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THE
WORKS
OF
SIR WILLIAM JONES.

"WITH
THE LIFE OF THE AUTHOR,
BY
LORD'TEIGNMOUTH.

IN THIRTEEN VOLUMES.

VOLUME IX.

PRINTED FOR JOHN STOCRD ALE PICCADILLY;
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THE SPEECHES

or

I S M U S

IN CAUSES

CONCERNING THE LAW OF SUCCESSION TO PROPERTY

AT

. A T H E N S,

WITH

A PREFATORY DISCOURSE,

NOTES CRITICAL AND HISTORICAL,

AND

A COMMENTARY.

THE
EPISTLE DEDICATORY

TO THE
EARL BAT HURST.

MY LORD,
IF I were not fully apprized of Your Lordfliip's contempt for that fervile and adulatory ftyle, in which patrons of eminent rank are too frequently addrefled, yet my own habits and fen- timents would fufficicntly fecure You from the uneafinefs, which panegyrick moft fenfibly gives to thofe who moft highly deferve it; nor fhould I indeed have been ambitious of obtaining any prote&ion for the following work, which muft fucceed or fail by its own worth or demerit, and cannot be fupported by the fplendour of a name, if the obligations, which Your Lordfliip has conferred on me, were not of fuch a kind, as to call aloud for the moft open and the warmeft acknowledgement.

On fuch an occafion, it might perhaps be pardonable to deviate a little from my former

principles, and to delineate Your Lordship's character in just, yet glowing, colours; especially as my own certain and personal knowledge of it has given me the power of drawing it to the life; and, if one of two groundless imputations must necessarily be incurred, I should prefer the suspicion of being a flatterer to the charge of being ungrateful; but I must not forget that it is Yourself, whom I am addressing, and I could not write to You with pleasure what I knew You would read with pain.

I check myself, therefore, my Lord, with reluctance, and abstain from those topics, to which the overflowing of my zeal would naturally impel me; but I cannot let slip this opportunity of informing the publick, who have hitherto indulgently approved and encouraged my labours, that, although I have received many signal marks of friendship from a number of illustrious persons, to whose favours I can never proportion my thanks, yet Your Lordship has been my greatest, my only, Benefactor; that, without any felicitation, or even request on my part, You gave me a substantial and permanent token of regard, which You rendered still more valuable by Your obliging manner of giving it, and which has been literally the sole fruit that I have gathered from an incessant course of very painful labour that Your kind intentions extended

to a larger field; and that You had even determined to reward me in a manner the most agreeable both to my inclinations and to the nature of my studies, if an event, which, as it procured an accession to Your happiness, could not but conduce to mine, had not prevented the full effect of Your kindness.

It might here become me to suppress, what I cannot however persuade myself to conceal, that Your Lordship was pleased to assign the most flattering reasons for Your intention, and to declare that You desired my promotion both for my own sake, and for that of the publick; the first of which motives I ascribe to Your candour and the goodness of Your heart; the second, which I am wholly unconscious of deserving, I can impute only to Your singular benignity and indulgence.

As a benefit intended is the same in my opinion with a benefit conferred, my obligation to Your Lordship is perfectly equal; and this sentiment, I entreat You to believe, no change of situation can alter, no length of time can obliterate* I had a friend, my Lord, who knew my gratitude for the former instance of Your kindness; and He indeed was entitled to some share of it, as it was He, who procured me the honour of being known to Your Lordship: with Your late favours, unhappily for me, and un-

happily for all who were connected with him, he did not live to be acquainted.

Your Lordship perceives that I speak of Sir JAMES PORTER; whom You also called your friend, and by whom You were so oft truly esteemed and respected. He was a man, whose social virtues were so transcendent, that his life was spent in perpetual exertions of them, and not a day of it elapsed without some intention sincerely expressed, or some ad zealously performed, for the pleasure or advantage of another; nor were his talents inferior to his benevolence; for, during his embassy at CONSTANTINOPLE, where he gained a perfect acquaintance with the manners of the extraordinary people among whom he resided, his address and activity were so properly exerted, that the interests of our mercantile body were never better secured, nor the honour of our nation better supported. Of useful, as well as ornamental, knowledge, both in literature and science, he had considerably a greater portion than is usually possessed by men of the world; and, while he was effectually serving his country as a minister, he justly acquired the reputation of a scholar. One part of his character was no less amiable than uncommon: so totally free was he from envy, the vice of little souls, that
* he was always eager to encourage the appear-

ance of literary merit, wherever it could be found ; and, if any perfon had cultivated a particular branch of learning more affiduoufly than Jhimfelf, he took a real pleafure in receiving information, and, what was ftill more rare at his age, in renouncing ancient prejudices, and retrading opinions which he allowed to have been precipitately formed.

But it is needlefs to expatiate on his excellent qualities, which were known to Your Lordfhip, as well as to many of Your common friends; and I need only add, that his well fpent life would have been completely happy, if it had lafted until he had feen You retire with dignity from the high office which You fo long filled with honour, and had been witnefs of the fplendid tranquillity which you now enjoy.

The nature and fcope of the following work, which I had before imparted to Him, I took the liberty of explaining alfo to Your Lordfhip; and, if the execution of it were conformable to the defign, I might flatter myfelf, that it would obtain your approbation: it has antiquity at leaft to recommend it; and, whatever opinion Your Lordfhip may juftly entertain concerning **the** general utility of minute philological recherches, yet You will be convinced, that ancient literature, properly directed, may be applied to aany ufeful purpofes beyond thofe intended at **the** fchool or the college.

Amcng mother things, You will remark v^tk^h fatisfe&ion, that, how much fcever the old ffetes of Greece might have furpafled *m* in the productions of art and genius, yet the admiai-ftration of juftice, on which our common fefcurity depends, now flows in a purer ftreiam at Weftminfter, than formerly at ATHENS; for the Archon fat in a tribunal, where every 'cafe was generally decided by a kind of political law, to which no precedents were applied, and from which no rules were deduced; whereas Your Lordfhip prefided in a court where thfc great boundaries of property are not only diftind and vifible, but irrevocably fixed, where Nothing is vague or precarious, nothing left to difcretionary interpretation, but where Your predeceffors wifely eftablifhed, and Your Lordfhip nobly maintained, a beautiful fyftem of liberal jurifprudence, which, while it fecures many important rights of our countrymen, contributes to the glory of our country itfelf by attracting the admiration of all mankind.

The laws of ENGLAND are the proper ftudy of Englifhmen; but they always fhine Uvith greater luftre, when they are compared ^vith thofe of other nations; and, as Your Noble Father conftantly admired the eloquence of Demofthenes, fo I am perfuaded that Your Lordfhip will not be difpleafed with the fpeeches of apt orator, whom Demofthenes himfelf botb ad-

mired and imitated : if I fhould not be deceived
in this expectation, I fhall gain a fufficient re-
ward for my trouble in tranflating him, and
ihall feel Your Lordlhip's approbation of my
paffed, to bq the ftrongeft incentive to future,
^bours,

I am, my Lord,
with unfeigned refpect,

Your Lordfhip's

moft obliged and

moft grateful fervaat,

WILLIAM JONES,

PREFATORY DISCOURSE.

THERE is no branch of learning, from which a student of the law may receive a more rational pleasure, or which seems more likely to prevent his being disgusted with the dry elements of a very complicated science, than the history of the rules and ordinances by which nations, eminent for wisdom and illustrious in arts, have regulated their civil polity: nor is this the only fruit that he may expect to reap from a general knowledge of foreign laws both ancient and modern; for, whilst he indulges the liberal curiosity of a scholar in examining the customs and institutions of men, whose works have yielded him the highest delight, and whose actions have raised his admiration, he will feel the satisfaction of a patriot in observing the preference due in most instances to the laws of his own country above those of all other states; or, if his just prospects in life give him hopes of becoming a legislator, he may collect many useful hints,

for the improvement even of that fabrick which his anceftors have ere&ed with infinite exertions of virtue and genius, but which, like all human fyftems, will ever advance nearer to perfe&ion and ever fall fhort of it. In the courfe of his enquiries he will constantly obferve a ftriking uniformity among all nations, whatever feas or mountains may feparate them, or how many ages foever may have elapfed between the periods of their exiftence, in thofe great and fundamental principles, which, being clearly deduced from natural reaſon, are equally diffuſed over all mankind, and are not ſubject to alteration by any change of place or time; nor will he fail to remark as ftriking a diverſity in thofe laws, which, proceeding merely from poſitive inſtitution, are confequently as various as the wills and fancies of thofe who enact them: ſuch, among a thouſand, are the rules by which the poſſeſſions of a perſon deceaſed, whether ſolid and permanent, or incorporeal and fluctuating, are tranſmitted to his heirs or ſucceſſors, and which could never have been ſo capriciouſly diverſified, if they had been founded on pure reaſon, inſtead of being left to the diſcretion of every ſociety, for whoſe convenience they are calculated.

Sir M A T T H E W H A L E, to whoſe learning and diligence the preſent age is now left indebted

than his contemporaries were to his wisdom and virtue, seems to have approved the study which I recommend ; and, in his History of the Common Law, has given a summary of the rules which prevailed among the ancient Hebrews, Greeks, and Romans, concerning the hereditary transmission of property ; but, as he professed to touch very shortly on that subject, and was contented with transcribing the version of Petit, without having recourse to the authors by whom the originals are preserved and explained, his Account of the Attick laws is remarkably superficial and erroneous. He complains, that the text is very obscure: it is indeed, as he cites it, not only dark, but corrupt; and the sense, which he collected from it, is by no means perspicuous. A desire of removing this obscurity, and of supplying a defect, however unimportant, in the work of so great a man, first induced me to renew my acquaintance, which had been for many years interrupted, with the Athenian orators, from whose private speeches I had reason to expect the clearest light on the subject of inheritances ; and I presently recollected one of them, whose remains I had seen when I was a boy, but had been deterred, like many others, from reading them, by the difficulty of the foreign terms, which occurred in almost every page.

This was IS ÆUS, a lawyer of the first class, at Athens, and an advocate, as the ancient critics agree, of a strong original genius; but, as his works must have been dry, if not unintelligible, to the herd of grammarians and philologists, by whom the old monuments of Grecian learning were saved from destruction, they seem to have been greatly neglected; for, out of at least fifty of his genuine speeches, which were extant in the ninth century, ten only remain; and these, as they all relate to the Athenian laws of hereditary and testamentary succession, and give abundant satisfaction upon that head, I here present to the student of our English laws in his native language, not doubting but that they will yield him the same entertainment which they have afforded me: since, however, he will naturally expect some account of an author, with whom so few are acquainted, I will endeavour, before I resume the subject of the Attick laws, to satisfy his expectations; having first apprized him, that this ancient orator must be carefully distinguished from another of the same name, who seems to have flourished at Rome in the reign of Trajan or Domitian; for he is highly extolled in a set epistle by the younger Pliny, and incidentally by Juvenal, as a wonderfully rapid speaker, and a sketch of his life is drawn by Philostratus, who calls him an

Aflyrian, and adds, that in his youth he was extremely addi&ed to the pleasures of love and wine, and was Remarked for the foppery of his drefs, but that he afterwards changed his courfe of life, and became, as it were, a new man ; it is evident, that the declaimer, of whom they fpeak, had nothing in common with my author but the volubility of his language, and his name, which was probably a&Tumed, as that of Ifocrates alfo was taken by one of the later fophifts who wrote the inftructions to Demonicus.

IS ÆUS, the mafter of Demofthenes, and the true fountain of that eloquence which afterwards flowed with fo impetuous a fream, is by fome fuppofed to have been a Chalcidian, and by others, with greater appearance of probability, an Athenian: but whatever country may claim the honour of being his birth-place, it is certain that he was educated at Athens, where he became famous as a pleader of caufes after the clofe of the Peloponnefian war. The time of his birth may be nearly afcertained by reasoning from the known or fuppofed dates of his fpeeches; for that on the eftate of Dicseogenes appears to have been delivered in the fourth year of the ninety-feventh Olympiad, or two thoufand one hundred and fixty-fix years ago: now it is very probable that he was then ^t leaft in his twenty-feventh year j for it has been

remarked, that both Demafthenes and Cicere began to difingmfl* themfelves at that age; and Dionyfius, on a fimilar occafion, fuppofes that Dinapchus muft firft have fpoken *m* publick at the age of twenty-five or twenty-fix; whence we may fairly conclude, that Ifaeus was not born after the ninetieth Olympiad; and we cat* hardly believe that he was much older, fince he certainly continued to flourifh as an advocate, and compofed the fpeech on the eftate of Hag-nias, after the beginning of Philip's reign. If this computation be juft, he could not have been regularly a pupil of Liberates, who was born in the firft year of the eighty-fixth Olympiad, but, according to the beft accounts, did not open his fchool till the archonfhip of Lyfiftratus, when Ifaeus was at leaft in his forty-eighth year, and in the height of his reputation: it is not, indeed, improbable, and no more, perhaps, than this was meant by Hermippus, that he might occasionally attend the lectures of fo renowned a matter; but it is certain, that he took pupils himfelf at that very time; for Demofthenes, who was then but twelve years old, and who foon after deliberated on the choice of an in-ftru&or in the art of fpeaking, preferred him to Ifocrates, not from any difference in the prices of their inftru&ions, as it is vulgarly fuppofed, but from a well-grounded opinion, as Piytarch

justly imagines, that the style and manner of Ifaeus were more forcible, and better adapted to the purposes of real life, than the fine polished, elegant turns* and sweet numbers, which Ifo- crates taught with so much refinement. This ardeur and nervous diction, which Demosthenes admired, he imitated also with such success, that in his seventeenth year he pronounced the speeches now extant against his guardian Aphobus, and not long after delivered the two against Onetor, which some of the old critics suppose to have been written, or at least corrected, by his master: we may trace, indeed, the manly features of the instructor in those and several other compositions of the illustrious pupil, whose orations on publick affairs, with which Ifseus never interfered, exhibit so noble a specimen of true eloquence, that the palm has been by universal consent given to him as the first orator of Greece; yet his private speeches are not superior in force or beauty to those of his teacher, who would probably have thundered with equal energy in the assembly of Athenian citizens, if his temper and inclination had not induced him to prefer the certain advantages of a very useful profession to the precarious favours which the giddy populace bestow and resume at their pleasure. This, however, is no more than conjecture; for even the profound antiquary and ex-

cellent critick, DIONYSIUS, whc has left us an admirable treatise on the style of Isocrates, professes a total ignorance of his life and conduct in civil affairs; but it is obvious, that, if he had taken any part in administration, and harangued the people on important occasions, a man of his great capacity and application must soon have been distinguished by his contemporaries, and would have been mentioned with applause by the historians of his country. My opinion is likewise confirmed by the titles of his genuine speeches preserved by Harpocration, Pollux, and Apollonius, not one of which appears to have been delivered on any national question; and this may be the reason, why most of the ancients, who are so copious in praising the smoothness of Isocrates, the graces of Lyfias, the founding periods of Demochines, the dignity of Lycurgus, the united force and elegance of Hyperides, say nothing of Isaeus; for all the others were eminent in public life, or at least composed orations on subjects of a public nature: thus Lyfias added to his other excellent qualities an ardent zeal for liberty, and raised five hundred men at his own expense for the service of the state, in expelling the thirty tyrants, and restoring the popular government, which he supported also by his eloquence; and Isocrates laboured successfully to unite the Greeks in a common cause against

their old enemy the king of Persia: the political conduct of Isocrates, Lycurgus, Hyperides, is generally known; and, although Dinarchus would not perhaps have attained much celebrity by the strength of his own genius, yet he has acquired a rank among the ten orators of Athens by his assiduous imitation of the great man, whom he could not but admire, even when he impeached him: as to Andocides, his offences and misfortunes would have preserved his name, if his harangue on a peace with the Lacedaemonians had been lost; and, if Antipho had left no speeches in criminal cases, yet the place, which Thucydides, who is thought to have been his pupil in rhetoric, has given him in the history of the Peloponnesian war, would have rendered him sufficiently illustrious; so that, of all the ten, Isocrates alone appears to have confined his talents to the narrow limits of the bar and the composition of forensic arguments; which, however interesting to lawyers, cannot be supposed to attract the notice of scholars in general so much as the pompous and solemn orations on treaties and embassies, or the various events of an obstinate war. After all, one cannot help wondering, that, although Dionysius lived in the very age of Cicero, and was copied almost too closely by Quintilian, yet the name of Isocrates is not particularly distinguished in the

rhetorical pieces of the two Romans: for this omission I can no otherwise account than by ascribing it to inadvertence or to accident; and by observing, that the fame of the Philippicks was so splendid, as not only to eclipse the reputation of a mere advocate, but even to diminish the attention due to the other productions of Demosthenes himself, whose private speeches have been almost as much neglected as those of his master.

This is all that I have been able to collect concerning the life of ISIDORUS, and I now proceed to discourse more at large, but without prolixity, on his professional character and the style of his oratory, not meaning to anticipate the judgement of the publick on the following speeches, but intending to show in what estimation he was holden by the Grecian critics, and principally by the Halicarnassian, the most learned of them all; from whom, however, I shall more than once take leave to dissent.

First, it is hard to conceive, why Dionysius, in the very beginning of his treatise, the sole object of which was to display the peculiar excellence of Isidorus and the originality of his genius, should assert, that he was chiefly illustrious for having given instructions to Demosthenes: this is not only contradictory, but the fact itself is so far from being true, that, if his pupil had

never been born, his reputation would probably have been greater, and he would have been reckoned the first orator of his age, or at least the next to Hyperides; for the judicious Hermogenes, whose rhetorical traits are fortunately preserved, places him far above Lyfias, and below none but Demosthenes, in that mode of speaking which he calls *popular*, and which alone seems to be calculated for real struggles in active life, where genuine eloquence has the fullest room to expand herself in bright and natural colours. It is surprising too, that Isæus should all along be represented as the imitator of Lyfias by the very author who expressly calls him, in his account of Dinarchus, *the inventor of his own original style*: he could not, indeed, but admire so fine a composer, who was about forty years older than himself, and had long enjoyed a very flourishing reputation: he must have studied the compositions of Lyfias, and possibly began with imitating them; but finding them too soft and delicate for his forensic combats, which required stronger nerves and harsher features, he changed his course, and, taking nature alone for his guide, discovered and pursued a new species of eloquence, which Demosthenes carried to such perfection, that no mortal will ever surpass, nor perhaps equal, him, until the same habits of industry and solidity of

judgement fhall be found united in one perfon with the fame fire of imagination and energy of language. One thing we muft neceffarily take to be true on the credit of Dionyfius; that many fpeeches of Ifæus were hardly diftinguifh-able from thofe of Lyfias ; but they might have been his earlieft productions, or the fubjeds of them might have required a fofter and more fimple ftrain.

The true comparifon between Lyfias and Ifæus appears to be this : purity, accuracy, propriety, concifenefs, perfpicuity (in the perfeft mixture or rather union of which Hermogenes makes the popular ftye confift), were common to both of them in an equal degree, and both poffeffed that roundnefs of expreffion, to which nothing could be added, and from which nothing could be removed without deftroying its juftnefs and fymmetry; but the orations of Lyfias had all that fweet fimplicity, that exquisite grace, that clearnefs, and, as it were, tranfparency, which characterized the genuine Attick di&ion, and which may be more eafily conceived than defined, admired than imitated; for it is analogous to gracefultnefs in motion, to melody in a feries of founds, and to beauty in the moft beautiful of all vifible obje&ts, the human form: the lineaments of Ifæus were more dignified and manly, and his graces rather thofq

of Mars than of Adonis; for Dionyfius observes, that his figures were stronger and more various, his composition more forcible and impetuous, and that he surpassed Lyfias in ardour and vehemence, as much as Lyfias excelled him in simple and natural charms. In respect to the form and order of their speeches, there appears to have been infinite art in both those orators ; but the Critick represents the art of Lyfias as more subtle and recondite, that of Ifasus as more easily discoverable : according to him there was hardly a speech of my author, which had not the appearance of being premeditated and moulded into a fashion the best adapted to the purpose of winning the minds of the jurymen, and of seducing their reason, if he could not convince it; but this also we must take in great measure upon trust, for scarce any traces of this open and apparent art, with which both Uæus and his pupil were reproached, are visible to us in their compositions, which breathe the spirit of truth and justice, and seem to have been dictated by nothing more than a natural animation. We may argue, however, as long as we please: it is certain, that both Ifeus and Demofthenes had the reputation of being extremely subtle advocates, a reputation by no means favourable at the bar, as it always diminishes and frequently destroys the confidence of the jury, who,

through a fear of being deluded, are apt to fufpe& a fnare in every argument of fuch a fpeaker: it is no lefs certain, that, in this refpect, the ancients allowed the fuperiority of Lyfias over all pleaders of caufes who ever exifted; for no artful arrangement appeared in his fpeeches, no formal divifions, no technical mode of reafoning; but he opened his cafe with a plainnefs that captivated his audience, whilft it enlightened them; fo that, if Truth herfelf had affumed a human voice and form, fhe could have ufed no other language. Demotthenes and Ifaeus, without having any thing forced or unnatural in their productions, took more pains than Lyfias in preparing the minds of the judges; in relating the facts which gave birth to the litigation; in dividing the parts of their addrefs to the court; in marshalling their evidence; in difpofing and enforcing their obfervations; in digreffing without deviation; in returning to the fubjeft without abruptnefs; in amplifying; in aggravating; in extenuating; and, as Dionyfius fays particularly of Ifaeus, in attacking their adverfaries, laying clofe fieve to the underftandings, and forming the paffions, of the jury; not omitting any thing that might tend to fecure the fruit of all forenfick labours, a verdict or judgement for their clients: for this purpofe, if the caufe was weak, no infinuation, no addrefs,

no contrivance was neglected by Ifæus in order to support it; but, when he happened to have justice on his side/ his method seems to have been admirable. His manner of opening was various, according to the great variety of causes in which he was employed; sometimes he told his story in a natural order, with conciseness and simplicity, without preparation, without ornament, without any mixture of argumentation; sometimes he divided a long narration into several heads, proving each of them, as he went along; a method, of which he seems to have been fond, and which could not but conduce to the perspicuity of his speeches: in all cases he made frequent use of that oratorical syllogism, which logicians call *epicbirema*, where the premises are respectively proved by argument or evidence before the speaker draws his conclusion; while the *enthymema*, in which one proportion is suppressed, appears to have been more agreeable to the manner of Lyfias; and Dionysius, indeed, mentions this as a strong mark of discrimination between the two advocates. His other modes of arguing, his anticipations, recapitulations, digressions, inversions, variations, transitions, were all happily and seasonably applied in conformity to the disposition of his judges, and the nature of each particular case; and here I cannot forbear adding the sketch of a speech, now unfor-

tunately loft, againft ARISTOGITON and ARCHIPPUS, which the illuftrious critick, whom I have fo frequently cited, has given us as a fpecimen of my author's method.

It was a caufe, in which the brother of a perfon deceafed, claiming a right to the fucceffion, called upon a ftranger for a difcovery and furrender of a peffonal eftate remaining in his hands: the defendant pleaded to the bill, that the defund had bequeathed his perfonalty to him; and hence arofe two queffions; firft, an iffue of fact, Whether any fuch bequeft had been made or not; and, fecondly, an iffue of law, Who was entitled to the poffeffion of the goods in difpute pending a fuit concerning the exiftence or validity of the will. Like us, therefore, began with explaining the general doctrine on that fubjed, and demonftrating in particular, that *a devifee cannot legally poffefs the property devifed, until his right he judicially eftablifhed*; a point of Athenian law, which the reader will find illuftrated in one or two of the following fpeeches : thence he paffed to an inveftigation of the fact, and contended, that no will at all had been made by his brother: and this he proved, not by a fimple and continued relation of events, but, his narration being neceffarily long, he diftributed it into fedions, calling witnesses, as he proceeded, to each head producing

his written 'evidence, as occasion required, and corroborating the whole with a number of arguments drawn from all the circumstances of the cause, which he supported.

Various other examples are cited by Dionysius from the works of both orators in illustration of his criticism; and they are all so apposite, that I should be glad to entertain the English reader with them, if it were not almost impossible to convey in our language an adequate notion of the nice distinction between the different originals: it is very possible, I hope, to give in a translation some general idea of an author's peculiar manner, and the cast of his composition; but it would be no easy task to find words and sentences exactly correspondent with the Greek, and to pronounce that, if Lyfias and Ifaeus had been Englishmen, the first would have selected such a word or such a phrase on account of its simplicity, which the other would have rejected in favour of one more energetic and sonorous. The diversity between them, in regard to the disposition of their arguments, might, indeed, be made plainly discernable in any other tongue; but, after full consideration, I resolved to join the fragments of Ifeus, without translating any of Lyfias, especially as most of his orations may now be read in English, with no less pleasure than advantage, by

any one who fhall think proper to compare him with my author. Had more of their productions been preferved, we fhould have feen more clearly the propriety of the comparifon with which the critick of HalicarnafTus illuftrates his obfervations; for he declares his opinion, that the fpeeches of Lyfias refemble ancient pieces of painting in the fimplicity of their colours and the graceful correctnefs of their outlines, while thofe of Ifaeus are like the more modern pictures, which are lefs accurately drawn, but finifhed with bolder ftrokes of the pencil, decorated with a greater variety of tints, and enlivened with a ftronger oppofition of light and fhade.

On the whole, the orator Pytheas might have reproached Demofthenes with fome reafon for having transferred into his practice and manner of fpeaking the artifices and fubtilty of his mafter; but Dionyfius himfelf may go too far, in faying that the confummate art of Ifaeus and his pupil made them liable to fufpicion, even when truth and equity were on their fide, while the plainnefs of Ifocrates and Lyfias gave even a bad caufe the colour of juftice and reafon; as if a glowing and rapid ftyle, or a juft arrangement of topicks, could have been fufpeded of impofture more than the fly infinuating air of candour and opennefs, which the moft artful men often aflume.

I cannot leave this subject, without combating in few words an opinion of Cicero, intimated in all his rhetorical pieces, and expressed very abundantly in that little fragment, which seems to have been part of a preface to his translation of Demosthenes and Æschines for and against Ctesiphon, but the authenticity of which was doubted by Manutius. It begins with a positive assertion, that "there are no distinct species of oratory, as there are of poetry; that, although a tragick, and epick, and a lyrick, poet may be all equally perfect in their several ways, yet that no man can justly be called a speaker, unless he unite in the highest degree the powers of instructing, delighting, and moving, every audience on every subject." A character so various, and a genius so comprehensive, must necessarily be the object, if ever it should exist, of general admiration; but why it is not sufficient to call such a man the greatest, without insisting that he is the only, orator, or why an advocate, who never applied his talents to the senatorial species of eloquence, may not attain perfection in the forensic, and so conversely, I am at a loss to comprehend. *Menander*, you say, *would not have desired to be like Homer*; certainly not in his comedies; but every speaker wishes to resemble Demosthenes; as certainly not, when he is addressing the jury on

the obftru&ion of ancient lights or the llverfioi* of a watercourfe. The kinds of fpeaking are ftifferent; and, though one of them be more exalted than another, yet orators, as well as poets, may in thofe different kinds feverally reach the fummit; and this artalogy may be extended to all the line arts: Myro was not a lefs perfect fculptor in marble, becaufe he was unable probably to finifh gems with the delicacy of Trypho; nor, to fpeak of modern artifts, will Rafaelle ever be degraded from his high rank among painters, becaufe he might not have been able to draw Cupids and Nymphs with the minute elegance of Albani; in the fame manner as Demofthenes will always be allowed to have hurled the thunder of Grecian eloquence, although he could not perhaps (whatever Tully may fuggeft to the contrary) have fpoken with the fimple graces of Lyfias. Philofophers may **refine**, and logicians may diftinguifh, as learnedly and fubtilly as they pleafe; it will, after all, be true, that the eloquence of a lenator is of a fpecies wholly different from the eloquence of an advocate; that the two kinds ought never to be confounded; and that a complete fpeaker before a jury or a fingle judge may ftrain his throat without effed in a popular afsembly. If Cicero, indeed, meant no more than that the title of orator fhould be given only to one, who,

like himself, excels all men in every way, the argument is reduced to a mere dispute about words, which every writer may apply as he thinks proper, provided he apprize his reader of the new sense in which he means to use them; but, surely, he might have asserted, with equal propriety, that he alone, who surpasses the rest of mankind in every sort of poetry, deserves the appellation of a poet; for nothing can be more exact than the analogy between the two arts, and their near alliance is often acknowledged by the great man, himself, with whose opinions I am taking so much liberty: had he said that by the word *orator* he meant a speaker, who had cultivated every branch of his art, the Romans might have thought this an innovation in their language, but they would, perhaps, have adopted the definition on his authority. We are not however contending about the proper application of terms, or the abstract idea of universal genius: the single question is, Whether there are not distinct species of oratory as there are of poetry, and whether a man may not be perfect: in any one or more of them, without having directed his talents to the cultivation of the rest; for the decision of which point, I appeal to such of my readers as have heard ten speeches at **our** English bar, and as many in either house of parliament, They will forgive me **for having**

applied, and for still applying, the word orator to IS *ÆUS*) although his eloquence was wholly barren; and I confer this title on him with more confidence, because there is reason to believe, that he sometimes delivered his own speeches, without confining himself entirely to the difficult, but less noble, task of composing for others; for I must confess, that I can form no idea of an orator without elocution and action, nor can the praise of eloquence be justly, or even without a blemish, be bestowed on mere invention and composition, which constitute indeed the body of oratory, but speech and gesture alone can give it a soul* Whether the remaining works of my author will justify the criticism of Dionysius and Hermogenes, or whether my interpretation of them may not have weakened their original force, must be left to the impartial judgement of the reader; but this advantage will naturally result from my present publication: if the following speeches should be thought manly, nervous, acute, pertinent, and better in most respects than the generality of addresses to an English jury on similar subjects, we shall have a kind of model, by which the student may form himself, allowing for the difference of Athenian laws and manners; and, if they should appear inferior in all those qualities to the speeches usually delivered by our leading advo-

c&tes, we thall hafe reafon to congratulate our age and country, and to triumph in the fuperribry of our talents; for our leaders often make the ableft and'moft fpirited replies without a poffibility of premeditation; and wonderful, indeed, muft be the parts and eloquence of thofe, whofe unprepared effufions equal or furpafs the ftudied compofitions of the ancient orators.

In whatever eftimation IS ÆUS may be holden by his tranflator's contemporaries, it is certain that he flood very high in the opinion of *his* own: but the fate of his works has not correffonded with the fame, which they procured him, while he lived: fince, for the reafons before afligned, they were fo much negle&ed in the darker ages, that no part of his fifty fpeeches, which were extant in the time of Photius, is known to exift at prefent, except what this volume contains, with about a hundred detached words and phrafes explained by Harpocraton and one or two other grammarians: even thefe ten fpeeches would in all probability have perifhed with the reft, if it had not pleafed fome man of letters to copy them; and it is much to be wifhed that he had added at leaft two more, one on the eftate of Archipolis, and another on that of Menecles; for we fhould then have had a complete colie&ion of the orations called

or relating to the subject; of legal testimony. This copy, however, was deposited in the library belonging to a monastery at Mount Athos, whence it was brought to Florence at the beginning of the sixteenth century by Lafcaris, who had been sent to Greece by Lorenzo di Medici to purchase manuscripts; and it is preserved at this moment in the Medicean collection. Five years after the book was in Italy, it was printed at Venice, with some other orations, by the indefatigable ALDUS MANUTIUS, who gives the preceding account of it in his preface; and it may be presumed, that his edition, upon which the curious set a high value, is a very exact impression of the manuscript with all its inaccuracies. Towards the close of the same century, the celebrated HENRI ETIENNE, whom we have naturalized and call Henry Stephens, reprinted the Aldine edition of the Greek orators with some judicious notes in the margin; but he seems to have taken more pains with Isocrates and Lyfias than with the others, and Isaeus appeared under his impression with scarce any greater advantage than that of a very handsome dress: this editor, in his epistle dedicatory, promised to collect all the Attic laws with a comparison between them and the institutions of modern nations; a work, which would have thrown an advantageous light on

ttiy authbr, but which unhappily he never completed. Many eminent fcholars, who afterwards poffeffed this elegant edition, among whom were Scaliger and Saumaife, fcribbled a few hafty "conjectures in the margin of Ifaeus; but the world at large knew little of his ten fpeeches for above forty years, until one ALPHONSUS MINIATUS, as he calls himfelf, undertook, in the feventy-third year of his age, to tranflate them into Latin: his attempt was highly laudable; but it is clear, that he underftood neither the language from which, nor that into which, he tranflated; for every page of his verfion abounds with blunders fo ridiculous, that, if any man can ftoop to divert himfelf at the expence of another, he cannot find better fport than by reading Miniatus; and Schott of Antwerp, who profeffed a friendfhip for him, but muft have known his ignorance, did wrong in fuffering the old man to expofe himfelf by fuch a publication. The accurate Perizonius, whofe differtations contain many excellent remarks on my author, complained fome time after, that *the very ufeful fpeeches of Ifaus, which his illiterate interpreter, Miniatus, had mofi unfkilfully rendered, lay fcandaloujly neglected*; and Fabricius expreffed his wifh, that a very good fcholar, whom he names, would prefent the world with a new tranflation of them: but even thefe publick remonflances

could not attract the attention of learned men to a work, which they thought interesting to lawyers only; and Taylor, who published his Elements of Civil Law little more than twenty years ago, speaks of my author as a writer then hardly known: " When I quoted *Ifaus*, says " he, I would fugged to my readers, that I mentioned an author upon many accounts very " valuable, but upon none so much as of the " great light, that he is capable of throwing " upon the question before us, *de jure bcreditario*; a subject, in which the orations, that are " left of him, most remarkably abound." It is probable, that so strong a recommendation from so judicious a writer produced some effect among the scholars of his time; but Ifeus was still an obscure name, till REISKE of Leipzig, about five years ago, published the originals of the following speeches, together with the treatise of Dionysius, in his elaborate edition of the Greek orators. As I have considerable obligations to this learned and laborious man, whom I mention here merely as the editor of Ifeus, without entering upon the other parts of his work, I think it better to make this general acknowledgement of them, than to molest the reader with a superfluity of notes, especially as my opinion of his particular corrections may be always ascertained by my translation of the text;

and it muſt be owned, that although many of his annotations are haſty and even puerile, yet moſt of them are candid, plaufible, ingenious; and ſome of his conjectural emendations are wonderfully happy: his *interpretation*, indeed, is a prolix paraphraſe in very harſh Latin; but, as it ſhows his apprehenſion of the author's meaning, and, as that apprehenſion ſeems to be generally right, let us be ſatisfied with the utility of a performance, in which elegance was not to be expected. It is with pleaſure that I take this opportunity of giving a due ſhare of praife to ſo well-intentioned and induſtrious a man, who, although he was not without the pride and petulance which too often accompany erudition, ſufficiently atoned for thoſe faults by the integrity of his heart and the intenſeneſs of his application to the ſtudy of ancient literature, which his labours have conſiderably improved and promoted. To his valuable work we certainly owe the late excellent verſion of Demofthenes and iEſchines by the Abbe AUGER, who promiſes alſo a tranſlation of my author; and, as my Engliſh Iſeus has the fortune to ſee the light before the French, I ſhall be happy if it can afford any help to ſo reſpectable a ſcholar, who, diſdaining the prejudices of an academician, and daring to expreſs his own juſt ſentiments, has the courage to recommend the learning and

language of Athens in thi heart of Paris; nor fhall I blufh to confefs any errors that I may have committed, and, with the aid of his inter-pretation, to corred my own.

As to my work, I fhall fay very little concerning it, but fairly fubmit the whole to the judgement of the publick ; for I never could approve the cuftom of authors, who, in their prefatory difcourfes, lay down rules of perfed writing, to which they infinuate that their own produ&iona are ftridtly conformable. I will not, therefore, fay with *Cicero*, if indeed he wrote the fragment beforementioned, that *I have tranflated Jfceus not as an interpreter but as an orator*; nor with *Middlcton*^ who was fond of imitating *Cicero*, that *I have made it my Jirjl care_y always to preferve the fentiment, and my next, to adhere to the words as far as I was able to exprefs them in an eafy and naturalJlyle*. I am fully perfuaded, that there is but one golden rule for good translation ; which is, to read the original fo frequently, and ftudy it fo carefully, as to imprint on the mind a complete idea of the author's peculiar air and diftinguifling features; and then to affume, as it were, his perfon, voice, countenance, gefture; and to reprefcnt the man himfelf fpeaking in our language inftead of his own: but, whether I have adted the part of *ISI*EUS with exa&nefs, whether I have juftly

cxpreffed the peculiarity of his cbara&er, whether my ftyle conveys an adequate notion of his nerves and fpirit, his vigour and fharpnefs, I really cannot tell; nor, if I could, would it become me to tell my reader. One requeft only I muft beg leave to make: that, if any perfon fhould conceive it an eafy matter to tranflate into Englifh the ancient orators of Greece, and fhould perfift in that opinion while he reads my translation, he will infantly lay afide my book, take up the original, and render the next fpeech himfelf: if he fhould find the tafk more difficult than he had imagined, he will then give me the only praife, which I defire, that of having taken no fmall pains to inform and entertain my countrymen; to whom, if opportunity alone had not been wanting, I would long ago have made many greater facrifices—But of myfelf enough has been faid; and, I hope, without impropriety.

I now refume the fubjeft, from which I have fo long digreffed, and return to the Attick laws of hereditary and teftamentary tranfmiffions: the text of which, together with a few other ordinances nearly related to them, I fhall prefix to the fpeeches, referving a fuller explanation* of them for the commentary; it being my fole obje&, in this introductory difsertation, to prepare ?ny reader for compositions above two thouiaad

years old, and to explain such allusions as may occur in them, so that he may understand them without the perpetual interruption of notes: with this intent I shall now subjoin a short sketch of an Athenian suit for the recovery of property in the court of HELIJEA, the only one of the ten, which my present subject leads me to consider. A more minute account of a lawsuit at Athens, from the original process to final judgement, would have been superfluous in this place, and even inconsistent with the scope of my work; but, should the curiosity of any learned reader be raised by this summary, he will receive ample information from various tracts in the vast repository of *Gronovius*[^] among which I principally recommend the elegant treatise of CAROLUS SIGONIUS, *On the Athenian Republic*: that most judicious antiquary has, indeed, so completely exhausted the subject, that POTTER has done little more than translate his work with some additional authorities and a multitude of quotations, which are so far from improving his book, that they render it intolerably dry and tedious. M. Auger professes to have followed Potter and Petit, and has extracted from their rude materials a very perspicuous and agreeable dissertation on the jurisdiction and laws of Athens. I have turned **them all over with as much attention as it seemed**

-worth while to give them ; but my remarks are chiefly drawn from the pure source of the Greek orators themselves, and from their best interpreter, *Harpocration*. I cannot help grieving, that the *Commentaries on Iffaus* by DIDYMUS have not survived the days of Gothick barbarity; for, although they were probably nothing more than glosses or grammatical notes, yet they would have been of infinite use in illustrating many dark passages, and fixing the purity of the text. The works too of HEROTHE Athenian, who wrote a treatise *On laws at Athens*, and another *On the forensic customs of the old speakers*, would have given me no less entertainment and instruction than assistance in composing this part of my preface; and the same may be said of two lost books by TELEPHUS, the first, *On the laws and customs of the Athenians*, and the second, *On their courts of judicature*; but, instead of wasting time in fruitless regret, I proceed to discourse concisely on the same subject by the help of such imperfect light as remains.

