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Etymologies, or Origins

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By Isidore, Bishop of Seville

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DE LEGIBVS ET TEMPORIBVS

Of Laws and times.

I. DE AVCTORIBVS LEGVM. [1] Moyses gentis Hebraicae primus omnium divinas leges sacris litteris explicavit. Phoroneus rex Graecis primus leges iudiciaque constituit. [2] Mercurius Trimegistus primus leges Aegyptiis tradidit. Solon primus leges Atheniensibus dedit. Lycurgus primus Lacedaemoniis iura ex Apollinis auctoritate confinxit. [3] Numa Pompilius, qui Romulo successit in regno, primus leges Romanis edidit; deinde cum populus seditiosos magistratus ferre non posset, Decemviros legibus scribendis creavit, qui leges ex libris Solonis in Latinum sermonem translatas duodecim tabulis exposuerunt. [4] Fuerunt autem hi: Appius Claudius, Genucius, Veterius, Iulius, Manlius, Sulpicius, Sextius, Curatius, Romilius, Postumius. Hi Decemviri legum conscribendarum electi sunt. [5] Leges autem redigere in libris primus consul Pompeius instituere voluit, sed non perseveravit obtrectatorum metu. Deinde Caesar coepit [id] facere, sed ante interfectus est. [6] Paulatim autem antiquae leges vetustate atque incuria exoleverunt, quarum etsi nullus iam usus est, notitia tamen necessaria videtur. [7] Novae a Constantino Caesare coeperunt et reliquis succedentibus, erantque per mixtae et inordinatae. Postea Theodosius minor Augustus ad similitudinem Gregoriani et Hermogeniani codicem factum constitutionum a Constantini temporibus sub proprio cuiusque imperatoris titulo disposuit, quem a suo nomine Theodosianum vocavit.

I. OF THE AUTHORS OF LAWS. 1. Moses of the Hebrew race first explained the divine laws in the sacred writings. King Phoroneus first established laws and judgments for the Greeks. 2. Mercury Trismegistus

first passed down laws to the Egyptians. Solon first gave laws to the Athenians. Lycurgus first devised laws [*iura*] for the Spartans, on the authority of Apollo. 3. Numa Pompilius, who succeeded Romulus as ruler, first gave laws to the Romans; afterwards, when the people could not bear the quarrelsome magistrates, they appointed the decemvirs to write laws. In the Twelve Tables, the decemvirs laid out the laws from the books of Solon, translated into Latin speech. 4. And they were these: Appius Claudius, Genucius, Veterius, Julius, Manlius, Sulpicius, Sestius, Curatius, Romilius, and Postumius. These were the decemvirs chosen to compose the laws. 5. Now Pompey the Consul first wished to establish the laws in books, but he did not persevere, out of fear of his critics. Later Caesar began to do it, but he was killed before he could. 6. And little by little, the old laws fell out of use through of age and neglect; even if these laws were no longer in effect, it still seemed necessary to be familiar with them. 7. New laws began with Emperor Constantine and his successors, but they were confused and disorderly. Afterwards, Emperor Theodosius the Younger arranged for a book to be made, in the likeness of the Gregorian and Hermogenian Codes, containing the ordinances from the time of Constantine, organized under the names of each emperor. This book was called the Theodosian Code, after his own name.

II. DE LEGIBVS DIVINIS ET HVMANIS. [1] Omnes autem leges aut divinae sunt, aut humanae. Divinae natura, humanae moribus constant; ideoque haec discrepant, quoniam aliae aliis gentibus placent. [2] Fas lex divina est, ius lex humana. Transire per alienum fas est, ius non est.

II. OF DIVINE AND HUMAN LAWS. 1. All laws are either divine or human. Divine laws depend on nature. Human laws depend on *mores*, and therefore differ from each other, since different laws please different peoples. 2. *Fas* is divine law; *ius* is human law. To pass through a stranger's land is *fas*, but not *ius.*

III. QVID DIFFERVNT INTER SE IVS, LEGES ET MORES. [1] Ius generale nomen est, lex autem iuris est species. Ius autem dictum, quia iustum [est]. Omne autem ius legibus et moribus constat. [2] Lex est constitutio scripta. Mos est vetustate probata consuetudo, sive lex non scripta. Nam lex a legendo vocata, quia scripta est. [3] Mos autem longa consuetudo est de moribus tracta tantundem. Consuetudo autem est ius quoddam moribus institutum, quod pro lege suscipitur, cum deficit lex: nec differt scriptura an ratione consistat, quando et legem ratio commendet. [4] Porro si ratione lex constat, lex erit omne iam quod ratione constiterit, dumtaxat quod religioni congruat, quod disciplinae conveniat, quod saluti proficiat. Vocata autem consuetudo, quia in communi est usu.

