~ ~~544~~ ~~545~~ ~~546~~ ~~547~~ ~~548~~ ~~549~~ ~~550~~ ~~551~~ ~~552~~ ~~553~~ ~~554~~ ~~555~~ ~~556~~ ~~557~~ ~~558~~ ~~559~~ ~~560~~ ~~561~~ ~~562~~ ~~563~~ ~~564~~ ~~565~~ ~~566~~ ~~567~~ ~~568~~ ~~569~~ ~~570~~ ~~571~~ ~~572~~ ~~573~~ ~~574~~ ~~575~~ ~~576~~ ~~577~~ ~~578~~ ~~579~~ ~~580~~ ~~581~~ ~~582~~ ~~583~~ ~~584~~ ~~585~~ ~~586~~ ~~587~~ ~~588~~ ~~589~~ ~~590~~ ~~591~~ ~~592~~ ~~593~~ ~~594~~ ~~595~~ ~~596~~ ~~597~~ ~~598~~ ~~599~~ ~~600~~ ~~601~~ ~~602~~ ~~603~~ ~~604~~ ~~605~~ ~~606~~ ~~607~~ ~~608~~ ~~609~~ ~~610~~ ~~611~~ ~~612~~ ~~613~~ ~~614~~ ~~615~~ ~~616~~ ~~617~~ ~~618~~ ~~619~~ ~~620~~ ~~621~~ ~~622~~ ~~623~~ ~~624~~ ~~625~~ ~~626~~ ~~627~~ ~~628~~ ~~629~~ ~~630~~ ~~631~~ ~~632~~ ~~633~~ ~~634~~ ~~635~~ ~~636~~ ~~637~~ ~~638~~ ~~639~~ ~~640~~ ~~641~~ ~~642~~ ~~643~~ ~~644~~ ~~645~~ ~~646~~ ~~647~~ ~~648~~ ~~649~~ ~~650~~ ~~651~~ ~~652~~ ~~653~~ ~~654~~ ~~655~~ ~~656~~ ~~657~~ ~~658~~ ~~659~~ ~~660~~ ~~661~~ ~~662~~ ~~663~~ ~~664~~ ~~665~~ ~~666~~ ~~667~~ ~~668~~ ~~669~~ ~~670~~ ~~671~~ ~~672~~ ~~673~~ ~~674~~ ~~675~~ ~~676~~ ~~677~~ ~~678~~ ~~679~~ ~~680~~ ~~681~~ ~~682~~ ~~683~~ ~~684~~ ~~685~~ ~~686~~ ~~687~~ ~~688~~ ~~689~~ ~~690~~ ~~691~~ ~~692~~ ~~693~~ ~~694~~ ~~695~~ ~~696~~ ~~697~~ ~~698~~ ~~699~~ ~~700~~ ~~701~~ ~~702~~ ~~703~~ ~~704~~ ~~705~~ ~~706~~ ~~707~~ ~~708~~ ~~709~~ ~~710~~ ~~711~~ ~~712~~ ~~713~~ ~~714~~ ~~715~~ ~~716~~ ~~717~~ ~~718~~ ~~719~~ ~~720~~ ~~721~~ ~~722~~ ~~723~~ ~~724~~ ~~725~~ ~~726~~ ~~727~~ ~~728~~ ~~729~~ ~~730~~ ~~731~~ ~~732~~ ~~733~~ ~~734~~ ~~735~~ ~~736~~ ~~737~~ ~~738~~ ~~739~~ ~~740~~ ~~741~~ ~~742~~ ~~743~~ ~~744~~ ~~745~~ ~~746~~ ~~747~~ ~~748~~ ~~749~~ ~~750~~ ~~751~~ ~~752~~ ~~753~~ ~~754~~ ~~755~~ ~~756~~ ~~757~~ ~~758~~ ~~759~~ ~~760~~ ~~761~~ ~~762~~ ~~763~~ ~~764~~ ~~765~~ ~~766~~ ~~767~~ ~~768~~ ~~769~~ ~~770~~ ~~771~~ ~~772~~ ~~773~~ ~~774~~ ~~775~~ ~~776~~ ~~777~~ ~~778~~ ~~779~~ ~~780~~ ~~781~~ ~~782~~ ~~783~~ ~~784~~ ~~785~~ ~~786~~ ~~787~~ ~~788~~ ~~789~~ ~~790~~ ~~791~~ ~~792~~ ~~793~~ ~~794~~ ~~795~~ ~~796~~ ~~797~~ ~~798~~ ~~799~~ ~~800~~ ~~801~~ ~~802~~ ~~803~~ ~~804~~ ~~805~~ ~~806~~ ~~807~~ ~~808~~ ~~809~~ ~~810~~ ~~811~~ ~~812~~ ~~813~~ ~~814~~ ~~815~~ ~~816~~ ~~817~~ ~~818~~ ~~819~~ ~~820~~ ~~821~~ ~~822~~ ~~823~~ ~~824~~ ~~825~~ ~~826~~ ~~827~~ ~~828~~ ~~829~~ ~~830~~ ~~831~~ ~~832~~ ~~833~~ ~~834~~ ~~835~~ ~~836~~ ~~837~~ ~~838~~ ~~839~~ ~~840~~ ~~841~~ ~~842~~ ~~843~~ ~~844~~ ~~845~~ ~~846~~ ~~847~~ ~~848~~ ~~849~~ ~~850~~ ~~851~~ ~~852~~ ~~853~~ ~~854~~ ~~855~~ ~~856~~ ~~857~~ ~~858~~ ~~859~~ ~~860~~ ~~861~~ ~~862~~ ~~863~~ ~~864~~ ~~865~~ ~~866~~ ~~867~~ ~~868~~ ~~869~~ ~~870~~ ~~871~~ ~~872~~ ~~873~~ ~~874~~ ~~875~~ ~~876~~ ~~877~~ ~~878~~ ~~879~~ ~~880~~ ~~881~~ ~~882~~ ~~883~~ ~~884~~ ~~885~~ ~~886~~ ~~887~~ ~~888~~ ~~889~~ ~~890~~ ~~891~~ ~~892~~ ~~893~~ ~~894~~ ~~895~~ ~~896~~ ~~897~~ ~~898~~ ~~899~~ ~~900~~ ~~901~~ ~~902~~ ~~903~~ ~~904~~ ~~905~~ ~~906~~ ~~907~~ ~~908~~ ~~909~~ ~~910~~ ~~911~~ ~~912~~ ~~913~~ ~~914~~ ~~915~~ ~~916~~ ~~917~~ ~~918~~ ~~919~~ ~~920~~ ~~921~~ ~~922~~ ~~923~~ ~~924~~ ~~925~~ ~~926~~ ~~927~~ ~~928~~ ~~929~~ ~~930~~ ~~931~~ ~~932~~ ~~933~~ ~~934~~ ~~935~~ ~~936~~ ~~937~~ ~~938~~ ~~939~~ ~~940~~ ~~941~~ ~~942~~ ~~943~~ ~~944~~ ~~945~~ ~~946~~ ~~947~~ ~~948~~ ~~949~~ ~~950~~ ~~951~~ ~~952~~ ~~953~~ ~~954~~ ~~955~~ ~~956~~ ~~957~~ ~~958~~ ~~959~~ ~~960~~ ~~961~~ ~~962~~ ~~963~~ ~~964~~ ~~965~~ ~~966~~ ~~967~~ ~~968~~ ~~969~~ ~~970~~ ~~971~~ ~~972~~ ~~973~~ ~~974~~ ~~975~~ ~~976~~ ~~977~~ ~~978~~ ~~979~~ ~~980~~ ~~981~~ ~~982~~ ~~983~~ ~~984~~ ~~985~~ ~~986~~ ~~987~~ ~~988~~ ~~989~~ ~~990~~ ~~991~~ ~~992~~ ~~993~~ ~~994~~ ~~995~~ ~~996~~ ~~997~~ ~~998~~ ~~999~~ ~~1000~~