It is almost needless to premise, what every person who has the slightest acquaintance with the constitution of Athens already knows, that all causes concerning inheritances, devises, legacies, portions, adoptions, marriages, divorces, alimony, widows, heiresses, orphans guardians,

belonged to the jurifdidion of the chief ARCHON, who gave his *name* to the year of his magiftracy, and was thence often called *Eponymus*; a jurifdidion, which may in part be traced through the Decemviral laws to that of the Roman PRJETOR, and from him, through the imperial and pontifical confutations, to that of our CHANCELLOR. Either this great magiftrate, whofe tribunal was in the Odeum, or one of the fix inferior Archons, called *Tbefmotbeta*, getierally fat, crowned with myrtle, for the purpofe of receiving complaints from perfons injured, of direding procefs, examining the parties, allowing or dilallowing the adion, and conduding the fait through its various ftages; for, when a citizen thought himfelf wronged, and refolved to feek redrefs in a court of juftice, his firft ftep was to prefer his *plaint* and *denounce* the name of his adverfary to the fitting magiftrate, who *examined* the complainant, and, if he thought the adion maintainable, permitted him *Xofummon* the defendant to appear at a certain day: it was allowable, where an expeditious remedy was required, to *attach* the perfon complained againft, and carry him diredly before the court, of which the reader will recoiled many inftances in the ancient comedies, where the fcene is ufually laid at Athens; but, in moft cafes"of civil injuries, the firft procefs was by

citation cyxfummotv, for which purpofe a number of apparitors or bailiffs, called *fummoners*, were constantly at hand; nor can we fuppofe, that in a fmall ftate governed almoft wholly by laws, which infiided a fevere punifhment on contumacy, this monition of the Archon was often difobeyed: contumacious perfons were declared *infamous*, a fentence no lefs dreadful to an Athenian, than *outlawry* to an Englifhman.

When both parties were confronted before the magiftrate, he proceeded to a ftrict examination of them, which was called the *interrogation*^ and the parties litigant were at liberty to interrogate one another, as we learn from the fpeech on the eftate of *Pbilobtemon*; whence alfo we may colleét, that their *anfvers* were fet down in writing, and might be given in evidence againft them at the trial, and that, if the Archon found it neceffary, he might adjourn the examination. This was not unlike the French *recollement*, of which M. de Beaumarchais has given us a lively and curious defcription in one of his interefling memorials; and the ftudent will find it an inftru&ive and agreeable exercife to compare thefe judicial proceedings at Athens, not only with thofe of the civilians and canonifts, of which he will fee an exad iketch in Sir Jeffrey Gilbert's *Forum Romanum*, but alfo with \$hofe in our own courts of law and equity, and

with the modes of bringing causes to a hearing in Scotland and France : to remind him at every turn of the analogy between these different forms of administering remedial justice, would be both idly ostentatious and inconsistent with my principal design

It was the Archon who gave the complainant the power of impleading his antagonist, prescribed the proper form of the action, of which the Athenians had a great variety, and, to use their term, *admitted* the cause into court; after which preliminaries the party complaining put in, as I conceive, his *declaration*, or *bill*, in which he set forth pertinently and succinctly the nature of the injury which he had sustained; and then, I imagine, the parties proceeded to their mutual *altercations*, which the Archon moderated and directed, and which, like our ancient *pleadings*, were delivered orally before his tribunal. If the plaintiff persevered in demanding redress, and the defendant insisted generally, that *he had committed no injury*, or *that he had a right to the property in question*, so that the merits of the cause might be fairly tried in a *direct* course, issue was then joined, as by the *Sponsio* of the Romans, and each party *deposited* a stated sum as a pledge of prosecuting his claim: nor was this all; for the parties were obliged to give in *cross-depositions* in which they respectively swore,

that they relied on the justice of their several cases, and would produce evidence of the truth. The Archon then enquired into the nature of that evidence, asked the parties, if they were prepared with their witnesses, and what was the number of them; for, if either of them was unprepared and could offer upon oath a just excuse for his want of readiness, the trial might be postponed. This was also the time for proposing terms reciprocally in regard to the litigation, as by written *challenges* to produce their slaves, whose testimony was always extorted by pain or by the apprehension of it, and who could not be exposed to torture without the consent of their masters, which was rarely given; but the party refusing to consent gave an advantage to his adversary, who, instead of ascribing his refusal to humanity, constantly imputed it to a dread of disclosing the whole transaction; of which common topic we see a remarkable instance in the *Trapezitic* speech of Isocrates, whose very words are found in that of Iphicrates on the estate of Ciron, and in the first of Demosthenes against Aphobus: this identical passage in the three orators is adduced by Eusebius among other instances of the gross plagiarism with which he charges the Greeks; but it is a passage which, to the honour of our nation, can never be copied by a British advocate-

45 THE PREFATORY DISCOURSE.

It was competent, however, to the defendant* to put in a *dilatory plea*, as for instance, to the *jurisdiction* of the magistrate; or to *demur*, as we call it, to the declaration, by insisting that the action was not maintainable, or, in the language of the Athenians, not *εἰσαγώγιμος* or *admissibile*; or he might plead *in bar* any fact: that precluded the plaintiff from his suit, as a compromise and release, or the expiration of the limited time within which the complaint should have been preferred: this was in general *five* years; but the law of limitations doth not seem to have been very rigorously observed, as excuses for the non-claim were often made, and sometimes, probably, admitted. From this law there arises no small difficulty in the speech on the estate of PYRRHUS, whose adopted son Endius had been in possession above *twenty* years, yet, on his death, an attempt was made to invalidate the adoption by protesting that Pyrrhus had a legitimate daughter; now one would have imagined, that, had she been really legitimate, {he would have been perpetually barred by not having *entered* on the estate, or opposed the claim of Endius, within the due time from the death of her father; but the five years only ran from the day when a new title accrued, and, she having passed the time of entering as *daughter* of Pyrrhus, her husband might have made a claim

for her a fifer and hcirefs of Endius lately de-
 ceafed. However that might be, this caufe af-
 fords a good fpecimen of Athenian pleading;
 for, in the original fuit, Xenocles appears to
 have been complainant in right of his wife
 Phila, and to have demanded in his bill the
 three talents, of which her father died poflefled :
 ta this the defendant, who was the mother of
 Endius, *pleaded*, that fhe was the fitter of Pyr-
 rhus, and, on the death of his adopted fon with-
 out heirs, became entitled to his eftate: Xeno-
 cles *replied*[^] in the form called *διαμαρτυρία* or a
proteftattoriy that fhe had no title, becaufe pyr-
 rhus *had left a legitimate daughter*: this the de-
 fendant *traverfed* or denied; and, as the ifTue
 was found in her favour, the complainant, who
 had *protefted* upon oath, muft neceflarily have
 been perjured. I chofe to give this Attick form
 the name of *protejlation*, although *obtejlation* be
 more literal, and although the former word be
 refrained in our law to a parenthetical allega-
 tion, which is not *traverfabk*; but I cannot too
 often requeft the reader of *Ifceus* to place him-
 felf at Athens, and to drop for a time all
 thoughts of our own forenfick dialed, This *pro-
 tejlation* then, which answered fometimes to a
demurrer, and fometimes ta a fpecial plea *in bar*,
 differed from the *iruy* or *exception*; for the
 firft might be entered by either of the contend-

« THE PREFACE to the MS. C. C. K. J. it SE;

ing¹ parties* or even by a third person inter*
Tening; & in the litigation concerning the
estate of Dicseogenes, when Menexenus and his
cousins were going to join issue with their ad-
versary, Ltochares put in a protestation, *that the*
heirs at law were precluded from claiming the in-
heritance: but the *exception*, which in general
was a dilatory plea, could only be made by the
defendant. These oblique modes of pleading
were, however, considered as unfair, and were
therefore discountenanced, as tending to divert
the stream of justice, and to evade a candid in-
vestigation of the whole truth; thus *Thrajjylltus*,
In the sixth speech, makes a merit of having
pleaded in a *dire* form, when it was in his
power to have *protected* specially, that he was
the adopted son of Apollodorus; and, in the
fifth, the same topic is urged in favour of Chse-
refratus, whose advocate insists, that his oppo-
nent, instead of *pro te* filing, that Philodemus had
left legitimate sons, should have denied at once
the validity or existence of his will, It seems
that, in all cases of disputed estates, every de-
visee, and every heir, except a lineal descen-
dant, was compelled to make a claim by exhibit-
ing a bill to the Archon: if his title was con-
troverted, the adverse claimant presented a *cross-*
bill called , and it appears from the last
mentioned cause, that this course might be pur-

fued by a perfon who had protefted, even after the iffue on his proteftation had been found againft him; whence it follows, that a multiplicity* of trials was prevented by the *εὐθυσία* or general plea. We may colle& from a paflage in the fourth*of the following fpeeches, as well as from Harpocraton, that when a ftranger interpoled by protefting, that *the ejtate was not ~~in iudicio~~* or open to controverfy, it was ufual to difcontinue the original action, and to try the iffue joined on the proteftation, the event of which trial muft have directed the judgement in the firft caufe: what follows that paflage is extremely fingular; for, when Leochares was more than half-convi&ed of perjury, the punifhment of which was a perpetual deprivation of all civil rights, the plaintiff not only was permitted to decline taking the verdict, but even confented to accept the promife of Leochares himfelf, that Dicaeogenes fhould Surrender the property in difpute.

Whenever, in the courfe of thefe pleadings, the parties came to *&fa&* or a point of law (for both were determined by the fame judges) afserted on one fide and denied on the other, the Arthon proceeded, as if the defendant had pleaded generally: and all the writings in the caufe, the bills, claims, crofs-depofitions, challenges, proteftations, and exceptions, together with fuch in-

fragments as had been exhibited, and, I believe, with the depositions of the witnesses, were enclosed in a vessel called which could not be opened till it was carried into court.

Thus was a cause at Athens prepared for trial, and, we must acknowledge, in a simple and expeditious manner; nor was the popular form of pleading the general issue, and proving the special matter in court, liable to the objection of exposing the parties to the danger of being surprized with an unforeseen case or unexpected evidence; since all the circumstances were previously sifted, and the depositions accurately settled, in the presence of the Archon, so that each party was fully aware of his adversary's strength, and able to intrude his advocate without darkness or perplexity: yet if we consider the multitude of law-suits, with which, as Isæus himself informs us, Athens abounded, it must appear strange how six or seven magistrates, even with their assistants, could have time to conduct the altercation of so many litigants, and to perform the other important duties of their office. At Westminster a similar plan would be found impracticable; nor (shall I easily be induced to wish for a change of our present forms, how intricate soever they may seem to those who are ignorant of their utility. Our science of special pleading is an excellent Logic *i* it is

admirably calculated for the purposes of analysing a Cause, of extracting, like the roots of an equation, three true points in dispute, and referring* them with all imaginable simplicity to the court or the jury: it is reducible to the first rules of pure dialectick, and, if it were scientifically taught in our publick seminaries of learning, would fix the attention, give a habit of reasoning closely, quicken the apprehension, and invigorate the understanding, as effectually at the famed Peripatetick system, which, how ingenious and subtle soever, is not *so honourable, so laudable, or so profitable*^ as the science, in which *Littleton* exhorts his sons to employ *their courage and care*. It may unquestionably be perverted to very bad purposes; but so may the noblest arts, and even eloquence itself, which many virtuous men have for that reason decried: there is no fear, however, that either the *contrasted* *evil*, as Zeno used to call it, or the *expanded* *evil* can do any real mischief, while their blows are directed and restrained by the superintending power of a court.;—But let us return to Athens,

The next as of the Archon was to cast lots for the *judges*, on whom I chuse in general to confer that title, because they determined not the fact only, but the law and equity, of every case; although I have always been of opinion

with the learned antiquary Dr. PETT[^]NGAL, that they might with propriety be called *jurymen*; and that the Athenian juries differed from ours in very few particulars. It is well known, that the Awwaf were a (landing body of citizens, all at least thirty years old and of unblemished character, but without any stated qualification in point of fortune: before they were admitted into the order of judges, they swore solemnly, among other things, " that they would never " accept a bribe directly or indirectly for pronouncing their sentence, nor suffer any of " their fellows to be bribed, with their knowledge, by any artifice or contrivance whatever; that they would impartially attend to " both plaintiff and defendant, and give a just " verdict on the very point in issue which oath, as we may collect from *Demosthenes*, they repeated before every trial, and the advocates seldom failed to remind them of it. The number of their names drawn by lot, in cases to be tried in the Heliaea, was usually five hundred, as we learn from the fourth speech of Iseus; but, on very important occasions, a thousand, fifteen hundred, and sometimes two thousand, sat to decide the same cause; so that they formed in reality a committee from the whole legislative body, and hence they are frequently pressed by the orators to be guided by the laws which

they had themselves engaged: it is on account of their ample powers and their mixed character, that I call their sentence indifferently a *judgement*, a *verdict*, or a *decree*; although at our bar we appropriate each of those words to a distinct meaning. The sentence was determined by the plurality of suffrages; but the nearer the court approached to unanimity, the more brilliant was the victory; and as he, who had not a fifth part of the votes, was fined a thousand drachmas, I conceive, that the parties were allowed to challenge such of the jurors as they could affect with a reasonable suspicion of a bias to either side. When the judges, on the day appointed, took their seats in the *Heliaa*, a place in the open air, but surrounded with a rope and attended by officers who kept off the crowd, the Archon proposed or *introduced* the cause; and, if the defendant made default, judgement was given against him; but it was not final till two months had passed, within which time he might apply to the magistrate, and, by affirming on oath a satisfactory reason for his absence, might set it aside, and have another day fixed for the trial. When the parties appeared, they usually brought with them as many powerful friends as they could assemble, with a view, no doubt, of influencing the jury; a shameful custom! but which cannot easily be

prevented in any country, and which seems to have been common at Athens, as we find in some of the old comedies, and in the beginning of the speech on the estate of Cleonymus ; they were accompanied also by their advocates and witnesses, of whom it will be necessary to speak with as much conciseness as the subject will admit,

The office of was distinct from that of *ilfryn'w*; as the first was the *abOr cqufarum*^ and the second the *jurijconsultus*, of the Romans ; both which characters are generally united in *our counsel*: I call the first an *advocate*; although I have no certain knowledge that the *Athenian* title was given to men of a particular profession; but am inclined to think, that any man whatever, whom friendship or ability recommended to either party, might, with the permission of the court, plead his cause before the judges; nor do I believe, that this business was in general considered as reputable; for *Nicodemus*, who seems to have been a very profligate fellow, is reproached by Jesus in the second speech for acting dishonestly, in hopes of the petty fees, which he gained by pleading pauses ; and, in the eighth, *Xenanetus* and his associates, whom my author represents as a detestable crew, are said to have had such powers in speaking, that they were often employed as

advocates. The *ρήτορες* were of a higher class; many of them, illustrious statesmen; and all, men of distinguished abilities, who were frequently engaged in private causes, either at the request of particular friends, or, like the Roman senators, who were forbidden to take money by the *Cincian* law, with a view of acquiring fame and popularity: but Antipho of Rhamnus is said to have been the first who took fees for his forensic labours. When the orators addressed the court in person, they were assisted, as *Tully* says, in matters of law by solicitors or agents, who were called *πραγματικοί*, and whose profession was reckoned illiberal; but, most commonly, the speeches were composed by the great masters of rhetoric, and delivered either by memory or from writing, by the clients themselves, or some of their intimate friends: for the Athenians were naturally quick; their general assembly was the best school of eloquence in the world; and, as they had but one language to learn, which was the finest ever spoken by mortals, the lowest among them could not only express themselves with propriety, but were even the nicest judges of the pure Attic diction. *Plutarch* tells us, in his treatise on *Garrulity* that Lyfias wrote a speech for a client, who brought it back with great marks of uneasiness, assuring the orator, that, " when he

" firft read it, he thought it wonderfully fine;
 " but that, on the fecond and third reading, it
 " appeared quite languid and inapplicable."

" What! faid Lyfias fmiling, do you forget
 " that you are to fpeakit but once to the jury?"

This mode would, for many obvious reafons, be hardly pra&icable among us; yet, in fome criminal cafes, we have inflances of artful and elaborate defences, at leaft equal to thofe of *Antipko*, compofed or delivered by the prifoners thcmfelves: and, furely, no compofitions require fo much delicacy and judgement, fince innocent men on fuch occafions are feldom eloquent. Sometimes both methods were united at the Athenian bar; and the party, having told his ftory in a fet fpeech, was fucceeded by his advocate, who pronounced the peroration in a loftier ftrain: of this we have fome examples in Demofthenes, who is called up by name to finifti the fpeech for Darius againft Dionyfodorus; and that of Ifæus on the eftate of Nicoftratus was, I believe, of the fame kind; for it contains very folid obfervations on laws and the nature of evidence, which would have come with a bad grace from the mouth of an ordinary client; and it concludes with a recapitulation of proofs, none of which appear in the preceding part; fo that from thefe circumftances we may colleft, more certainly than from the opening

of the speech, that it was delivered by the orator in his own person; nor is it in any respect unworthy of his reputation. It is hardly necessary to observe, what the reader will naturally imagine, that women and infants both sued and were impleaded in the names of their husbands* guardians, or next friends; as, in the dilutes about the estate of Hagnias, the *frochein amy* of young Stratocles exhibited the information, and delivered the charge, against Theoporus. whole son was afterwards attacked by the guardian of the third Eubulides. The time, which these judicial speeches were not suffered to exceed, was previously fixed by the Archon according to the nature of the cause and the number of pertinent observations which it required; and this time was regulated by the dropping of water through a glass, called *clepsydra*, which was carefully stopped, when any verbal or written evidence was produced, or any law, will, or other instrument, was read to the court: this was a restriction in most cases highly expedient for the dispatch of business; although Tacitus considered the *Pompeian* law, by which the length of a criminal's defence was limited to three hours, as a check to the free course of eloquence; and, as the power of allotting the due quantity of water seems to have been discretionary in the magistrate, the fathers at a cause

might, perhaps, depend too much upon his vigilance, attention, and sagacity: on the whole, we proceed better, I think, without any such restraint.

It does not appear, that two or more advocates were ever heard at Athens on the same-side, as they were *jjkt* Rome, and commonly are with us on legal questions. Cicero, in his pleafmg book on Famous Orators, obje£U warmly to this practice; but his objections, in my apprehension, are not weighty: when he was a boy, there were *but* fix advocates in the fullest bufiness; *upv* have we many more, who are sure to be retained in every cause of great importance; to determine who are the Craifus and Antonius, who the Philippus and Csefar, who the Cotta and Sulpicius, of our Englifh bar, would be a task no less invidious than unneceffary; but if the moil eminent were always to fpeak without any fubalterns, a young barrifter might be condemned at Weftminfter to a filence of twenty years.

If the reader has but opened the following work, he muft have obferved, that the Athenian advocates called their witneffes and read their depositions, as they went along, in proof of their feveral points, inftead of crouding all their evidence together at the conclufion of their fpeeches; and, although eloquence flows mpr^

agreeably and oftentatkmly in a continued
ftreatn, y\$ their method feems better calculated
than ours for the purpofe of enlightening and
eonvinpug the jury; fmce, as *Dionyjius* re-
marks, *d number of proofs collected in we place,*
and belonging to a variety of heads^ is inconjiftent
with perfpicuky. The witnefles were examined,
and, I doubt not, crofs-examined, in the prepa-
ratory -ftages of, the capie; but they were not
fworh^ill the day of the trial, when they took
the oath together at the altar with all poffible
folemnity, and were afterwards called before the
tribunal to confirm their depofkions, or, if ne-
ceffary, to corredl and explain them; fo that
the pra&ice of the Athenians happily united the
advantages of both oral and written teftimony*
This was the form of a depolition in one of
their moft celebrated caufes: " SOSIA depofes,
" that Calliftratus, his wife's father, was firft
" coufin to Polemo, the father of Hagnias, and
" to Charidemus, the father of Theopompus;
" that his mother was fecond coufin to Polemo;
" and that fhe often told him, that Phylomache,
" the mother of Eubulides, was fifter of the.
" whole blood to Polemo, the father of Hag-
" nias, and that the faid Polemo never had a
" brother/' They admitted, we fee, hearfay
" yicjeuce eyeeq of particlar fads, as it appeals

also ifrom the fpeech on the eftate of *Ciron* and, when it was expedient to perpftuate the teftimony of perfons going abroad or likely to be detained by ficknefs, it was ufual, in the prefence of reputable witnefs, to take their depositions, which were called *depositiones*, and might afterwards be read when the caufe was ripe for a hearing. If a witnefs was fummoned, he was obliged to attend the trial under pain of perpetual infamy ; and, if he was reallf ignorant of the fads in queftion, the court permitted him to *abjure*, or fwear that he knew nothing of the matter; but, if he would neither give evidence nor abjare, the law condemned him to pay a fine of above five-and-thirty pounds, a fum by no means inconfiderable in a country where money was extremely fcarce : thus Hierocles protefts his ignorance of a material fad in the caufe concerning the eftate of *Afiypbiltis*, where the fenfe direfts us to read *abjuration*, inflead of *Maftujwa*, or *evidence*, which he refufed to give, I am perfuaded, that objections wefe frequently made to the competence of witnefses; and, when they were received, many arguments were ufed and fingular proofs adduced by the adverfe party to affed their *credibility*: thus the feventh fpeech of Iffus clofts %ith a violent attack upon Diodes, whom the

orator accuses of the most atrocious crimes, and even produces evidence that he had been a dishonest guardian and an adulterer.

In the admission of evidence they seem to have indulged an extraordinary latitude; as in the first cause, on the revocation of a will, they heard proof of an opinion declared by the friends and relations of the devisees, that the property of Cleonymus ought to be divided among the contending parties; and many other Angularities of this kind will be seen in the rest of the speeches; but we must never forget, that the *δικασται* were judges of fact, law, and equity, with ample powers of deciding according to the justice of every case; so that the parties were permitted in general to prove whatever tended to place them in a favourable light; and this accounts for the popular topics to the jury, which occur so often in Isæus, Demosthenes, and Lyfias, that their clients had contributed largely to defray the expenses of the state, had furnished galleys, served chargeable offices, given handsome entertainments, and lived parsimoniously in private, that they might act liberally in publick, while their adversaries either concealed their fortunes! or were remiss and penurious in their contributions; topics, which no advocate but his senses would urge before judges of the *βεντες* but which seem well adapted to

the constitution at the Courts at Athens; whicfe
 tftg democracy could never have flouriftied, un-
 lefs all the citizens\$had vied with each other in -
 fupporting itj and, as in fome dates certain
 offenders are excluded from the protedion of
 the law, fo in a republick few offences can de-
 fence that excludion more juftly than a want of
 zealous affedion to the commonwealth. After
 all, we have no reafon to regret, that, in private
 cauefa at leaft, an Englifhman is lure to obtain
 juftice> although he may ftot have paid his an-
 nutal taxes with eagernefs, or ferved the office
 of fheriff with great alacrity; and tfe may tri-
 umph in our elegant and philofophical theory of
 evidence, which Ariftotle and Plato muft have
 admired, and by the ftrid rules of which all
 trials in the-world ought to be dirceded.

A few other particularities will be remarked
 in the fpeeches of Hius; as, an appeal by Me-
 nexenus to the knowledge of the jurors them-
 felves, concerning fome tranfadions at a former
 trial; witnefs, who happened to be prefent,
 called upon to gitfe evidence for Ciron's grand-
 fon; allufions by the brother of Aftyphihis to
 what was paffing in court; the profecutor
 openly interrogated by Theopompus at the begin-
 ning of his defence: moft of thefe circumftances*
 are inconfiftent with let fpeeches Comofed by
 the orator and pronounced by the party; and

One would almost be tempted to conjecture, that the advocate himself spoke in the person and character of his client, if the story before cited from Plutarch and other authorities were not decisive of the contrary.

When the defendant had closed his speech (for I find no certain traces of any reply by the complainant) the jurymen gave their sentence by calling pellets or beans into the urns allotted to the parties, and, in cases of inheritances, every claimant in a distinct right had a separate urn, but a single one served for all those who claimed under the same title: the magistrate then counted the pellets, and declared the judgment; and here ended his *nytpovt**, or *presidency* of the court; for he had no power to direct or influence the jury; and *Lyjias* ailes with some warmth, *What could be more disgraceful and abominable', than if the Archon^ in causes concerning beirejfses flmild dare to solicit the judges, and desire them to find a verdict according to his pleasure?* This regulation deserves to be applauded, and would even be worthy of imitation, if the complex questions and nice points, which an *English* jury are often required to determine, did not make it absolutely necessary for them to receive light and assistance from the learning and experience of a judge.

If the complainant failed of success, he was amerced for his false claim, which amercement was usually a sixth part of the sum demanded: Had all cases the unsuccessful party forfeited his deposit, and the fines and forfeits were speedily collected by the *ταμίαι*, or officers of the revenue, who paid them into the treasury, where some of them were appropriated for the payment of the jurymen, and the rest applied to the service of the publick.

To the courts at Athens appeals lay from the decisions of the standing *arbitrators*, of whom **there** were four hundred and forty in different parts of Attica, forty-four being drawn by lot from each of the ten tribes: two of them commonly gave judgement in every cause; and we **find**, in the fragment against the burghesses of Erchia, that their tribunal was sometimes placed in the Delphinian temple of Apollo. As very little occurs in the following speeches concerning this court, it is needless to discourse at large on its origin and constitution; but we may observe, that its decrees must always be distinguished from the awards of arbitrators freely chosen by the parties themselves, and generally sworn to do justice, from which there was no appeal.

Before I conclude this prefatory part of my

work, it will be proper to mention further, that the people of Athens, who had the freedom of the city and governed the republick, were divided into ten tribes; that the tribes comprised a number of boroughs, dispersed in various parts of Attica; that each borough was subdivided into wards, and each ward composed of distinct families. Every legitimate child, who was named on the tenth day after his birth, was presented, before his seventh or eighth year, to the citizens of his ward with many ceremonies, to which we find allusions in the following speeches: the time for presenting natural children was the festival, called *Apaturia*, which lasted four days in January; but adopted sons were admitted at the feasts of *Thargelia* in July, as we may collect from the speech on the estate of *ApolhdoruS*) where the reader will see a description of the forms usual on these occasions. If the members of the ward were satisfied of the child's legitimacy, and none of them removed from the altar the victim called *phylak*, which was sacrificed in their presence and distributed among the company, the name of the new citizen was inscribed on their *common* register; but he was not a complete burgess till the age of twenty years, when he was registered on the *publick* roll of his father's borough.

This will be a fufficient introduction to the works of the author, whom I now fend abroad ta an Englifh drefs: the four orders of Athenian citizens, their military and religious inftitutions, their funeral rites, their celebrities in honour of Ceres and Proferpine, of Pallas and Prometheus, with their greater and lefs feftivals of Bacchus, are known to all, who have received the flighteft tincture of Grecian learning; but I SiEUS will give full fatisfaction to thofe only, whose imagination can for a time tranfport them to his country, who can live in idea two thoufand years ago, and read an Attick orator with the mind, and, as it were, the eyes of an Athenian; in the fame manner as an aftronomer, to borrow a comparifon from the excellent writer on Hebrew poetry, fuppofes himfelf to become for a while an inhabitant of every planet, where he obferves its peculiar qualities, and its fituation with refped to others, meafures their diftances, compares their motions, and forms a diftind view of the whole univerfe.

I.

WHEN a woman, in order to enjoy the rights of a lawful wife, has been duly betrothed by her father, or her brother by the same father, or her paternal grandfire, her children born in wedlock are legitimate. If none of those relations be living, and she be an heiress, let her nearest kinsman marry her but, if she have no kinsman entitled to claim her, let him, who shall be appointed her guardian, give her in marriage.

II.

The legitimate sons of heiresses shall enter upon their estates at the age of sixteen years, and shall allow their mothers a suitable maintenance.

III.

If the nearest kinsman of a woman without an estate refuse to marry her, he shall give her in marriage with a portion of five minas, if he belong to the first order of citizens; or of three, if he belong to the second; or of a mina and a half, if he be of the third class. If she have many kinsmen in the same degree, they shall severally contribute to her por-

tion; and if there be many such women, each of their kinfmen fhall be obliged to marry or to give in marriage one of them only. If the next of kin will neither marry them nor give them in marriage, the Archon fhall compel them to do either one or the othe*; and, if he negle& this duty, he fhall forfeit ten minas to the Temple of Juno. Any citizen may prefer a complaint before the Archon againft fuch as difobey this law.

IV.

Let the Archon take care of orphans and heireffes, of defolate heritages, and of women, who, alledging that they are encinct, remain ia the houfes of their deceafed hufbands; let him not fuffer them to be infulted or injurioufly treated. If any one fhould injure them, let him impofe a fine within the limits of his authority; and, if the offender fhould feem deferving of a heavier punifhment, let the Archon fummon him to appear within five days, and, laying the damages at fuch a fum as he thinks proper, let him bring him to a trial in the court of Heliaea, where, if he be found guilty, let the jury inflidt fuch a corporal pain, or fet fuch a fine, as he fhall deferue.

V.

If a hufband repudiate his wife, he fhall return her portion, or pay intereff for it at the rate of nine obolus's a month for every mina. Her next of kin, under whofe protection fhe is, may fue for her portion or her alimony before the Archon in the Odeum.

VI.

All genuine unadopted citizens may devife their eftates as they think fit, provided that they have no legitimate children, and be not difabled by lunacy or age, or poifon or difeafe,

nor influenced by women fo as to have loft their reafon from any of thefe caufe*, nor be under any durefs or con* finement.

V I L

The wills of fuch as have legitimate fons (hall (land good, if thofe fons die before their age of fixteen years.

V I I I .

If a man have legitimate daughters, he may devife his eftate as he pleafes, on condition that the devifees take them in marriage.

I X .

Infants and women ihall not transfer or devife more than the value of a bufhel of barley.

X .

Adopted fons fhall not devife the property acquired by adoption; but, if they leave legitimate fons, they may return to their natural family. If they do not return, the eftates (hall go to the heirs of the perfons who adopted them.

X I .

The adopted fon and the after born fons of the pcrfon who adopted him, (hall be coheirs of the eftate; but no adoption by a man, who has legitimate fons then born, fhall be valid.

X I L

If a citizen die inteftate and leave daughters, the neareft kinfmen who marry them fhall inherit the eftate j but* if he die childlefs, his brothers by the fame father fhall be his

heirs, and the legitimate sons of those brothers shall succeed to the share of their fathers. If there be no brothers, the sisters on the father's side, and their children, shall inherit. On failure of sisters and nephews, the cousins on the father's side shall be heirs in the same manner; but males and the children of males shall be preferred, although in a remoter degree, provided that they belong to the same branch. If there be no kinsman on the father's side so near as the second cousins, then let those on the mother's side succeed to the estate in the same order. Should there be no maternal kinsmen within the degree above limited, the next paternal kinsmen shall be the heirs.

XIII.

No male or female bastard, born after the Archonship of Euclid, shall succeed either to sacred or civil rights.

XIV.

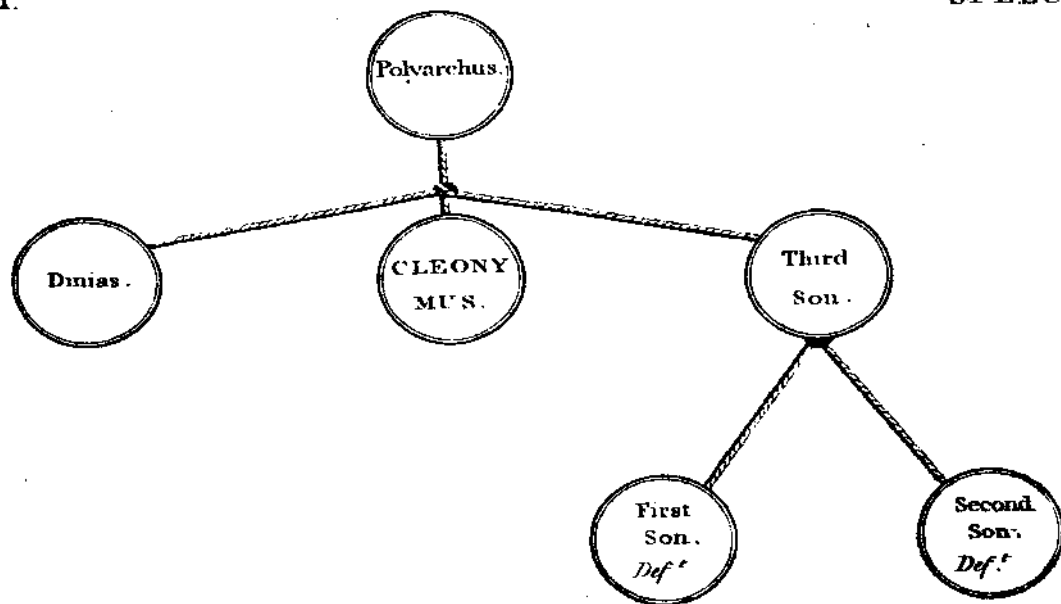
' Inheritances and heiresses may be claimed every month in the year except August, and no devisee shall possess an estate except by an adjudication of the court.

XV.

If any man shall controvert the title of another, to whom an inheritance or an heiress has been adjudged, let him cite his adversary before the Archon, as in other causes. The demandant shall deposit a stated sum as a pledge of prosecution, and, if there be no citation, the judgement shall be reversed. If the person, to whom the estate was adjudged, be dead, his heir may be impleaded in the same form, provided that the limited time be not expired, yet the suit proceed before the Archon in the same manner as the claim was at first made by the possessor of the inheritance in dispute.

NOTE.

The Athenians made no difference between the tranfmiflion of real and perfonal property: in thefe laws, therefore, and in the following fpeeches, the words *deiife*, *heir*, *inheritance*, and the like, are applied both to lands and to goods, without being refrained to the peculiar fenfe in which we ufe them.



THE
SPEECHES OF IS^SUI

SPEECH THE FIRST.

ON THE ESTATE OF CLEONYMUS.

THE ARGUMENT.

POLYARCHUS left three sons, Cleonymus, T>i-nias, and the father of those, for whom Isus composed the following speech. The third son dying, his children were committed to the guardianship of Dinias. These young men were heirs to Cleonymus by the laws of Athens, and their grandfather had appointed them successors to their uncle, if he should die childless, Cleonymus had, however, a power to dispose of his property; and, in a fit of anger against his brother Dinias, for some real or imagined wrong, had made a will in favour of two remoter kinsmen, Diodes and Posidippus; which,

according to the custom of the Athenians, he had deposited with one of the magistrates; but, after the death of D'mias, he took his nephews under his care, and determined to cancel the will, by which they were disinherited. With this intent, he sent for the magistrate, who kept the testament, but died unexpectedly before an actual revocation of it. His nephews then entered upon his estate, as heirs at law; and the other claimants produced the will; which, as Isaeus contends in the person of his clients, was virtually revoked by Cleonymus,

SPEECH THE FIRST.

*The Grandfons of Polyarchus ngainjl Pojldippm
and Diodes.*

GREAT has been the change, which our fortunes have undergone by the deceafe of Cleonymus; who, when he was alive, intended to leave us his eftate, but has expofed us by his death to the danger of lofing it: and with fo modeft a referve, judges, were we bred under his care, that not even as hearers had we. at any time entered a court of juftice, but now we come hither to defend our whole property; for our adverfaries difpute our right not only to the poffeffions of the deceafed, but alfo to our paternal inheritance, of which they boldly afiert that he was a creditor. Their own friends, indeed, and relations think it juft, that we fhould have an equal {hare even of thofe effefts which Cleonymus confefledly left them; but our opponents themfelves have advanced to fuch a height of impudence, that they feek to deprive us even of our patrimony; not ignorant, judges, of what is right and equitable, but conceiving us to be wholly defencelefs againft their attacks.

Confider then on what grounds the parties, who come before you, refpectively reft their claims : thefe men rely on a will, which our uncle, who imputed no blame to us, made in repentment againft one of our relations, but virtually cancelled before his death, having fent Pofidippus to the magiftrate, for the purpofe of folemnly revoking it; but we, who were his neareft kinfmen, and moft intimately connected with him, derive a clear title, both from the laws, which have eftablifhed our right of fucceffion, and from Cleonymus himfelf, whofe intention was founded on the friendship fubfifting between us; not to urge, that his father, and our grandfather, Polyarchus, had appointed us to fucceed him, if he fhould die without children: fuch and fo juft being our claim, thefe aflociates, who are nearly related to us, and who have no colour of juftice on their fide, are not afhamed of contefting our title to an eftate, about which it would be difgraceful for mere ftrangers to contend. Nor do we feem, judges, in this caufe to have the fame difpofitions towards each other; for I do not confider it as the great eft of my prefent misfortunes to be unjuftly difturbed with litigation, but to be attacked by thofe, whom it would be improper even to repel with any degree of violence; nor fhould I think it a lighter calamity to injure

my relations in my own defence, than to be injured myself by their unprovoked assault: but they, judges, have different sentiments, and appear against us with a formidable array of friends, whom they have summoned, and advocates, whom they have retained ; leaving behind them no part of their forces, as if they were going to inflict vengeance on open enemies, and not to wrong those whom they were bound by every natural and social tie to assist. Their (humble) audacity and sordid avarice will be more clearly perceived by you, when you have heard the whole case, which I shall begin to relate from that part, whence you will soonest and most easily learn the state of our controversy,

Dinias, our father's brother, was our guardian, he being our elder uncle, and we, orphans; at which time, judges, a violent enmity subsisted between him and Cleonymus: whether of the two had been the cause of the diffension, it is not, perhaps, my business to determine ; but so far at least I may pronounce them both deservedly culpable, that, having till then been friends, and no just pretext arising for a breach of their friendship, they so hastily became enemies on account of some idle words. Now Cleonymus himself, when he recovered from that illness, in which he made his will, declared,

that he wrote it in anger; not blaming us, but fearing, left at his death he should leave us under age, and left Dinias our guardian should have the management of our estate; for he could not support the pain of thinking, that his property would be possessed during our infancy, and that sacred rites would be performed at his sepulchre, by one, whom of all his relations he most hated, while he lived: with these sentiments (whether laudable or not, I leave undecided), he made a disposition of his fortune; and, when Dinias, immediately after, asked him publicly, whether we or our father had incurred his displeasure, he answered, in the presence of many citizens, that he charged *us* with no fault whatever, but made the will in repentment against *him*, and not from any other motive: how indeed, judges, could he have determined, if he preserved his senses, to injure us, who had given him no cause of complaint?