III. HOW LAWS [*ius*], LAWS [*leges*], AND *MORES* DIFFER AMONG THEMSELVES. 1. *Ius* is a general name, and law is a kind of *ius.* Now it is called *ius*, because it is just [*iustum*]. And all *ius* has to do with laws and customs. 2. Law is a written ordinance. *Mos* is custom tested by age, or unwritten law. For law [*lex*] is named from reading [*legendo*], because it is written. 3. *Mos* is a long lasting custom, taken only from *mores*. Custom is a certain *ius* instituted by *mores*, which is taken in place of the law, when the law is lacking. And it does not matter whether it is established by something written or by reason, since reason commends even the law. 4. Now if law depends on reason, law will be everything that is established by reason, as long as it is consistent with religion, compatible with discipline, and conducive of salvation [*saluti*]. And it is called custom [*consuetudo*] because it is in common use [*in communi usu*].

IV. QVID SIT IVS NATVRALE. [1] Ius autem naturale [est], aut civile, aut gentium. Ius naturale [est] commune omnium nationum, et quod ubique instinctu naturae, non constitutione aliqua habetur; ut viri et feminae coniunctio, liberorum successio et educatio, communis omnium possessio, et omnium una

libertas, adquisitio eorum quae caelo, terra marique capiuntur. [2] Item depositae rei vel commendatae pecuniae restitutio, violentiae per vim repulsio. Nam hoc, aut si quid huic simile est, numquam iniustum [est], sed naturale aequumque habetur.

IV. WHAT IS THE NATURAL LAW [*ius naturale*]? 1. Law [*ius*] is either natural law [*ius naturale*], civil law [*ius civile*], or the law of nations [*ius gentium*]. The natural law is common to all nations, and because it is recognized everywhere by an instinct of nature, and not by any ordinance: such as the union of man and woman, the inheritance and education of children, the common possession of all things, the liberty of all, and the acquisition of those things that are taken from the sky, the earth, and the sea. 2. Likewise, the return of entrusted things or lent money, and the resistance of violence by force. For this, or whatever is similar to this, is never unjust, but is recognized as natural and fair.

V. QVID SIT IVS CIVILE. [1] Ius civile est quod quisque populus vel civitas sibi proprium humana divinaque causa constituit.

V. WHAT IS CIVIL LAW [*ius civile*]? 1. Civil law is what each people or city establishes as proper to itself, for human and divine reasons.

VI. QVID SIT IVS GENTIVM. [1] Ius gentium est sedium occupatio, aedificatio, munitio, bella, captivitates, servitutes, postliminia, foedera pacis, indutiae, legatorum non violandorum religio, conubia inter alienigenas prohibita. Et inde ius gentium, quia eo iure omnes fere gentes utuntur.

VI. WHAT IS THE LAW OF NATIONS [*ius gentium*]? 1. The law of nations has to do with occupying land, erecting buildings, raising fortifications, making war, taking captives and slaves, *postliminium*, pacts of peace, truces, not attacking diplomats, and the prohibition of marriage among those of different races. This is called the law of nations, because almost all nations observe this law.

VII. QVID SIT IVS MILITARE. [1] Ius militare est belli inferendi sollemnitas, foederis faciendi nexus, signo data egressio in hostem vel commissio. Item signo dato receptio; item flagitii militaris disciplina, si locus deseratur; item stipendiorum modus, dignitatum gradus, praemiorum honor, veluti cum corona vel torques donantur. [2] Item praedae decisio, et [pro] personarum qualitatibus et labori iusta divisio; item principis portio.

VII. WHAT IS MILITARY LAW [*ius militare*]? 1. Military law has to do with the formalities of making war, with making pacts, and with signals commanding troops to march against the enemy or begin battle. Also the reception of signals given; also the military discipline of punishments, if a place is deserted; also the amount of wages, the degrees of dignities, the honor of awards, as when crowns or torques are given. 2. Also the distribution of war booty, and the just division according to the qualities and labor of persons; also the prince’s portion.

VIII. QVID SIT IVS PVBLICVM. [1] Ius publicum est in sacris et sacerdotibus, in magistratibus.

VIII. WHAT IS PUBLIC LAW [*ius publicum*]? 1. Public law has to do with sacred things and priests, and with magistrates.

IX. QVID SIT IVS QVIRITVM. [1] Ius Quiritum est proprie Romanorum, quo nulli tenentur nisi Quirites, id est Romani, tamquam de legitimis hereditatibus, de cretionibus, de tutelis, de usucapionibus; quae iura apud alium nullum populum reperiuntur, sed propria sunt, Romanorum et in eosdem solos a constituta. [2] Constat autem ius Quiritum ex legibus et plebiscitis, constitutionibus principum et edictis; sive prudentium responsis.

IX. WHAT IS THE LAW OF THE QUIRITES [*ius Quiritum*]? 1. The law of the Quirites is law proper to the Romans, by which no one is bound unless he is a Quiris, that is, a Roman. It has to do with legitimate heirs, with inheritances, with guardianships, with usucaption. These laws are found among no other people, but are proper to the Romans, and are established only among them. 2. The law of the Quirites is established by laws and by plebiscites, by ordinances of the rulers and by edicts; or by the answers of the prudent.

X. QVID SIT LEX. [1] Lex est constitutio populi, qua maiores natu simul cum plebibus aliquid sanxerunt.

X. WHAT IS LAW [*lex*]? 1. Law is an ordinance of the people, by which the elders have enacted something together with the *plebs*.
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