Ac primum quidem cum valde trepidatum sit a viris, quos laudauimus, in notione constituenda; ea autem necessario tradenda sit, vt Dialectici praecipunt, si quis aliquam rem sibi tractandamumat: in eo potissimum iam elaborandum erit, vt eius rationem ex auctorum veterum locis exemplisque diligenter colligamus, et, quicquid illustrando Mineruae calculo inferuire possit, sedulo notemus. Quae vt ordine procedant, distinguendus ante omnia videtur Mineruae calculus ab ipsa, quae suos nates inde duxit, lege *ισοψηφίας*.



Fuit autem, mea quidem opinione, calculus Mineruae beneficium, quod in sententiarum paritate reum ab ultimo supplicio liberauit. Videtur hoc optime conuenire rerum gestarum monumentis, et fabulosis illis, quibus originem vel a Marte homicidii, vel ab Oreste, parricidii accusato deducunt, et his, quae propius ad veritatem historicam accedunt. Stat praeterea suus utrique aliter sententiarum parti honos. Quemadmodum enim, si *MÆRSIVM* audias, in pluribus suffragiis non opus est Mineruae tamquam deae ex machina interuentione: ita si *BOECLEROS* ac *WESTENBERGIOS* sequi malis, in absoluteione per paritatem tabularum facta remanet, quod desideres, cum proprie non absoluat, qui paribus suffragiis absoluitur, sed solum, cum penitus innocens haud visus sit, quasi absoluat: non iure causae, non innocentia: sed beneficio legis, humanitate et misericordia. Vnde *Orestem*, titubantibus ac dissentientibus iudicibus, non plenissime, sed quasi absolutum, causa ad ipsam delata, impunitum Minerua dimisit, suaeque humanitate, cum antea proximus esset damnationi, conseruauit. Perseuiscit tale quid *PÜTTMANNVS*, qui reiecta *Westenbergii* notione, Mineruae calculum in *Excursu* p. 188. scribit esse necessitatem, reum, qui pares sententias tulit, absoluedi, nihilo minus tamen, paucis interiectis, p. 196. pergit: *quo in periculo*, nempe condemnationis, unde iudicium sententiae necesse est iam fuerint perlatae, *quo in periculo cum versaretur Orestes*, quid mirum, si absoluedibus Mineruae accessisse suffragium, itaque ipse paribus sententiis absolutus fingeretur? Atque his quidem verbis videtur et *Westenbergii* et *Alteferrae* uotionem nunc suam facere uoluisse, licet commemorata deinceps



ceps aliorum opinione, qua paribus existentibus sententiis nouo iudicio opus fuisse existimant, dubius iterum haereat, dum finit: QVICQVID SIT, *fictio illa haud amplius opus est.* Ego vero, quam dubitationem ex poetarum et oratorum locis inter se quodammodo pugnantibus, vt adeo praeceunte BOECLERO WESTENBERGIUS *l. c. p. 13.* verba IULIANI et ARISTIDIS de Mineruae calculo abfoluentibus tum demum apponendo, cum calculi iam fuerint pares, non proprie, sed figurate intelligenda esse statuerit, ipsi subortam esse intelligo; eam nullus deprehendo, adhibita beneficii, reis a Minerua concessi, notione. Quid? quod illa ipsa veterum auctorum testimonia opinioni meae ex esse satisfaciunt, et tam egregie cohaerent, vt nulla pugna, nulla contradictio superfit. Iuuat igitur potiora, tamquam in vnum fasciculum collecta, iam apponere. Vt a poetis, quos BOECLERO ac WESTENBERGIO fauere constat, AESCHYLO inprimis atque EURIPIDE, e quibus calculi illius origo solet deriuari, ordiar; non dicunt ii a Minerua calculum quendam esse paribus suffragiis adiectum, sed Orestem paribus suffragiis abfolutum, Minerua volente ac iubente. Sic AESCHYLVS *Eumenid. v. 737,*

Ἐμὸν τὸ δ' ἔργον, λαισθίαν κρῖναι δίκην,  
Ψῆφον δ' Ὀρέστη τῆν δ' ἐγὼ προσθήσομαι.

Impunitatem nimirum concedendo finem iudicio dissentienti imponit Minerua: ad quem locum SCHOLIASTES: *ἐγὼ προσθήσω τὴν ἐσχάτην Ψῆφον; ἢ ὅτι ἂν ἴσαι γένωνται, νικᾷ δ' κατηγορούμενος.* Recte quidem: sequitur enim vberior expositio *v. 744.*

Νικᾷ δ' Ὀρέστης, καὶν ἰσόψηφος κρηθῆ.

Et paullo post:



Ἄνῃ δ' ἔκπεφουγεν ἀματος δίκην

Ἴσον γὰρ ἐστὶ τ' ἀξίωμα τῶν πάλων.

Vbi iterum Scholia habent: Κἀν ἴσαι δειγόνται αἱ ψήφοι, ὃ κατηγορούμενος νικᾷ. Magis adhuc opinioni nostrae fauent verba EVRIPIDIS in *Iphigen. in Tauris* v. 965.

Φιλβίς μ' ἔσωσε μαρτυρῶν ἴσας δὲ μοι

Ψήφους διηρίθμησε παλλὰς ὠλένη,

Νικῶν δ' ἀπῆρα Φόνια πειρατήρια.