But his subsequent conduit will afford the strongest proof, that by doing this he had no intention of wronging us; for, when Dinias was dead, and our affairs were in a distressed condition, he was so far from neglecting us, or suffering us to want necessities, that he bred us in his own house, whither he himself had conducted us, and saved our patrimony from unjust creditors, who sought infidiously to deprive

us of it; nor were our concerns less attentively managed by him than his own: from these ads, therefore, rather than from his written testament, it is proper to collect his intention towards us; and not to be affected by what he did through anger, by which all of us are liable to be hurried into faults, but to admit the clear evidence of those facts, which afterwards explained his design. Still farther: in his last hours he manifested the affection, which he bore us; for, being confined by the disorder of which he died, he was desirous of revoking his will, and with that intent ordered Pofidippus to bring the officer who had the care of it; which order he not only disobeyed, but even refused admittance to one of the magistrates, who came by chance to the door: Cleonymus, enraged at this, gave the same command on the next day to Diodes; but, though he seemed not dangerously ill, and we had great hopes of his recovery, he suddenly expired that very night.

First then, I will prove by witnesses, that he made this will, not from any dislike to us, but from a settled aversion to Dinias; next, that, when Dinias was no more, he superintended all our affairs, and gave us an education in his house, to which he had removed us; and thirdly, that he sent Pofidippus for the magistrate, who was so far from obeying the order^ that,

when one of the proper officers came to the door, he refused to introduce him. Call those who will prove the truth of my assertion. WITNESSES. Call likewise those, who will swear, that Cephifander and the other friends of our adversaries were of opinion, that the whole estate should be divided, and that we should have a third part of all, which Cleonymus possessed. WITNESSES.

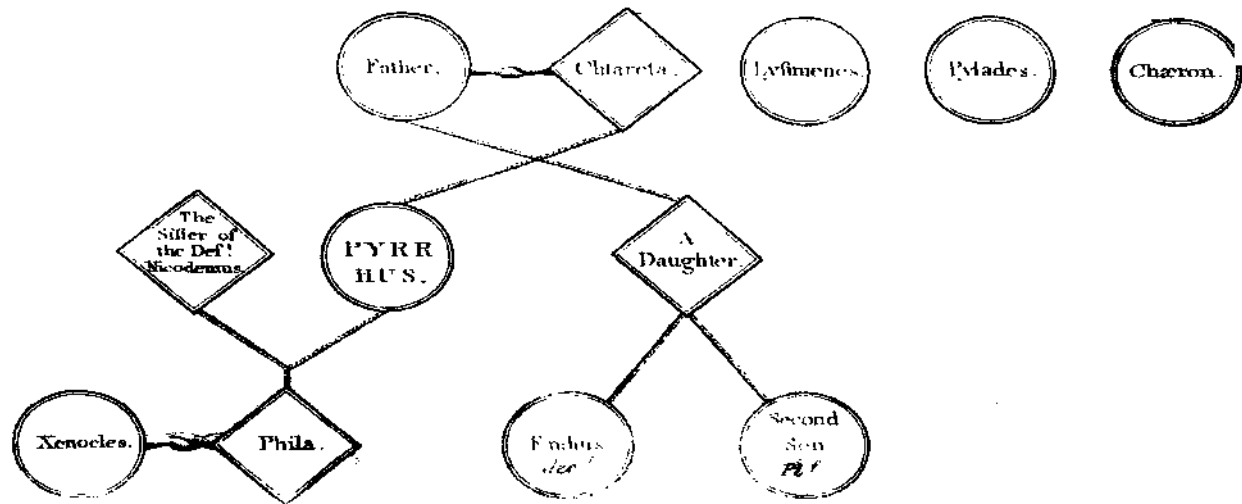
Now it seems to me, judges, that all those who contend for the right of succession to estates, when, like us, they have shown themselves to be both nearest in blood to the person deceased, and most connected with him in friendship, may be excused from adding a superfluity of other arguments: but since men, who have neither of those claims, have the boldness to dispute with us for that which is legally ours, and to set up a fictitious title, I am willing in a few words to give them an answer. They ground their pretensions on this will, and admit that Cleonymus sent for the magistrate; not, say they, with an intent to cancel it, but with a resolution to correct it, and to secure the legacy more strongly in their favour: now consider, whether it be more probable, that our uncle should wish to recall a will made in anger, at a time when he was most intimate with us, or should meditate by what means he might

be ftrf&ft td deprive us of his inheritance. Other men, indeed, ufually repent at length of the wrongs, which they liave done their friends in their paffion; but our opponents would convince you, that, when he fhowed the warmeft regard for us, he was moft defirous of eftablifhing the will, which, through repentment againft our guardian, he had made to our difadvantage : fo that, even fhould we confefs this idle fiction, and fhould you perfuade yourfelves to believe it, you muft ftippofe him to have been mad in the higheft degree; for what madnefs could be greater than to injure us, becaufe he had quarrelled with Dinias, and to make a difpofition of his property, by which he took no revenge on his enemy, but ruined his deareft friends, and afterwards, when we lived with him on terms of the ftrideft friendfhip, and he valued us above all men, to intend that his nephews alone (for fuch is their affertion) fhould have no fhare in his fortune? Could any man, judges, in his fenfes entertain fuch a thought concerning the diftribution of his eftate?

Thus from their own arguments they have made it eafy to decide the caufe againft themfelves; fince if he fent for the officer, as we contend, in order to cancel the will, they have not a fhadow of right; and, if he was fo void of reafon, as to regard us leaft, who were moft

nearly conne&ed with him, both by nature and friendship, you would juftly decree, that his will was not valid. Confider farther, that the very men, who now pretend, that Cleonymus defigned to eftablifh their legacy, durft not obey his order, but difmiffed the magiftrate, who came to the houfe; and thus, one of two moft oppofite things being likely to happen, either a (Ironger confirmation of the intereft bequeathed to them, or a total lofs of all intereft in the fortune of the teftator, they gave a plain indication of what they expected, by refufmg to admit the perfon who kept the will.

To conclude: fince this caufe has been brought before you, and fince you have power to determine the conteft, give your aid both to us and to him, who lies in the grave ; and fuffer him not, I adjure you by all the gods, to be thus defpifed and infulted by thefe men; but, remembering the law, by which you are to judge, the oath, which you have folemnly, taken, and the arguments, which have been ufed in the difpute, give a juft and pious judgement, conformably to the laws. ,



SPEECH THE SECOND.

ON THE ESTATE OF PYRRHUS.

THE ARGUMENT.

PVRRRHUS left his estate to Endius, one of his sister's sons, whom he had adopted ; and his nephew continued in possession of it above twenty years; but when, after his death, his mother claimed the inheritance as her brother's heiress, one Xenocles, who had married Phila, a natural daughter of Pyrrhus by the sister of Nicodemus, entered a protestation, that Pyrrhus had a legitimate daughter, and was consequently disabled from disposing of his estate to an adopted son. Xenocles lost the cause; but, Nicodemus having sworn at the trial, that he had betrothed his sister to Pyrrhus as a lawful wife, and that Phila was born after their nuptials, the brother of Endius prosecutes Nicodemus for wilful perjury, insisting that Phila was illegitimate, and actually given in marriage to Xenocles as the bastard of Pyrrhus,

SPEECH THE SECOND.

The Brother of Endius againjl Nicodemus.

PRRHUS, my maternal uncle, judges, having no legitimate children, adopted my brother Etidviis, who fucceeded to his fortune, atid continued in pofTeffioh of it aboVe twenty years; in which long interval riot a fingle man ever pretended to controvert his title, or to difpute the validity of his adoption: but, laft year, on the death of my brother, this Phila, who had fuffered him to enjoy the eftate without interruption, afferted, that fhe was the legitimate daughter of my uncle ; and her hufband Xenocles the Cyprian entered a claim in her right to the effe&s of Pyrrhus, who had fo long been dead, alledging in his bill of complaint, that^he died poffeffcd of three talents \ and, when my mother infilled on the fuperiority of our claim, he had the confidence to proteft, **that** fhe **had** no title to the eftate, becaufe Pyrrhus, **to whom** it originally belonged, had left a daughter **bora** in wedlock : we travcrfcd this proteftation ; and, having brought before the court the perfon who ventured to make it, we clearly convicted him of having fworn falſely, and prove his confe-

derate Nicodemus to be the most impudent of
 men in supporting the other's tempy, and
 during the alert upon oath, before the same
 judges, that he had betrothed his own sister to
 my uncle, and that she became his lawful wife,
 Now; that this man's evidence at the former
 trial was false, the conviction of Xenocles unde-
 niably demonstrates; for, if Nicodemus had not
 then been thought perjured, it is clear, that
 his associate would have succeeded in his pro-
 testation; that the legitimacy of this woman
 would have been established; and that she, not
 my mother, would have been declared my un-
 cle's heiress; but, since the principal actor in
 the cause was convicted of perjury, and the pre-
 tended daughter of Pyrrhus defined from her
 name, Nicodemus was at the same time neces-
 sarily found guilty of giving false evidence; for
 he swore to the truth of the same proposition,
 and they were both examined to the same point,
 namely, whether the woman, in whose right
 Xenocles claimed, was my uncle's daughter by
 a wife or by a harlot: this was the single issue
 between us, as you will perceive by hearing our
 cross-depositions, the evidence of Nicodemus,
 and the protestation, which was over-ruled.
 Take and read them to the court, CROSS-DE-
 POSITIONS. EVIDENCE. PROTESTATION,

That the man, whom I now accuse, was im-

mediately thought guilty of perjury, Was dppa/rent to all'Vrhh attended the trial; but it will be proper that his guilt be proved before you also, judgts, who are afsembled to decide the fame queftion.

I defire firft to afk this witnefs himfelf, what fortune he gave with his fifter to a man worth three talents; whether this betrothed wife left her hufband, whilft he was alive, or departed from his houfe after his death; from whom he received his fifter's portion, when Pyrrhus was dead, to whom he has fworn that he had given her in marriage; or, if it was not reftored to him, what aflion he thought proper to intitute, for her maintenance or her fortune, againft one, who has been twenty years in poffeffion of the inheritance; or whether, in fo long a period, he once demanded the portion from the heir in any man's preference? On the following points too I fhould be glad to interrogate him ; why nothing of what I have juft mentioned has been done for a widow, who, as he fwore, was lawfully married; and, whether fhe had been betrothed to any other man, either of thofe, who were formerly connected with her, before fhe knew my uncle, or of thofe whom fhe admitted to her favours, while fhe lived with him, or of thofe, who have been intimate with her iince his deceafe ? for it is notorious, that her brother

gave her on the same terms to many others, who kept her as a mistress, and whom, if it were necessary to enumerate, it would give me no small trouble: some of them I will mention, if you command me; but, if it be as unpleasant to you to hear such tales, as it is disagreeable to me to relate them, I will be contented with producing the very evidence given at the former trial, no part of which they have ventured to contradict yet, when they admit (as they have in fact admitted, by not attempting to impeach the testimony of our witnesses) that this woman was a common harlot, how can it be conceived, that she was legally betrothed to Pyrrhus? You will be convinced, when you have heard the depositions, both that Nicodemus has sworn what was apparently false, and that the judges gave a proper and legal sentence, when they decreed, that the succession could not belong to the daughter of a woman not lawfully married. Read the depositions, and let the water-glass be Hopped, DEPOSITIONS. That the mother of this Phila was common to all who chose to be connected with her, and was not the betrothed wife of my uncle, as Nicodemus had the boldness to swear, has been proved to you by the other kinsmen and neighbours of Pyrrhus, who tell you of the quarrels, riotous feasts, and continual disorders

on her account, while ſhe lived with him; but no man preſumes to revel at the houſes of married women, who never accompany even their huſbands to publick entertainments, nor think it conſiſtent with decency to fit at table with ſtrangers, eſpecially with the firſt who preſent themſelves; yet they have not attempted to invalidate this evidence: now to ſhow that I repeat it fairly, re&d once more the depofitions of the neighbours, together with thoſe of the other witneſſes concerning her numerous train of lovers, which will ſatiſfy the court, that ſhe was a common prostitute, and never was the mother of a legitimate child, DEPOSITIONS.

From all this evidence, which you will carry in your memory, it is apparent, that' the filter of Nicodemus, whom he ſwore that he gave in marriage to my uncle, might have been any man's miſtreſs, but was never betrothed to any, nor ever ſupported the character of a matron: let us now conſider the circumſtances, from which it may be thought poſſible, that Pyrrhus really married ſo abandoned a woman, if we can ſuppoſe him capable of ſuch indifcretion (for it ſometimes happens indeed, that young men, inflamed with the love of a harlot, and a&uated by intemperate paſſion, are induced by their folly to ruin themſelves by ſuch a marriage); and how can theſe circumſtances be more clearly

known, *thm* by recollecting the testimony of their own witnesses in the original cause, and by examining the probability of the whole transaction? Reflect a moment on the impudence of their assertion: this Nicodemus, when he was going, as he says, to betroth his own sister into a family worth three talents, pretends that he carried with him, on such an occasion, one witness only, named Pyretides, whose deposition, they produced at the trial of the cause; a deposition, which Pyretides himself disclaimed; and he still denies, that he gave any such evidence, or knows any thing of the matter. In confirmation of this, I will mention a convincing argument, that the deposition produced by them was forged; for you all know, that when we are going to do any publick and deliberate act, which must be witnessed, we take with us our nearest relations and most intimate friends, in order to have the benefit of their attestation; but in private acts, which are often done on a sudden, we are contented with such witnesses, as happen to be near at hand; and, when afterwards their evidence becomes necessary, we must call those, whoever they are, that were present at the time of the act; but when we procure the testimony of a witness, whom sickness prevents from giving it publicly, or of one who is going abroad, we desire the presence of the

moſt reputable citizens, and of thoſe whom we beſt know, not of one or of two, but of as many as we can affemble, to preclude the deponent at any future time from the power of denying his depofition, and to give his evidence ifrore w^reight with you, judges, by confirming it with the attestation of many honeſt men: thus, when Xenocles went to Thebes, with an intention to ejedt our fervants from the mines, which had been left us, he thought it not fufficient to call any perfons, who happened to be there, as witneſſes of that oufter, but he carried with him Diophantus of Sphettus, who was his advocate in the original caufe, and Dorotheus of Eleufis, together with his brother Philochares, and many others, whom he had colle&ed at Athens, and who travelled for that purpoſe full three hundred furlongs; yet, when he was going, as he ſays, to take a depofition in this very city concerning the marriage of his wife's mother, on which her legitimacy depended, he called together none of his friends, but only Dionyſius of Erchia and Ariftolochus of iEthalia, in the preſence of whom it is affirmed that the depofition was taken in the heart of Athens. Such are the pretences of theſe impoſtors, notfe of which can find credit w^rith any dilerning man! The a&lt, which they ſay Pyretides attested, was frivolous, to be ſure, and, of a tri-

fling nature; so that their negligence in this affair was not singular. How! was not that aQ: to have determined the very point, on which Xenocles was tried for perjury, whether his wife was the daughter of Pyrrhus, by a married woman, or by a harlot? Would he not, if such a marriage had really been contracted, have assembled all his friends for the purpose of attesting it? Most assuredly he would, if their story had not been a fiction; but Xenocles omitted this necessary precaution, and took only two persons, whom he accidentally met, to be present at a deposition of such importance; and this Nicodemus himself pretends, that when he gave his sister in marriage to a man of so considerable a fortune, he carried with him no witnesses but Pyretides, who absolutely denies the fact, Lyfimenes, indeed, asserts that he was invited to the marriage, together with his brothers, Chseron and Pylades; and these three were the uncles of the man, who was going to form so debasing an alliance: but you will consider, whether this be credible; for, to reason from probabilities, I should imagine, that Pyrrhus would rather have kept the transaction secret from all his relations, if he meditated a contract so disgraceful to his family, than have called his own uncles to be witnesses of their disgrace. This also fills me with surprise,

that there was no agreement concerning a portion either on the one side or on the other; for, if Nicodemus gave his sister a fortune, it is to be supposed* that those, who pretend to have been present, would have recollected the sum given; or, if our uncle was so enslaved by his passions, as to marry a common prostitute, her brother would have been still more solicitous to procure evidence of his giving money with her, and would; have assembled a number of witnesses. that Pyrrhus might not have it in his power to discard her, when he pleased; for none of you are ignorant, that the inclinations of men impelled by their desires are very changeable; yet this fellow (wears, that he gave his sister in marriage to so rich a man before one witness only on his part, and without any acknowledgement of a portion; and the uncles assert, that they were present, when their nephew agreed to marry this harlot without a fortune.

These very uncles too have sworn that they were invited by Pyrrhus to an entertainment, which he gave on the tenth day after the birth of his daughter: and here I cannot suppress the vehemence of my indignation, when I see, that Xenocles, who claims the patrimony of his wife, has called her in his bill of complaint by the name of Phila, while the uncles of Pyrrhus,

who fwear that they were prefent on the tenth day, have declared, that her father gave *htr* the name of her grandmother Clitaretk. It is afto-ning, that a 'man, who has now been married above eight years, fhould not know the true name of his own wife; that he could not have learned it before from his own witnefles; that neither his wife's mother, nor her uncle Nicodemus, fhould in fo long a period have informed him of it; but that, inftead of her grandmother's name (if that name was in fa6l given hef by Pyrrhus) he fhould infer the name of Phila in the very bill, by which he demands her paternal inheritance. What could be his motive? Could a hufband mean to deprive his wife of her grandmother's name, which her father gave, and which might be urged as a proof of her legitimacy? Is it not apparent, judges, that thefe pretended tranfa&ions, which, as they fwear, happened fo long ago, were invented by our adverfaries long fince the beginning of this fuit? They manifeftly were: for it is not poffible, that thefe men, who fay they were invited on the tenth day after the birth of this girl, the daughter of Pyrrhus and niece of Nicodemus, fhould remember fo accurately from that day, whenever it was, to this, and fhould fwear in court fo pofitively, that her father named her Clhareta, yet that her neareft relations, her fa-

ther Mmfelf, her uncle, and her mother, ihould not know the name of their own child: they muft have known and ufed it, if the fa6t had been true; but of this I fhall again have occafion to fpeak.

As to the teftimony of Nicodemus, it is eafy to perceive from the laws themfelves, that he was apparently guilty of perjury; for, finee^ when a man gives a female relation in marriage with a fum of money by way of free gift and not as a portion, for which an equivalent muft be fettled, he cannot legally require that money to be given back, if either the wife ihould leave the hufband, or the hufband difmifs the wife, whoever afferts that he has betrothed his own • iifter without a fecurity for her portion, muft neceffarily appear a moft daring impoftor: for what would fuch an alliance avail him, if the man to whom he was allied might repudiate his wife, whenever he chofc, without inconvenience? Yet fuch would have been her condition, judges, had there been no ftipulation concerning her fortune. Would Nicodcmus have engaged his fitter to our uncle upon thefe precarious terms, efpecially when he knew that fhe had never borne a child in fo long a courfe of proftitution, and that the ftipulated portion would by law return to him, if fhe fhould die childlefs? Can any of you, judges, believe, that

Nicodemus is fo negligent of lucre, as to let flip one of thefe advantages ? I cannot think it probable : And is this the man, whofe fifter our uncle chofe to marry? A man, who in an aftion brought againft him as an intruder by one of the ward, of which he pretended to be a member, obtained indeed a fentence in his favour, but was adjudged a freeman of the city by a majority of four votes only ? Read this depofition, in proof of what I have alledged. DEPOSITION. Yet this very man, who was perfectly well apprized of the law, by which he would have been entitled to his lifter's fortune, had fhe died without children, has ventured to fwear, that he gave her in marriage to our uncle, without agreeing with him for her portion. Read the laws, to which I allude, THE LAWS. Can you, I fay again, believe that Nicodemus, if there had been any fuch marriage, would have been fo ftupidly negle&ful of his intereft, as not to provide for his own advantage with a fcru- pulous attention ? No, by heaven, it feems impoffible, for even thofe, who give women to others, as their miftrefles, with a fum of money, take care previoufly to bargain for the benefits, which thofe women are afterwards to enjoy: and was Nicodemus contented with the ceremony of betrothing his fifter according to the forms of law, without beftowing a thought

upbn toy thing elfe ? Nkodemits, who, loir tke paltry fees, Which he hopes to fcrape together for fpeaking fometimes before you, makes no fcruple of ading with fhamelefs difhonefty? His infamous conduct, indeed, moft of you well know, Without being reminded of it; and I am defirous of proceeding to another argument, which will demonftrate the abominable impudence of his aflertions. Tell me, Nicodemus, how came it, that if you really gave your filter in marriage to Pyrrhus, and if you knew that fhe had left a legitimate daughter, you neverthelefs permitted our brother Endius to claim and obtain the inheritance, without regarding our uncle's daughter, who was born, as you alledge, in lawful wedlock? Could you be ignorant, that, by his allowed claim of the fucceffion, your niece was baftardized ? For, whenever an adopted fon fets up a title to an eftate and obtains a decree in his favour, he proves the daughter of the deceafed to have been illegitimate ; as her father Pyrrhus, indeed, had done long before, by adopting my brother as his own fon ; for no man, who has daughters lawfully begotten, can either deVife his eftate from them, or aliene any part 6f it to their difadvantage: this you will clearly und^rftand, judges, when the laws 'themfelves have been read to you. THE LAWS. Does It feem pro-

bable then, that, if Nicodemus did betroth his filter, as he has moft confidently fworn, he would have fuffered my brother Endius to claim the inheritance, without fetting up the adverfe title of his own niece, and without entering a proteftation, that Endius had no right to her patrimony ? Now that our brother not only claimed this eftate, but had his claim judicially allowed^ and that without oppofition, this piece of evidence will convince you. DEPOSITION. When, therefore, Endius inflituted a fuit for his inheritance, Nicodemus neither durft difpute his title, nor thought proper to proteft, that Pyrrhus left a legitimate daughter, who was his niece : he will invent, I fuppofe, fome filly pretext for this conduit, and will pretend either that he was unapprized of our proceeding, or that our allegations are falfe ; but the firft is impoifible, and the fecond we have difproved : let us proceed to another topick.

When our brother gave your niece in marriage to Xenocles, would you, Nicodemus, have fuffered a girl, whom Pyrrhus lawfully begot, to be given away as the daughter of his iriiftrefs ? Would you not have informed the Archon, that fhe, being an heirefs, was grofsly injured by an adopted fon, and deprived of her paternal eftate ? efpecially as thefe informations ajone may be made without danger to the in-

formant, fince any man, who pleafes, may fue
6ft behalf of an heirefs and the complainants in
fuch caufes ate never amerced, even though the
court unanimously decide againft them; nor are
they obliged, like other fuitors, to depofit mo-
ney as a pledge of fupporting their complaint;
but the profecutors may proceed without incon-
venience, while the defendants, if they are con-
victed, feldom fail to fuffer an exemplary pu-
ttiftment. If then, judges, the niece of Nico-
demus had been really legitimate, would he
patiently have *feen* her difpofed of in fuch a
manner, and not have informed the magistrate
that an heirefs was thus infulted by a man, who
had given her away as a baftard? No: if that,
which you have now fo audacioufly fworn, had
been true, you would instantly have taken your
revenge of Endius, who had injured your niece;
unlefs you pretend, that you were ignorant of
this fad alfo. What! did not you perceive
from the very portion which Xenocies took
with her, that fhe was rejeded as illegitimate?
This alone fhould have excited your refent-
ment, and induced you to lay an information
againft Endius, for claiming (as he did juftly
claim) an inheritance of three talents, and for
giving a legitimate daughter of the deceafed in
marriage to a ftfanger, with no greater portion
than ten minas.—Would not this have raifed

his indignation? Would he not have complained to the magistrate? He would moft certainly, had the marriage been true: nor can I perfuade myfelf, that either Endius, or any other adopted fon, would have been fo abfurdly regardless of the laws, as to give a legitimate daughter of his father in marriage to another, inftead of marrying her himfelf; for he could not but perfe&ly know, that the children of fuch a daughter would inherit their grandfather's eftate and would any man apprized of this law give his property away to another, cfpecially fo large a fortune as thefe confederates have claimed Can any of you imagine, that an adopted fort, would be fo outrageoufly daring, as to betroth fuch a daughter, without giving her fo much as the tenth part of her own patrimony? Can yoa imagine, that, when this affair was in agitation, her uncle, who has fworn that he grtve her to Pyrrhus, would have indured fuch an infult? I cannot believe it—no: he would have contended for the fucceffion; he would have entered a proteftation; he would have informed the Archon; and would have followed any courfe that might effe&tually have fecured the right of his niece. Yet, I repeat it, when my brother difpofed of this girl as of a baftard, Nicodemus, who calls her his niece, neither thought fit to affert her claim to the fortune of Pyrrhus,

nor to exhibit an information againſt the man, who had thus vilified her, nor was he at all indignant at the pitiful portion, which her husband received, but fhamefully acquieſced in all theſe tranſactions.

On each of the points juſt mentioned the laws are explicit; but read firſt the depofition concerning the claim and adjudication of the inheritance, and afterwards that concerning the pretended marriage, DEPOSITIONS. Next read the law. THE LAW. To cloſe the whole, read once more the depofition of the defendant* DEPOSITION of NICODEMUS. Now in what manner can an accuſer more clearly convict the perſon accuſed, than by adducing proofs both from the man's own conduct, and from the laws of his country? Of Nicodemus, therefore, almoſt enough has been laid.

Conſider now, whether the very man, who married his niece, may not afford a convincing argument of his guilt. It has been given in evidence, that Xenocles took the girl as an illegitimate daughter of Pyrrhus, and he himſelf eſtabliſhed the truth of that evidence, by his long acquieſcencce; for, had he taken her from Endius as one born in lawful matrimony, he would not have negledled, when ſo many of his children by her were adult, to aſſert againſt my brother her ghim to her paternal inheritance; ef-

pecially, when he was prepared to deny that Endius had really been adopted by Pyrrhus, and excepted to all the witnesses, who swore that they were present at the execution of the will; as their deposition, which shall now be read, will convince you. DEPOSITION. By the actions, indeed, of these confederates, they manifestly acknowledged the validity of that adoption ; for, had they thought it impeachable, they would not have submitted to the long possession of the last occupier, nor have delayed till now. the claim of this woman to the fortune of Pyrrhus, who has been dead above twenty years, whereas Endius died only last year in the month of October, and they put in their claim on the third day after his death : now the law ordains, that whoever has a title to an estate must claim it within five years after the decease of the last possessor; so that Phila had only this alternative, either to contend with Endius, while he lived, for her paternal estate/or, after the death of the adopted son, to claim the fortune of her brother by right of succession ; especially if Endius, as these men allege, betrothed her to Xenocles, as his legitimate lifter; for we all perfectly know, that it is necessary to make a formal claim to a fraternal inheritance, but that, when a man leaves children lawfully begotten, they immediately enter upon their patrimony

and enjoy it without litigation. Thus you and all other citizens possess your paternal fortunes without fear of controversy; yet these associates are bold enough to insist, that an adopted son ought not to claim the fortune, which his father left him, while they are claiming the patrimony of Phila, whom they pretend to be the legitimate daughter of Pyrrhus: the very reverse of which is the practice established by law; for, as I before observed, legitimate children ought not to demand a decree for their paternal inheritance, but sons adopted by will are bound to sue for an adjudication of the estate devised to them; because no man would controvert the right of an heir by descent, whereas all the relations of the deceased would eagerly engage in a contest with an heir by appointment. Left any stranger, therefore, who pleased, should commence a suit for such estates, and left others should dare to claim them as vacant inheritances, all heirs by adoption are obliged to have their title formally allowed: none of you then can suppose, that Xenocles, if he really believed his wife to be legitimate, would have claimed her patrimony in court; but she would have entered, as lawful heiress, on the lands of her father; and, if any one had used violence or attempted forcibly to retain the possession, she would have ejected him, as she might, from her

paternal estate ; nor would her opponent have been exposed to a private lawfuit only, but even to a publick information before the Archon, who might have inflicted a corporal punishment, or imposed a heavy fine, I may add, that these uncles of Pyrrhus, if they had known that their nephew left a legitimate daughter, and that neither Endius nor any of us would marry her, would never have permitted Xenocles, who bore no relation to the deceased, to take a woman, who belonged to them as her next of kin: that would have been inconceivably strange. The law commands, that both such daughters as have been given in marriage to strangers by their own fathers (yet who can determine better than a father, what may be for his daughter's advantage ?) and such as remain single, shall be married to their nearest relations, if their fathers die without leaving sons begotten in wedlock; and many men have had their wives taken from them by force of this law: would any one of Pyrrhus's uncles then have suffered Xenocles to marry a daughter of their nephew, when the laws had adjudged her to one of them, and thus have made a stranger heir to so large an estate, instead of themselves ? Never believe it, judges ; for no man prefers another's interest to his own ; but if they should pretend, that the adoption of Endius prevented the woman from having the

quality of an heireis, on which account they did not demand her in marriage for one of themselves, let them first be asked, why, if they allow that Endius was adopted, they took exceptions to all the witnesses who attested his adoption, and why they passed him over, who was left possessor of the lands, and now illegally and informally have claimed the estate for Phila as heiress to the deceased? Ask them also (and oppose these interrogatories to their impudence) whether any legitimate child ever thinks it proper to obtain a sentence of the court for his own patrimony? That this girl, however, was truly an heiress and liable to be married to her nearest kinsman, if she was not illegitimate, most evidently appears from the law, which expressly ordains, that every man may dispose of his estate by will, as he pleases, unless he has legitimate sons; and that, if he has daughters, he may bequeath his property, but the legatees are bound to take them in marriage; so that a man is allowed to devise his possessions together with his legitimate daughters, but without them he can neither constitute an heir by adoption, nor appoint a fidei-commissary by will to any part of his estate: if Pyrrhus, therefore, adopted Endius without providing for his marriage with her (laugh at such an adoption was illegal and consequently void; but if he gave her together with

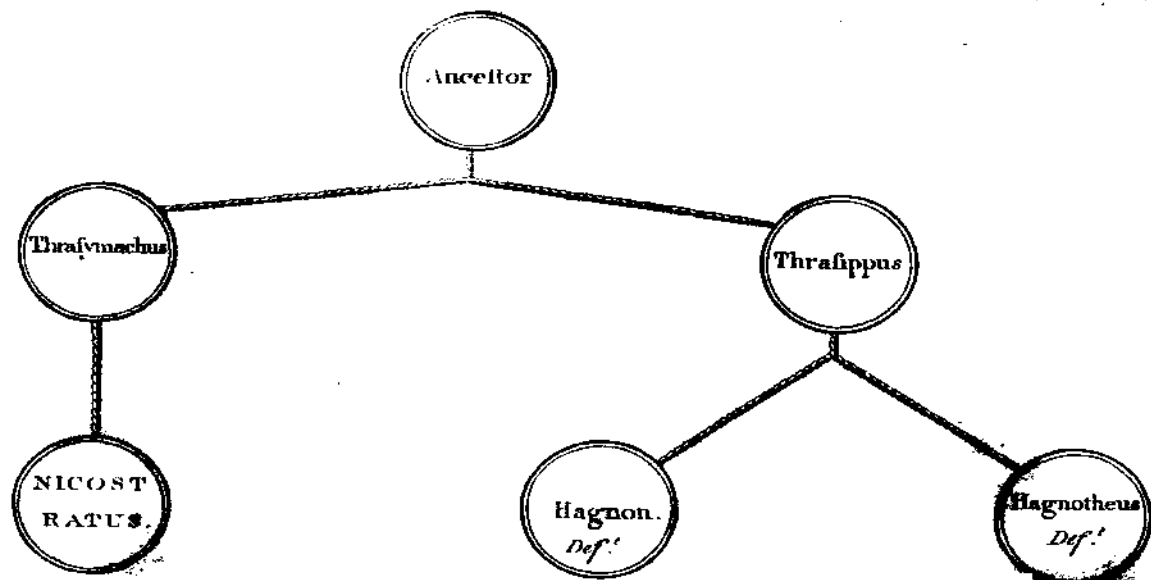
his fortune to his adopted fon, how came it that you, the uncles of Pyrrhus, permitted Endius, without taking her, if (he was lawfully begotten, to procure a decree for eftablifhing his own title to the fucceffion ? efpecially if your nephew, as you gave in evidence, had requested you to fuperintend the interefts of the girl ? This too, honeft men, you will fay, efaped your memory : yet, when ihe was betrothed and given away by Endius, you, her father's uncles, fuffered the daughter of your nephew to be thus treated as his baftard; you, who fwear that you were prefent, when Pyrrhus took her mother as his lawful wife, and that you were invited by him to an entertainment on the tenth day after the child's birth. Thus, when your nephew had enjoined you (for this is the worft part of your condud) to confult the girl's intereft, your mode of confulting it was to let her be difpofed of as bale born, though Ihe bore the name, as yourfelves have fworn, of your own iifter. From all this, as well as from the reafon of the thing, it is manifeft, that thefe confederates are the moft impudent of mortals; for with what view could my uncle, if he had a legitimate daughter, adopt my brother as his fon ? Had he any nearer kinfmen than we, whom he meant to exclude from the right of demanding his daughter in marriage ? But there neither

existed nor exists (for he had no sons) any nearer relation to him than ourselves; for he had no brothers, nor brother's sons, and we are the children of his sister. They will urge, that, had Pyrrhus chosen to adopt any of his other kinsmen, he would have given his daughter, together with his estate; yet why should he thus openly and unnecessarily affront any one of his relations? It was in his power, if he had really married the sister of Nicodemus, to introduce his daughter by her to the men of his own ward, as born in wedlock; by which care he might have made her sole heiress of all his fortune, and might have directed, that one of her sons should be adopted as his own; for he well knew, that, by leaving her his heiress, either one of us, his nephews, might have procured a decree for taking her in marriage, or, in case of our refusal, one of these ready witnesses, his uncles, might have married her; or, had they too declined the match, his next nearest relation might have taken her, by a sentence of the court, with all his property; this he would have effected by introducing her as his daughter to the ward, of which he was a member, and by not adopting my brother; but by the adoption of Ennius, and the want of admitting Phila as his daughter, he not only declared her, as he ought to do, illegitimate, and deprived her of all right

to the fucceffion, but a&ually appointed my brother heir to the whole eftate.

Now, to convince you, that our uncle neither gave a nuptial feaft, nor thought proper to admit the girl, whom they call his legitimate daughter, to his ward, according to the ancient cuftom, the teftimony of thofe, who belong to the fame ward, fhall be read to you—Read: and do you ftop the water-glafs, DEPOSITION. Read now the proofs of my brother's adoption. EVIDENCE* Can you then give credit to the teftimony of Nicodemus, in preference to the Superior evidence of my uncle's own conduct? Will any man endeavour to perfuade you, that Pyrrhus really married a common harlot? You will not be perfuaded, unlefs Nicodemus inform you, as I faid in the beginning of my fpeech, with what portion he betrothed his filler to Pyrrhus; before what magiftrate fhe declared, that fhe had left her hufband or his houfe; by whom her fortune was returned to him, after the death of my uncle -, or, if he could not obtain a reftitution of it in the courfe of twenty years, what adion he brought for her alimony or for her portion againft the occupier of the eftate: let him alfo declare, whether he had betrothed her to any one elfe, either before or after her pretended marriage with Pyrrhus, or whether fhe had children by any othgr man.

Interrogate him to these points, and do not forget to examine him concerning the marriage-feast supposed to be given to the members of his ward : this is no light argument against the testimony of Nicodemus; for, could they have prevailed with him to marry the woman, he might surely have been induced to give an entertainment to the men of his ward, and to present this girl to them as his legitimate child, who, if he had been really married, was heiress to a fortune of three talents. He would have been obliged also to entertain the wives of his companions at the festival of Ceres, and to have borne such offices in his borough on account of his wife, as are required from a man of his possessions: yet nothing of this kind will appear to have been done. The members of his ward have given their evidence: I shall, therefore, conclude with the testimony of his fellow-burgesses. DEPOSITIONS.



SPEECH THE THIRD.

VX THE ESTATE OF NICOSTKATUS.

THE ARGUMENT.

NICOSTIIAJUS dying in a foreign country, Hagnon and Hagnotheus, his first cousins, contend for the right of succession to his estate against Chariades, who claims under a will. This speech is by some supposed to have been delivered by Isieus in his own person as next friend to the young men, whose cause he supported ; but Reiske well observes, that no argument in favour of this opinion can be drawn conclusively from the opening of the speech; since the words *my intimate friends* might have been used by any other speaker.

SPEECH THE THIRD.

tlagnon and Hagnotheus againjl Chariades.

oINCE Hagnon and Hagnotheus, judges, ar?
my intimate friends, and their father long ago
was clofely connected with me, it will become
me to defend them with the beft of my abili-
ties : now as neither of thfem has ever been out
Cf Attica, it will not be poffible for them to
come prepared with evidence of tranfa&ions in
foreign parts, nor .eafy to confute their oppo-
nents, if they fhould tell a ficftitious ftory; but
tvhat has paffed in our own country will, in
my opinion, afford a fufficient proof, that all
they, who claim the fortune of Nicoftratus as
legatees, aim only at deluding and infulting
you.

firft then, judges, it will be proper for you
to confider the difference of the names in our
refpective bills of complaint, and to determine
which claim has been made more naturally and
with more fimlicity; for Hagnon and Hagno-
theus have alledged in their bill that Nicoftratus
was the fon of Thrafymachus, and declare that
they are his coufins, both which allegations
they prove by witneffes; but Chariades and his

coadjutors in this cause assert, that one Smicrus was the father of Nicoftratus, yet claim those effects which belonged to the son of Thrafymachus ; and, though my clients neither pretend to know the name of Smicrus, nor are related to any person, but maintain that Thrafymachus was the father of their cousin, yet to this estate also these associates have let up a title. If each party agreed in the name, nothing more would be left for your decision, than singly, whether that Nicoftratus, whom both sides have in contemplation, made a will or not; but how can the same man be laid in the same cause to have two fathers ? To this absurdity has Chariades reduced himself; for having claimed a right of succession to Nicoftratus the son of Smicrus, he has instituted his suit against those, who claim as next of kin to the son of Thrafymachus, and has tendered an issue, that the son of both these men was one and the same Nicoftratus. Now all this is a mere trick and a preconcerted scheme; for they are well aware, that while the case remains simple and not involved in this perplexity^ my friends will have no difficulty in proving, that Nicoftratus never made a will; but, if they introduce the name of a different father, and contend, nevertheless, for the same estate, they are perfectly sensible, that we must use a longer argument to prove, that Nicoftratus was

the fou of Thi*afymachus, than to convince you, that no will was made by him: befides, had they confeffed, that Nicoftratus was his fon, they could not have denied, that thefe young men were coufins to the deceafed ; but by fabricating a new father to him, they have drawn into queftion not his will only, but his pedigree.

This contrivance, and not this alone, but ail that has happened from the beginning, will convince you, that other perfons, belkles thofe who appear in the caufe, have brought this trouble on my clients; for, when the fucceffion to a fortune of two talents had been fix times litigated, who did not fhawe his head ? Who did not put on mourning cloaths ? As if by a falfe Ihow of forrow they were fure of fucceeding to the eftate. How many fiftitious kinfmen and felf-adopted fons laid claim to the goods of Nicoftratus ? Firft, one Dcmofthcnes pretended to toe his nephew; but, when he was confuted by the true heirs, he withdrew his demand. Telephus next aflerted, that the deceafed had made a gift to him of all his property; but he too was very foon reduced to filence: then came Amyniades, bringing to the chief magistrate a child not three years old, as the fon of Nicoftratus, who for eleven years together had been abfent from Athens. Next, Pyrrhus of

Lampra was absurd enough to alledge, that the deceased had consecrated his whole fortune to Minerva, and yet had given the same fortune to him. Lastly, Cranaus and Ctefias of Befia began with asserting, that they had obtained judgment for one talent in a suit against Nicostratus; and, when they failed in their proof, had the impudence to declare that he had been their freedman. These were the men, who first led their forces against the possessions of Nicostratus: Chariades was then at rest; but afterwards he both set up a title for himself, and even produced his own child by a harlot, as the son of the deceased, hoping either to be master of the estate, or to procure for his bastard the freedom of the city; till perceiving, that he should be unable to prove him legitimate, he discontinued the claim of the infant, and has put in issue his own right under a will.

It were much to be wished, judges, that every claimant of an estate by gift or testament, who fails in proving his title, should not pay the ordinary costs of the suit, but be amerced for the publick benefit to the full amount of the fortune which he falsely claimed; for then, neither would the laws be despised, nor families insulted by these impostors, nor fictions invented about the dead: but, since all strangers who please may at no great expence dispute the right of

fucceffion to any eftate whatever, it behoves you to Weigh the pretentions of fuch men with a fcrupulous cxadnefs, and to let no exertion of your faculties be wanting in fuch a caufe. To me, indeed, it feems that in fuits concerning wills, and in them only, greater ftreft fhould be laid on circumftantial proof than on the pofitive afertion of witneffes; for, when other inftrumnts are litigated, it is not always difficult to prove a witnefs perjured, when he fwears in the lifetime and even in the prefence, as it often happens, of the fuppofed party to the deed; but when the validity of a will is in difpute, how can it be known that falfe evidence is given, unlefs there be palpable contradidions in it, when the teftator is no more, his family are uninformed of the tranfadion, and the mode of proof is by no means clear or convincing? Let me add, judges, that the generality of teftators fay nothing to the witneffes concerning what they have bequeathed, but call them only to attelt the limple execution of the will: now it frequently happens, that the inftrument is altered, and a forged will fubftituted for the real one; while the witneffes are ignorant whether that produced in the fuit be the fame with that which they attelted. Since then even they, who were confeffedly prefent, are liable to be deceived, how much more readily will they at-

tempt to impofe upon you, who know nothing of what paffed ? But the law, judges, intends, that a will fhall be valid, not merely if it be executed, but if the teftator be of found memory: you muft firft, therefore, confider, whether a will was made at all, and next whether the maker of it had his fenfes at the time; now, fince we deny, that any fuch inftrument exifted, how can you enquire concerning the sanity of the teftator, before you are convinced that he made his teftament ? Obferve therefore the difficulty of difcovering, whether the claimants under a w^Till have truth on their fide: but, as to thofe who claim by right of fucceffion, in the firft place no witneffes need be called to fubftantiate that right, fince all agree, that the poffeffions of the dead regularly devolve to their next of kin : befides, not only the laws concerning confanguinity, but alfo thofe concerning the alienation of eftates, are favourable to kinfmen; for they fuffer no man to difpofe of his effects, who has loft his reafon either from age or ficknefs, or any of thofe infirmities, which, as you know, are incident to nature; but the neareft relation of an inteftate, whatever might have been the ftate of his faculties, has an undifputed title to his property. Add to this, that you muft eftablifh wills on the credit of witneffes, by whom you are liable to be deceived

(for if none were to fwear falfely, there would be no profecutions for perjury), whilft in the other cafe you confide in none but yourfelves; for the neareft relations fucceed to eftates by laws, which yourfelves have enafted.

To all this likewife we may add, that, if thofe who now claim under the will had been undeniably friends to Nicoftratus, even that would not be conclufive in their favour; but there would then have been a probable ground for fuppofing the teftament to be genuine; fince perfons, who have no affe&ion for their kinfmen, have fometimes preferred to their neareft relations by blood thofe who were related to them only by friendfhip: but now we have fully evinced, that thefe claimants were neither friends nor companions of the fuppofed teftator, nor even of the fame ftation with him in the army abroad.

Confider too another fa&t, which moil clearly proves the impudence of Chariades; for muft he not be fhamefully impudent, who neither carried out the body, nor collected the bones, after it was burned, of one who had left him a large eftate; but fuffered all this to be done by perfons wholly unconnected with him; and who, though he performed none of thefe holy rites enjoined by the laws, has the boldnefs to claim the poffeffions of the deceafedj and,

though he neglected his duty, has not omitted even to lay hands on the goods of Nicoftratus ? Nor will he himself deny the greatest part of these charges: he will invent, no doubt, some fine pretences and weighty reasons for his conduct ; but, what just excuse remains for a man, who plainly avows his offence ?

By this time, judges, you must be perfectly sensible, that these men have no legal right to the fortune of Nicoftratus, but wish to baffle you, and to deprive his near relations of that succession, which the laws have given them: nor has Chariades alone acted thus, but many other false claimants have arisen; and, indeed, when a man dies in a foreign country, numbers often claim his fortune, who were strangers even to his person; for they think that, if they succeed, they shall enjoy the property of others, and shall not, if they fail of success, incur a considerable loss. In these cases now may be found, who will forswear themselves, and such evidence is in its nature very obscure; in a word, there is a vast difference between the claims of the legatee and the heir of the deceased: you will first, therefore, enquire, judges, whether a will actually exists ; for of this both law and justice require you to be certain; and now, since you have no personal knowledge of the transaction, and since the witnesses to the

pretended will were not friends to Nicoftratus, but ftrongly in the intereft of Chariades, who demands what he has no right to claim, what can be more juft than to give the goods of a coufm to his coufins, whole effects, had he furvived them, would have come to him, as their kinfmen in the fame degree ?

Our adverfaries will perhaps aflert, that Hagnon and Hagnotheus are not the coufins of Nicoftratus, fmce the aflbciates are labouring to fupport a man who claims as legatee. Why do they not rather lay claim to the eftate themfelves, as of kin to the deceafed ? Are they fo filly as to relinquifh fuch poffeffions for the fake of eflablifhing a will, when by their own account it will be more advantageous for them, that the fortune of Nicoftratus fhould be decreed to my clients than to Chariades ? If my friends, who claim as kinfmen, take poffeffion of the eftate, it will at any future time be competent to the fupporters of our antagonift to prove, that they are more nearly related to Nicoftratus, and that he was the fon of Smicrus, not of Thrafymachus; but, fhould Chariades gain his caufe, no relation will ever be permitted to difturb him ; for what can the kindred of a man alledge againft him who claimed under a will, and for whom judgment has been given ?

Whatever then **each** of you would think **juft**,

were the cause your own, let that be your determination in the case of these youths: they have produced witnesses before you, who have proved, first, that they are the cousins of Nicoftratus, as children of his father's brother; and that no disagreement ever subsisted between them; next, that they supplied the charges of his funeral; that Chariades had no intimacy with him either here or in the army, and that the connexion, on which he relies, is wholly fictitious. Independently too of these proofs, it <will be right for you, judges, to consider and weigh the qualities of the respective claimants. Thrafiippus, the father of Hagnon and Hagnotheus, had often served your public offices, contributed to your expences, and been in all respects a virtuous citizen; nor have his sons themselves ever departed from their country except by your command; nor, while they stayed at home, have they been useless to the city; but they exert themselves in their military station, bring their contributions with alacrity, discharge every other part of their duty with faithfulness, and set an example, as all Athens knows, of decency and moderation; so that they were far worthier than Chariades to receive benefit from a will of Nicoftratus; for that fellow, soon after he came hither, was convicted of larceny, having been caught in the very ad,

and committed by the magistrates to prison (whence he was afterwards released) together with some other felons, whom you publicly sentenced to an ignominious death: afterwards being accused, before the council, of fraudulent practices, he made default, and, having fled from justice, was absent from this city seventeen years, and continued abroad till the death of Nicoftratus; nor has he at any time fought in your defence, or contributed to your supplies, unless perhaps he has given a trifle since the commencement of this suit; but no other expence has he at any time sustained for your advantage. With this disposition, with this character, is he not contented with eluding the punishment due to his crimes, but must he add to them so audacious a claim of what belongs to others? Were my clients, indeed, malevolent and busy informers, or like too many of their fellow-citizens, he would not, I imagine, be now contending for the property of Nicoftratus, but would be trembling at the consequences of a criminal prosecution. Let some other person, judges, draw the publick vengeance on his head: be it your care to protect these injured young men; and favour not those, who basely grasp at the possessions of others, before the nearest relations, and, let me add, in some measure, the benefactors of the deceased; but, call-

ing to mind both the laws and your oaths, and reflecting on the evidence which we have laid before you, pronounce a fentence confitent with juftice and truth.

SPEECH THE FOURTH.

ON THE ESTATE OF DICEOGENES.

THE ARGUMENT.

DICiEOGENES, whose estate is in dispute, had four sisters, all of whom were married and had issue. When lie died without children, his uncle Proxenus produced a will, by which the deceased appeared to have left his cousin Dic#o-genes, one of the defendants, a third part of his effects, and the legacy was accordingly delivered ; but the cousin, not satisfied with a share, insisted that he had a right to the whole; and, having set up another will in his favour, obtained a decree by surprize, and took the remaining two thirds from the sisters of the deceased. Afterwards the sons of those sisters, being prepared with their evidence, disputed the validity of the second will, and proved it to have been forged; upon which Dicaeogenes undertook to restore the two thirds without diminution, and one Leochares was his surety: but on their refusal to perform their promise, the nephews of the elder Dicieogenes commenced a suit against the principal and the surety for a specifick performance of their agreement.

SPEECH THE FOURTH.

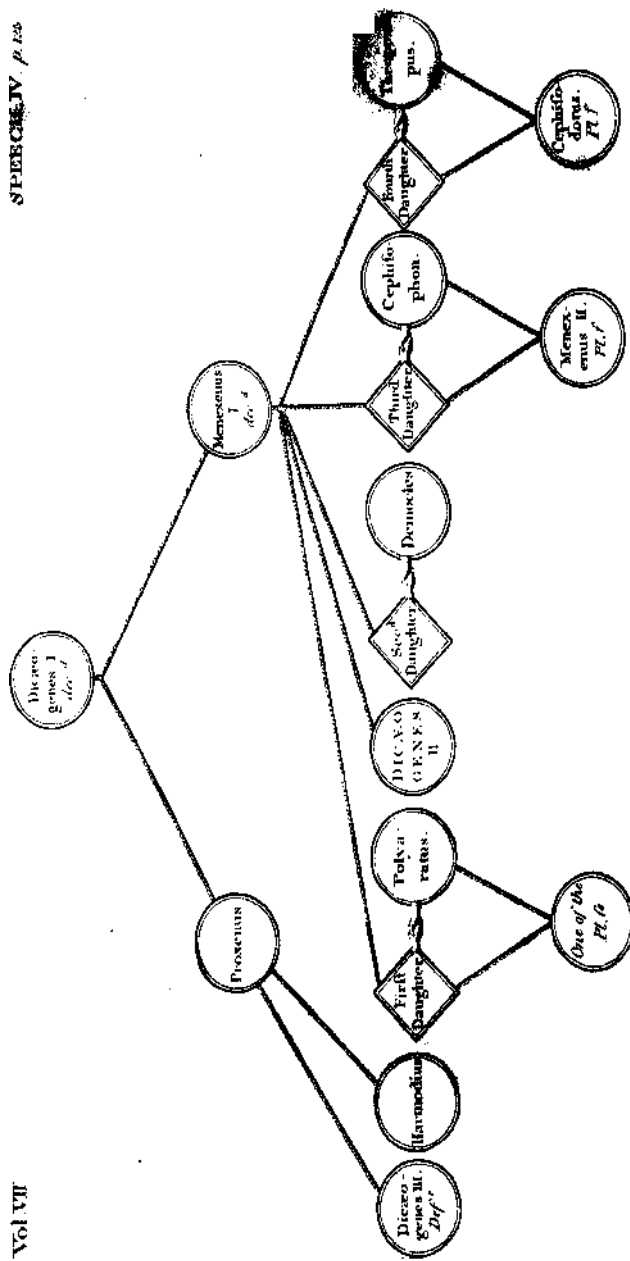
Menexenus and Others againji Dicaogenes and Leochares.

WE had imagined, judges, that all agreements made in court concerning this difpute would have been fpecifically performed; for, when Dicaeogenes difclaimed the remaining two thirds of this eftate, and was bound, together with his furety, to reftore them without any controverfy, on the faith of this affurance we gave a releafe of our demands: but now, fince he refufes to perform his engagement, we bring our complaint, conformably to the oath which we have taken, both againft him and his furety Leochares. THE OATH. That we fwore truly, both Cephifodotus, who (lands near me, perfe&ly knows, and the evidence, which we fhall adduce, will clearly demonftrate. Read the depofitionS. EVIDENCE.

You have heard the teftimony of thefe witneffes; and I am perfuaded, that even Leochares himfelf will not venture to afiert that they are perjured; but he will have recourfe perhaps to this defence, that Dicaeogenes has fully performed his agreement, and that his own office

of furety is completely fatisfied: if he alledge this, he will ipeak untruly, and will eafily be confuted ; for the clerk fhall read to you a fchedule of all the effe&s, which Dicaeogenes, the fon of Menexenus, left behind him, together with an inventory of thofe which the defendant unjuflly took; and, if he affirms, that our uncle neither had them in his life-time, nor left them to us at his death, let him prove his aflertion ; or, if he infills, that the goods were indeed ours, but that wc had them reftored to us, let him call a fingle witnefs to that fact; as we have produced evidence on our part, that Dicaeogenes promifed to give us back the two thirds of what the fon of Menexenus poffeffed, and that Leochares undertook to fee him perform his promife. This is the ground of our action, and this we have fworn to be true. Let the oath again be read, THE OATH.

Now, judges, if the defendants intended only to clear themfelves of this charge, what has already been faid would be fufficient to enfure my iuccefs -, but, fince they are prepared to enter once more into the merits of the queflion concerning the inheritance, I am defirous to inform you on our fide of all the tranfactions in our family; that, being apprized of the truth, and not deluded by their artifices, you may give a fentence agreeable to rcafon and juftice.



Menexehus. Oſtir grandfather had one ſon named Dicſeogenes, and four daughters, of whom Polyaratus my father married one; another was taken by Democles of Phrearrhi, a third by Cephifophon of Pceania; and the fourth was eſpouſed by Theopompus the father of Cephifodotus. Our uncle Diaeogenes, having failed to Cnidos in the Parhalian galley, was ſlain in a ſea fight ; and, as he left no children, Proxenus the defendant's father brought a will to our parents, in which his ſon was adopted by the deceaſed, and appointed heir to a third part of his fortune; this part our parents, unable at that time to conteſt the validity of the will, permitted him to take; and each of the daughters of Menexenus, as we ſhall prove by the teſtimony of perſons then preſent, had a decree for her ſhare of the reſidue. When they had thus divided the inheritance, and had bound themſelves by oath to acquieſce in the diviſion, each perſon poſſeſſed his allotment for twelve years; in which time, though the courts were frequently open for the adminiſtration of juſtice, not one of theſe men thought of alledging any unfairneſs in the tranſaction; until, when the ſtate was afflidged with troubles and feditions, this Dicſeogenes was perſuaded by Melas the Egyptian, to whom he uſed to ſubmit on other occaſions, to demand from us all our un-

cle's fortune, and to affert thajtee wal appointed heir to the whole. When he began his litigation, we thought he was deprived of his fenfes; never imagining that the fame man, who at one time claimed as heir to a third part, and at another time as heir to the whole, could gain any credit before this tribunal; but when we came into court, although we urged more arguments than our adverfary, and fpoke with juftice on our fide, yet we loft our caufe; not through any fault of the jury, but through the villainy of Melas and his affociates, who, taking advantage of the publick diforders, affumed a power of feizing poffeffions, to which they had no right, by fwearing falſely for each other : by ſuch men therefore were the jury deceived ; and we, overcome by this abominable iniquity, were dripped of our cffe&s ; for my father died not long after the trial, and before he could profecute, as he intended, the perjured witneſſes of his antagoniſt. On the very day, when Dicſcogenes had thus infamouſly prevailed againſt us, he ejected the daughter of Cephifophon, the niece of him who left the eftate, from the portion allotted to her; took from the wife of Democles what her brother had given her as cohciſes; and deprived both the mother of Cephifodotus and the unfortunate youth himſelf of their whole fortune: of all theſe he was at the fame time guardian

and fpoilef, **next of kin**, and cruelleft **enemy**; **nor** did the relation, which he bore them, excite in the leaft degree his compaffion; but **the** unhappy orphans, deferted and indigent, became deftitute even of daily neceffaries. Such was the guardianship of Dicseogenes their near-eft kinfman! who gave to their avowed foes what their father Theopompus had left them, illegally poffeffed himfelf of the property which they had from their maternal uncle and their grandfather; and (what was the moft open ad of cruelty) having purchafed the houfe of their father and demolifhed it, he dug up the ground on which it flood, and made that liandfome garden for his own houfe in the City. Still further; although he receives an annual rent of eighty minas from the eftate of our uncle, yet fuch are his infolence and profligacy, that he fent my couiin Ccphifodotus to Corinth as a fervile attendant on his brother Harmodius; and adds to his other injuries this cruel reproach, that he wears ragged clothes and coarfe bufkies: but is not (*hb* unjuui, fincc it was his own violence v. *Inch* reduced the boy to poverty?

On this point enough **Isa**; *hern* laid: I now return to the narration from which I have thus digreifed. Menexcm then, the font of Cephifophon, and coufm both io this young man and

to me, having a claim to an equal portion of the inheritance, began a prosecution against those who had perjured themselves in the former cause, and convicted Lycon, whom he first brought to justice, of having falsely sworn that our uncle appointed this Dicaeogenes heir to his whole estate: when, therefore, this pretended heir was disappointed in his hopes of deluding you, he persuaded Menexenus, who was acting both for our interest and his own, to make a compromise, which, though I blush to tell it, his necessities compels me to disclose. What was their agreement? That Menexenus should receive a competent share of the effects on condition of his betraying us, and of releasing the other false witnesses, whom he had not yet convicted: thus, injured by our enemies and by our friends, we remained with silent indignation; but you shall hear the whole transaction from the mouth of witnesses. EVIDENCE. Nor did Menexenus lose the reward of his perfidy; for, when he had dismissed the persons accused, and given up our cause, he could not recover the promised bribe from his seducer, whose deceit he so highly repented, that he came over again to our side. We therefore, justly thinking that Dicaeogenes had no right to any part of the inheritance, since his principal witnesses had been actually convicted of perjury, claimed the whole

estate as next of kin to the deceased: nor will it be difficult to prove the justice of our claim; for, since two wills had been produced, one of an ancient date, and the other more recent; since by the first, which Proxenus brought with him, our uncle made the defendant heir to a third part of his fortune, which will Dicseogenes himself prevailed upon the jury to set aside; and since the second, under which he claims the whole, had been proved invalid by the conviction of the perjured witnesses, who swore to its validity: since, I say, both wills had been shown to be forged, and no other testament existed, it was impossible for any man to claim the property as heir by appointment, but the sisters of the deceased, whose daughters we married, were entitled to it as heirs by birth,

These reasons induced us to sue for the whole as next of kin, and each of us claimed a share; but when we were on the point of taking the usual oaths on both sides, this Leochares put in a protestation, that the inheritance was not controvertible; to this protestation we took exceptions, and having begun to prosecute Leochares for perjury, we discontinued the former cause. After we had appeared in court, and urged the same arguments on which we have now insisted, and after Leochares had been very

loquacious in making his defence, the judges were of opinion that he was perjured; and as soon as this appeared by the number of pellets, which were taken out of the urns, it is needless to inform you what entreaties he used both to the court and to us, or what an advantage we might then have taken : but attend to the agreement which we made. Upon our consenting that the Archon should mix the pellets together without counting them, Dicaeogenes undertook to surrender two thirds of the inheritance, and to resign them without any dispute to the filters of the deceased; and for the full performance of this undertaking, Leochares was his surety, together with Mnefiptolemus the Plotian; all which my witnesses will prove. EVIDENCE. Although we had been thus injured by Leochares, and had it in our power, after he was convicted of perjury, to mark him with infamy, yet we consented that judgement should not be given, and were willing to drop the prosecution upon condition of recovering our inheritance : but after all this mildness and forbearance, we were deceived, judges, by these faithless men; for neither has Dicaeogenes restored to us the two thirds of his estate, conformably to his agreement in court; nor will Leochares confess that he was bound for the performance of that agreement. Now, if these promises had

not been made before five hundred jurymen and a croud of hearers, one cannot tell how far this denial might have availed him; but, to show how falsely they speak, I will call some witnesses who were present both when Dicaeogenes disclaimed two thirds of the succession, and undertook to restore them undisputed to the heirs of our uncle, and when Leochares engaged, that he should punctually perform what he had undertaken: to confirm his evidence, judges, we intreat you, if any of you were then in court, to recollect: what passed, and, if our allegations are true, to give us the benefit of your testimony; for, if Dicaeogenes speaks the truth, what advantage did we reap from gaining the cause, or what inconvenience did he sustain by losing it? If, as he asserts, he only disclaimed the two thirds, without agreeing to restore them unencumbered, what has he lost by relinquishing his present claim to an estate, the value of which he has received? For he was not in possession of the two third parts, even before we succeeded in our suit, but had either sold or mortgaged them; it was his duty, however, to return the money to the purchasers, and to give us back our share of the land; since it was with a view to this, that we, not relying singly upon his own engagement, insisted upon his finding a surety. Yet, except two small

houfes without the walls of the city, and about fixty acres of land in the Plain, we have received no part of our inheritance; nor did we care to ejed the purchafers of the reft, left we fhould involve ourfelves in litigation; for when, by the advice of Dicaeogenes, and on his promife not to oppofe our title, we turned Micio out of a bath, which he had purchafed, he brought an adion againft us and recovered forty minas. This lofs, judges, we incurred through the perfidy of Dicaeogenes; for we, not imagining that he would recede from an engagement fo folemnly made, affured the court, that we would fuffer any evil, if Dicaeogenes fhould warrant the bath to Micio; not that we depended on his own word, but we could not conceive, that he would betray the fureties, who had undertaken for him; yet this very man, who difavowed all pretentions to thefe two thirds, and even now admits his difavowal, had the bafenefs, when he was vouched by Micio, to acknowledge his warranty; whilft I, unhappy man, who had not recovered a particle of my fhare, was condemned to pay forty minas for having oufted a fair purchafer, and left the court oppreffed by the infults of this Dicaeogenes. To prove the tranfadion, I (hall call my witneffes. EVIDENCE.

Thus have we been injured, judges, by thift

man j whilst Leochares, who was bound for
 <2iim, and has been the caufe of all our misfor-
 tunes, is confident enough to deny what has
 been proved againft him; becaufe his under-
 taking was not entered in the regifter of the
 court: now, judges, as we were then in great
 hafte, we had time to enter part only of what
 had been agreed on, and took care to provide
 faithful witneffes of all the reft; but thefe men
 have a convenient fubterfuge: what is advan-
 tageous to them, they allow to be valid, although
 it be not written, but deny the validity of what
 may be prejudicial to their interefts, unlefs it be
 in writing; nor am I furprifed, that they refufe
 to perform their verbal promifes, fince they will
 not even aft conformably to their written agree-
 ments. That we fpeak truly, an undeniable
 proof fhall be produced: Dicaeogenes gave my
 filler in marriage with a portion of forty minas
 to Protarchides of Potamos; but, inftead of
 paying her fortune in money, he gave her huf-
 band a houfe which belonged to him in Cera-
 micus; now fhe had the fame right with my
 mother to a fhare of this eftate; when Dicseo-
 genes, therefore, had refigned to the women
 two thirds of the inheritance, Leochares told
 Protarchides in what manner he had become a
 furety, and promifed in writing to give him
 his wife's allotment, if he w^rould furrender to

him the house which he had taken instead of the portion: Protarchides, whose evidence you shall now hear, consented ; but Leochares took possession of his house, and never gave him any part of the allotment, EVIDENCE.

As to the repairs of the bath, and the expenses of building, Dicaeogenes has already said, and will probably say again, that we have not reimbursed him, according to our engagement, for the sum which he expended on that account ; for which reason he cannot satisfy his creditors, nor give us the shares to which we are entitled. To answer this, I must inform you, that, when we compelled him in open court to disclaim this part of the inheritance, we permitted him, by the advice of the jury, to retain the profits of the estate, which he had enjoyed so long, by way of compensation, for his expenses in repairs, and for his publick charges ; and some time after, not by compulsion, but of our own free will, we gave him a house in the city, which we separated from our own estate, and added to his third part. This he had as an additional recompense for the materials which he had bought for his building; and he sold the house to Philonicus for fifty minas: nor did we make him this present as a reward of his probity, but as a proof that our own relations, how dishonest soever, are not undervalued by us for

the fake of lucre; and even before, when it was in our power to take ample revenge of him by depriving him of all his poffeffions, we would not ad with the rigour of juftice, but were contented with obtaining a decree for part of our own property; whilst he, when he had procured an unjust advantage over us, plundered us with all poffible violence, and now drives to ruin us, as if we were not his kinfmen, but his inveterate foes.

We will now produce a {hiking inftance of our candour, and of his knavery. When, in the month of December, judges, the profecution againft Leochares was carried on with firmnefs, both he and Dicaeogenes entreated me to poftpone the trial, and refer all matters in difpute to arbitration; to which propofal, as if we had fuftained only a flight injury, we confented; and four arbitrators were chofen, two by us, and as many by them: we then fwore, in their prefence, that we would abide by their award; and they told us, that they would fettle our controverfy, if poffible, without being fworn; but that, if they found it impoffible to agree, they would feverally declare upon oath what they thought the merits of the cafe. After they had interrogated us for a long time, and enquired minutely into the whole tranfaction, Diotimus and Melanopus, the two arbitra-

tors, whom we had brought, expreffed their readinefs to make their award, either upon oath, or otherwife, according to their opinion of the truth from the teftimony of both parties; but the other two, whom Leochares had chofen, refufed to join in any award at all; though one of them, Diopithes, was a kinfman of Leochares, and an enemy to me on account of fome former difputes, and his companion Demaratus was a brother of that Mnefiptolemus, whom I mentioned before, as one of the fureties for Dicaeogenes: thefe two declined giving any opinion, although they had obliged us to fwear that we would fubmit to their decifion.

EVIDENCE.

It is abominable then, that Leochares fhould requelt you to pronounce a fentence in his favour, which his own relation Diopithes refufed to pronounce 5 and how can you, judges, with propriety decree for this man, when even his friends have virtually decreed againft him? For all thefe reafons I intreat you, unlefs you think my requelt inconffitent with juftice, to decide this caufe againft Leochares.

As for Dicseogenes, he deferves neither your compaffion as an indigent and unfortunate man, nor your indulgence as a benefactor in any degree to the ftate: I fhall convince you, judges, that neither of thefe characters belongs to him;

fhall prove him to be both a wealthy and a profligate citizen, and fhall produce instances of his bale.conduct towards his friends, his kinfmen, and the publick. Firft, though he took from us an eftate, from which he annually received eighty minas, and though he enjoyed the profits of it for ten years, yet he is neither in poffeffion of the money, nor will declare in what manner he has employed it. It is alfo worthy of your confideration, that, when he prefided over the games of his tribe at the feaft of Bacchus, he obtained only the fourth prize, and was the laft of all in the theatrical exhibitions and the Pyrrhick dances : thefe were the oniy offices that he has ferved, and thefe too by compulfion ; and fee how liberally he behaved with fo large an income ! Let me add, that, in a time of the greateft publick calamity, when fo many citizens furnifhed veffels of war, he w^dould not equip a fingle galley at his own expenfe, nor even joined with another; whilft others, whofe entire fortune was not equal to his yearly rents, bore that expenfive office with alacrity: he ought to have remembered, that it was not his father who gave him his eftate; but you, judges, who eftablifhed it by your decree; fo that, even if he had not been a citizen', gratitude (hould have prompted him to confult **the** wel&re of the city.

Again ; when contributions were continually brought by all who loved their country, to support the war and provide for the safety of the state, nothing came from Dicaeogenes: when Lechaeum indeed was taken, and when he was pressed by others to contribute, he promised publicly, that he would give three talents, a sum less than that which Cleonymus the Cretan voluntarily offered: yet even this promise he never performed; but his name was hung up on the statues of the *Eponytnei* with an inscription, asserting, to his eternal dishonour, that he had not paid the contribution, which he promised in publick, for his country's service. Who now can wonder, judges, that he deceived me, a private individual, when he so notoriously deluded you all in your common assembly ? Of this transaction you shall now hear the proofs.

EVIDENCE.

Such and so splendid have been the services which Dicaeogenes, possessed of so large a fortune, has performed for the city! You perceive, too, in what manner he conducts himself towards his relations; some of whom he has deprived, as far as he was able, of their property; others he has basely neglected, and forced, through the want of mere necessaries, to enter into the service of some foreign power. All Athens saw his mother fitting in the temple of

Illithyia, and heard her accufe him of a crime, which I blufh to relate, but which he blufhed not to commit. As to his friends, he has now incurred the violent hatred of Melas the Egyptian, who had been fond of him from his early-youth, by refufing to pay him a fum of money, which he had borrowed : his other companions he has either defrauded of fums, which they lent him, or has failed to perform his promife of giving them part of his plunder, if he fucceeded in his caufe.

Yet our anceftors, judges, who firft acquired this eftate, and left it to their defendants, conducted all the publick games, contributed liberally towards the expenfe of the war, and continually had the command of gallies, which they equipped: of thefe noble ads the prefents, with which they were able, from what remained of their fortune after their neceffary charges, to decorate the temples, are no lefs undeniable proofs, than they are lafting monuments of their virtue; for they dedicated to Bacchus the tripods, which they won by their magnificence in their games; they gave new ornaments to the temple of the Pythian Apollo; and adorned the fhrine of the goddefs in the citadel, where they offered the firft fruits of their eftate, with a great number, if we confider that they were **only** private men, of ftatues both **in brafs and ftone**.

They died fighting reſolutely in defence of their country; for Dicoeogenes, the father of my grandfather Menexenus, perished in the battle of Eleufis, where he had a command; his ſon Menexenus fell at the head of the Olyfian legion in Spartolus; and his ſon, my uncle, loſt his life at Cnidos, where he commanded the Paxhalian galley.

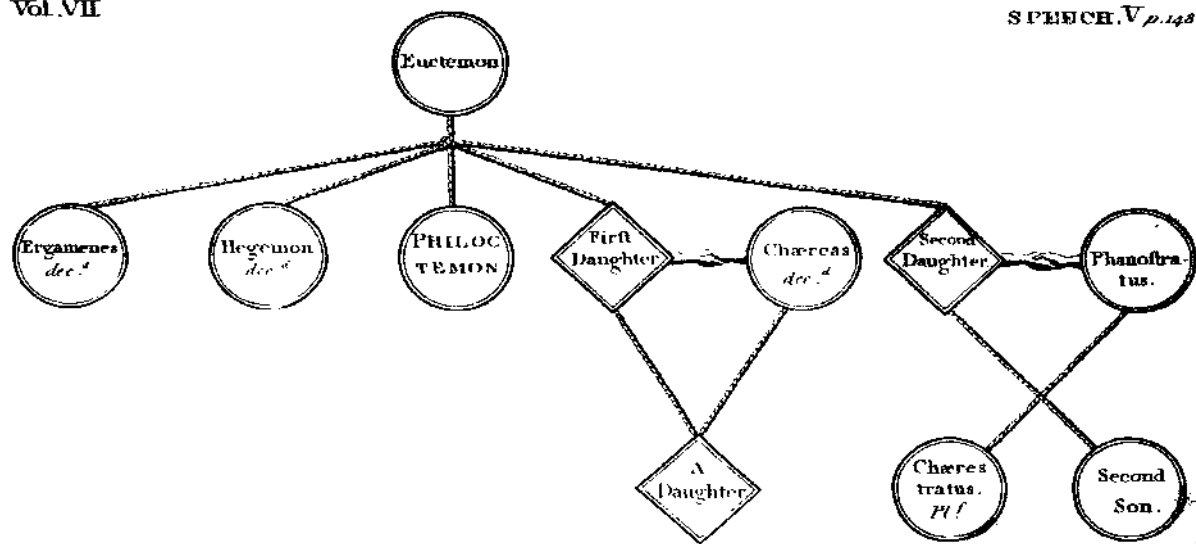
His eſtate, O Dicaeogenes, thou haſt unjuſtly ſeized, and ſhamefully waſted; and having converted it into money, haſt the affurance to complain of poverty. How haſt thou ſpent that money? Not for the uſe of the ſtate, or of your friends; ſince it is apparent, that no part of it has been employed for thoſe purpoſes; not in breeding fine horſes; for thou never waſt in poſſeſſion of a horſe worth more than three miſtas: not in chariots; for, with ſo many farms and ſo great a fortune, thou never hadſt a ſingle carriage even drawn by mules: nor haſt thou redeemed any citizen from captivity; nor haſt thou conveyed to the citadel thoſe ſtatues, which Menexenus had ordered to be made for the price of three talents, but was prevented by his death from confecrating in the temple; and, through thy avarice, they lie to this day in the **(hop** of the ſtatuary: thus haſt thou preſumed to claim an eſtate, to which thou hadſt no colour of right, and haſt not reſtored to the gods

*he statues, which were truly their own. On what ground, Dicæogenes, canst thou ask the jury to give a sentence in thy favour? Is it because thou hast frequently served the publick offices; expended large sums of money to make the city more respectable, and greatly benefited the state by contributing bountifully towards supporting the war? Nothing of this sort can be alledged with truth. Is it because thou art a valiant foldier? But thou never once couldst be persuaded to serve in so violent and so formidable a war, in which even the Olynthians and the islanders lose their lives with eagerness, since they fight for this country; while thou, who art a citizen, wouldst never take arms for the city.

Perhaps, the dignity of thy ancestors, who flew the tyrant, imbued thee to triumph over us: as for them, indeed, I honour and applaud them, but cannot think that a spark of their virtue animates thy bosom; for thou hast preferred the plunder of our inheritance to the glory of being their descendant, and wouldst rather be called the son of Dicæogenes than of Harmodius; not regarding the right of being entertained in the Prytaneum, nor setting any value on the precedence and immunities which the posterity of those heroes enjoy: yet it was

14* ON THE ESTATE OF DICÆOGENES.

not for noble birth, that Harmonius and Ariftogiton were fo tranfcendently honoured, but for their valour and probity; of which thou, Dicæogenes, haft not the fmalleft flhare.



SPEECH THE FIFTH.

OX THE ESTATE OF PHILOCTEMOK.

THE ARGUMENT.

P1JILOCTEMOX, one of Euctemon's sons, having adopted C luces trat us, the son of Phanost rat us and his younger sister, deposited his will with Choreas, his elder sister's husband, and died in the lifetime of his father. When lie also was dead, Cluerestratus claimed the inheritance accoiding to law; and, when one Androcles protested that the estate could not be the subject of litigation, because Kuctemon had left two legitimate sons, Antidorus and another, the friends of Chserestratus excepted to the protestation, averring that both Antidorus and his brother were illegitimate, and relying upon the law of Solon, which expressly declared, that bastards, whether male or female, should not inherit: the clients of Iva?ns, therefore, maintain the affirmative in two issues; in one, that Philoctimon adopted Crurrestratus; in another, that Antidorus was a bastard.

SPEECH THE FIFTH.

Cbarefiratus againjt Androcles.

THAT I am intimately conneded, judges, with Phanoftratus, and with Chaereftratus, who now appears before you, many of you, I believe perfedly know; but thofe, who are unacquainted with our friendfhip, fhall hear how ftrong a proof I gave of it; for, when Meneftratus failed to Sicily with the naval command, I, who had before been on a fimilar expedition, forefaw all the perils which enfued; yet, at the requeft of thefe dear friends, I w^ras the companion both of their vovage and of their misfortunes: now I fhould act moil abfurdly, if I voluntarily expofed myfelf to fuch imminent danger, becaufe J was conneded with them and valued that connedion, but fhould now decline the tafk of fpeaking for them, that you may decide their caufe agreeably to your oaths, and that they may obtain complete jttfice from your verdid. I intreat you therefore to indulge me with your favour, and to hear me with benevolence; for this is no trifling conteft, but a queftion of the higheft importance to the happinefs of my friends.

Philoctemon of Cephalia, the son of Euctemon, had so great a regard for Chseresfratus, that he adopted him by will and appointed him successor to his estate: when, therefore, Chseresfratus claimed his succession in due form (at which time any Athenian had a right to set up an adverse claim in a direct course of law, and, if he could prove a better title, would have enjoyed the fortune) this Androcles, instead of bringing a fair and regular action, entered a protestation that the estate was not liable to controversy, intending to prevent my friend from supporting his claim, and you from determining who is the rightful heir of Philoctemon: thus in a single cause and by a single decree he hopes to obtrude upon the deceased two fictitious brothers, who bear no relation to him; to possess the property himself without a competitor; to dispose as he pleases of Philoctemon's sister; and to destroy the efficacy of his testament.