Et, interpositis fere quingentis lineis v. 1469. sequi

ὄνεια' ἐσώσασά σε

Καὶ πρὶν γ' Ἀγείος ἐν πάροις ψήφους ἴσας

Κρίνας, Ὀρέσα, καὶ νόμισμ' εἰς ταυτόγε,

Νικῶν, ἐσῆεις ὅσις ἂν ψήφους λάβῃ.

Rurfus in *Electra*, v. 1265. sequi.

Ἴσαι δὲ σ' ἐσώζουσι μὴ θανεῖν δίκην

Ψήφοι τεθεῖσαι. Λοξίας γὰρ αἰτίαν,

Εἰς αὐτὸν ὄσει, μητέρος χεῖρας Φόνον.

Orestem his verbis Minerua erigit, ipsique, de Concilii Areopagitici seueritate sollicito, tamquam amica certa in re incerta, tribuendo, fluctuantibus iudicibus, beneficio freta, opem suam pollicetur, inuenta calculorum paritate. Quae quidem omnia extra omnem dubitationis aleam posita deprehenduntur, si in consilium adhibeantur aliorum testimonia, a MEVRIO, cuius in rem faciunt, excitata: vnde in scenam producendi sunt oratores. ARISTIDES enim *Orat. in Mineru.* τὴν δὲ τῆς Ἀθηνᾶς Φιλανθρωπίαν, inquit, οἱ περὶ Ὀρέσην λόγοι μαρτύρονται ἐν Φυγόντα μὲν ἐξ Ἀργεῶς Ἀθῆνας, Φεύγοντα δ' Ἀθηναίσι δίκην ὑπ' Εὐμενίδων,



ὄντων, ἴσων τῶν Ψήφων γενομένων, προσδεμένη τὴν παρ' αὐτῆς, σάζει·  
 καὶ τάνυν ἐτι ἰὺν σάζει πάντας, ἐὰν ἴσαι γένοιται. Eadem de cal-  
 culo Mineruae testatus est IULIANVS *Encomio Eusebiae, Orat. III.*  
*p. 114.* ed. Spanhem: Ἀθήνησι μὲν οὖν Φασιν, ὅτε τοῖς πατρίοις  
 ἔδραον ἐχρῶντο, καὶ ἔζων τοῖς οἰκίαις πειθόμενοι νόμοις, μεγάλην  
 καὶ πολυάνθρωπον οἰκοῦντες πόλιν, ἔπεισε τῶν δικαζόντων αἱ Ψῆφοι  
 κατ' ἴσον γένοιτο τοῖς Φέυγοσι παρὲς τοὺς διώκοντας, τὴν τῆς Ἀθη-  
 νῶς ἐπιτεθεμένην τῇ τὴν δίκην ἀφλήσειν μέλλοντι, ἀπολύειν ἀμφω  
 τῆς αἰτίας· τὸν μὲν ἐπάγοντα τὴν κατηγορίαν, τοῦ δοκεῖν εἶναι συκο-  
 φάντην, τὸν δὲ, ὡς εἰκός, τοῦ δοκεῖν ἔνοχον εἶναι τῷ πονήσενματι.  
 En ab omni crimine liberationem, vtrique, et reo, et accusa-  
 tori, Mineruae beneficio concessam! Aduersari quidem videtur  
 IULIANVS, tum Boecleri et Westenbergii, qua nostram super-  
 struximus, tum aliorum de paribus numeris opinionii. Sed se-  
 cunda omnia: saltat senex. Minerua enim, vt recte contendit  
 Meursius, tum demum, cum calculi in iudicio iam pares essent  
 facti, suam auctoritatem interposuit, atque ita reum, supplici-  
 bus precibus adducta, profus absoluit. Certe in hac mea argu-  
 mentatione eo magis confirmor, quo certius mihi testimonium  
 denunciat ipse IULIANVS. Contendit nimirum, suffragiorum  
 aequalium legem, qua de paullo ante verba fecit, in auditorio  
 principis, vsu seruata, Eusebia Augusta, tamquam altera Mi-  
 nerua, intercedente, longe fieri benigniorem, dum in *Encomio*  
*Eusebiae, siue, in Orat. III. p. 115.* ed. Spanhem. pergit: τούτων  
 δὲ Φιλάνθρωπων ὄντα καὶ χαρίεντα τὸν νόμον ἐπὶ τῶν δικῶν, ὡς βα-  
 σιλεὺς κηθεῖ, σωζόμενον, πρῶτον ἀντὶ κατὰ κρίσιν. εὖ γάρ ἂν ὁ  
 Φέυγων παρ' ὀλίγον ἔλθῃ τὴν ἴσῃν ἐν ταῖς Ψήφοις λαχέῖν, πείθει