Of the many audacious falsities, which the protestation of Androcles contains, that concerning the will shall be first confuted; and I will prove not only that Philoctemon made a will, but that he appointed Chseresfratus to be his son and successor; for, as he had no children by his wife, as the war was carried on with violence, and as his frequent expeditions both by

land and fea expofed him to continual danger, he refolved, kft his inheritance fhould become defolate for want of an heir, to nominate one by his will: his two brothers had both died dhildlefs 5 and one of his fifters, who had been many years married to Chaereas, had borne him no male child ; but his other fifter, the wife of my friend Phanoftratus, had two fons, the elder of whom, Chaereftratus, he adopted as his own, and declared in his teftament, that, if his wife was not delivered of a fon, Chsereftratus fhould haVe his eftate. This will, which he deposited with his brother-in-law Chaereas, fhall now be read to you; and then attend to the witnefses who were prefent at the execution of it. THE WILL EVIDENCE.

You have heard the proof of his will, and have obferved how his eftate is given by it to my client: now to prove that he had a power of making fuch a teftamentary difpofition, the law itfelf fhall be produced, from which you will eafily perceive the juftice of the whole transaction. THE LAW.

This law, judges, which equally binds us all, permits every man, who has no legitimate children, to difpofe by will of his property, unlefs his faculties be impaired by age, or by diforder, or by any of the infirmities which ate fpecified in the law: now that Philoctemon had -not 6ne

of these infirmities, I will in few words demonstrate; for what man can have the hardiness to impeach the understanding of so excellent a citizen, who, while he lived, received the highest honours from you, was advanced to the most important offices, and died in battle against your enemies? That he made his will then in his perfect senses, as the law permitted him, you have heard clearly proved; so that on this head the false assertions of Androcles are apparent; but, as he has protested also that Antidorus was the legitimate son of Eudemon, this too I will shew to be untrue.

Eudemon, judges, had no other sons than Philodemon, Ergamenes, and Hegemon; he had also two daughters; and their mother was the daughter of Mixiades the Cephisian: these are known to all his acquaintance, to those of the same ward, and to many of the same borough, as they will presently give in evidence; but, that he ever married another woman, of whom Antidorus was born, no man can pretend to know or ever to have heard in the lifetime of Eudemon. The relations of the family must have known all that passed, and we may suppose them to be the most credible witnesses: call them, therefore, first; and then read the depositions of others, WITNESSES and DEPOSITIONS.

Yet further: I will convince you that *out*

opponents themselves have in fact given the same evidence; for, at the examination before the Archon, when they deposed the stated sum, and contended that these young men were the legitimate sons of Eudemon, being asked by us, who was their mother, and whose daughter she was, they were unable to inform us, though we protested against their allegation, and the Archon pressed them to answer, as the law required. Could they, indeed, be allowed, judges, to contend and protest that the sons were legitimate, when they could not declare, who their mother was, nor mention any one of her relations? Then, to be sure, they delayed the suit by pretending, that she was a Lemnian; but, when they came afterwards to be re-examined, they said, before any question was proposed, that the mother of the young men was Callippe, the daughter of Piftoxenus; thinking it sufficient to pronounce a name, which they had probably invented: when we asked who this Piftoxenus was, and whether he was living or not, they answered, that he died fighting in Sicily, and left his only daughter to the care of Eudemon, to whom, while he was her guardian as well as husband, she bore these two sons. A most audacious assertion, and palpable fiction! as I will prove to you by their very answers at the examination; for two and fifty years have

elapsed from the Archonship of Arimneftus, when our armament embarked for Sicily, and the elder of these youths, whom they pretend to be the sons of Euclimon and Callippe, has not passed his twentieth year: if then we deduct his age from the time since the Sicilian expedition, there remain above thirty years; so that Callippe could neither be in ward at that age, nor could she have remained so long unmarried and childless, but must have had a husband either by the authority of a guardian, or by an adjudication of the court. Besides, she must have been known by the friends of Euctemon, and by his servants, if she really was married to him and lived so many years in his house; for it is not enough to produce mere names at an examination, but it is necessary to show that the persons actually existed, and to prove their existence by the testimony of those who were connected with them: yet when we challenged them to summon any of Euctemon's friends, who knew that such a woman as Callippe lived with him or was his ward, and urged them to decide the controversy by the evidence of such domesticks as were still alive, or to deliver up to us any of their slaves, who might be compelled to disclose what they remembered of the transaction, they would neither give up their own slaves to be questioned, nor take ours for

that purpofe. Officer, read their anfwer, together with our depofitions and challenges, **ANSWER. DEPOSITIONS. CHALLENGES.**

So decifive a mode of proof have they declined; but it fhall be my care to inform you, who this woman and her children are, and to deferibe to you thofe, who have declared them to be legitimate, and are ftriving to procure for them the inheritance of Eudemon. It may perhaps be unpleafant to Phanoftratus, to hear the misfortunes of his father-in-law opened to the court; but it is expedient to fay a few words concerning them, that, when you are apprized of the truth, you may be more able to decide according to juftice.

Eudemon lived fix and ninety years, the greater part of which time he paffed with apparent profperity; for he had an affluent fortune, a wife and hopeful children, with other ingredients of happinefs; but in his advanced age he met with no fmall calamity, which threw his whole family into diforder, confumed a great part of his eftate, and occafioned a diflenfion between him and his moft intimate friends: what was the fource of this evil, and in what manner it happened, I will explain as concifely as I am able.

He had a freedwoman, who inhabited a houfe of his in the Piraeus, where fhe kept fe-

veral female ftaves, and among them one named Alee, whom, I fancy, moft of you know: after this Alee had been bought, fhe lived many years in that houfe, but, when fhe grew older, was removed from it. While fhe continued there, one Dio, a freedman, was connefted with her, and by him, as fhe herfelf declared, fhe became the mother of thefe two young men, whom Dio educated as his own; till, having committed a great mifdemeanor, and fearing a profecution, he ftole away to Sicyon : after which Eufte mon gave Alee the care of his houfe in Ceramicus by the little gate, where they fell wine. When fhe was fent thither, judges, fhe was the occa- fion of many and great difordcrs; for Eufte mon, going frequently to collect his rents, palfed a confiderable part of his time in that houfe, and even fometimes fat at table with the wo- man, having left his wife and children in the houfe, which he ufually inhabited ; and, though his family were highly difpleafed, yet he per- fitted in his courfe, and fpent his whole time with Alee, having either by poifon, or by difor- der, or by fome other infirmity, fo totally loft his underftanding, that he was perfuaded by her to offer the elder of her two boys to the men of his ward under his own name; but when Phi- iodtemon oppofed his admiffion, and the mem- bers of the ward refufed to admit him, or to ac-

cept of the vi&im ufually given on fuch ocea*
fions, the old man, being enraged againft his
fon, and defiling to diftreff him, made a propo-
fal of marriage to the filler of Democrates the
Aphidnean, with an intent to educate and adopt
her children as his own, if Philo&temon would
not confent to have the other admitted : upon
which his relations, knowing that he could have
no more children at his age, but that fuppofi-
tious fons might be produced, which would
raife ftill more violent animofities, advifed Phi-
lo&emon, judges, to give his confent that his
father fhould introduce the boy to the ward, as
he defired, and allot a farm for his fupport. In
this advice Philodemon acquiefced, heartily
afhamed of his father's dotage, but not knowing
how elfe to fecure himfelf from the calamity
which threatened him : when therefore an agree-
ment was made to that effect, and the boy was
admitted as a member of the ward, Eucftemon
dropped his project of marrying, by which he
ihowed that his deiign had not been formed
with a view to having children of his own, but
for the fake of admitting the baftard of his mi-
frefs; for what occafion, judges, had he to
marry, if, as they infift, he had fons born in
wedlock with a citizen of Athens ? Who could
have prevented his admitting them to' their free-
dom ? Why fhould he introduce them upon

certain conditions, when the law had ordained, that all children, begotten in matrimony, should have an equal share of their paternal fortune? Or why, lastly, did he admit into his ward the elder only of the boys, and pay no regard to the younger, whom from the day of his birth he had not mentioned either to Philoctemon, whilst he was alive, or to any of his friends? These are the men, Androcles, whom you have averred, in your protestation, to be the legitimate sons of Eudtemon. Now, to prove the truth of my assertions, let the depositions be read, DEPOSITIONS.

After this transaction Philoctemon was slain at Chios in a naval engagement, in which he had the command of a galley; and Eudtemon declared in open court, that he was desirous of recording his agreement with his son; at the same time Phanotratus, accompanied by his kinsman Chaereas, was on the point of failing with the fleet, which Timotheus conducted; and the vessel, which he commanded, was just weighing anchor at Munichia, when Eudtemon went thither attended by some friends, and, having written a will declaratory of the conditions on which he adopted this Antidorus, he deposited the instrument with his relation Pythodorus of Cephissia. Now, that he acted in this manner, not as if he had legitimate chil-

dren, both Androcles has proved, and the fact itself sufficiently demonstrates; for no man bequeaths any thing as a legacy to his own sons, since the law gives every son the possessions of his father, and permits not any man, who has children begotten in wedlock, to dispose of his estate by will.

When the writing had lain almost two years with Pythodorus, and Chaereas in the mean time was dead, these associates, being subservient to the inclinations of Alee, perceiving the property of Eudtemon to be continually waisted, and concluding from his dotage, that a fair opportunity presented itself, began their attack in concert; and first they prevailed with Eudtemon to revoke his will, as disadvantageous to the boys; because his daughters only and their children would inherit his visible property, but, if he sold part of his land and left the sum which he received for it, the adopted son and his friends would take firm possession of the money. The old man, persuaded by this reasoning, demanded his will of Pythodorus, and instituted a suit for the production of it: when Pythodorus, therefore, appeared before the Archon, Eudemon declared that he wished to cancel his will; and his kinsman allured both him, and Phanotratus who was present, that he should not oppose his intention, but, as Chaereas,

who had joined with Euctemon in depositing the will, had left a daughter, he thought it proper to defer the revocation of it till she **could** give her consent, and have a husband or guardian who might confirm her act: as the Archon was of the same opinion, Euctemon, having made a declaration before the magistrate and his assistants, in the hearing of many witnesses whom he called, that his testament was no longer valid, left the court.

Soon after this they proceeded to those affairs, with a view to which they had persuaded him to rescind his will: they sold the Athmonian estate for seventy-five minas to Antiphanes; the Serangian bath to Ariftolochus for thirty; and the house in the city which had been mortgaged for four and forty minas, they conveyed to the hierophant: next they disposed of **his** goats, together with the goatherd, for thirteen minas; and two carriages to be drawn by mules, one for eight minas, and the other for five and a half; not omitting any of the slaves, who worked for his benefit. The sum, which they collected from the sale of these effects very soon after the death of Philoctemon, amounted to more than three talents, I will now call witnesses, who will swear to the truth of all my assertions, EVIDENCE.

, Thus were these possessions aliened: the destruction of the rest they soon meditated, and contrived for that purpose the most infamous artifice, to which you should particularly attend; for, perceiving that Euflemon was entirely superannuated, and could not even rise from his bed, they deliberated how they might after his death effectually secure his property to themselves. What was the result of this deliberation? They announced the two boys to the Archon as having been adopted by the two deceased sons of Eudemon; and, feigning themselves to be their guardians, petitioned the magistrate that the lands and houses of those orphans might be exposed to auction, so that some part of their estate might be let, and some of it pledged as a security for the rents; that the latter might be distinguished by columns, and inscriptions, and that they themselves, while Eudemon was alive, might receive the profits. As soon therefore as the courts were full, the magistrate caused the auction to be proclaimed, and a party of these conspirators began to bid for the lots; when some, who were present, ran to inform our friends of the contrivance, and they, coming without delay, apprized the judges of the whole transaction: upon this the court would not suffer the houses to be let;

but, if the scheme had not been detected, the whole estate would have been lost. Call those Who were witnesses of this affair, EVIDENCE*

Before these men were connected with this artful woman, and, in conjunction with her, conspired against Euctemon, he possessed so large an estate, that both he and his son Philoctemon filled the most expensive offices for your service, and were so far from aliening their ancient possessions, that they were continually making new purchases with the money, which they had saved ; but, when Philoctemon died, such was the disorder which prevailed, that not half of his former estate remained, and the rents were all extinguished. Nor were they satisfied, judges, with consuming this property; but, as soon as Euctemon was dead, and his body was lying in the house^ they were audacious enough to detain the servants with them, that his death might not be mentioned to his daughters, or to his widow, or to any of his relations; while they, together with Alee, removed all the money and furniture to the next house, which had been rented, and was then inhabited, by one of their crew, this very Antidorus; nor, when the widow and daughters heard of Euctemon's death from others, and came to the door, would they suffer them to enter; but infilled, that it was not their business to bury the de-

cfcafed. Thus were they prevented from going
 in till juft before fun-fet; and when they en-
 tered, they found the body, which had lain, as
 jthe fervants declared, unburied for two days,
 m& perceived that all the goods had been re-
 moved by thefe confederates. The women,
 therefore, employed themfelves, as their duty re-
 quired, in preparing the corfe for burial, while
 my clients were fhowing to fome friends, who
 accompanied them, the miferable condition of
 the houfe; and afked the fervants, in the pre-
 fence of the aflbciates, to what place the cffe&s
 had been carried: when they anfwcred, that
 Androcles and the reft had conveyed them to
 the houfe next adjoining. Phanoftratus and
 his companions thought it neceffary to make a
 legal enquiry into the robbery, and demanded
 the (laves, who had carried the goodsjKto be de-
 livered up to them; but the contrivers of the
 mifchief would not confent to this ad of juft-
 tice. In confirmation of my narrative, read
 thefe depofitions, and this inventory of the
 goods which were removed, DEPOSITIONS*
 INVENTORY. Thus having conveyed fo many
 valuable effects from the houfe, having received
 the money arifing from the fale of fo large an
 eftate, and having divided among themfelves
 the rents which became due in fo long an inter-
 Tai, they imagine that they fhall be matters of

the whole; and to fuch a height of confidence have they advanced, though they durft not meet us in a dire form of action, that they have averred the legitimacy of our two opponents by way of proteftation; not confidering, that they fpeak both falſely and inconfiftently with their previous condud; ſince, when they appeared before the Archon, they ftyled one of them the adopted fon of Philoctemon, and the other of Ergamenes, whereas they now proteft them both to be the fons of Eudemon: yet had they been lawfully begotten, and had they been adopted, as they firft alledged, not even then could they have been called the fons of Eudemon; for the law forbids a fon by adoption to return into the family, from which he was emancipated, unlefs he leave a legitimate fon of his own in the family which adopted him; ſo that* even from their own behaviour, it is manifeft that their evidence is falſe. If they had then completed their ſcheme of letting the houſes, my clients would now be precluded from aſſerting their right; but, as the judges declared that it was not their buſineſs to let them, theſe men have not ventured to diſpute our title in a regular courſe of law, but have proteſted, with exceſſive audacity, that the very perſons whoſe claim you rejected were lawful heirs to the eſtate* Obſerve too the aſſurance of Andro-

des, who first claimed for himself the daughter of Eudemon, as if he had been the heiress, and insisted on his right to a fifth part of the property, as if it had been liable to litigation, yet has now averred that Eudemon left a legitimate son. Has he not by this clearly convicted himself of having given false evidence? He certainly has; for had a son of Eudemon begotten in wedlock been living, his daughter could not have been heiress, nor could the estate have been open to controversy: to prove that he first made such a claim, these depositions shall be read to you. EVIDENCE.

The very reverse, therefore, has now happened of that which the law ordains; for it is enabled, that, from the Archonship of Euclid, no male or female bastard shall have any right of consanguinity either in civil or sacred matters: but Androcles and Antidorus think themselves entitled to strip the daughters of Eudemon and their sons of their inheritance, and to seize the possessions both of him and of Philoctemon; while this woman, who impaired Eudemon's understanding, and has possessed herself of so vast a sum, has insolence enough, through their persuasion, not only to undervalue her late master's friends, but even to treat the whole city with contempt. A single circumstance which you shall hear, will easily convince you

o£ her lawlefs impudence; but firft let the law be read, THE LAW.

This ordinance, judges, have you fo pkmfly and folemnly made, thinking it of high importance to the ftate, that Ceres and Proferpine, as well as all the other deities, fhould be adored with reverence; but the mother of my adverfaries, who was confeffedly a Have, whofe whole life had been marked with infamy, and who confequently ought neither to have entered the temple, nor to have feen any thing that it contained, had the boldnefs, when divine rites were performed to thefe goddeffes, to accompany the proceffion, to walk into the temple, and to infpeit what it was unlawful for her to fee: the decree of the fenate concerning her proves the truth of my allegations, THE DECREE.

You muft then confider, judges, whether a fon of this woman fhould fucceed to the eftate of Philo&emon, and perform holy ceremonies at his tomb, or the fon of his own filler, whom he had himfelf adopted ; and whether the fifter of Philo&emon, who was married to Choreas, and is now a widow, fhould be at their difpofal, either to be given in marriage to any man, whom they chufe, or to grow old in a ftate of widowhood, or whether fhe ought not, as a legitimate daughter, to be difpofed of by yourfelves as your wifdom fhall dire£: on this point

muft your judgment now be given, for to thte dangerous crifis are my clients reduced by the proteftation. Should thefe confederates fail of fuccefs in the prefent conteft, and fhould the eftate be declared open to controverfy, they may again bring the queftion before you in another action; yet, if a will was made by Philodemon, which he had no power to make, his power ought now to have been difputed ; but, if he undeniably had fuch a right, and the fad only of his having devifed his property be denied, they fhould not have oppofed our claim by this collateral mode of litigation, but fhould have brought the matter in due form to a regular iflue. At prefent, what clearer method can be found of proving this man's teftimony to be falfe, than by interrogating him thus ? "Whence, Androcles, do you know, that Philodemon neither made a will nor adopted Chsereftratus ? For it is reafonable, judges, that a man fhould give evidence of thofe tranfactions of which he was eye witnefs, or he may on fome occafions even repeat what he has heard from others* You have exprefsly averred, that Philodemon never made a will and died childlefs; but how is it poffible, judges, for this to be known by him ? It is the fame, as if he were to aver, that he knows what all of you are doing every day*. This at leaft, audacious as he is, he will not af~

feit, that he was perpetually in Philp&emon's company, and knew every adtion of his life; for of all men living, the deceafed abhorred him moft, both for his general improbity, and becaufe he alone of all his relations confpired with Alee to embezzle the goods of Eu&emon, and a&ed in concert with her in the manner before defcribed.

Above all it muft neceflarily move our indignation, that they fhould fo impudently abufe the name of Eu&emon, the grandfather of Chsereftratus ; for if, as they all edge, Philodtemon had no power to appoint an heir, and if the eftate was Eu&emon's, is it not more juft that his poffeffions fhould be inherited by his daughters, who were indifputably legitimate, and by us, who are their fons, than by men, who bear no relation to him, and who are confuted not only by out* arguments, but alfo by the conduct of thefe provident guardians ? This, judges, I fupplicate and adjure you particularly to remember, as I before related it ; and as you have it in evidence : that Androcles firft declared himfelf their guardian, as if they were the legitimate fons of Eu&emon, and then claimed for his own ufe the property of their fuppofed father: now, in the name of the immortal gods, is it not abominable, judges, that, if thefe men be legitimate, their guardian fhould claim *for him**

felf both their fortune and the daughter of the deceafed Euctemon, as if fhe was the objed of a judicial conteft, and that, if they are illegitimate, he fhould now make an averment of their legitimacy? Thefe are plain contradidions: fo that the falſity of his teftimony has been proved not only by witneffes, but alfo by his own behaviour.

As to Chsereftratus, no man gives him affiftance by protefting that the eftate is not open to litigation; but he defires to proceed in the regular courfe; while this fellow prevents all others from afferting their claims, and, having averred that Eudemon left children begotten in matrimony, imagines that you are to be deluded with impertinent digreffions, believing that, if he wholly omits the material heads of argument, or very flightly touches them, but pours forth his abuſe againſt us with a loud voice, and exclaims that my clients are rich, whilft he is indigent, it will instantly appear to you, that the children were legitimate. Now, my clients, judges, have ſpent a greater part of their fortune in the ſervice of the ſtate, than for their own advantage: feven times has Phanoftratus equipped a galley; he has ſeized all the publick offices, and obtained many honours for the magnificence of his ſhows. Chaereftratus too, when he was very young, furniſhed a veſſel at his own

expence; fince which time he has condu&ed the theatrical entertainments, and prefided over the exercifes at the feftival of Torches. Both of them have brought their contributions among the citizens of the richeft clafs; hitherto they have iferved together, and now the younger of the brothers condu&s the chorus in the tragedies, has been enrolled among the three hundred, and contributes his lhare to defray the publick charges; fo that my friends ought not to be envied; but thefe aflbciates themfelves, I fwear by Jupiter and Apollo, will be far jufter objects of envy, if they obtain what they have no right to claim; for, fhould the fortune of PhilQ&emon be decreed to Chaereftratus, he will difpenfe it liberally for your benefit ; and, as he has hitherto done, or even with greater alacrity, will fuftain every burden, which you fhall impofe upon him; but fhould thefe men be mafters of fuch an eftate, they will begin by diflipating it, and end with claiming again the property of fome other perfon, I therefore entreat you, judges, left you fhould be deceived by thefe confederates, to pay a fcrupulous attention to their proteftation, concerning which you are now to decide ; and command them to make their defence confiftent with that writing, as we have opened our charge in conformity to it; they have there averred, that Philodemon

neither aliened nor detrifed his eftate, which averment has been proved falfe -, for we have ihown that he both made a will and difppofed of his fortune, as thofe, who were prefent at the tranfa&ion, have teftified. What elfe have they afTerted ? That Philoctemon died without children—yet how can a man be faid to have died childlefs, who had adopted his nephew as his fon, to whom the law gives his inheritance as regularly as if he were an immediate defcendant? And it is exprefsly ordained, that, if a man having a fon by adoption, has afterwards another child, both of them fhall equally inherit his poiffeffions. Let him demonftrate, therefore, the legitimacy of thefe children, as each of you can demonftrate his own: for this is not proved by mentioning the mother's name, but "by declaring the truth, by producing the relations, and thofe who know that {he was married to Eudtemon ; by examining the members of the fame borough and ward, if they have at any time heard, or can fay from their own knowledge, that he was at any publick expenfe on her account; by informing you where fhe was buried, where her monument (lands, and where her children, who furvived her, ftill perform facred rites; by fhewing, laftly, who faw fuch rites performed by Euctemon, and who, either among the fervants or among the citizens

in general, knows any of these transactions. All this would be a proof, but mere evidence is none; and, if you compel my antagonist, judges, to prove the very facts, which he has averred to be true, you will make a pious decree according to the laws, and my clients will obtain substantial justice.

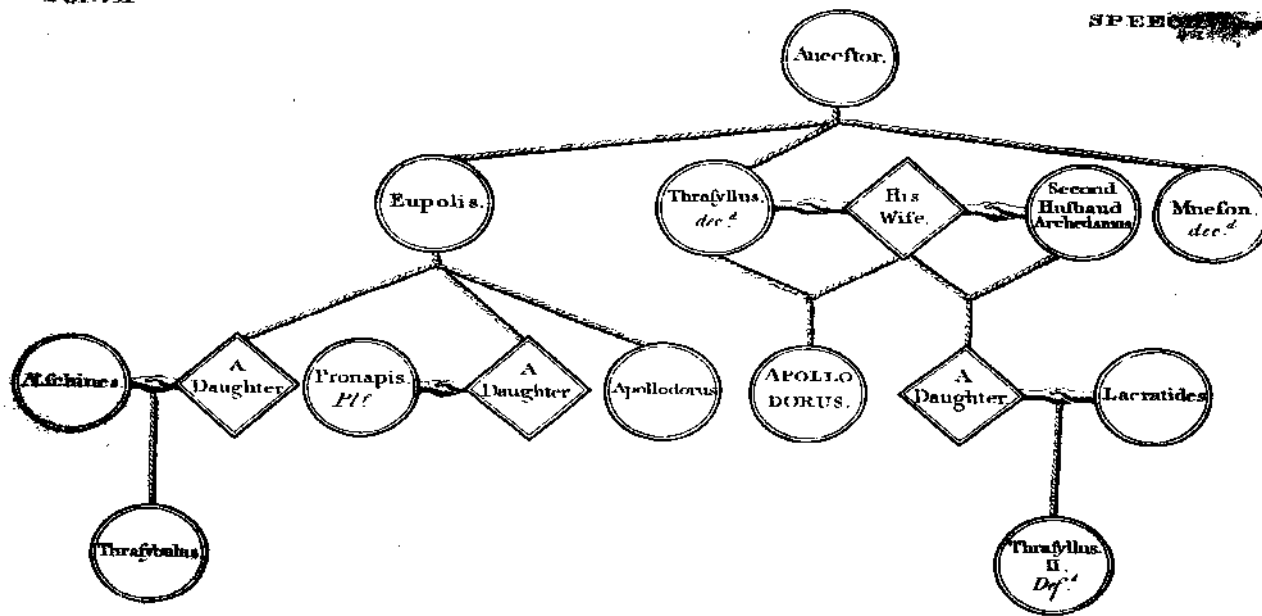
SPEECH THE SIX^{lii}.

ON THE ESTATE OF APOLLODORUS

THE ARGUMENT.

THERE were three brothers, Eupolis, Thrasyllus, and Mneson ; the youngest of whom died without issue: the second left a son named APO^ΛLODOKUS. Eupolis, the surviving brother, was appointed guardian to his nephew, and had two daughters living, one of whom was married to JEschines, the other to Pronapis, the complainant in this cause.

The widow of Thrasyllus married Archedamus, who, perceiving that Apollodorus, his wife's son, was injured by his guardian, assisted him in applying to a court of justice, and obtained redress for him in two actions. This Archedamus had a daughter by the mother of Apollodorus, and that daughter, who married Lacratides, had a son, whom Apollodorus, on the death of his own son, adopted in his-lifetime, and caused to be registered in the books of his kindred and ward by the name of Thrasyllus.



APOLLODORUS died; and Pronapis, ia right of his wife, claimed the estate of the deceased, alledging that Thrasyllus⁴ was not entered in the register according to the true intent of his uncle, but that the adoption was a mere fiction and artifice.

The cause is in the language of the Ancients, conjectural; or, in the dialect of our bar, it is an issue, " Whether Thrasyilua was really adopted by ApoUodorus, or not."

SPEECH THE SIXTH.

Thrafyllus againjl Pronapis.

i DID imagine, judges, that fuch adoptions as were made by a man in his perfect feuiies, who had conduced his adopted fon to the fhrine of his anceftors, had prefented him to his kinfmen, had inferted his name in their common regifter, and had performed in perfon all the ufual ceremonies, were not to be controverted in a court of juftice; but that, if a man, apprehenfive of his approaching end, had bequeathed his eftate to another, had fealed his teftament, and committed it to the care of a friend, the validity of his will might afterwards be juftly difputed; fince by the former mode of alienation the intent of the party is openly manifefted, and the whole tranfa&ion made valid by the law, while the intention of a teftator, being more fecretly and obfcurely exprefled, is liable to fufpicion; whence many have contended againft the claimants under a will, that the inftrument itfelf was forged and void: but I now perceive this diffinftion to be of little avail; for, though my adoption was a fail of general notoriety, yet the daughter of Eupolis with her hufband and

their advocates come to conteft my right to the poffeffions of Apollodorus.

Now had I obferved, that you were better pleafed with the oblique form of a proteftation than with a direft courfe of proceeding, I could have produced witneffes to prove that my right was incontestable; becaufe I am the fon of the deceafed by a regular adoption; but as I am fenfible that the true merits of the caufe cannot be known by this method, I come to inform **you** of the whole tranfa&ion, and fhall thus preclude them from the power of imputing to me an unwillingnefs to meet them on the faireft ground: I will demonstrate then, not only that the many injuries, w^hich Apollodorus had fuffained from his neareft relations, prevented him from leaving his fortune to them, but that he legally and juftly adopted me, who am his nephew, and the fon of his greateft benefactor*

- I entreat you all, judges, to indulge me with a benevolent hearing; and, if I convince you, that thefe affociates have moft audacioufly claimed an eftate to which they have no colour of title, affift me in obtaining juftice: I will fpeak as concilely as I am able, in relating the whole affair from the beginning of it.

Eupolis, judges, Thrafyllus, and Mnefon, had the fame father and mother; and their patrimony, which they divided equally among them-

selves, was so considerable, that each of them
 was appointed by you to fill the most expensive
 offices : two of these brothers perished nearly at
 the same time; Mnefon died in the city, un-
 married and childless; and Thrafyllus, whose
 son Apollodorus afterwards adopted me, fell in
 the Sicilian expedition, in which he had been
 elected to command one of our gallees. The
 surviving brother, Eupolis, seized for his own
 life no small part of the inheritance: he took
 for himself, under the pretence of a legacy, the
 whole of Mnefon's property, one half of which
 belonged to Apollodorus; and so faithful was
 he in his guardianship, that he was condemned
 to refund three talents, of which he had de-
 frauded his nephew. For my grandfather Ar-
 chedamus, who had married the mother of
 Apollodorus, and was grieved to see him stripped
 of all his fortune, took both my grandmother
 with him to his house, where he gave him an
 education, as if he had been his own son, and,
 when he was adult, assisted him in claiming a
 moiety of Mnefon's estate, and all the effects of
 which this careful [truffle](#) had deprived him.
 Thus, having obtained a decree for him in two
 suits, he recovered his whole patrimony; on
 which account Apollodorus retained a violent
 enmity against Eupolis, as long as he lived
 whilst a firm friendship subsisted, as it ought

between him and Archedamus: but from *his* subsequent conduct we may draw the *most* certain conclusion, that Apollodorus was desirous of rewarding his benefactors for the advantages which they had procured him; for, when my grandfather had the misfortune to be made captive by the enemy, Apollodorus contributed largely towards the payment of his ransom, and even gave a hostage for him, till he was able to raise the whole sum; after which, when Archedamus was reduced from affluence to urgent necessity, this truly grateful man undertook the management of his affairs, giving him a competence out of his own fortune. Yet more; when he was going with the army to Corinth, he left his estate by will to his half-sister, whose son I am, and gave her in marriage to Lacratides, who has since been appointed hierophant: such were his kindness and gratitude towards us, who had originally preserved him from ruin. Now that my assertions are true, and that Eupolis was actually cast in two actions, one for his dishonest guardianship, and the other for a moiety of Juvencus's property, in both which causes my grandfather was the adviser and advocate of Apollodorus, who by our means recovered his possessions, and afterwards requited the obligation with such liberality, I will prove by the

in

ON rate ESTATE

cleareft evidence: call the witriefTes hither
WITNESSES.

Such then and fo great were the benefits, which we had conferred on him; but fuch was his hatred of Eupolis, who had attempted to rob him of fo large a fortune, that there was no poffibility of a reconciliation between them, nor can it be alledged that their connexion was ever reftored: of their unalterable antipathy there cannot be a clearer proof, than that Eupolis, who was defcended from the fame common an*ceftor with Apollodorus, and knew him to be a wealthy man, offered him neither of his two daughters in marriage; yet fuch alliances have a natural power to appeafe the animofities, not of relations only, but of any indifferent men, when they intruft each other with the deareft pledges of their affcction: whether Eupolis, therefore, was to blame for not offering his daughter, or Apollodorus for not accepting her, this fad: alone proves the continuance of their diffenfion.

What has already been faid concerning their difagreement, will, I think, be fufficient; for I am perfuaded, that many of the okleft among you recoiled: their difputes and litigation; fince the importance of the cafes, and the two decrees which Archedamus obtained againft Eu-

polls, gave celebrity to the affair: but I request you, judges, to hear with attention the proofs that he adopted me in his lifetime and in person, and that he appointed me successor to his estate, having inscribed my name in the records of his family, and in the public register of his ward.

Apollodorus had a son, whom he both educated and cherished, as it became him; and whom he hoped to leave heir to his fortune; but the boy dying of a feverish illness in the month of December in the last year, his father, depressed by so cruel a misfortune, and despairing at his age of having another child, called to his remembrance that family, from which in his youth he had received a signal obligation; and, going to my mother, his half-sister, for whom he had the tendered regard, he declared his intention to adopt me, and requested her to resign me to him as his son: she granted his request; and so eager was he to execute his resolution, that he carried me instantly to his own house, and intrusted the whole management of it to my care; considering, that he was no longer capable of superintending all his affairs in person, and that I grew continually more and more able to transact them. At the festival of the Thargelia, therefore, he conducted me to the altars among those of the same family's

ward: now it is a rule with them, that whoever introduces to them either his own son, or a son by adoption, must swear by the sacred rites, that the person introduced was born of an Athenian citizen in lawful marriage; when this oath has been taken, the other members of the society determine by ballot whether he shall be admitted; and, if they decide in his favour, he may then, but not before, have his name inscribed in the register: with such exactness are their ordinances and customs observed. This then being their law, the whole assembly, not doubting the veracity of Apollodorus, to whom they had administered the usual oath, and knowing that I was the son of his father, voted unanimously for the enrollment of my name; and thus was I adopted by him in his lifetime, as the law permitted him to adopt me, and registered by the name of Thrasyllus, the son of Apollodorus: read these depositions, which prove the truth of what I have related, DEPOSITIONS.

I supposed therefore, judges, that you would readily give credit to the witnesses, who have sworn, and to his relations, whose behaviour has manifestly declared, that Apollodorus performed the ceremony of my adoption conformably to law; for Eupolis left two daughters; one who was married to Pronapis, and is a claim-

ant in this caufe; and another, the wife of
 ^Efchines the Lufian, who died leaving a fon,
 then of full age, named Thrafybulus: now
 there is a law, that, if a brother by the fame fa-
 ther die childlefs and inteftate, his effe&s fhall
 be divided equally between his furviving fifter,
 and the fon of another filler, who died before
 him; nor were my opponents ignorant of this
 law, as their very conduct has manifefted; for,
 when the fon of Eupolis was dead without chil-
 dren, Thrafybulus took a moiety of his eftate,
 which may be fairly eftimated at five tal-ats*
 Thus the law gives the lifter and the fifter's
 fon an equal fhare of their father's and ther
 brother's fortune; but, when a coufin dies, or
 any kinfman in a remoter degree, the male re-
 lations are called to the fucceffion before the fe-
 male ; for it is enafted, that r-ales and the chil-
 dren of males, if any be living, ihail be pre-
 ferred, although they are lefs nearly related to
 the deceafed. The wife, therefore, of Prona-
 pis ought not to have claimed even a part of this
 inheritance, but Thrafybulus would have con-
 tended for the whole, if he had not thought my
 adoption valid : whereas he neither at the be-
 ginning difputed my title, nor at any time
 fince has claimed the fortune of Apollodorus,
 but confeffes that I was legally appointed his
 fucceffbr; whilft her advocates have attained

fuch a height of impudence, that they have prefumed to claim the whole eftate. Take the laws, which my adverfaries have violated, and read them to the court, FIRST LAW. By this law the furviving fitter and her fitter's fon are entitled to an equal fhare of their brother's property. Now read the other, by which females are excluded in the fucceffion to the fortune of their coufms. SECOND LAW. Read this alfo which enafts, that, if there be no firft nor fecond coufms on the part of the father, thofe on the mother's part fhall fucceed to the eftate according to the rules there exprefied. THIRD LAW.

Such being the law, this- male relation has not even claimed a part of the inheritance, while the hufband of a female has contended in her right for the whole: thus imagining, that mere audacity will avail them, they puff it to any length in this caufe, and alledge, as a reafon for their exorbitant demand, that Thrafybulus was adopted into the houfe of Hippolochides, and emancipated from his own; which I allow to be true, but infill that it is nothing to the purpofe; for how was he lefs entitled to claim this eftate? It was not in right of his father iEfchines, but of his mother, that he fucceeded to half the fortune of Apollodorus, the fon of Eupolisj and by the fame right he would have

ffade a juft claim to the prefent fucceffion, as he was preferred to any female claimant, had he not been convinced, that my adoption was legal and regular; but Thrafybulus is not fo daring: now a title to a maternal eftate is not loft by emancipation, but every man continues to have the fame mother, whether he remain in his father's houfe, or be emancipated \ fo that he was not deprived of his fucceffion to his maternal uncle Apollodorus, but received an equal portion with the furviving daughter of Eupolis, as the witneffes, whom I fhall now call, will prove.

EVIDENCE.

It is apparent then, that not only the men of the fame family and ward bore teftimony to my adoption, but that Thrafybulus himfelf has in faél acknowledged, by not claiming the fortune, that he believed the aft of Apollodorus to be conformable to law, and confequently valid ; for, if that had not been his opinion, he would never have waived his right to fo large an inheritance : of this tranfacttion I can produce other witneffes; W, before my return from the Pythian games, Apollodorus apprized his fellow-burgeffes, that he had appointed me his heir, and had enrolled me among the members of his ward; informing them at the fame time, that he had committed his eftate to my care, and requefting them, if any accident fhould befall

him, to enter me in the publick register by the name of Thrafyllus the son of Apollodorus, and by no other name. When they heard this declaration (though the friends of Pronapis complained in their assembly, and disputed the validity of my adoption, yet) the burgeses, from their own knowledge of the fact, took the accustomed oath, and inserted my name in their register, as Apollodorus had enjoined them, being fully persuaded that my adoption was perfectly legal: call the witnesses to these facts.

WITNESSES. So clear, judges, is the evidence of my adoption, an inveterate enmity having subsisted between the deceased and the family of Eupolis, and the strictest friendship having been maintained between him and us, to whom also he was nearly related: but, had he neither detested them nor loved our family, he would never, as I hope easily to convince you, have left his possessions to my antagonists for all they, who think their end approaching, look forward with a prudent care that their houses may not become desolate, but that there may be some person to attend their funeral rites, and to perform the legal ceremonies at their tombs; if, therefore, they have no children, yet they leave heirs by appointment; nor is this merely the custom of private men, but it is ordained by the publick and common laws, which command the

Archon to provide that families be not extinguished; now Apollodorus was perfectly sensible, that, if he were to leave his estate to these men, he should occasion the desertion of his house. Why so? Because he had seen these two sisters inherit the possessions of Apollodorus their brother, without appointing a successor to him, although they had sons of their own, whom they might have appointed; he had seen their husbands sell the lands and all the effects which they had inherited, to the amount of five talents, which money they divided among themselves, and he had observed the shameful and deplorable defolation of the family. Since then he saw that the memory of a brother was so little revered, how could he have expected, even had friendship subsisted between them, to be treated with due veneration, when he was a cousin only, and not a brother? He could not hope it. Now that they appointed no heir to support the family of that Apollodorus, yet are in possession of his fortune, and have wasted an estate, which was known to supply the expense of equipping galleys, the wretches, who shall next be called, will give ample proof, EVIDENCE.