την



τὴν ὑπὲρ αὐτοῦ δέησιν προσθεῖσα, καὶ ἰετησάν, ἀφεῖναι πάντως τὰς αἰτίας. Ita vero IULIANVS non indiget interpretatione Westenbergii figurata: ita amice conspirat cum dictis poetarum: ita sunt omnia clara, omnia perspicua. Breuitatis studiosus mitto PHILOSTRATVM, a Meursio excitatum, atque alios, qui facili negotio cum rhetoribus ac poetis possunt comparari. Iam, notione calculi posita, de ipsa lege ἰσοψηφίας.

Qui in calculo Mineruae eruendo defudarunt, in vno ore omnes, ne Westenbergio quidem excepto, eundem cum lege parium tabularum statuunt. Sed mea quidem opinione, aliquod interuallum erit attendendum. Minerua nimirum, quam supplex adiit, Orestes, illo ipso temporis puncto, quo impunitatem ei concessit, duos actus coniunxit, ac praeter absolutionem factam, constituit, quasi interpositae auctoritatis memoriam conseruatura, legem in posterum valituram, apud EVRIPIDEM in *Iphigen. Taur.* v. 1477.

καὶ νόμισ' εἰς ταυτόγε,

Νῦν δ', ἰσῆεις ὅστις ἀν΄ ψήφους λάβη.

Disertius adhuc anxio Orestis confirmant Gemini apud EVNDEM in *Electra* v. 1268.

Καὶ τοῖσι λοιπῶν ἔδε νόμος τεθήσεται,

Νικῶν ἰσῆεις ψήφοισι τὸν Φεύγοντ' εἰεῖ.

Hinc post impetratam demum a crimine liberationem, nec tempore tamen interiecto, lex ἰσοψηφίας, tamquam legis de iure maioris partis supplementum, seu implementum inualuit: hinc Ἀθηνᾶς ψῆφος de sententia salutifera, non uti DES. ERASMVS *Adag. Chil. III. Cent. IV.* ed. Venet. 1554. 4. p. 654. fecit, de



de exacto iudicio, in prouerbum abiit: hinc caussae illius imitatione deinceps obseruatum, vt perpetuo paribus calculis rei dimitterentur, quia, vt ait ARISTIDES *Orat. in Mineru.* loco supra laudato, in omnibus capitalibus iudiciis Minerua intelligitur eandem humanissimam tabulam, vltra sententias iudicum, adiecere pro reo. Hinc teste QVINCTILIANO *Declam. CCLIV.* lex iubet eos absolui, qui pares sententias tulerint: hinc MINERVA ipsa in *Arcopago Ennii* de parricidio Oresteio dicit:

*Id ego aequum ac ius fuisse expedibo atque eloquar,*  
 vt versum GERH. IO. VOSSIUS in *Fragm. veter. Tragic. p. 348.* restituit: hinc SENECA *Excerpt. Controu. III, 2.* non est absolutus parricida, sed dubius. *Vt absoluaris, multis tibi sententiis opus est; vt damneris, vna.* Non absoluerunt reum, sed sculo pepercerunt. *Miraris in hac ciuitate misericordiam, in qua lex absolutionem dat paribus tabulis. Quæris quam multis non placeas? si vnum adiecero, parricida es.* Absolutionem legi, non innoctiæ debes: hinc CICERO *Orat. pro Milone c. 3.* non sine causa, inquit, *fictis fabulis, doctissimi homines memoriae prodiderunt, eum, qui, patris vlciscendi causa matrem necavisset, variatis hominum sententiis, non solum diuina, sed etiam sapientissimæ deæ sententia liberatum.* Maximam huius loci vim in reo defendendo tradidit Ios. LVD. ERN. PÜTTMANNVS *Miscellan. Iur. Lips. 1793. 8. Cap. XIX. p. 160.* vbi de vtilitate e lectione orationum Tullianarum in disciplina iuris criminalis capienda egregie disseruit. Caeterum de iustitia *ἰσοψηφίας*, eiusque cum iure maioris partis cognatione, cum, et ab antiquis, et recentioribus scriptoribus, satis fuerit disputatum, nihil attinet hoc loco dicere. Neque etiam exponendis variis varia ab aliis ratione pro-