If such therefore were their dispositions, and so violent was their enmity to Apollodorus, by whom I was adopted, how could he have acted

more wifely than as he did ad ? Should he have taken a child from any of his friends, and left his property to him ? Yet it would have been uncertain even to the parents of that child, by reason of his tender age, whether he would be a virtuous or a worthless man ; but of my good qualities he had received a sufficient specimen; for he well knew, how affectionately I had behaved to my father and mother, how attentively to my friends, how prudently I managed my own affairs, how far removed I had been in my magistracy from injustice or corruption: of all this he was fully convinced, when he committed his possessions to my care; nor was I a stranger to him, but his father's son, nor were the benefits inconsiderable, which we had conferred on him; nor was I lowminded and unambitious enough to alienate his property, as my opponents have alienated the fortune of their brother, but was willing and eager, after his example, to furnish and command your ships, to lead your armies, to conduct your entertainments, to perform whatever you should order. If then I was his kinsman, his friend, and his benefactor, both of an exalted mind and of approved virtue, who can doubt that his adoption of me was the act of a prudent and a grateful man ? Even in this very year I have performed one of those duties, which Apollodorus himself

would have applauded: I prefided over the exercifes in the Promethean games with liberality and magnificence, as the whole tribe know, and as many of them will now teftify. WITNESSES.

Thefe, judges, are the lawful and reaſonable grounds of our preſent claim: we therefore entreat you to affiſt us in fupporting it, for the ſake both of Apollodorus and of his father, whom you will find, if you reflect upon their condud, to have been no ufeleſs citizens, but infpired with all poſſible zeal to promote your intereſt; for his father Thraiyllus not only filled every other expenſive office, but continued, as long as he lived, to command a galley, which was not built by contribution, as many veſſels are now made, but at his own expenſe; nor was he ſecond only in the command, but flood alone; nor did he intermit his duty for two years, as he might have done, but performed it conſtantly ; and not with negligence or in hade, but with the moſt ſplendid preparations; for which noble conduct you approved and honoured him; and, remembering his laudable actions, would not fuffer his ion to be ſtripped of his property, but compelled his falſe guardian to reſtore it. Nor was Apollodorus himſelf like this Pronapis, who, to defraud the publick, pretended that his fortune was ſmall, but taking his rank among thoſe of the equeſtrian order,

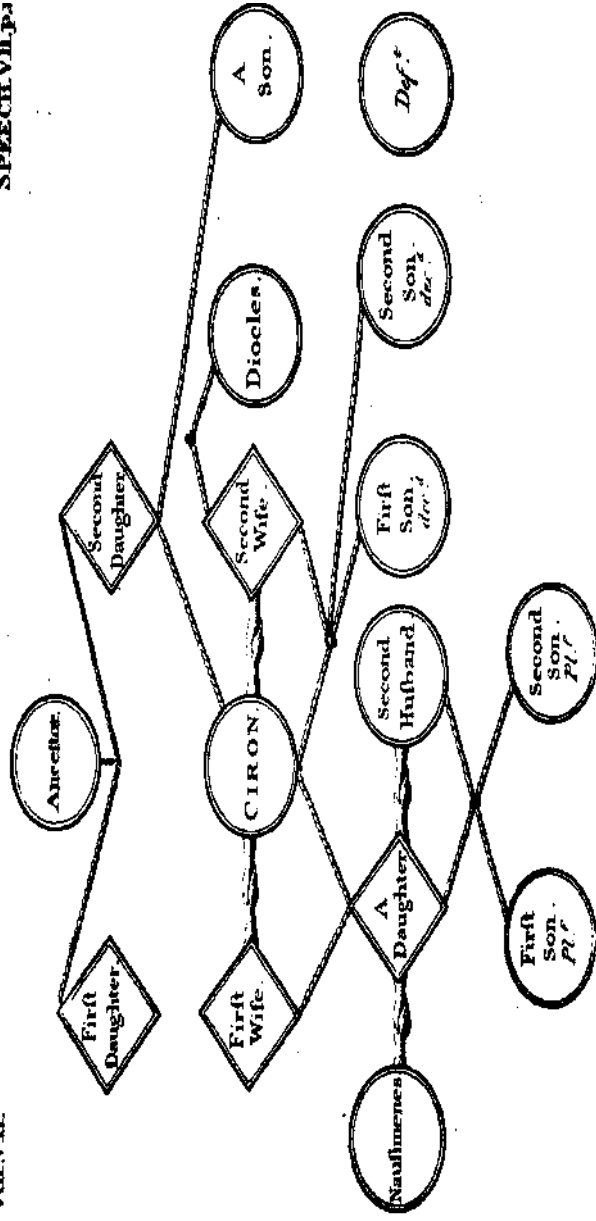
he fuftained the charges of the higheft magiftra*? cies; not endeavouring by violence to take the property of others, and contriving that you fhould reap no advantage from it, but openly declaring the full amount of his eft ate, and bearing with alacrity whatever burden you impofed: thus he li rove to live with'elegance on his own income, without injuring any man; thinking it incumbent on him to be moderate in his private expenfes, that he might be able to dedicate the remainder of his fortune to the fervice of the publick. With this overplus what office did he not completely fill ? What fum was he not the firft to contribute ? In what part of his duty was he deficient ? He obtained the prize in the youthful games, which he conducted; and yonder tripod remains a monument of his liberality on that occafion. What are the duties of a virtuous citizen ? To preferve his own fortune; not, like difiblute and abandoned men, to attack the property of others; and, if the ftate has need of fupplies, to contribute among the firft, without concealing any part of his poffeffions. Such then was Apollodorus; and you will make but a juft return for his ardour iu fervxng you, if you eftablifh his adoption of me •according to his clear intent: nor will you find even me, as far as my youth has qualified me for your fervice, either a bad or an idle citizen;

for I have borne arms in all your expeditions, and continue to obey the commands of my country, as men of my age should obey them. For the sake, therefore, of ApoUodorus and his father, as well as of me and my family, consider our cause with attention; especially as our adversaries have never furnished a single galley, but have dissipated and reduced to nothing an estate of five talents : whereas we have already filled your most chargeable offices, and will again fill them with eagerness, if you effectuate the intention of my uncle, and give me the estate, which he appointed me to inherit. That I may not seem tedious in expatiating longer on these facts, I will descend, as soon as I have succinctly recapitulated to you the several points, on which we rest our respective claim?.

As my own mother was the sister of ApoUodorus, as an intimate friendship subsisted between us, never interrupted by any disagreement, I, whom he adopted as his son, when he was living and in his perfect senses, I, who was enrolled among those of the same family and ward with himself, demand the estate which he gave me, and desire that these men may not have it in their power to extinguish so illustrious a family: but what are the pretensions of Pro-napis ? He first took a moiety of the fortune, which had been left by his wife's brother, and

im ON THE ESTATE OF APOLLODORUS.

now he claims this inheritance, though others are more nearly related to the deceased than his wife can pretend to be: yet he has neither appointed a son to supply the place of his brother, but has suffered his family to become extinct, nor would he have added otherwife with regard to my uncle; and he makes this claim, though Apollodorus had so great an aversion to him, and a reconciliation never afterwards took place between them. This, judges, you will consider; and will also recoiled, that I am the nephew of the deceased, and that the wife of Pronapis is only his cousin: that she has inherited two estates, whilst I succeed to this alone as a son by adoption; that she lately was not well inclined to him, whose property we claim, but that I and my father were his real benefactors. Thus reflecting and reasoning with yourselves, give a sentence agreeable to justice: it would be superfluous to add more; for I am persuaded, that no part of my argument has escaped your attention.



SPEECH THE SEVENTH,
ON THE ESTATE OF CIRON,

THE ARGUMENT.

CIRON being dead without leaving a son, his nephew entered upon his estate; and the clients of Isa; us brought an action to recover it, insisting that they had the better title as grandsons of the deceased by his legitimate daughter: there are two questions in the cause, aa issue of fact, whether the complainants were lawfully descended from Ciron or not; and an issue in law, whether a daughter's or a brother's son has more right to the property of an intestate. The writer of the Greek argument to this speech appears to have mistaken the law of Athens, which will be more fully explained in the commentary.

SPEECH THE SEVENTH,

The Grandfons of Ciron agalnjl his Nephew,

IT is impoffible, judges, to fupprefs our juft indignation, when men are not only bold enough to claim the property of others, but even hope by their fophifms to refine away the found rules of law, as our adverfaries are now attempting to do; for, although my grandfather Ciron died not childlefs, but left me and my brother, the fons of his legitimate daughter, yet thefe men have both claimed his eftate, as his next of kin, and infult us with aflerting that we are not his grandfons, and that he never had a daughter in his life; to this audacity have they been incited by their fordid love of gain[^] and allured by the value of Ciron's eftate, which they violently feized, and now imjultly poffefs; being abfurd enough to alledge that he died in indigence, yet contending at the fame time that they have a right to his fortune. Now I confider myfelf as contending in this caufe, not with the nominal party to the fuit, but with Diocles of Phlya. whok mad violence has procured him the name of Creft.s j for it was he, who firft inftigated

my opponent to give us this trouble, with an intent to deprive us of our fucceffion to the property of our grandfather, and has thus expofed us to danger, that he may not be compelled to feftore the goods which he has embezzled, if he can perfuade you by his falfe allegations to pronounce your decree in his favour. Thefe being their machinations, it is neceffary for you to be informed of the whole tranfaftion, that, when you are fully apprized of every circumftance, you may decide the caufe from your perfect knowledge of it; and, if you have ever attended to any other caufe, hear this, I intreat you, with attention; juftice indeed requires it; for in the many fuits with which Athens abounds, no man will be found to have invaded the poffeffions of another with more impudence and a greater contempt of decency than thefe confederates. It is no eafy talk, judges, for one, wholly void of experience in courts, to enter into a conteft of fo great importance againft the premeditated quibbles of fubtle fpeakers, and againft witneffes prepared to violate the truth; yet I am not without hopes of being reftored to my right by your fentence, and of fpeaking fo far at leaft with tolerable propriety as to fupport my juft demand, unlefs fome fuch misfortune fhould befall me as I cannot even now help fearing: I fupplicate you, therefore,

judges, to hear me with candour, and, if you think me injured, to redress the injury which I have sustained.

First, then, I will convince you, that my mother was the legitimate daughter of Ciron, and will prove by hearsay evidence what happened a long time ago, and by living witnesses what it is still possible for them to remember: to this I will add a number of circumstances, which are often more decisive than the testimony of fallible men; and when I have evinced the truth of this point beyond a doubt, I will demonstrate, that we have a juster claim than our adversaries to the estate of the deceased. I will begin my narrative from that part of the case, whence they also began their argument.

My grandfather Ciron, judges, married his first cousin, the daughter of his mother's father, who bore my mother, and died three years after marriage. Ciron, having this only daughter, took for his second wife the father of Diodes, by whom he had two sons: with her and her children my mother was educated, and, when she attained a proper age, was given by her father in marriage to Naufimenes of Chokrgia, with a fortune of twenty-five minas, together with clothes and ornaments of gold* Three or four years after this, Naufimenes died of a violent disorder, leaving no children by

my mother, whom Ciron received again into his family (but without her entire portion, as her husband had been in distress) and gave her to my father with a fortune of a thousand drachmas* That all these transactions really passed, as I relate them, and fully disprove the false pretences on which our adversaries now insist, I discovered a method of evincing with the utmost clearness; for, whether my mother was, or was not, the daughter of Ciron, whether she made part of his family or not, whether he solemnized her two nuptials, and what fortune he gave with her to each of her husbands, all this must necessarily be known to his servants of both sexes: desiring therefore in addition to the evidence, which I shall adduce, to confirm these facts by an extorted confession, that you might give the greater credit to such witnesses as had previously exhibited a proof of their veracity, I proposed to my antagonists, that the male and female slaves should be questioned on the rack concerning their knowledge of these occurrences; but this very Diodes, who will presently intreat you to believe his witnesses, declined so easy a mode of discovering the truth. If then his refusal to accept my offer, which must be imputed to his fear of so decisive an investigation, be clearly proved, what remains to be thought of his witnesses? No-

tiling, in my opinion, hut that thejr are fore-
fwrn: in proof of this fad, read firft the depo-
sition, which I have brought* DEPOSITION.

Now you are all, I believe, perfuaded, that an
itiquifition by torture, both in publick and pri-
Tate caufes, is the best and fureft mode of in-
veftigating truth; nor, when both free men and
flaves are prefent, and it is expedient to obtain a
difcovery of fads, is it your custom to examine
the free men, but to rack the flaves, and thus
ta extort a true relation of all that has hap-
pened: in this rfcfped you think and ad wifely,
judges; for you well know, that many perfons
examined in the ufual form have given evi-
dence indubitably falfe; but of all thofe, who
have been expofed to torture, none have ever
been convided of falfehood: and will this moft
audacious of men requeft you to believe his
artful pretences, and his witneffes, who fwear
againft truth, when he declines a mode of proof
fo exad and conclufive? Our condud is widely
different; and, as we firft propofed to difcover
the whole tranfadion by the means of torture,
to which propofal we have proved that they
would not consent, we think it reafonable, that
our witneffes fhould be credited. Read next
thefe depofitions, which prove my mother's le-
gitimacy, DEPOSITIONS.

"Whom can we fuppofe acquainted with what

happened fo long ago ? Thofe, na doubt, who were intimate with my grandfather: their-testimony then has been repeated by many who heard them affert the truth of it. Who muft unavoidably know, that my mother was given in marriage ? Thofe, who betrothed her, and thofe who were prefent at the time of the affiance : to this point, therefore, we have adduced the evidence of perfons, who were connected both with my father and with Naufimenes. Who muft be confcious that Ihe was bred in the houfe of Ciron, and that fhe was his legitimate daughter? My adverfaries themfelves have fhown this to be true, by declining the difcovery propofed ; fo that you cannot juftly difbelieve our witneffes, but have great reafon to fufpect the credibility of theirs.

To thefe arguments may be added many circumftances, which prove that our mother was the daughter of Ciron; for, as it became a man to treat the fons of his own daughter, he never made a facrifice without us; but, whether he folemnized the greater feftivals or the lefs, we ywere always prefent and always partook of them; nor were we: invited to thefe only, but he conftantly carried us into the country to the Dionyfian feafts: with him we fate to view the games, and at his houfe we paffed every holiday. Befides, he mod afliduoufly paid his

adorations to Jupiter the Enricher, into whose temple he admitted no flive whatever, nor any freemen who were not of his family, but conducted the whole ceremony himself; yet even of this celebrity were we partakers, performing the holy rites together with him, and affiftng' hirii in the operations of the Sacrifice : he then prayed the deity (as a grandfather wotlld naturally pray) to grant us good health and ample gains 5 for, had he not believed us to be his daughter's children, and the only lineal defendants, whom he was to leave behind him, would he have ftiown us this parental affe&ion, but would have taken for his companion, the man, who now pretends to be his nephew ? The truth of all this muft be accurately known by my grandfather's flaves, whom this man will not fuffer to be interrogated on the rack; but the fame facts were notorious alfo to fome of his intimate friends, whose evidence fhall now be produced ; take their depofitions, and read them to the court, DEPOSITIONS.

Nor from thefe tranfa&ions alone is it mannell, that our mother was the legitimate daughter of Ciron, but alfo from life conduct of our own father, and from die manner in which the herfelf was treated by the women of the fame borough; for, when my father married her, he gave an entertainment, Jo which he invited

three of his acquaintance, besides his particular friends, and presented those of his ward with the nuptial victim, according to their institutions: after this the wives of his fellow-burgesses de&ed her, together with the wife of Diodes the Pithian, to lead the procession, and perform divine rites at the temple of Ceres; and my father, when we were born, introduced us to his ward, having previously sworn, as the law requires, that we were his sons by a citizen of Athens, whom he had legally espoused; nor did a single man of the ward, although many were present who scrupulously examine such matters, say a syllable against our admission, or entertain a doubt of his veracity. Now it cannot be imagined, that if our mother had been what these men falsely pretend, our father would have celebrated his connection with her by a nuptial feast and the usual sacrifice; he would rather have kept the whole affair secret; not would the matrons of his ward have chosen her, 'With the wife of Diodes, to perform their sacred rites, and to preside over the solemnity, but would have given that respectable charge to another; nor would the members of the ward have received us, but would have objected to our admission, and justified their objection, had it not been allowed on all sides, that our mother was Ciron's legitimate daughter; the truth,

indeed, of this fact is now so apparent, and so many persons have a perfect knowledge of it, that it is nowhere disputed. Call up the witnesses, who will prove what I have last asserted.

EVIDENCE.

Yet further, judges; that we are the acknowledged graftdsons of Cifon, the behaviour of Diocles himself, after my grandfather's death, will clearly demonstrate; for I went, accompanied by one of my friends, a cousin of my father, to bring the body to my own house, from which I intended to begin the funeral procession: Diocles was not within; but, when I entered, and was directing the assistants, whom I had brought, to remove the corpse, my grandfather's widow intreated me to begin the funeral from her house, offering to assist us in laying out and embalming the body; He wept and supplicated, judges, till He prevailed; and, meeting Diocles, I told him before witnesses, that, as his sister had requested me, the remains of Chron should be carried to the place of burial from the house in which he died: to this he made no objection, but said that he had brought some things necessary for the funeral, and had given earnest for them; he therefore exacted a promise from me to pay what they cost, and desired me to give him back the earnest, engaging to bring me to those who had received it of him: soon after

indeed he affected to insinuate, that Ciron died insolvent, though I had not then spoken a word about his fortune. Now if he had not known me to be the grandson of Ciron, he would never have made such an agreement with me, but would rather have addressed me thus.—What^x man are you? What concern have you with the burial? I know you not: come not within my doors* This he should then have said himself, which he has now forbidden others to say: nothing however of the kind was even intimated by him, but he requested me to bring him the money on the next morning; and here, to prove the truth of this narrative, let the witnesses be called, EVIDENCE.

Nor was he alone silent on this head; but even the present claimant of the estate advanced nothing in opposition to my right, till he was instigated by this fellow to dispute it; for when I carried the money on the following day, Diocles refused to accept it, alleging that he had received it from my adversary; yet I was not prevented from joining in the funeral rites, but assisted at the whole ceremony; the expenses of which were not borne by my opponent, but were defrayed out of the money which Ciron left: now it would have become him, if the deceased had not been really my grandfather, to have thrust me out, to have expelled me, and to

how hindered me from conducting the burial in conjunction with them. Our situations by this respect were by no means similar; for I permitted him, as the nephew of my grandfather to act in concert with me; but he should not have suffered me to join with him, if that had been true, which they now have the impudence to allege. To such a degree, indeed, was Diodes confounded with the truth of my assertions, when in my funeral oration I accused him by name of an attempt to invade my property, and of inciting my antagonist to make this unjust claim, that he durst not even mutter a syllable against me, much less insinuate what he now so audaciously advances. Call those also who will prove this false, WITNESSES.

What now, in the name of the gods, can induce us to believe what we hear asserted? Is it not the testimony of witnesses? I think it undeniable. How can their evidence be procured? Is it not by the fear of torture? Most assuredly. Why then should you give no credit to the allegations of my adversaries? Is it, because they declined to complete a proof? Yes, beyond a doubt. How is it possible, therefore, to demonstrate more clearly, that my mother was Ciron's legitimate daughter, than by producing hearsay evidence of what happened many years ago, and by giving you the positive testimony of

ffoing witoefles, who know thai fbg was educated in his houfe, was confidered as ftis child, was twice betrothed by him, and twiee given in marriage ; and by fhowing moreover, that they refufe to examine the flayes who had a perfect •knowledge of all thefe tranfa&ions ? The whole of this I have given in evidence; and a more convincing proof, by all the deities of heaven, cannot be produced ; but what has already beea advanced feems fully fufficient to evince the juftice of my demand.

I now proceed to give you entire conviction, that I have by law a greater right than my antagonift to the eftate of Ciron; and it is apparent, I believe, to all of you, that thofe who are defcended only from the fame flock with the deceafed are not more nearly related to him than thofe who are defcended from himfelf: how, indeed, fhould it be fo, when the firft are his collateral kinfmen, and the others his lineal defendants? Since however they are daring enough to argue againft the manifeft reafon of the thing, I will prove my point more diffufely by arguments drawn from the laws themfelves: firft, if my mother, the daughter of Ciron, were ftill living, if her father had died inteftate, and if this man had been his brother inftead of his nephew, he would have a power, indeed, to inarry his daughter; but no man would have a

right to *im* eftate, except her children, to whom the law would give it at the age of fifteen years; if, then, were fhe alive, he would not have been entitled to her fortune, but her fons would have been the lawful heirs, it is evident, that, as fhe died leaving children, they only, not thefe confederates, fhould fucceed to her poffeffions. Nor does this law only confirm my title; but that concerning diftreffed parents eftablifhes the point, for which I contend: had my grandfather been alive and in want of neceffaries, the guilt of fuffering him to continue in diftreff would have been imputed, not to our adverfary, but to us; for the law enjoins us to fupport our parents, by whom are meant our fathers and mothers, grandfathers and grandmothers, and their fathers and mothers, if they are living; fmce, as they are the root and flock of the family, and as their defcendants regularly fucceed to their property, it is juft and natural to maintain them, how little foever they have to leave. Can it then be thought reafonable, that, even if they had had nothing, we fhould have been liable to a profecution for not fupporting them, yet, if they leave a fortune, that thefe men, not we, fhould fucceed to it? By no means.

I will begin, then, with the neareft of a man's collateral relations, and will call for your fejuic-

ments on the comparifon between thai^and his lineal defcendants; for this method will eafily convince you. Who was more nearly related to Ciron, his daughter or his brother? No doubt, his daughter; for ihe defcended immediately from him, but he only derived his defcent from the fame anceftor. Is the brother to be preferred in the order of fucceffion, or the daughter's fons? Her fons indifputably; for theirs is a direft defcent, not a collateral relationfhip: fmce then we are fo far nearer than a brother, we muft have confiderably a better claim than this man, who is only a nephew. But I fear, left, by dwelling too long on a point which cannot fairly be difputed, I fhould tire your patience; for all of you inherit the poffeffions of your fathers, grandfathers, and anceftors of a higher degree, by the uncontrovertible title of a lineal defcent: the cafe is fo clear, that I cannot believe there ever before was fuch a conteft. I fhall therefore conclude this part of my argument, with reading the law concerning the diftrefles of parents; and fhall then explain to you the motives which induced my opponents to harafs me with this caufe, THE LAW.

The property of Ciron, judges, confided of a farm in Phlya well worth a talent, and two houfes in the city, one of which, near the temple of Bacchus in the Marfhes, was occupied by

a tenant and might be fold for twenty minas ; the other, which he inhabited, was worth thirteen : he had, besides, some slaves who worked for his advantage, two female servants and a "girl, together with utensils and household furniture, which, with the slaves, were worth as much as the house^{fc}* His whole real estate may be valued at rather more than a talent and a Jialf; and he had no inconsiderable sum of money out at interest, from which he received a good annual income. Diodes and his sister had long projected to possess themselves of this fortune ; and, as soon as the two sons of Ciron were dead, he did not remove her from the old man (though {he might then have borne children by another husband), fearing lest, if they were separated, he should dispose, as he ought to have done, of his possessions; but persuaded her to continue with him, to pretend that she was enfeint, and afterwards to allege that she had miscarried; for he knew, that, if Ciron could entertain hopes of having other children, he would not adopt either of us. As to my father, Diodes perpetually calumniated him, asserting that he had conspired to seize the property of Ciron: his next step was to defraud my grandfather of all his money, while he pretended to execute the office of receiving his interest, and managing his landed property. Thus.

did he inveigle the old man by adulation and fervility, till he had all his effects within his grasp; yet, well knowing that after Ciron's death I should have a just claim to his fortune, he did not prevent me from attending and conversing with him: he feared, I imagine, the consequences of my repentment at that time; but he has now suborned a man to controvert my right to the succession, and, if he should be victorious, would allow him a small share of the plunder, while he means to secure the whole inheritance for himself; yet, even to this very man, he did not at first acknowledge that Ciron left any estate, but asserted that he died in absolute indigence. As soon as my grandfather was dead, this Diodes made preparations for the funeral; the expense of which, as you have heard from the witnesses, he required me to defray; yet he afterwards refused to accept the money from me, on pretence that he had before received it from my opponent; thus artfully intending to let it appear, that he himself, not I, was preparing to bury the deceased: when, therefore, he raised this controversy, both concerning Ciron's house and his other possessions, yet stupidly insisted, in the same moment, that he had left nothing at all, I thought it an improper time (and the opinion of my friends coincided with mine) to remove the body by force;

but I affifted them, and attended the burial, the charges of which were fupplied out of Ciron's eftate. In this manner was I compelled to aft; but, left it fhould give them an advantage over me, if they could fay with truth that I bore no part of the expenfe, I contributed my fhare, by the advice of a lawyer whom I confulted; and I performed facred rites in the handfomeft manner on the ninth day after the funeral, both that they might be prevented from the impiety of performing them, and might not feem to have expended the whole fum without my participation.

Thefe, judges, are the tranfactions which relate to my caufe, and thefe are the reafons which induced my enemies to attack me; but, were you perfectly acquainted with the flamelefs irapudence of Diodes, you would not hefitate a moment in giving full credit to my whole narrative; for this wretch actually robbed his three half-brothers, who were left heirs to their father, of the fine eftate which makes him now fo fplendid, by pretending that he was the adopted fon of their father, who, in reality, made no will, on purpofe to exclude him; and when thofe who had married two of his brothers commenced a fuit againft him for their fortunes, he fo malignantly entangled the husband of the eldeft in the snares of perverted law, that he

caufed-him unjuftly to be marked with infamy; for which, though an action has been brought againft him, he has not yet fuffered the punifhment he deferves; and, having hired a flave to affaffinate the hulband of the fecond fifter, he privately fent the affaflin out of Attica, and accufed the wife of the murder: then, intimidating her with his audacioufnefs, and compelling her to be filent, he obtained the guardianfhip of her fon by the deceafed, and ftripped him of his property, keeping all the cultivated land in his own poffeffion, and giving his ward by way of compenfation a few ftoney fields. There are perfons now prefent, who know this to be true: they are afraid, indeed, of Diocies; but, perhaps they will be ready to give their evidence; if not, I will produce others, who have an equal knowledge of the facts. Firft, however, call up thofe who are prefent, WITNESSES.

This man then, fo profligate and fo rapacious, who plundered the inheritance of his fifters, is not contented with that plunder; but, becaufe a juft punifhment has not yet overtaken him, he comes to deprive me alfo of my grandfather's eltate, and having, as we are credibly informed, promifed to give my adverfary two minas out of the fpoils, has expofed us to the danger of lofing not our fortune only, but our country; ince, if he can deceive you into a belief, that

our mother was not a cititen of Athens, ;neithef &re we citizens; for we were born after the ar*chonfhip of Euclid. Is this litigation then, which his lies have fet on foot againft me, of trifling confequence? When my grandfather and father were alive, ho charge whatever was brought againft us, and our right was always confidered as indifputable; but fince their death, it will be fome reproach to us, even if we are fuccefsful, that our title was ever difputed; a reproach, for which we may thank this execrable monfter, this frantick Oreftes, who, having *been* caught in adultery, and fuffered the chaf-tifement which he deferved, cannot even now defifi from his crimes, as many, who well know his guilt, can teftify.

The difpofition and character of this fellow you have now partly heard, and lliall hear it more at large when I have brought him to a trial in a profecution, which I meditate: in the mean time, I fuppliate and adjure you, permit him not to triumph over me, by ftripping me of the fortune which my grandfather left; but, as far as each of you is able, give me afliftance. Sufficient evidence has been laid before you: we have read our depofitions, have opened to you what their flaves would infallibly have confeffed, and have produced the laws them-felves j by all which we have proved, that we

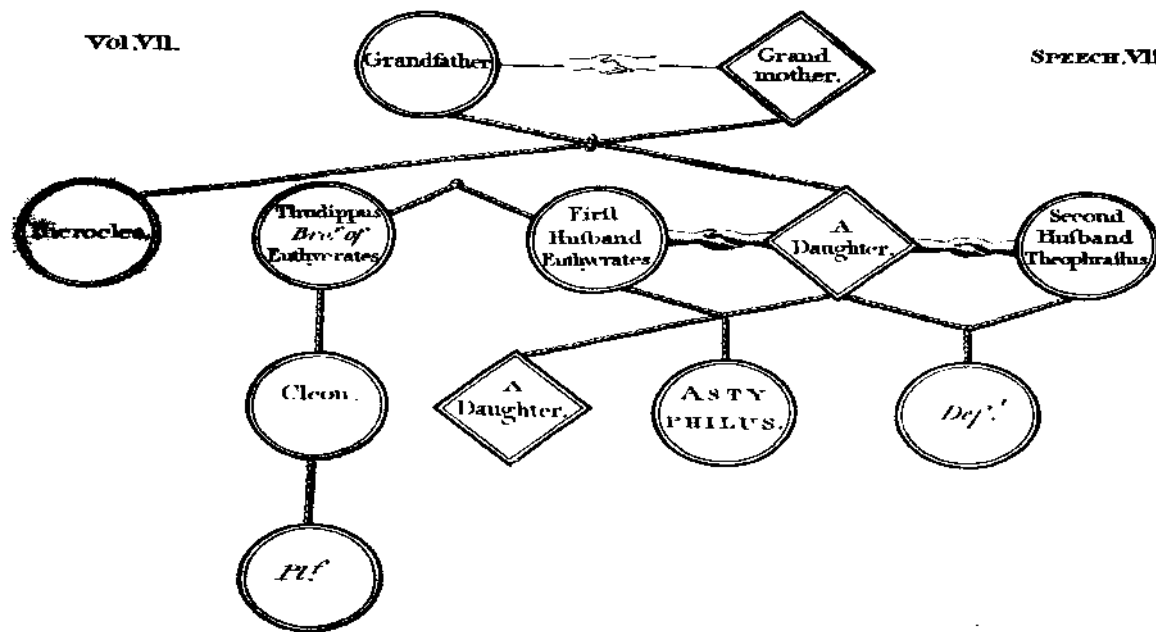
We the fons of Ciron's legitimate daughter and consequently that his eftate comes not to them* but to us, as his lineal defcendants: calling therefore to your remembrance the oaths, by Which you are bound to decide impartially, and the laws, which have been adduced, pronounce your fentence agreeably to juftice. I fee no occafion for a longer argument, as I believe you perfectly comprehend the whole cafe: let the officer, however, read this remaining depofition, that Diodes was taken in adultery, DEPOSITION.

SPEECH THE EIGHTH.

ON THE ESTATE OF ASTYPHILUS.

THE ARGUMENT.

THE mother of the defendant in this cause had a son named ASTYPHILUS, by her first husband Euthykrates, whose nephew Cleon, after the death of Astyphilus, produced a will, by which Cleon's son was appointed to inherit the fortune of the deceased. The client of *Isxm* contends that the will of his half-brother was forged.



SPEECH THE EIGHTH.

The Son of Theophrastus against Cleon.

ASTYPHILUS, for whose estate we contend in this cause, and who was my half-brother, judges, by the same mother, died at Mitylene, whither he had sailed with the army ; and that he never adopted a son, nor ever aliened his estate, or disposed of it by will, so that no man but myself has a right to his possessions, I shall endeavour to prove, agreeably to the oath which I have previously taken. This Cleon, my antagonist, was the first cousin to the deceased by his father's side, and it is his own son, whom he pretends that Astyphilus adopted: now Cleon's father was transferred by emancipation into another house, in which the whole crew of confederates are still resident, so that by law they bear no relation at all to the last possessor of this estate ; but, as there could be no question on this head, they have produced a will, which I shall demonstrate, I think, to be forged, and are now striving, judges, to rob me of my brother's fortune. So confident, indeed, was Cleon (no! has his confidence, it seems, forsaken him)

of his exclusive title to the estate in dispute, that no sooner was Aftyphilus reported to be slain, while my father was confined by illness, and I was bearing arms abroad, than he rushed upon the land and claimed all my brother's effects in right of his son, not waiting, as he ought, for your determination in his favour; yet, when the remains of their cousin were brought to Athens, this fictitious son of his neither laid out the body nor buried it; but some of his friends and fellow-soldiers, considering the malady of my father, and my absence from the city, performed the last honours to the dead by assisting at his funeral rites, and led my sick father to the tomb, well knowing that his piety would be acceptable to the departed spirit; all which facts will be attested by the friends themselves who were present at these ceremonies, WITNESSES. That Aftyphilus was not interred by my opponent, has been given in evidence; nor will he himself deny it.

On my return then from the war, when I found that these associates were enjoying the fruits of my estate, and heard Cleon assert that the will, by which my brother adopted his son, had been left with Hierocles of Hephestia, I went to Hierocles; not ignorant of his close connection with Cleon, but believing that he would hardly dare to speak falsely concerning

the deceafed, efpecially as he was our uncle: yet, when I interrogated him on the fubjeft, he anfwered (regardlefs of thefe confiderations), that the will, which he had received from Aftyphilus, was then in his poffeffion; and here, to prove that he made this anfwer, let a depofition be read, DEPOSITION. Since, therefore, judges, none of my brother's friends were prefent at his death, and fince his body was brought hither in my abfence, it is neceffary for me to convince you, by arguments drawn from their own affertions, that the will which they produce was fabricated by them, and that no will at all was made by Aftyphilus ; for it is reafonable to fuppofe, that, if he had intended to leave an heir by adoption, he would have provided effectually for the fecurity of his appointment, and taken care that his adopted fon fhould not only poffefs his eftate, but have accefs to the fhines of his anceftors, and perform the accuftomed rites both to their ihades and to his own : he muft have been fenfible too, that his intentions would take effect, not if he left a will unattefted by his friends, but if he firft convoked his relations; next, thofe of the fame borough and ward; and laftly, as many of his intimate acquaintance as he could affemble, to attend the execution of fo important an inftrument; for fuch precaution would have made it eafy to refute any perfon

whatever, who might falſely claim the eſtate aſ legatee or as next of kin; but nothing of this fort appears to have been done by Aftyphilus, who called together none of his friends to atteſt this pretended will, as I ſhall prove by the teſtimony of thoſe friends themſelves, unleſs any one of them has been ſuborned by Cleon, to declare that he was ſummoned. EVIDENCE.

Now Cleon will probably contend, that the evidence, juſt given by theſe witneſſes of their entire ignorance that Aftyphilus ever made a will, is not conclufive; but, in my apprehenſion, when the controverſy turns upon the exiſtence of a teſtament and the adoption of a ſon, the declarations of intimate friends, that they were not preſent at a tranſaction of ſo much confequence, ought to have far more weight than the allegations of mere ſtrangers that they were preſent; nor would Cleon himſelf, who was never remarked for limplicity, have neglected to convene any relations of Aftyphilus, who were in the city, or any other perſons whom he knew to be at all conne&ed with him, that they might at tell a will, by which his own ſon was appointed heir to an ellate ; for no man could have prevented the teſtator from diſpoſing as he pleaſed of his own property, and ſuch conduct would have removed the ſuſpicion naturally ariſing from a will made in ſecret. Hall

it been the defign of Aftyphilus, judges, to conceal from all men, that he had appointed the fon of Cleon as his heir, or that he had left any teftimony whatever, it muft be fuppofed, that no witnefs at all would have fubfcribed his name; but, fmce they fhew you the names of witnefs, and thofe not of his acquaintance, but of any ftrangers whom he might happen to meet, it is not poffible to conceive that the will can be genuine \$ for I cannot perfuade myfelf that a man, who was going to nominate an heir, would fummon any witnefs, but fuch as were to be partakers for the future of the fame rights and the fame communion with the perfon to be nominated: the deceafed, however, could have no inducement to keep this tranfaction fecret; for, as the law permits every one to difpofe of his property according to his inclination, no man needs be aftiamed to have fuch an inftrument attested by any number of witnefs.

Now confider, judges, the time when Aftyphilus made, as they alTert, a teftamentary difpofition of his fortune; for they alledge, that he made it when he was at the point of failing with the forces to Mitylene: by this account he muft have had a fingular foreknowledge of events; for he firft ferved at Corinth, next in ThelTaly, and during the whole Theban war; nor did he fail, wherever he heard that an army was raifed,

to offer his service; yet not on one of these occasions did he make a will, but deferred that ceremony till his last expedition to Mitylene, in which he perished. Can it seem credible then to any one among you, that, when Aftyphilus was formerly preparing for his other campaigns, and well knew the danger of them all, he left no directions whatever concerning his affairs, but that, when he was going to fail as a volunteer, in which character he was less exposed to peril, and must have entertained hopes of returning safe, he should then only write his will, and should lose his life in the adventure? Can it be thought credible, that the contingency of events should have corresponded so exactly with his conduct?

Without pursuing this argument farther, I will lay before you, judges, the strongest evidence that the allegations of my adversaries are false; for I will prove that Aftyphilus bore the most violent enmity to Cleon; so violent, that, rather than adopt the son of the man, whom he most detested, he would have ordered in his will, that none of his relations should have the least communication with him; for Thudippus, Cleon's father, having quarrelled with Euthykrates, the father of Aftyphilus, concerning the division of his inheritance, so cruelly beat him, that he expired after languishing for a few days,

and his death was indubitably occasioned by the blows, which he had received : the truth of this can be proved by many of the Araphenians, who were at that time employed in cultivating the adjacent lands; but it is not in my power to call any of them, who will positively accuse Thudippus of so atrocious a crime. As to Hierocles, who saw him strike his brother, I know his unwillingness to give any evidence tending to defeat the will which he now produces, and which, as he alleges, was left in his custody: let him be called, however, that he may either publicly confirm the truth of my assertion, or refuse to be examined, WITNESS.

This, I was perfectly sure, would be his answer; for it is consistent with the conduct of a man, who wishes to persuade you that he knows to be true what in fact never happened, to decline giving evidence of what he really knows to be true: but I will call another witness, who is married to the grandmother of Astyphilus, and who will swear that Euthykrates, just before he died, commanded his friends to prevent any of Thudippus's family from approaching his tomb, EVIDENCE.

When Astyphilus, therefore, heard this sad related in his childhood, both by these witnesses and by his other kinsmen, he determined, as soon as his reason began to dawn, rather to pe-

rith than hold any coiwrftation with Cleon; thinking it impious to converfe with the fon of that m^n, who was accufed of having murdered hi\$ father; that his detcftation of Cleon continued through his whole life, I will prove by the teftimony of witneffes, who know the truth of my aflertion, WITNESSES.

Had it not been for this reafon, it muft be imagined, that whenever Aftyphilus attended thofe feafts, which other Athenians ufually attend, he would have gone to them, accompanied by no man but Cleon, who bore fo near a relation to him, who belonged to the fame borough, and whofefon, above all, he was going to adopt; but the depofition of his fellow-burgeffes, which the officer fhall read* will prove that he never once appeared at the feafts in company with Cleor_f DEPOSITION,

With no better claim to the affection of Aftyphilus, this man has the boldnefs to produce his own fon as heir by appointment to the deceafed j but; why fhould Clcon alone be cenfured? Every Hierocles, our uncle, is audacious enough to come with a will which was never executed, and to aflert that my brother committed it to his care. This condud, Hierocles, is a forry compenfation for the many marks of kindnefs. which you received when your fortune was jflor\$ narrow than at prefent, as well from

Theophrastus my father, as from Antipater himself; for you are attempting to exclude Nicomachus, who am the son of your benefactor and of your own father, from that succession which the law has allotted me, to injure by your false assertion the memory of the dead, and, as far as you can prevail, to give his estate to the man whom he abhorred. Before the inheritance, judges, was even formally claimed, this very Hierocles, who was conscious that none but myself had a right to the estate of Antipater, applied successfully to all the acquaintance of the deceased, offered the whole fortune to sale, and incited entire strangers to set up a title, alledging that he was the uncle of Antipater, and promising, if any one would give him a due share of the plunder, to produce a will of his nephew in favour of his confederate; yet now, when he has concluded his bargain with Cleon, and has contracted for a division of the spoils, he has the confidence to expect that his story will gain credit, and would be ready, I dare say, to forswear himself, if an oath were tendered to him by my adversaries: thus, for the sake of me, who am his kinsman, he would not even give in evidence what was strictly true; but, for the benefit of one who has not a shadow of right, he has not scrupled to propagate lies, and comes with a forged instrument to make you believe

What never happened, thinking the fordid arts of bafe lucre more beneficial to him, than his connexion with me. I will now bring the teftimony of a man, to whom he made an application, and promifed, on condition that he might partake of the inheritance, to contrive a will in his favour, EVIDENCE.

What name then, judges, muft be given to this man, who fo readily, for his own profit, invents a falſity concerning the dead ? This evidence too will abundantly convince you, that he produced this will, not without a compenfation, but for a ftipulated reward. Such are the artifices which they employ in concert againft me, for each of them imagines, that whatever he can filch from the poſſeſſions of Aftyphilus will be clear gain, and as it were a gift of fortune.

Now that the will cannot be genuine, but that Cleon and Hierocles have confpired to delude you, I have proved, as clearly as I am able; and I will proceed to demonſtrate, that even had I borne no relation to the deceaſed, yet our early and uninterrupted friendſhip w^dould have given me a better claim to his inheritance, than Cleon and his fon can produce for themſelves; for when my father Theophrastus took the mother of Aftyphilus in marriage from her brother Hierocles, ſhe brought her infant fon to his

house, where he continued for a number of years, and was educated under my father's care: when, therefore, I was old enough to be capable of receiving instruction, I went with him to the same public school, as you shall hear from our friends, who know this to be true, and from the very matters who intrusted us both, DEPOSITIONS.

I will also prove, that my father cultivated the paternal estate of Aftyphilus, and so considerably improved it by plantation and tillage, that he doubled its value: let the witnesses come up. EVIDENCE.

When my brother then had proved his full age before the magistrate, he received his whole patrimony so justly and regularly, that he never once made the flighty complaint of his guardian: besides, my father had given the daughter of Aftyphilus in marriage to a man whom he highly approved; and this conduct, as well as the pains which he had taken in managing some other affairs, gave complete satisfaction to the young man, who thought that my father, by whom he was educated in his infancy, had afforded him the cleared proof of his care and affection. " The circumstances of his sister's marriage shall be proved by persons who were perfectly acquainted with them, WITNESSES.

Let me add to this, that my father constantly

took Aftyphilus, together with me, to the fhrine* of his family, and even introduced him to the Ceasts of Hercules, as the members of that fraternity will depofe, in order to procure his ad-jniffion into their fociety. EVIDENCE.

Revolve now in your minds, judges, the nature of my conne&ion with Aftyphilus; firft, we wefre bred together from our childhood; and fecondly, there never was the leaft coolnefs between us, but he loved me with conftant affection; as all our common friends and companions, whom I will call before you, will teftify from their own knowledge, WITNESSES.

Can you believe then, judges, that Aftyphilus, to whom Cleon was fo extremely odious, and on whom my father had conferred fuch benefits, would have adopted the fon of his enemy, and given his eftate away from his neareft relations and benefa&tors? I fhould not think it poffible, if Hierocles were to produce ten fuch wills; but fhould infift that I, as his brother and his deareft friend, muft have been the objed of his benevolence, and not the fon of Cleon : thefe men, indeed, have not the leaft pretence for fuggefting that they were entitled to his favour, fince they had no intercourfe with him while he lived, and neglected even to inter his body, but invaded his poffeffions, before juft honours had been performed tp his fhade. Neverthelefs, they

have¹ the audacity to claim his eftate, not only relying on the will, but even fetting up a title as his kinfmen, becaufe Cleon was the fon of his paternal uncle: to this argument, judges, you will pay no attention; for Cleon's father, as you before heard, was adopted by another family, and no man thus emancipated can fucceed to the property, which he has relinquifhed, unlefs he be allowed in due form of law to return into the houfe from which he came: and, as to the pretended adoption of Cleon's fon, the relations of Aftyphilus fo firmly believe it to be a fiction, that they never w^rould admit the boy to their table in the feftival of Apaturia, but always difmiffed him when he came to demand his (hare of the feaft, as I will prove by undoubted evidence, DEPOSITION.

Now, juftly weighing in your minds what each of us has depofed, pronounce a fentence agreeable to truth. Cleon, you find, aflerts, that his fon was adopted by Aftyphilus; and that the will, which he produces, was made by the deceafed: this I abiblutely deny, and alledge that I, who, as they know, am his brother, have a juft claim to the whole inheritance. Beware then, judges, of appointing an heir to Aftyphilus, whom he, when he was alive, would not have appointed ; but let the laws, which yourfelves have cnafted, be your guide in my caufe:

by those very laws am I protected, and request you, judges (nor can any request be more sacred), to establish my right of succession to my brother. I have asserted that he never disposed of his estate, and have confirmed my assertion by unanswerable evidence: assist me then in this distress; and, if Cleon surpasses me in the powers of elocution, let not his talents avail him in defiance of justice and law; but exert your own understandings in the decision of this cause, since for no other end are you assembled, than that the audacious may not reap advantage from their boldness, but that the timid and unexperienced may support their just claims, with a full conviction that your minds are intent upon nothing but the truth. Let your verdict, therefore, judges, be favourable to me; and consider what evils will ensue from your decree in favour of Cleon: first, you will send to the monument, and the shrines of Aftyphilus, those men who were objects of his abhorrence; next, you will disregard the commands of his father, who gave them with his last breath, and will condemn the deceased of consummate folly; (for who that hears such a decree, will not believe, that a man who could adopt the son of his greatest enemy had lost his reason through illness, or that his senses were impaired by poison?) and, lastly, you will suffer me, who was nursed

and educated with my brother, to be stripped of my fortune by this Cleon. I supplicate, therefore, and implore you, judges, to decide the cause in my favour; for thus will you give satisfaction to the departed spirit of Astyphilus, and will defend me from a flagrant injury.

SPEECH THE NINTH.

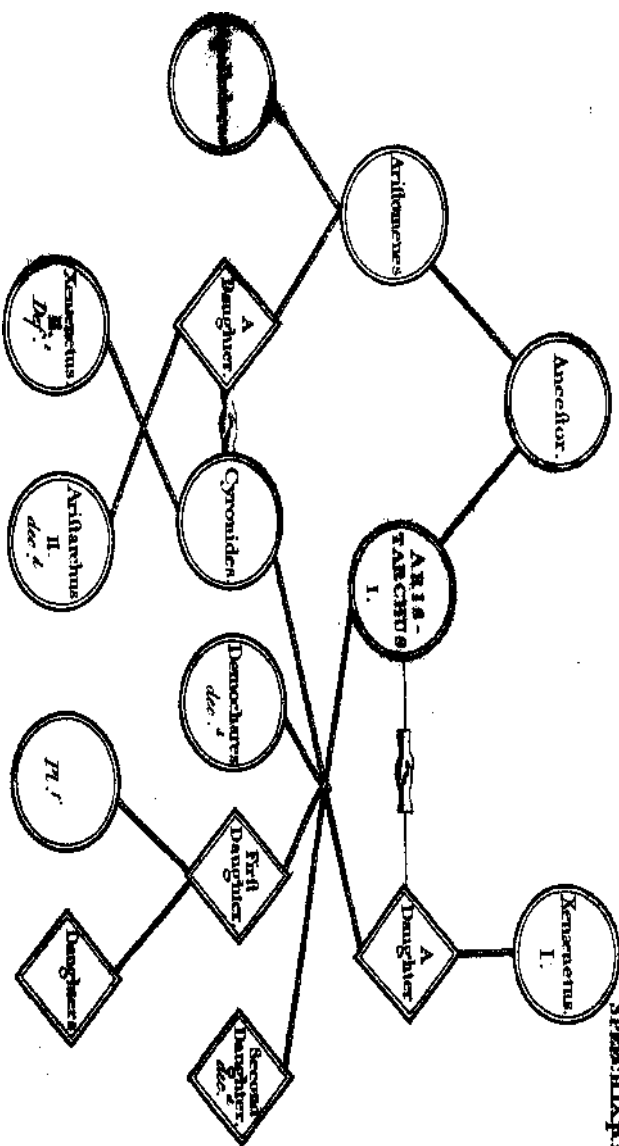
Off *THE ESTATE OF JtOtTWRCBUS.*

THE ARGUMENT.

ARISTARCHUS having two sops, Cyrontdes and Derhochares, and two daughters, one of whom was *the* mother of the complainant, emancipatecy Cyronides, and caused him to be ap-
peitfte^ representative of his nailemal grandfa-
ther XenWpetus : leaving his othelt children ta
inlierit his own estew, Demochares died without
issue, and cfie of his daughters also died child-
less; so thal| the" whole fortune of Aristarchus
came by law t^ttb complainant's mother, who
was the surviving daughter. .' ;

After the death of Aristarchus, hia brothep
Aristomenes, who was lawful guardian to hfs
children, gave his own daughter ia marriage tb
Cyronides, and engaged to support his claim
to all the possessions of his father, by whom
he had been emancipated. Cyronides had a
«on, who was named Aristarchus, and was ad-
mitted by Aristomenes to the house and pro-
perty of his grandfather, as if this had been
conformable to the will of the deceased. This
grandson died young, having by will left the

ΣΗΜΕΙΩΣΕΙΣ



fortune to a brother of his, named Xense-netus.

While these things were transacted, and the younger Xenasnetus possessed the estate of the elder Aristarchus, the son of the surviving daughter before-mentioned brought his bill of complaint, insisting that he alone ought justly to take the inheritance; that Cyronides was wholly excluded by his emancipation; that the deceased, having a legitimate son, Demochares, could not legally have adopted another by his will; and that Demochares himself, being under age, was disabled, as well as his sister who died, from introducing a son by adoption to their father's family: so that the admission of the younger Aristarchus to the possessions of the elder being illegal, the will of the person so admitted was invalid; since he could not transfer to another what he had not legally obtained. ISSEUS contends, therefore, that this last-mentioned will being set aside, the property devolves of course to the complainant, who represents the legitimate daughter of the elder Aristarchus. The speech is argumentative; and the cause turns upon the validity of such a will, and the comparative merits of both claimants.

SPEECH THE NINTH.

T&e Grand/on of Arijlarcbus againjl Xenanetus.

I CANNOT help wifhing, judges, that as this Xenaenetus has been taught to fpeak falſely with confidence, I on my part were able to declare the truth in this caufe with equal boldnefs; for then, I am perfuaded, you would fpeedily determine, whether we are unreaſonable in claiming the fortune in difpute, or they unjuſt in withholding it ſo long from the rightful heirs; but at preſent, judges, the conteſt between us is by no means equal, ſince theſe men have ſuch powers in ſpeaking and ſuch activity in ſoliciting favour, that they have often been employed to manage the cauſes of others; whilſt I, who have been ſo far from acing for other men, that I never before have pleaded even for myſelf, can only reſt my hopes on your attention and indulgence.

I was compelled, judges, when I found it impoſſible to obtain redreſs without litigation, to declare on my examination before the magiſtrate, that my mother was the daughter of Ariftarchus and fifter of Cyronides, and thus to en-

ter her name on the publick tables: nor will this make it less easy for you to decide the cause; for the single point, which must be determined by law, is, Whether Ariftarchus, left his own property to the defendant, or disposed of an estate which he had no right to possess? This is the true question; for the laws permit every one to leave his own as he pleases, but have given no man a power to part with the possessions of another: if therefore you will hear me with benevolence, I will first inform you, that this estate belonged not originally to these associates, but was my mother's patrimony; and will afterwards endeavour to convince you, that Ariftarchus occupied it by no law whatever, but, in violation of every law, conspired with his confederates to injure my mother. I will begin my narration from that period, whence you will be able to form the clearest conception of the whole case.

Ariftarchus, judges, of Syppalletus married a daughter of Xensenetus the Acharnean, and by her had two sons, Cyroiiides and Demochares, with as many daughters, one of whom was my mother: now Cyronides, the father of the defendant, and of the other Ariftarchus, who wrongfully kept possession of this estate, was received by adoption into another family, and consequently waived all right to the fortune of

that house, from which he was emancipated. On the death of old Ariftarchus, his son Demochares inherited his possessions; but, he and his other filler dying without issue, my mother became sole heiress of the family estate; yet, although her nearest relation ought to have married her and defended her property, she was treated on that occasion, judges, with extreme iniquity; for, Ariftomenes the brother of Ariftarchus, having a son and a daughter, and having the option either to take my mother himself, or to cause her by an adjudication of the court to be wedded to his son, did neither one nor the other, but gave his own daughter, together with my mother's whole fortune, to Cyronides, of whom this Xensenetus and Ariftarchus, now deceased, were the sons. After this he was pleased to give my mother in marriage to my father; and, Cyronides dying, the brother of Xensenetus was let into possession as the adopted son of the elder Ariftarchus, whose name he bore: now that such conduct can be justified by no law, I will prove to you, judges, by many decisive arguments; and, first, I will produce evidence, that Cyronides was emancipated and adopted into the family of old Xensenetus, in whose house he died; next, that Ariftarchus, the first purchaser of this estate, died before his son Demochares; that Demochares and his younger sister both

died infants; and, by consequence, that the inheritance came legally to my mother. Call up the witnesses. EVIDENCE.

This is our title, judges, to the estate in question; for, Cyronides being adopted into the family of Xenaenetus, it descended from Aristarchus to his second son Demochares, and from him to my mother, who was one of his sisters: but, since they set no limits to their audacity, and presume to claim our property without any colour of justice, it is necessary to convince you, that the younger Aristarchus was admitted to the ward of the elder by no legal course whatever; for, when you are apprized of this, you will clearly apprehend, that no man can lawfully devise an estate, which he unlawfully possessed.

None of you, I believe, can be ignorant, that testamentary adoptions are legal only when the testator has expressly appointed and nominated the person adopted: now, if any one should say, that Aristarchus made such an appointment, he would speak untruly; for, while Demochares, his legitimate son, was living, he neither could have the inclination, nor would he by law have the power, to adopt another; or, if they assert, that, after the death of Aristarchus, such an adoption was made by Demochares, they will

again ipeak falfely; for an infant is not permitted to make a will, the law exprefsly ordaining that neither an infant nor a woman {hall do an a£ for the difpofal of a fum exceeding the price of one bufhel of barley; but it has been proved, that Ariftarchus died before his fon Demochares, and that he too died not long after; fo that even on a fuppofition of their having made their wills, which they never did make, it would not have been lawful for the younger Ariftarchus to inherit thefe poffeffions. Read the laws, by which both the father and the fon are forbidden, in fimilar circumftances, to difpofe by will of their eftates. THE LAWS.

It is then apparent, judges, that Cyronides had no power to appoint an heir to his father; he might indeed, if he had left a fon of his own in the houfe of Xenasnetus, have returned to his father's family; but, if they aflert that he did return to it, they will fpeak againft truth. Thus, if they infift that any third perfon appointed the deceafed as heir to his grandfather, fuch an appointment would have been illegal; and if they urge, that his grandfather himfelf adopted him, they will not be able to produce any law by which fuch an adoption can be juftified; but, not to expatiate on what they may probably alledge, it will appear **ftill more glar-**

ingly to you from what they actually do allege, that they are in possession of my mother's inheritance against law and against decency.

It is certain, that neither Ariftomenes, nor his son Apollodorus, to one of whom my mother should have been given in marriage, had any such right as that for which they contend; for it would be strange, when neither of those men, had my mother been married to one of them, could legally have disposed of her estate (since the law gives the fortune of an heiress to her sons in the second year after their age of puberty) if yet, when they disposed of her to another, they might nominate an heir to her possessions: harsh and absurd, indeed, would be such a construction of the law. Yet more, her own father, even had there been no male children, could not have left his estate without her; for the law permits a man, who has no sons, to devise his property to whom he pleases, provided that the devisee take his daughter in marriage. And shall a man, who neither thought proper to marry her himself, nor bore any nearer relation to her than that of cousin, be allowed, in defiance of all laws, to appoint an heir to her fortune? Can such an appointment be valid? who among you can persuade himself of its validity? For my own part, judges, I am fully

convinced, that neither Xenaenetus, nor any other mortal[^] can difprove my mother's right to this eftate, which defcended to her from her brother Democharqs; but, if they have the confidence to infift upon that point, command them to prodijce the law, by which the adoption of Ariftarchus can be fupported, and to declare who adopted him: this at leaft will be juft; but I well know that they can produce no fuch Jaw.

Now that the property in difpute was my mother's at firft, and that Ihe was unjuftly deprived of it by thefe plunderers, has been, I think, fufficiently demonftrated by the arguments which have been adduced, the evidence which has been laid before you, and the laws which you have heard: indeed the confederates themfelves ap[^]pear fo perfeftiy confcious of their wrongful intrufion, that they reft not their argument folety upon the legality of Ariftarchus's admiffion to the ward of his grandfather, but add, that his father had a lien upon the eftate for expenfes incurred by him in defending a fuit concerning it; fo that, if their claim fhould be proved unjuft on the firft ground, they may feem on the fecond at leaft to have juftice pn their fide. Yet that there is no truth, judges, in this after-{ion, I will convince you by the ftrongeft argu-

ments; for, had the fortune been really incumbered, as they ailedge, they would not have disbursed their money to pay the debt: it was not in fad their bufmefs; but thofe, who might have demanded my mother in marriage, fhould have deliberated on that affair; nor would they have appointed Ariftarchus to fuch an inheritance, from which they could have received no kind of benefit, but muft have fuftained a confiderable lofs. Moft people, indeed, when their circumftances are diftreffed, ufually emancipate their fons, and remove them to fome other family, that they may efcape the ignominy of their father's misfortune; and did thefe men difengage themfelves from their own families, and pafs by adoption into a houfe burdened with debts, that they might lofe even what before belonged to them? It cannot be: no; the eftate was clear from incumbrances, and defcended regularly to my mother; but my adverfaries, Eager for gain, have injured her, and invented thefe palpable lies to cover their iniquity.

Some one among you, judges, may be furprized, when he refle&s on the time, which we fuffered to elapfe, fince we were difpoffeffed of this eftate, without aflerting our right to it in a fp[^]rt of judicature, and may afk why after fuch

an interval we are at length induced to fet up
otir title: now, though I cannot but think it un-
juft, that any man fhould lofe his property, if
either through inability or negled he has omitted
to make his claim (for the time is not to be con-
sidered, but the juftice of his demand), yet even
for this delay, judges, we can aflign a very rea-
fbnable caufe; for my father, having engaged
timfelf to my mother, married her with a por-
tion, and thus waived her right as heirefs; while
theſe men, therefore, enjoyed the fruits of her
eftate, it was not in his power to commence a
fuit; and when at my mother's requelt he called
them to account, they threatened to have her ad-
judged to them, unlefs he would be fatisfied to
take her with the portion; but, rather than be
deprived of her, my father would have permitted
them to poſſeſs an eftate of twice the value, and
for this reaſon he negle&ed to prefer his com-
plaint againft them. After this came the Co-
rinthian war, in which both he and I were
obliged to enter the field, ſo that neither of us
was able to attend a court; and when peace
was concluded, I had the misfortune of being a
debtor to the public revenue; nor would it then
have been eaſy for me to have contended with
ſuch antagoniſts: ſo juſt are our excuſes for
this delay; but it is now expedient, that my

opponents should declare, by whose gift Aristarchus possessed the estate, by virtue of what law he was admitted into his grandfather's ward, and for what reason my mother was not sole heiress of all his possessions. These are the questions which your suffrages must decide ; not, whether we asserted our title a little later than the usual time; and, if they are unable to disprove our right, you cannot with justice avoid pronouncing a sentence in our favour: that they will be unable to disprove it, I am firmly persuaded; for it is not easy for them to contend against both law and reason; but they will endeavour to move your pity, by telling you in a mournful strain, that Aristarchus was a brave man and perished in battle, whence they will take occasion to insist on the cruelty of setting aside his testament. I too, judges, am perfectly sensible, that, if any man disposes by will of his own, such will ought to be binding; but that no disposition of another man's property ought in like manner to be substantiated : now this fortune appears to have been ours, not the testator's; so that, if they have recourse to this argument, and bring evidence of Aristarchus's will, oblige them to {how, as justice requires, that he legally devised his own ; for it would be the hardest thing imaginable, if Cyronides, and those who claim by descent from him, should not only have inhe-

rited an eftate of above four talents from old Xensenetus, but fhould alfo feize this additional inheritance, whilft I, who am defcended from the fame common anceftor with Cyronides, am deprived of my mother's fortune, to which fhe had an indifputable right, efpecially when they cannot fhew in themfelves even a colourable title: yet, as every poffeffbr of an eftate, whofe right is contefted, muft declare who was the mortgagor or vendor of it, or prove that he recovered it by a decree of the court, fo fhould thefe men, judges, have entitled themfelves to your verdict, by fhewing in what manner their right accrued, and not by ejecting my mother before any trial from her paternal inheritance.

I fufped indeed, that this Xensenetus is not fatisfied with having lavifhed the wealth of Ariftomenes in his unnatural exceffes, but wifhes to ipend my fortune alfo with the fame difgraceful profufion; whilft I, judges, with a contracted ineome, having given my filler in marriage with as large a portion as I could afford; and, confcious of having conducted myfelf with decency, complied with the laws of my country, and ferved in its wars, have applied to this tribunal, that I may not be wholly ftripped of my poffeffions.

To recapitulate the whole: I have proved that Cyronides, the father of thefe men, was

emancipated and removed into another family, from which he never returned, that the father of Cyronides and of my mother let this eftate descend to his fon Demochares, and that, he dying childlefs, it devolved upon my mother.

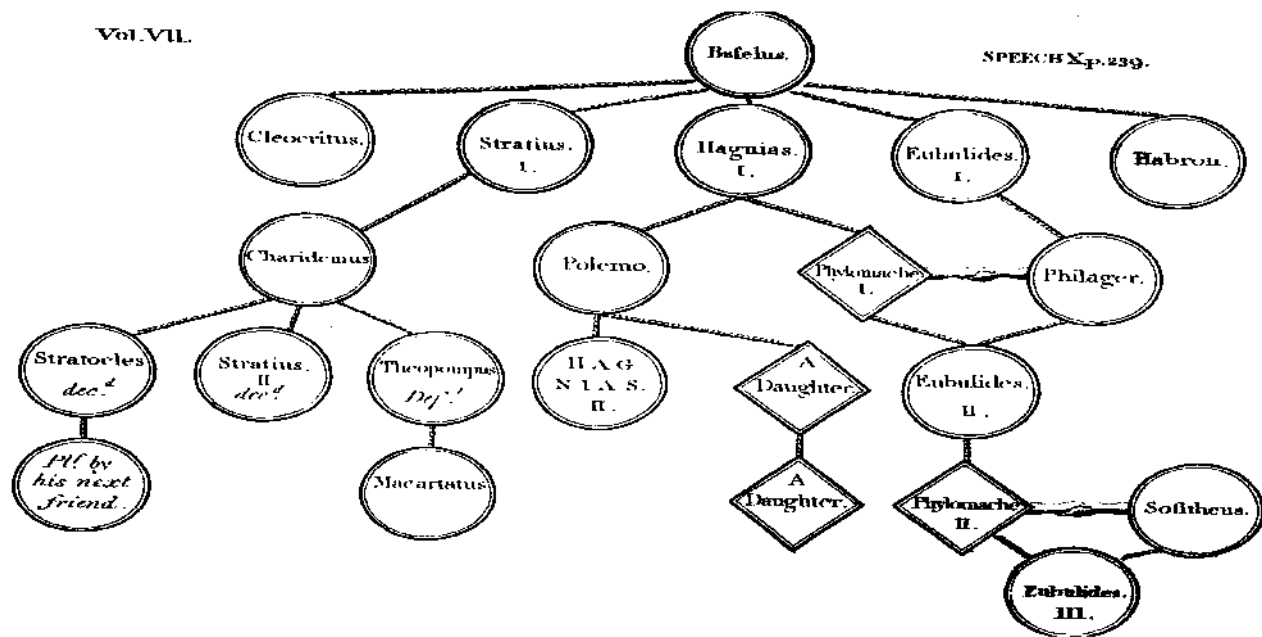
»EECH THE TENTU

INT T/fe ESTATE OF HAG NIAS*

THE ARGUMENT.

AN attentive inspection of the annexed pedigree will give a clearer idea of this interesting cause, than can be conveyed by words: it will there be seen that Stratius and the elder Hagnias were brothers, Charidemus and Polemo first cousins; and that HAGNIAS, whose estate is in question, was second cousin both to Stratocles, whose son is the complainant, and to Theopompus, whom Isseus defends.

On the death of HAGNIAS, first his niece, and then his half-brother Glauco, took possession of his effects, on pretence that the deceased had left them by will to his niece, with a remainder to Glauco; but Philomache, the daughter of his cousin Eubulides, proved the will to be forged, and obtained a decree for the estate. Theopompus then disputed the title of Philomache, and the former decree was reversed in his favour; but the son of Stratocles, who was in ward to Theopompus, claimed a moiety of the estate, alledging, that he had an equal right with his uncle. This was not a private suit, but a public prosecution, or information, against a guardian for injuring his ward.



SPEECH THE TENTH.

T/jeopompus agahijl the Son of- Strafocks.

X BEGIN my defence, judges, with a recital of the laws, becaufe my adverfary has falſely contended that, by the firſt of them, the fon of Stratocles has a juſt claim to a moiety of this eſtate which was left by my ſecond couſin Hag-nias. You will obſerve that, when a man dies inteſtate and childleſs, the law firſt calls to the ſucceſſion the brothers of the deceaſed, if he haſ any by the ſame father, and the children of thoſe brothers, for they are related to him in the neareſt degree; if he had no brothers, his ſiſters by the ſame father, and their children, are his ſucceſſors; on failure of theſe alſo, thoſe in the third degree are called, and they are the firſt and ſecond couſins of the deceaſed by the father's ſide: if theſe too fail, the law returns to the firſt degree, and gives the inheritance to the brothers or ſiſters by the ſame mother, and to the other kinfmen on the maternal ſide, in order as thoſe on the paternal ſide would have inherited. The legiſlator preſcribes theſe rules of ſucceſſion, and limits theſe degrees in terms

more concise than those which I use; but his intention is clearly the same: now this boy is not related to Hagnias in one of these degrees, but is wholly excluded; and, that you may form a distinct idea of the point which you must decide, let my antagonist show, without superfluous words, in which of the degrees just mentioned the boy is related to the last owner of this estate; for, if he can prove his relationship in any one of them, I willingly allow that half of the inheritance belongs to him; but, if nothing of this kind can be shown, will he not clearly convict himself of having calumniated me, and attempted to delude you in defiance of the law? I will, therefore, bring him up to your tribunal, and interrogate him, as the heads of the law are read by the officer; for thus will you soon be informed, whether, or no, this youth has any claim to the fortune of Hagnias.

Come, thou who art so skillful in accusing others, and in perverting the laws; and do you (*to the clerk*) take the law and read, THE LAW.

There stop.—Now let me propose a few questions to my adversary: Is the boy, whom you support, the brother of Hagnias? No.—Or his nephew either by his brother or his sister? No.—Or his first or second cousin either on his father's side or on his mother's? In which of those degrees, I say, that are legally called to the

fucceflion, was he related to the deceafed ?—Answer me not that he is my nephew; for my eftate is not now in difpute, as I am living; but had I died childlefs, and had there been a ftiit concerning my property, then would fuch an anfwer have been proper. You now pretend, that the fon of Stratocles has a right to a moiety of this eftate ; it is therefore incumbent on you to name the degree, in which the claimant was related to Hagnias. His answers, judges, are foreign to the purpofe, and apply to 'every thing but that which you wifh to know: yet a man, who intends to do juftice, ought not to hefitate, but to fpeak direcdly, and not only to anfwer with candour, but upon oath, and to produce evidence of the fact which he aflerts, that you may the more readily believe his alTertion; but now fo fhamelefs is his impudence, that, without giving one explicit anfwer, without calling a fingle witnefs, without taking an oath, without citing any laws, he has hopes of perfuading you to convid: me, againft all law, in a caufe which you are lworn to decide according to the laws of your country. In this moft iniquitous way of proceeding I will by no means imitate him, but will openly evince my relation to the deceafed, will explain the grounds on which I claim his eftate, and will demonstrate to your general fatisfaction, that both this

boy, and all those who have before contended against me for the same property, are utterly excluded from the limits of succession: but it will be necessary to relate from the beginning what has happened in our family, that you may distinctly perceive the weakness of their claim, and the solidity of mine.

Myself and Hagnias, judges, and Eubulides, and Stratocles, and Stratius, whose father was the mother of Hagnias, were the children of three first cousins; for our fathers were the sons of as many brothers: now Hagnias, when he was preparing to embark on an embassy concerning some affairs of great advantage to the state, made his will, in which, instead of leaving his fortune, in case of any accident, to us his nearest relations, he appointed his niece to be his heiress, and ordered that, on her decease, his estate should go to Glauco, his half-brother. Some time after his death, both Eubulides died, and the niece whom Hagnias had adopted; upon which Glauco took possession of the inheritance by virtue of the limitation to him; nor did we then conceive it just to contest the validity of the will, but candidly acquiesced in it, and thought that the intention of the deceased ought to be effectuated: yet Phylomache, the daughter of Eubulides, assisted by her confederates, seized the estate, and by Reprize ob-

tained a sentence in her favour against the claimants under the will, although (he was not in the regular line of succession; but (he hoped, it seems, that we would not oppose her, as we had not disputed the testament of Hagnias: we, however (I mean Stratius and Stratocles and myself) perceiving that the inheritance was now open to the next of kin, were preparing to institute a suit: but, before our claim could be regularly and formally made, both Stratocles and Stratius died, leaving me the only surviving second cousin of Hagnias, to whom the law gives the right of succession, after the death of all those who stood in the same degree of consanguinity. Who will prove to you, that I am thus entitled to the estate, and that the children of my brothers, of whom this boy is one, are entirely excluded? The law itself; for it is confessed on all sides that the inheritance goes to the second cousins on the father's side, but whether it can descend to the children of those cousins, is now to be considered. Take the law, and read it to the jury, THE LAW. *But if there be no kinsmen on the father's side so near as the second cousins, then let those on the mother's side succeed to the estate in the same order.*

You must remark, judges, that the legislator hath not said, *if there be no nearer kinsmen on the father's side*, let the children of the second cou-

fins have the eftate, but has given it, on failure of relations in the fame degree with my brother and me, to thofe on the maternal fide, to the brothers or fifters and their children, and fo to the reft, as it has been before obferved, whilft our children are completely barred from claiming any fhare: fince then, had I been dead, the law would not have called them to the fucceffion, how can they conceive, that, whilft I am living and legally poffeffed of the property, they can have any title to the inheritance? It cannot be: fince the others, therefore, whofe fathers were in the fame decree with me, have not the fhadow of a title, no more has this boy, whofe father Stratocles was my brother. Tt is then mod abominably iniquitous in my adversaries, when the laws have fo explicitly given me the fucceffion, and fo manifeltly excluded all others, to load me with calumny; and, when I put in my claim, neither to controvert my right, nor to give pledges of proving their own (although that was the time for contending with me, had juftice been on their fide): but now to harafs me in the boy's name, and expofe me by a publick profecution to the greateft of all dangers, and, without accusing me of having embezzled the property, which belongs confefledly to my ward, and which, if I had unjuftly or dilhoneftly lavifhed, as they have done, I fhould

have deferved this rigour; without pretending, I fay, to bring any fuch charge, to attack me with fo much violence for an eftate, which you, judges, having permitted any one who pleaded to litigate my claim, decided folemnly to be mine, is an excefs of audacious iniquity.

What has already been urged, judges, has, I believe, convinced you, that I neither injure this boy in any refpect, nor am in the leaft degree guilty of the crimes which they impute to me; but I think you will be able to form a more accurate judgement, when you have heard in what manner I claimed this eftate, and for what reasons my claim was determined to be juft. At the time, judges, when I began the fuit, neither did my prefent accufer think proper to give pledges of fupporting the title of this youth, nor had the children of Stratius, who ftand in the lame degree with him, any idea of oppoing me, but all imagined that my right was on no pretence to be difputed; nor would this very man have now molefted me, if I had fuffered him to perfift in plundering the boy's effects at his pleafure, and had not given a timely check to his rapacioufnefs: this part then of the family, as I juft informed you, being perfuaded that they were not in the order of fucceffion, remained inactivity; but the agents of Phylomache, the daughter of Eubulides, who was in an

etjua! degree with the fon of Stratius, together with thofe to whofe care the mother of Hagnias was committed, had the boldnefs to contend with me; yet fo uncertain were they what title to (ct forth in their bill of complaint, that Phylomache, who was in poffeffion of the eftate, and the advocates, who fupported her claim, not daring to difclofe the truth, and having afserted a palpable falſity, were eaſily confuted by me; while the fupporters of Hagnias's mother, who, being the fifter of Stratius, was in the fame degree with myſelf, but was excluded by the law, which gives a preference to males, waived that part of her pretended title, and, thinking to overpower me with their arguments, infifted that ſhe was the mother of the deceaſed; a relation, I admit, the neareſt of all by nature, but not recognifed by law among the degrees of ſucceſſion: having therefore proved myſelf to be a ſecond couſin, and having ſhown the claims of theſe two women to be groundleſs, I obtained your decree j nor did it avail the firſt of them to have triumphed over thoſe who relied on the will, nor the ſecond, to have given birth to the Jaſt poſſeſſor of the eftate; but fo high a value did the juries ſet both on their oaths and on juſtice, that they eſtabliſhed by their ſuffrages the legality of my title. If then I prevailed in this manner againſt theſe female claimants, by

demonstrating that they could not legally succeed, if this false accuser durst not at that time claim a moiety of the inheritance for the son of Stratocles, if the children of Stratius, who stand on the same ground with him, do not even now think it just to contest my right, if I am in possession of the lands and money by virtue of your Sentence, and if I prove that my adversary cannot now show in what legal degree the boy was related to Hagnias, what else, judges, have you to learn? What further can you desire to hear in this cause? I persuade myself, that what has been said will be fully sufficient for men of your solid understanding. Yet this calumniator, who scruples not to circulate whatever his malignity can suggest, and flatters himself that his iniquity will continue uncensured, had the confidence to accuse me of many bad actions (for which defamation I shall, perhaps, call him to account), and particularly of having made a bargain with Stratocles, when we were preparing our suit, concerning a partition of the inheritance; a bargain which we alone, of all persons who were going to law, could not possibly have made: the daughter of Eubulides, indeed, and the mother of Hagnias, who claimed by two distinct titles, might have agreed, when they thought proper to oppose me, that whoever was successful should resign a share to the other, for a separate

urn was placed on the ballot for each of them; but our case was totally different; for as our title was precisely the same, although each of us claimed a moiety, a single urn would have served for us both, so that it was impossible for one to succeed and the other to fail, since the danger was common to both of us: no agreement then of this nature could have been made by us ; but, when Stratocles, before we had put in our respective claims, was prevented by death from prosecuting his suit, and his son was disabled by the law from renewing it, so that the whole succession devolved upon me as left in order, and it became necessary to evince the wrongful possessors of the estate, my accuser invented this idle calumny, expecting easily to delude you by his false pretences. That no such compact, indeed, could have been made to any purpose, but that the fixed and regular course of proceeding wholly prevented it, the law itself will evince; which take and read to the court, THE LAW. Does this law seem to have put it in our power to make such a compromise? Does it not render it impracticable, even if an agreement had been idly formed, by ordaining expressly that each party litigant shall sue for his distinct portion, but that a single urn shall serve for those who claim under the same title, and that all such causes shall be concluded in a

fimilar manner? Yet has this man, not regarding the pofitive dire&ibn of the law, not confrdering the impoffibility of fuch a fcheme, had the boldnefs to make this heavy charge againft jne without either truth or reafon; nor has he been contented with this, but lias afferted the moft inconfiftent things imaginable, to which, judges, I requeft your ferious attention.