C

positis



positis caussis, cur absolutio paribus calculis obtineat, iuvat immorari. Siue enim, vt inanes ac friuolas alias mittam, cum HVG. GROTIIO *de iure bell. et pac. II, V, 17.* status, quo reus gaudet, integritatem: siue cum ARISTOTELE *Problem. XXIX. c. 13.* metum ac periculum, quod reo imminet: siue cum IAC. CUIACIO *Obseruatt. XII, 16.* humanitatem et communem misericordiam respicias: in limitum, quibus circumscriptus tenetur non ster libellus, angustia, omnium horum nihil in censum venit. Sufficit, Mineruae calculum in parricidio Oresteo a lege *ἰσοψηφίας* esse discernendum.

### C A P. III.

#### DE FATIS PARIS NVMERI PENES ROMANOS.

Quem Mineruae calculum vocant, eum vidimus natales suos duxisse e sanctissimo pariter ac seuerissimo, qui Athenis constitutus fuit, senatu Areopagitarum. Singularibus hoc tribunal commentationibus descripserunt praeter Io. Meursium supra laudatum: Io. SCHEDIVS *Diss. Areopagus, vetustissimum Athenarum et Graeciae tribunal, Vitemb. 1677.* eleganti libello et ob praestantiam GERH. OELRICHI *Collect. Dissertatt. Iurid. Antiqu. Hist. Brem. 1785. 4. num. IV.* inserto: MARQ. FREHERVS *Dissertt. Areopagit. in GRONOVII Thes. Vol. V. p. 2136.* CANALI *Dissertt. duab. de Areopago (de Canaye Recherches sur l'Areopage) in Commentt. Acad. Inscriptt. Tom. VII. p. 174—200. edit. Paris.* BLANCARDVS *Obseruatt. de tribunalibus Atheniensium (Observations generales sur les tribunaux etablis à Athènes pour le maintien des Loix et*  
pour



pour régler les différends, qui s'élèvoient entre les particuliers) *Hist. Acad. Inseptt. ibid. p. 51. sqq.* PAVIVS *Disquis. de Graec. P. III. Sect. VI. Tom. II. p. 3. sqq.* et qui doctis pariter ac semidoctis nostrae aetatis hominibus innotuit, BARTHOLOMAEVS *Descript. Itin. Anacharf. Iun. (Voyage du jeune Anacharfis en Grece) Tom. II. cap. XVII. p. 324. sqq. edit. II. Paris.* Sed cum in omnibus his bonae notae scriptoribus solum occurrant, quae ad Athenienfium instituta faciunt, et de recepto hoc ab aliis gentibus more, reum in sententiarum paritate absoluendi, ALEXANDER AB ALEXANDRO *genial. diar. lib. III. c. 5. et lib. IV. c. 11.* vberius exposuerit operae pretium esse videtur, quae huic desunt, ea supplere, ac de fati et vicissitudinibus huius calculi in republica romana obviis hoc capite exponere. Inter omnes autem constat, Romanos, uti omnia alia praeclare instituta, ita leges suas repetiisse e Graecia. Vnde rectissime contendit WESTENBERGIVS *l. c. p. 54.* *ισοψηφίας* legem antiquissimis temporibus, quibus incerto adhuc iure ac moribus patriis utebantur, Romanis iam cognitam fuisse usque receptam. Certe de Marcio Coriolano, qui primus paribus tabulis condemnatus est, DION. HALICARN. *lib. VII. cap. 59.* haec scribit: *μίας γὰρ καὶ εἰκοσι τότε Φυλῶν οὐσῶν, αἷς ἡ ψῆφος ἀνεδόθη, τὰς ἀπολυούσας ἔσχεν ὁ Μάρκιος ἐνεία. ὥστε εἰ δύο προσῆλθον αὐτῷ Φυλαί, διὰ τὴν ἰσοψηφίαν ἀπελύετο αὐν, ὥσπερ ὁ νόμος ἤξει.* Ad quem locum IAC. CUVIACIVS *Obseru. XII, 16:* male Dionysius: cum essent XXI. tribus, et absoluerent Coriolanum IX, si accessissent ei aliae duae, absolutum eum fore διὰ τὴν ἰσοψηφίαν nec enim pares sententiae fuissent, sed una maior absolutio Coriolani, quem rursus, quod idem duorum iudicio damnatum, *libr. VIII. et Plutarchus trium, quae*



condemnationi supererant. Constat autem, vt Marii aliorumque exempla missa faciam, Marcium Coriolanum maiestatis iudicium subiisse quadragesimo anno ante latas leges XII Tabularum. Vnde facile fieri potuit, vt, cum calculus ille per vniuersam fere Graeciam inualuerit, conf. Io. MEVRSIVS *Areopog. cap. X. in GRONOVII Thef. Tom. V. p. 2114.* Romani, siue ex sola consuetudine eum nouerint, siue, quod a vero non est alienum, reuersis, qui inclitas legis Solonis describere iussi erant, legatis, perfectissimae legum decemuiralium collectioni inseruerint. Hoc praeter caeteros innuit QVINCTILIANVS *Declam. CCLIV. Lex,* inquit, *iubet eos absolui, qui pares sententias tulerint.* Nihil autem romanis scriptoribus frequentius, quam legem *κατ' ἐξοχήν* dicere. Dodecadelton. Successerunt deinceps leges iudicariae, quibus in vniuersum forma iudiciorum publicorum definita, et vero etiam paritas suffragiorum confirmata fuit, vt adeo, cum tabellarum ope sine inimicitiarum metu sententia ferri posset, haud immerito tabulas ipsas CICERO nuncupauerit vindices et principia iustissimae libertatis. Certe aetate sua plenissimum robur accepit ista suffragatio, cuius luculentissimum ipse exemplum exhibuit *lib. VIII. Epist. 8. ad Famil.* Sed et sub Imperatoribus illius vestigia adsunt. In summa enim, quam populus romanus in Augustum transtulit, potestate, positum simul fuit hoc, vt, si quis ob delictum pluribus iudicum suffragiis poenae addicendus esset, Augustus posset suo, veluti Mineruae calculo, adiecto, absolutionum suffragiorum paritatem inducere, atque adeo reum poenae eximere. *Καὶ ψῆφόν τινα αὐτοῦ ἐν πᾶσι τοῖς δικαστηρίοις, ὡσπερ Ἀθηνᾶς, Φέροσθαι:* sunt verba DIONIS CASSII *Histor.*

Rom.



Rom. lib. *LI.* cap. *xv.* Singulare sequioris aevi exemplum, quod *ισοψηφίας* legem illustrat, memoriae prodidit *PLINIVS lib. VIII, Ep. 14.* Fingamus, inquit, tres omnino iudices in hanc causam datos esse: horum uni placuisse perire libertos: alteri, relegari: tertio absolui: utrumne sententiae duae, collatis viribus, nouissimam periment, an separatim vnaquaeque tantundem, quantum altera valebit: nec magis poterit cum secunda prima connecti, quam secunda cum tertia? Igitur in senatu quoque numerari tamquam contrariae debent, quae tamquam diuersae dicuntur. Quod si vnus atque idem et perdendos censeret et relegandos, num ex sententia vnus et perire possent, et relegari? num denique omnino vna sententia putaretur, quae tam diuersa coniungeret? — At enim futurum est, ut, si diuidantur sententiae interficientis et relegantis, praeualeat illa, quae absoluit, quid istud ad censentes? quos certe non decet omnibus artibus, omni ratione pugnare, ne fiat, quod est mitius. Colophonem addat *Io. CONTACVZENVS*, qui, dum de Andronico minore, a quo imperium reddituro, *Tom. I. p. 255.* edit. *Parisi. 1645.* sermonem instituit, amici in consilium vocati verba haec commemorat: *εάν δε ἐνδεώς, ἢ ᾧσε δύνασθαι περθεῖν, ἔχουσι, καὶ ἀγχώμαλως ἢ μάχη κατασῆ, τότε αὐτὸν τῆς νίκης αὐτῷ προχωμεῖν, ὥσπερ τοὺς Ἀθηναίους τῆς Ἀθηαῖς προσιδεμένης ψῆφον λόγος ποιεῖν:* ad quem locum *Io. PONTANVS* scribit: opinor tangi iudicium *Areopagitarum*, quod fuit seuerissimum, et causam *Orestis*, quam de matricidio ibidem dixit; accedenteque *Minervae* suffragio absolutus est. Quae quidem antiquitatis testimonia satis, opinor, declarant, calculi, quem *Minerva* tulisse traditur, usum Romanis ab antiquissimo inde tempore receptum, perpetua annorum serie non interruptum, sub Byzantinis adeo Imperatoribus adhuc integer-





rimum existisse. Sed et ipsa artium, quae pulchritudinis commendationem habent, monumenta, cuius pretii fuerit inuentus ille a Minerua ex Oristeo parricidio calculus, diserte loquuntur. Testem produco PLINIVM, qui Zophyri cuiusdam, celeberrimi caelatoris, opus egregium memorat *Hist. Nat. Lib. XXXIII. cap. 55.* *Ariston*, inquit, et *Eunicus Mitylenaei* laudantur, et *Hecataeus: et circa Magni Pompeii aetatem Praxiteles, Posidonius Ephesus, Laedus Stratiates, qui praelia armatorum caelavit: Zopyrus, qui Areopagitas et iudicium Orestis in duobus scyphis H—S. XII. aestimatis.* Caeterum vix opus est monere, quod haec suffragandi ratio, in numerorum paritate conspicua, vltimisque adhuc romanorum Imperatorum temporibus usitata, non ad deliberationes, sed ad sola iudicia pertinuerit. Quemadmodum enim in illis eo euentu nihil agitur, nisi ratio paritatem numerorum ad imparitatem redigendi lege aliqua aut moribus definita deprehendatur: ita in his, postulante aequitate, comparantur pares sententiae, modo recte coniungantur et diuidantur, qua de re praeter alios pluribus exposuit AND. ALCIATVS *Parerg. Lib. IX. cap. 14.* Sic sub Imperatoribus Romanis inualuit. Certe elegantem de hac re locum habet IULIANVS *Encom. Eusebiae*, quem ex editione Spanhemii supra laudauimus. Ibi enim non in consistorio, vti IO. DAN. RITTERVS ad *Heineccii Hist. Iur. Tom. I. p. 374.* voluit, sed in auditorio principis suffragia deprehendimus fuisse numerata.

Atque



Atque haec quidem hactenus. Quodsi sunt, qui expetant longas disputationes, ut et facilius percipiant sententias, et se liberent a molesto labore legendi veterum scriptorum volumina: his scribant alii: ego iis tantum, qui eodem, quo ipse semper exarsi, studio flagrant, et ad fontes accedere malunt, quam rivus affectari.



172  
[Faint, illegible text, likely bleed-through from the reverse side of the page]













Leipzig, Diss., 1796  
- X. 2309056

ULB Halle  
006 232 329

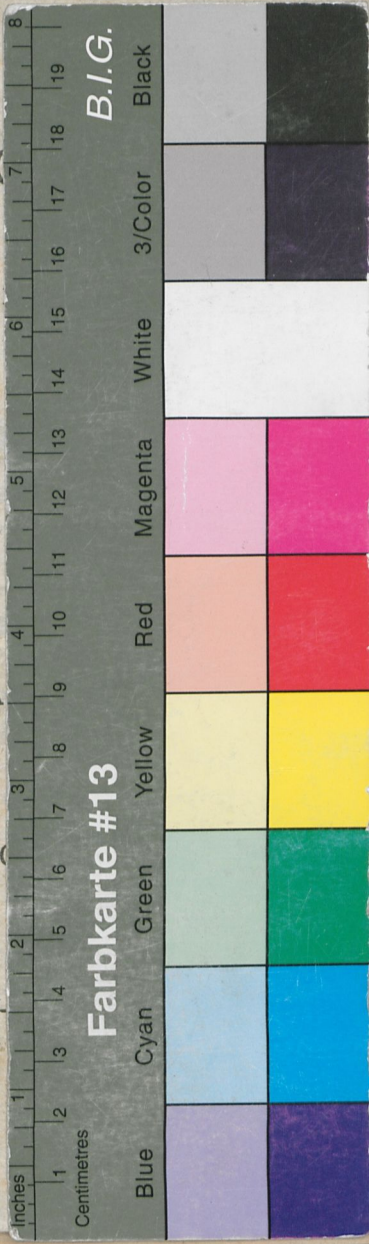
3











B.I.G.

Farbkarte #13

1796, 11.

E

# MINERVAE

ORDINIS AVCTORITATE

## LOCO

OBTINENDO

S A. O. R. cl<sup>o</sup>ccccxvi

POMERIDIANIS

ABIT

## S STOCKMANN

TECESSOR

MERIDIE

## REDO RADISCH

FFIO-LVSATO

A E

LAVBARTHIA