He avers, that I engaged to give the boy a moiety of the eftate, if I prevailed over thofe who were in poffeffion of it; yet, if he had a right to fuch a portion, by nearnefs of blood, as my adverfary pretends, what occafion was there for fuch a promife on my part? If they fpeak truly, he had an equal power with me of exhibiting a bill for his moiety; and, if he had no kind of title as next of kin, what could poffibly have induced me to make fuch an engagement, when the law clearly gave me the whole eftate? Could not I have put in my claim without obtaining their confent? This they cannot fay; for the law permits any man to claim a vacant inheritance. Had they any evidence then of my title, by fuppreffing which they might have prevented a decree in my favour? No fuch evidence was neceffary, as I claimed by defcent and not under a will. If it was iinpoiffible, therefore, for Stratocles, while he lived, to make any comproaiife with me, if he could not leave any part of thefe ef-

fed to his fon, as he had no decree, and the property never veiled in him, if it is highly improbable, that I fhould have promifed to give the boy a moiety, let your verdict on this day fubftantiate my juft claim to the whole; and, if thefe confederates never intituled a fuit for this eftate, nor ever thought proper to contend againft me, can you poffibly give credit to their allegations? I think you cannot: but as you may reafonably be furprized, that they neglected at that time to demand their moiety, my opponent afferts, that my promife of refigning a fhare prevented them from attacking the other parties, and that they could not legally enter into a conteft with me, becaufe an orphan cannot bring an action againft his guardian; both which assertions are falfe; for neither can they produce a law, which would have precluded my ward from asserting his claims (fince the laws would by no means have refrained him, but, as they allow a criminal profecution againft me, fo they give both me and him a mutual right of maintaining civil actions), nor were they deterred from litigating the title of others by any promife of mine, but folely by their confcioufnefs that no part of the inheritance juftly belonged to them; and I am fully perfuaded, that, had I even differed the boy to obtain judgement againft me for a moiety, his advocates and friends would not

have attempted to take possession of it, nor would they have permitted him to possess it, being perfectly aware of the danger; since, as they would have taken an estate without being in the legal order of succession, those in a nearer degree might instantly have applied to the court, and would infallibly have evicted them; for, as I began with observing, the law wholly excludes from the inheritance the sons of relations in the same degree with me, and, if our degree fails, it calls to the succession those on the mother's side; so that Glauco, the half-brother of Hagnias, might have contended with them for the estate, in which contention they would have been so far from producing a better title, that they could have produced no title at all; or if Glauco had relinquished his claim, the mother of him and of Hagnias might then have justly entered into litigation for the property of her son; and, as (she would have disputed with persons by no means admissible to the succession, she would clearly have obtained your sentence for the moiety, both law and natural justice conspiring in her favour. It is apparent, therefore, that my accuser was not prevented from supporting the boy's demand either by my undertaking or by any law whatever; but, having by false pretexts and iniquitous calumnies contrived this information, and now having opened his pre-

tended charge against me, he has hopes of removing me from the guardianship and of transferring it to himself; imagining, that by this contrivance he shews his art and dexterity, since, if he fails of success, he will sustain no loss, and, if he attains the object of his machinations, he will dissipate with safety the possessions of this youth: you will not then listen to the allegations of my adversary, nor encourage the practice of prosecuting criminally, when the laws have provided a remedy by a civil action. So perfectly Ample and so intelligible is the justice of my case: I will, therefore, in few words, recapitulate the heads of it, and having, as it were, deposited them in your memory, will afterwards proceed to the other part of my defence against the remaining articles of accusation.

What then is the real equity of my cause, and how shall I define it? This it clearly is: if my opponent avers, that the youth, from his relation to Hagnias, has a right to a moiety of his estate, let him sue for it in the court of the Archon; and if you there decide in his favour, let him, as the laws direct, take what he demands; but, if he abandons this claim, and insists upon my promise to divide the property, which I absolutely deny, let him bring his action; and if he can prove any such undertaking on my part, let him, as justice requires, have possession of

his stipulated share: again, if he alleges that my ward could not legally controvert my right or support an action against me, let him cite the law, which rests on him, and if he can fairly produce it, let him on that ground obtain a verdict for his moiety. Yet farther, if he urges that it was neither competent to claim half the estate, nor to bring an action on the supposed promise, but that he has, nevertheless, a legal title, let him petition the Archon, to make a lease of the possessions in dispute, and let the lessee demand a moiety from me as belonging to the foil- of Stratocles. It would have been consonant to justice, and agreeable to the directions of *the* law, to have followed any one of these methods; but it is neither just nor legal to harass me with a public prosecution, when a private action was maintainable; and to expose even my person to danger, because I will not resign to this boy the property which I recovered by your suffrages from those who unjustly possessed it: had I, indeed, managed any of those effects, which are indisputably his, with dishonesty and to his detriment, then would an information against me have been justifiable; but not when I am guilty of no other crime than a resolution to keep my own estate.

Now, that my antagonist has not acted justly in any one of these instances, that he has not

spoken truth on any of the other points, **but** has fabricated this accusation from fprdid motives of intereft, warping the laws to his own fenfe, and endeavouring to circumvent both you and me agaiiift equity and reafon, I think, by all the Gods, that none of you can be ignorant; fo that all further arguments on this head feem unneceffary*

I obferve, judges, that my adverfary principally dwells in his charge on a comparifon of the boy's fortune with mine, and repreſents his circumſtances as extremely narrow, but expatiates on the imaginary wealth, which he bellows on me; accusing me at the ſame time of ſuch avarice, that, although Stratocles left four daughters, I have not given a portion to any of them, even whilſt I am in poſſeſſion, as he afferts, of their brother's eſtate: this allegation I think it proper to refute; for he hopes, by his flouriſhing harangue, to raiſe your envy of me on account of my accumulated riches, and to excite your compaſſion for the children of my brother by deploring their pretended indigence. Of theſe facts, therefore, you muſt not be ignorant, but ſhall hear an exact ſtate of them, which will convince you, that my accuſer ſpeaks falſely on this head, as he has ſpoke on all the others; for I ſhould acknowledge myſelf to be the baſeſt of mortals, if Stratocles had died in **want**, and I

being wealthy had taken no care of his children; but if he left them a fortune both more **ample** and more fecure than my own, fo ample, indeed, that the girls were married with handfonic portions, and the boy was made rich with what remained, if I have fo diligently managed their affairs, as to raife their eftate confidently, I cannot juftly incur any cenfure for not refigning my own property to augment theirs, but rather deferve commendation for my prudence and induftry: that all this is true, I can eafily demonftrate; and, firft, I will apprize you of our refpective fortunes, after which I will fhew in what manner I have regulated the concerns of my nephew.

The patrimony of Stratocles and myfelf was fuch as might content us, but not fufficient to defray the expence of public offices: what proves it is, that neither of us received more than twenty minas with our wives, and fo fmall a portion is not ufually given to men of affluent fortunes; but it happened, that Stratocles had the addition of two talents and a half to his paternal inheritance; for Theophon, his wife's brother, died, having adopted one of his daughters, to whom he gave a farm in the diftrict of Eleufis worth two talents, together with fixty fheep, an hundred goats, his houfehold furniture, a fine horfe on which he rode when he

commanded a troop, and all his other effects; of which Stratocles having enjoyed the profits for nine whole years, left a fortune of five talents and a half, including his patrimony, but exclusively of what Theophon had given to his daughter. His estate was this: a farm at Thriae, worth two talents and a half: a house at Melite, which has been sold for half a talent, and another in Eleufis, worth five minas; such was the real estate of Stratocles, and these were the yearly rents of it; of the farm, twelve minas; of the houses, three: he had, besides, forty minas, out at interest, which, at the rate of nine obolus's a month for every mina, bring in annually seven minas and twenty drachmas; his whole income, therefore, was more than twenty-two minas. In addition to these he left furniture, sheep, corn, wine, fruit; all which have been sold for forty minas: he had also nine minas in money; and to them we may add his debts, which were called in, to the amount of near ten minas, and which the widow of Stratocles acknowledged before witnesses to be the boy's property, I say nothing of the other effects which he left and which they conceal; but I speak only of what appears, and what they are willing to admit. Call the witnesses to all these facts, WITNESSES.

Such was the fortune of Stratocles, and even

larger than this; but I fhall have fome Qihcr occafion to call them to account for the goods, which they have embezzled. Now what is my prefent eftate? A farm in GENed. worth only fifty minas, and the inheritance of Hagnias amounting to two talents and fifty minas, Which fums together are lefs by one hundred and ten minas than the fortune of this youth; in this calculation too I have comprized the effects of my fon, whom I emancipated, but have not added to the oppofite fide the property which Theophon left his daughter by adoption, and which may fairly be valued at two talents and a half; with that addition, which however I have not made, their eftate will amount to eight talents. Moreover, the inheritance of Hagnias is not yet well fecured to me, fince fome actions brought againft the witnefses for perjury will make it neceffary for me to obtain a fecond adjudication; but Stratocles left his poffeffions to his fon uncontroverted and incontrovertible. Now let thefe depofitions be read, to prove that my effe&s, together with thofe of my fon, amount to no more than what I have mentioned, and that a&tions are depending againft fome witnefses in the caufe concerning the eftate of Hagnias, DEPOSITIONS.

Is the difference then trifling between our refpective fortunes? Or rather, is it not fo great,

that,,mine appears almoſt as nothing in compariſon of that which was left to the children of Stratocles ? You cannot therefore give credit to the affertions of this man, who, although the boy has a flouriſhing eſtate of his own, has ventured to prefer ſo violent and ſo groundleſs a charge againſt me, and inſiſts on three eſtates, which he ſuppoſes me to have inherited, together with the vaſt wealth which I have amaſſed ; all which, he ſays, I have ſecreted, that the publick may reap no advantage from my opulence. Such are the calumnies, which men, who have nothing equitable to alledge, are forced to invent, that they may confound the innocent with the boldneſs of their accuſations! You will all, however, teſtify for me, that my wife's two brothers, Chaereleos and Macartatus, were not in the rank of thoſe who bear expenſive offices, but were in circumſtances extremely contracted; you know, that Macartatus, having fold his farm, bought a galley, which he armed, and failed in it to Crete; nor was this a private aſt, but of ſuch notoriety, that it was mentioned in the aſſembly of the people, where ſome were apprehenſive that the Lacedæmonians would conſider ſuch an expedition as a breach of the peace, and would confequently renew hoſtilities. Chaereleos, indeed, left an eſtate in Proſpalta, not worth more than half a talent, and died be-

fore Macartatus, who soon afterwards perished in battle, where the vessel and all the goods, with which he had embarked, were taken. When the Propaltian farm became the property of my wife, she persuaded me to emancipate one of my sons, that he might continue the name and preserve the family of her deceased brother Macartatus; not that *my* parting with that estate might exempt me from serving publick offices, for that made no difference, as I had served before it came to me, and was among the readiest to join in contributions, and to perform all the duties which you required of me; so that this informer most falsely charges me with being an useless, yet an opulent, citizen.

To conclude: I will sum up the whole cause in one word by a proposal, which you will allow, I am persuaded, to be just: I offer to bring my whole estate, large or small, into hotchpot with that of my ward, and when they are mixed together, let each of us fairly take a moiety of the aggregate value, so that neither of us may possess more than the other; but to this, I know, my adversary will never consent

FRAGMENTS OF ISMVS.

I.

From a Speech for Euphiletus against the Burgesses of Erchia.

THE ARGUMENT.

THE law, by which every borough in Attica was commanded to make a review of its members, and to reject all such as were not genuine citizens, gave the rejected a power of appealing to the courts of justice at Athens; but ordained, that, if the appellants failed in proving their right, they should be sold for slaves, and their property confiscated.

EUPHILETUS, the son of Iiegesippus, had been disfranchised by the Erchians, in consequence of some private quarrel; and the dispute was at first referred to two arbitrators, who made an award in his favour; but, as the burgesses persisted in their refusal to admit him, he was not deterred by the rigour of the law from bringing his appeal. Isaeus, who composed the speech for one of the appellant's brothers, began with an exact narrative of the whole transaction, and, having called witnesses in confirmation of it, supported their credibility with the following judicious observations.

FRAGMENTS.

* * * *

THAT Euphiletus, judges, is really our brother by the same father, you have heard proved by the testimony not of us only, but of all our kinsmen. Now consider first what could have induced our father to invent a falsity, and to take by adoption a son, whom he had not by nature; for you will find, that all adoptions are made by men, who either have no children lawfully born, or are compelled by their poverty to adopt some wealthy foreigners, from whom they expect a pecuniary acknowledgment for the benefit conferred on them by making them citizens of Athens: but our father had neither of these motives; for we two are his legitimate sons, so that he could not have been in want of an heir; nor had he any need of support from this adopted son, since he possessed a handsome competence of his own; and it has, moreover, been proved to you, that he maintained Euphiletus from his infancy, conducted his education, and introduced him to the members of his ward, of all which the expenses are by no means ia-

confiderable. It cannot then be thought probable, judges, that my father would have acted fo unjuftly without any profpect: of advantage: ftill lefs can any mortal fuppofe me to be capable of fuch confummate folly, as to give falfe evidence in favour of another man, in order to make my patrimony distributable among greater number; for I fhould preclude myfelf from the power of contending on a future occafion that he was not my brother; nor would any of you endure even the found of my voice, If, having taken a part in the prefent litigation, and given in evidence my nearnefs of blood to the appellant, I fhould afterwards attempt to contradift my own teftimony, It is reafonable too, judges, for you to believe that not only we, but all his other kinfmen, have fpoken conformably to the truth; for you will firft obferve, that thofe who married our fillers, would never have fworn falfe in his flavour; fince their wives are only the daughters-in-law of his mother, and ftep-mothers are in general apt to be at variance with the children of their hufbands; fo that, even had Euphiletus been the child of any other man than our father, It is not to be imagined, that our fillers would have defired their own hufbands to be witnefses for the fon of their ftep-mother: confider alfo, that the next witnefs, our maternal uncle, but in flo

degree related to the appellant, would*never have gratified His mother by making a depofition, not only falfe, but, if Euphiletus had indeed been a foreigner, manifefly injurious to his own nephews.

Yet more:—Who among you, judges, can fuppofe Demaratus, and Hegemon, and Nicoftratus, to be guilty of perjury; men, who, in the firft place, will be found unblemifhed with any bad imputation, and who, moreover, being intimately connected with us, and perfedly acquainted with our family, have refpectively acknowledged upon oath the relation which they bear to Euphiletus? I would gladly, therefore, afk even the moft refpedable of our opponents, by what other mode he could prove himfelf to be a citizen of Athens, unlefs by that which we have ufed in evincing the right of the appellant; for I cannot conceive, that he could fuggeft any other method, than to (how that both his father and his mother were citizens, and to adduce the ^teftimony of his kinfmen in fupport of his allegations. Were our adverfaries, indeed, expofed to the danger of lofing their own franchifes, they would think it juft, that you fhould attend to the depofitions of their friends and relations, rather than to the defamatory charges of their accufers; and now, when we give evidence **exactly fimilar to that which they would have**

given for themselves, shall they persuade you to be deluded by their pretences, instead of believing the father of Euphiletus, myself, and my brother, the members of our ward, and all our kindred especially since the burgeses are in no dangerous situation, but keep up this contest to gratify their private resentment; while we, who bear witness in the cause of our friend, are liable to animadversion, if we speak falsely, in a court of justice ?

To these arguments, judges, I must add, that Euphiletus's mother, whom our antagonists allow to be a citizen, was ready to make oath before the two arbitrators in the Delphinian temple, that Euphiletus was the son of her and of our father; and who could possibly know this more surely than herself? Our father too, judges, who, next to her, must be supposed to have the most certain knowledge of his own son, both desired at that time, and desires now, to swear, that Euphiletus was his child by an Athenian citizen, whom he had lawfully married. Myself also, judges, who was just thirteen years old, as I before informed you, when the appellant was born, am ready again to depose that this Euphiletus is actually my half-brother. You will justly therefore be of opinion, that our oaths *deserve* greater credit than the bare assertions of our opponents; for we, with

a perfect knowledge of the truth, are desirous of declaring it in favour of our kinsman, while they speak only what they have heard from his enemies, or rather what they have themselves invented: we too, judges, both laid before the arbitrators, and now lay before you, the testimony of his relations, who cannot be reasonably disbelieved; while they, when Euphiletus preferred his former complaint, as well against the burgesses of Erchia as against the mayor, who is since dead, and when the matter had been two years in a course of arbitration, were never able to produce a single witness of his being the son of any other man than of Hegesippus, which appeared so strong a mark of their false pretensions, that both arbitrators were unanimous in condemning them. Read now the proof of the former contest, and the event of it. EVIDENCE.

You have heard it proved, judges, that the award was unfavourable to our adversaries; and, as they would have relied on a contrary determination as a decisive argument, that our friend was not the son of Hegesippus, so we may fairly rely, as an argument no less decisive in his favour, on the determination, that the name of an Athenian had been injuriously expunged from the roll of his borough, in which it had first been properly inscribed. On the

^hole, you have heard, I am convinced, very
fufficient proof, that Euphilctus is really our
brother and your fellow-citizen, and that he has
been reje&ed with unjuft indignity by the bur-
gefies of Erchia,

IL

From a Speech for Eumathes,

THE ARGUMENT,

A slave, named Eumathes, had been regularly manumitted by Epigenes his master, and had opened a banker's house at Athens, where he resided in the capacity of a freed man, till Dionysius, his master's heir, claimed him as part of his estate, insisting either that there had been no manumission, or that it was irregular and void. This claim was opposed by a citizen who patronized Eumathes, and employed Isseus to compose his defence, of which all but the opening is unfortunately lost

UN a former occasion, judges, I gave my assistance, with good reason, to the defendant Eumathes, and will now endeavour, as far as I am able, to co-operate with you in preserving him from ruin; but, lest any of you should imagine, that a forward petulance or ill-designed officiousness have induced me to interest myself in his affairs, I intreat you to hear a short explanation of my conduct. When I commanded a galley in the archonship of Cephifodotus, and a strong report of my death in a naval engagement had reached the ears of my friends, Eumathes, with whom I had deposited some valuable effects, called together my relations, to whom he discovered the deposit, and resigned my property to them with the most rigorous exactness: in return for this honest behaviour, when I was wholly out of danger, I cultivated a true friendship with him, and, when he set up his bank, advanced him a sum of money to increase his capital; and afterwards, when Dionysius claimed him as a slave, I prepared to assert his liberty, having positive knowledge, that Epigenes had enfranchised him in open court.

III.

From a Defence of a Guardian against his Ward.

x SHOULD have been happy, judges, not only if I had escaped the scandalous imputations of laying snares for the property of others, and instituting suits with that view (imputations, which I am so perfectly conscious of having never deferred), but also, if my nephew, instead of grasping at my estate, would have taken due care of his own paternal fortune, which we justly surrendered to him, a fortune not inconsiderable, but ample enough to sustain the burden of the most expensive offices ; for then he would have been esteemed by all as a worthier man, while, by preserving and increasing his patrimony, he would have proved himself a useful citizen; but, since he has aliened part of it, and consumed the rest in a manner that gives me pain; since, relying on the number of his associates and the preconcerted quirks of his advocates, he has invaded my possessions, I cannot but consider it as a misfortune, that a kinsman of mine should do so disgracefully, and I must enter upon my defence, with all the activity in my power, against his direct accusation and the impertinent calumnies which accompanied it.

Now this is the plan which I have followed, **that** the truth may be juftly extorted from the flaves; while my adverfary, like a man defirous only of circumventing, has recourfe to invectives and idle fophifms: were he willing, indeed, to obtain juft ice, inftead of feeking to baffle and delude your minds, he would not aft in this manner, but would come to a fair account, bring his own proofs, and thus interrogate me to every diltinft article in my bill. How many taxes have you reckoned ? So many, I fhould have anfwered, or *fo* many. To what fum do they amount ? To *fo* much or *fo* much. By what decrees of the people were they exalted ? By thefe in my hand. Who received the money ? Thefe witnefles, who will fwear to their receipt of it. He ought next to have examined minutely the number of the contributions, the fums paid, the decrees, the receivers; and, if all appeared juft, to have allowed my account; if not, to have proved what falſity or unfairnefs he **could find in it.**

IV.

From a Speech against the Members of his Borough, concerning a Farm.

JL SHOULD principally have desired, judges, to have sustained no injury at all from any citizen whatever; and next, if an injury were inevitable, to have sustained it from adversaries, whom I might bring to justice without concern; but I now find myself reduced to a most afflicting alternative; for I am injured by my fellow burghers, whose invasion of my property it is not easy to pass over without complaint, and whose attacks it is unpleasant to repel with animosity, since necessity obliges me to meet them often on occasions of public business. It is difficult also to contend with many antagonists, whose number alone has a considerable effect in giving them the appearance of speaking truth; yet, relying on the merits of my case, and having suffered many enormous hardships, I conceived that I should no longer decline attempting to obtain redress by your sentence: give me therefore your indulgence, if, young as I am, I have ventured to open my lips in a court of judicature; for the sense of my wrongs

compels me in this instance to depart from my former habits of reserve; and I shall now endeavour to apprise you of the whole transaction, relating it from the beginning as concisely as I am able.

V.

From a Speech in an ASlion of Debt.

* * *

THIS most abandoned of men, without producing those witnesses, before whom he asserts the money to have been paid, affects to think it just, that you should give greater credit to them, who alledge that it was restored, than to us who deny that we have ever received it; yet it is well known, I believe to all, that, as in the flourishing state of their father's fortunes, they would not have discharged the debt without compulsion, so after his disgrace. and total ruin we could not even have compelled them to discharge it.

* * *

NOTES ON IS ÆUS.

x AGE J5. —of which they boldly assert that he was a creditor.] A slight variation in the text would make it necessary to alter the translation of this passage; and, instead of the words above cited, to read—"which they assert that he had encumbered with debts : " it seems, however, more probable, that the devisees pretended to have a lien on the paternal estate of the young men for some money due to the deceased, than that Cleonymus should have mortgaged the property of his nephews, which we can hardly suppose that he had a power of doing.

76. Polyarchus] Reiske has substituted Poliarchus, *ruling the city*, instead of Polyarchus, *with extensive sway*; but the first proper name appears to be unsupported by analogy, and the second stands foremost in the list, which Xenophon has given us, of the thirty tyrants.

77. Cleonymus himself, when he recovered

from that illnefs, in which he made his will, declared, that he wrote it in anger.] The conftru&ion, which Taylor propofed, and which Reifke thought unintelligible, feems to convey a clear and obvious meaning, as I have rendered it.

80. When one of the proper officers came to the door] The text has Archonides, a proper name^ which I cannot help fufpe&ting, as the Archon is mentioned a few lines before; and the fimilarity of found might have mifled the tranfcriber.

82. —one of the two moft oppofite things] I have fupplied a chafm in the original, as well as I was able, and have given the paflage a tolerable fenfe. Taylor fuppofes this fpeech to be very imperfect, and imagines that half of it is loft, becaufe the names of Pherenicus and Simo, who are not mentioned in the oration, occur in the argument; but it muft be obferved, once for all, that the Greek arguments are for the moft part erroneous, and feem to have been written by fome very ignorant grammarian.

84. —the Cyprian] Not a native of the ifland Cyprus, but member of a borough in Attica fo named. Reifke.

—poflefled of three talents] I ufed to value the Attick talent, on the authority of Arbuth-

not, at 193l. 15s. and to think it considerably underrated by Tourreil and Prideaux; but my friend Mr. Combe, whose knowledge of ancient coins is no less exact than extensive, has convinced me that Arbuthnot himself has undervalued it; for, by weighing with great accuracy thirty of the finest Athenian tetradrachms in the collection of Dr. Hunter, and by comparing the average of their weight with the standard price of silver, he showed to my full satisfaction, that the Attick drachma was worth about eight-pence half-penny, the sixth part of which was the obolus, or one penny, and five twelfths; the mina therefore, which Solon raised from sixty to a hundred drachmas, was equal in value to three pounds ten shillings and ten pence, and the talent, or sixty minas, to *two hundred and twelve pounds ten shillings*. Three talents then, of which Pyrrhus was possessed, were six hundred and thirty-seven pounds ten shillings, a small fortune in England, but not inconsiderable at Athens, where silver was scarce, and even the superfluities of life easy to be procured. Wherever Attick money is mentioned in these speeches, the reader will in a moment reduce it to English money by the help of this note,

89. —one witness only, named Pyretides] I have left the word untranslating, although it is emphatical in itself, and seems to

have no small force in the original; but its common acceptation is hardly reconcilable with the context; for it implies an actual fubornation of Pyretides, who yet was but a pretended witnefs, and difclaimed any knowledge of the affair. Can it be rendered thus—"Pyretides, whom he hired to attend him?" Or thus—"Pyretides, whom he attempted to fuborn?"

90. —when Xenocles went to Thebes with an intention to eject our fervants from the mines] It is impoffible not to agree with Reifke that this pafTage abounds with difficulties; nor could I have made it intelligible in a verbal tranflation. As to the words, *εἰς τὸ ἱεργαστήριον τὸ ἡμέτερον εἰς τὰ ἔργα*, it is obfervable that Demofthenes has a fimilar repetition in the beginning of his fpeech againft Pantenetus, where the caufe relates to a difpute about a foundery in Maronea. Perhaps, on the authority of that parallel pafTage, we might here read . How there came to be *works* in the territory of Thebes, or how an Athenian could have property in the Theban dominions, I cannot tell. It once occurred to me, that if *Gn£*£i* were the true reading, and not ©f«*fi or *eipxfa* there might have been a diftrid in Attica of that name; but that was mere conjedure; and the diftance from Athens to Thebes in Boeotia appears in the beft mapg of ancient Greece to be

juft three hundred ftac'Εξαγωγῇ is a foren-
fick term exactly anfwering to *oujler*; and in
this technical fenfe the verb Iga'yw, *to ouft*^ is
ufed by Ifseus, once in this fpeech, and twice in
that on the eftate of Dicaeogenes. Reifke fup-
pofes, in one of his notes, that the fervants of
Xenocles were oufted by the brother of Endius;
but why fhould Xenocles carry fo many wit-
neffes out of Attica, to atteft an ad which he
could not pofitively forefee? The learned edi-
tor's note and tranflation are at variance in the
interpretation of this dark paffage. I have
chofen the leaft exceptionable fenfe, although
one does not eafily fee the neceffity of travelling
fo far to claim the eftate of Pyrrhus, the title to
which was foon after brought before the court
in another form: the reafoning, indeed, of Ifacus
in this place proves, that the aft of Xenocles
was frivolous.

113. —fhould not pay the ordinary cofts of
the fuit] In the original, μὴ κατὰ τὸ τέλος ζῆμι-
στῶσι, upon which paffage Reifke has the follow-
ing ingenious note: " Locus difficilis, dictio
" perambigua et inexplicabilis! Sufpicabar ali-
" quando tantundem hoc efle atque κατ' ἐπιθελίαν,
" non folummodo fexta parte fummae univerfa?,
" quam valent bona petita mulctari, fed tota
" fumma. Nunc dubito, an potius fignificet
if pro cenfu. Cenfebatur civis quifque quantum

" in bonis haberet, atque pro isto cenſu major
 " aut minor cuique multa rogabatur. Quæ-
 " rant peritiores." Without pretending to be
 one of thoſe, to whom the candid annotator re-
 fers for a ſolution of this difficulty, I will fol-
 low him in fairly confeſſing my doubts and even
 my errors. I once imagined with him, that no-
 thing more was meant than the fine of an obo-
 lus for every drachma, or a fixth part of the
 ſum claimed; and I amuſed myſelf with con-
 je&uring that KATATOTEAOC might have been
 written by an ignorant tranſcriber for KATOBO
 AOTC; but I ſoon acquitted the tranſcriber and
 laughed at my own criticifm. As to the ſuppo-
 ſition that the party who made a falſe claim
 was amerced in proportion to his rank or *cenſus*,
 I never could adopt it: there is no authority
 for ſuch an interpretation; and the wife Athe-
 nians would not have allowed a practice, which
 would have been a check to the wealthy only,
 who were leſs likely to inſtitute iniquitous ſuits,
 while the low and indigent might have diſturbed
 the titles of their fellow-citizens without much
 danger. My next idea is expreſſed in my
 tranſlation: as *τίλος* was anciently uſed for *ex-
 penſe*, whence *ἐντέλεια* ſignified *frugality*, and
πολύτελεια, *profuſioni* I conceived that Iſeus
 meant only the coſts of ſuit, or *expenſa litis*,
in quibus, to uſe the words of the Roman code,

ui#or viStori condemnandus est*; and the Athenians, I supposed, had the same maxim. In this notion I acquiesced, till the very learned •ditor of Euripides favoured me with his opinion, that *rkcf* was a generick name for a tax or duty, and comprehended, among other branches of the revenue, the *vpmii, or *deposits*^ which are mentioned by Ariftophanes, and by Ifaeus himself in his second speech, and which were forfeited to the publick by the unsuccessful claimant: he thought, therefore, that the Greek words ought to be rendered—" not " only to be punished by a forfeiture of his de- " profits." This seemed plausible; but it appears from the scholiast of Æschines, that those forfeited deposits were the perquisites of the jury, and I am now convinced without a shadow of doubt, that the passage must be translated thus: " It would be right, judges, that every " claimant of an estate, by gift or testament, " who fails in proving his title, should not be " amerced *by the limited power of the magistrate*, " but should forfeit to the state the full value of " the fortune which he falsely claimed." It was inconsistent with a free government that any magistrature should have an unlimited power of imposing fines: the senate itself could impose none exceeding five minas, which was less than eighteen pounds ;and, in the speech of Demos-

thenes against Euergus and Mnefibulus, that venerable body are said to have deliberated whether they should set a fine upon Theophemus *to the full extent of their legal power*, or should deliver him over to a court of justice, that he might be more severely punished. Now among the various senses of τέλος it denotes, according to Ulpian, *the power of a magistrature*; and the very words of Iphæus are taken from the law of Solon preferred by Demosthenes in his speech against Macartatus: " Let the archon take care " of orphans and heiresses, and protect them " from violence: if any one should injure them, " he may fine the delinquent κατὰ τὸ τέλος"— which Potter translates very properly, *as far as the limits of his power extend*. If the magistrate thought he deserved a heavier penalty, he was directed by the same law to prefer an accusation against him, in the nature of an information *ex officio* in the court of Helisea; where a corporal punishment might be inflicted, or a larger muld imposed, by the verdict of a jury. This passage in Demosthenes puzzled Wolfius, who seems to have been dissatisfied with his own explanation of it; and Reiske, though he was apprized of Petites interpretation, still returns to his own opinion, that τέλος there signified the *fortune* and *rank* of the offender, an opinion unsupported, as I intimated before, either by reason or authority.

120. —committed by the magistrates to prison (whence he was afterwards released) together with some other felons, whom you publicly sentenced to an ignominious death] The text is, *πρῶτον μὲν εἰς τὸ δεσμωτήριον ἀπέχθη, τὸτο ἀφαιρέσεις, μετ' ἐτέρων τινῶν ὑπὸ τῶν ἐνδεκα, ὡς δημοσίᾳ πάντας ὑμεῖς ἀπέκτείνετε.* A most perplexing passage! If the relative belong to the eleven, instead of the criminals, it must be translated in this manner: " he " was first committed to prison, and afterwards " set at liberty with several others, by those " eleven, all of whom were publicly executed " according to your sentence." It is well known that the office of the eleven at Athens corresponded in some respects to that of our justices of peace, and in others to that of our sheriffs; they had power to commit felons, and were obliged to see them executed after their conviction. Now had the Athenians at any time put so many magistrates to death for suffering criminals to escape, or for any other misbehaviour, history would certainly have recorded so extraordinary a fact. There were, indeed, *eleven* ministers of the thirty tyrants, who are mentioned by Plato, and who were most probably executed with their employers. Xenophon says, that, after the restoration of the popular government by Thrasybulus, the thirty tyrants, the ten-governors of the Piræus, and *the eleven why*

ruled in the city, were excluded from the benefit of the general amnesty. Hence the oath taken by the citizens, that they would not remember the injuries done by any, *except the thirty and the eleven*. If we suppose Chariades to have been released by these men, who must have been killed in the second year of the ninety-fourth Olympiad, we may form a plausible guess concerning the date of this speech; for, if he fled from the Areopagus in the year after his release from prison; if Nicofratus died seventeen years after that; and if two years were spent in the controversies among the six first claimants of his estate; this cause, in which Ifseus was employed, might have been tried in the twenty-first year after the overthrow of Euclid, in which year Demosthenes was born. After all, how uncertain are these conjectures upon conjectures!

124. Let the oath again be read.] Why so? Could it so soon have been forgotten? I am persuaded, that these words were repeated by mistake; and that in this place were read the schedule and inventory mentioned in the preceding pages.

125. having failed to Cnidos] This could not have been the sea-fight at Cnidos, in which Conon obtained a signal victory over Pifander. It is probable that the naval engagement, in which Dikeogenes fell, was that described by

Thucydides in his eighth book, which happened in the first year of the ninety-second Olympiad, and the twentieth of the Peloponnesian war; when Aftyochus defeated Charminus at Syme near Cnidos: now if we suppose, as we reasonably may, that the fortune of the deceased was distributed among his relations in the same year, each of them must have possessed his share till the second year of the ninety-fifth Olympiad. The troubles, to which Ifseus alludes, began in the archonship of Pythodorus, but lasted some time after that of Euclid: in that interval the defendant Dicaeogenes was instigated by Melas to claim the whole estate, although he did not obtain judgment for it, till twelve years had elapsed from the first distribution; and, as he enjoyed the profits of the estate for ten years, this speech was probably delivered in the last year of the ninety-seventh Olympiad, or two thousand one hundred and sixty-nine years ago, and may therefore be considered as one of the most ancient monuments now extant in the world of the litigation, which naturally followed the liberty of transmitting property by will.

127. —having purchased the house of their father and demolished it] Reiske alters the punctuation of the text, and gives it this (*tnk*: that Dicaeogenes bought the house of Theopompus, and, having dug up the garden, which separated

it from his own house, filled the intermediate space, and made one very large mansion for himself. Surely, this is a forced construction founded on a very uncertain conjecture. The cruelty of the act seems to have consisted in his having demolished the dwelling house and dug up the area, as if Theopompus had been a traitor. The sentence against Antipho the orator and Archeptolemus is preserved, and part of it was, *that their houses should be demolished*. The word *κατασκαπτείν*, which is used both in that sentence and by Ifæus, seems applicable to a *building* but not to a *garden*. I perceive, on revising this passage, that the words *παίδων ὧν ἦσαν τῶν*, *while they were boys*, are left untranslated. Few translations, not strictly verbal, are free from such oversights.

127. —he sent my cousin Cephifodotus to Corinth] Probably at the beginning of the ninety-sixth Olympiad, when the Corinthian war broke out.

129. —but the sisters of the deceased whose daughters we married] If we suppose that the sisters of Dicaeogenes had daughters, who intermarried with their first cousins, we need not have recourse to Reiske's conjecture, that this part of the speech was delivered by a different person.

138. —when Lechaëum was taken] That

is, in the fourth year of the ninety-fixth Olympiad, three hundred and ninety-two years before Chrifl.

13& —the Eponymi] We are here obliged to Reifke for an excellent emendation: the old reading was *pwupw* which can have no meaning, unlefs we fuppofe that ftatues had been ereded to the memory of the brave citizens, who bore *the fame name* with Dicxogenes : but the *Eponymi* were the ten heroes, froln whom the ten tribes of Attica were *named*, and uiany publick inflruments were hung up on their ftatues, which flood in the mort confpicious part of the city.

140. —in the battle of Eleufis] That venerable fcholar and foldier, M. Paumier de Grente-mefnil, has taken great pains to elucidate this paflage of Ifseus ; but feems, after all, to have left it as dark as he found it. Whether Dicseo-genes, the plaintiff's great-grand-father, perifhed, as Reifke imagines, in the irruption made by Pliftoanax into the diftridt of Eleufis, or whether he fell in one of the preceding fkirmifhes with the Corinthians, mentioned both by Thucydides and Diodorus, I muft leave undecided, and that without much regret. The battle of Spartolus, which the hiftorian of the Peloponnefian war has fully defcribed, was fought in the fourth year of the eighty-feventh Olympiad, the fame

year in which the death of Pericles was more than compenfated by the birth of Plato, The conje&ure of Paumier, who would read 'Cλυνθίας inftead of 'Ολυσίας, and would render it *Spartolus in the Olynthian territory*, is ingenious but not convincing, Spartolus was known without an adjunct: had any been neceffary, it would have been ΒΟΤΤΙΧΑ > but a place, where Athens loft four hundred and thirty gallant men, with all their general officers, muft have acquired a dreadful celebrity. Still lefs can wc be fatified with the hypothefis of Reifke, who propofes to read 'Cδρυσίας, *although the Odryjians had nothing to do with Spartolus*', but the orator, fays he, *might not have been Jkilled in geography, and might have confounded Odryjia 'with Botticea*. His other conceit, to which he was lefs partial, that the troop, which Menexenus commanded, was called *OdyJ/ean*, from Ulyffes, has more ingenuity in it. By what names the Athenians diftinguifhed their legions, I have not learned : if 'Ολυσίας be the true reading, the name may bear fome affinity to the words ὀλός or ὀλέθριος, *deffruffive*.

141. —• the Olynthians] 'Ολύνθιοι. " Su-
 " fpettum hoc nomen. Olynthios, qui femper
 " Athenienfibus infefti fuiflent, pro his occubu-
 " ifle dimicantes adverfus Peloponnefios, unde
 " ipfi orti effent, id vero miror, neque memini
 " ufpiam legere." Reifke, It is abfolutely cer-

tain, that the Corinthian, not the Peloponnesian, war is here meant by *Isæus* : now the Athenians had actually begun to distinguish themselves as an ambitious and martial people at the very time when this cause was heard. I was unwilling, therefore, to alter the word in the text, although I have always suspected, that *Ὁξεῖν* was the genuine reading. The Locrian *Opuntians*, who, both on their own coins and in the Greek books, are called sometimes Locrians, and sometimes *Opuntians* only, were the first promoters of this war; and it cannot be conceived, that they remained inactive, when their supporters the Thebans had engaged Athens in their quarrel.

141. —thy ancestors, who flew the tyrant] The song of Callistratus, which every school-boy in the higher classes can say by heart, has made the name and story of Harmodius familiar to all. If the descendant *Dicæogenes* descended from that line through his father Proxenus, and not through his mother, the pedigree prefixed to this speech must be corrected; and, indeed, there does not seem to be sufficient reason for supposing that Proxenus and the first Menæxenus were brothers.

142. —thou, *Dicæogenes*] Contempt and indignation cannot be more strongly marked, than by the position of the proper name at the

end of this speech; but it would not have the fame effected in our language without voice, look, and gesture, to enforce it. The single name of Dicseogenes, as it stands in the original, supplies the place of epithets, and instantly suggests the idea of every thing despicable.

144. —when¹ Menestratus failed to Sicily] Who Menestratus was, I know not; but have not ventured to depart from the text. The date of this speech may be fixed with the greatest certainty; for Ifaeus afterwards says, that fifty-two years had elapsed from the fatal expedition to Sicily in the archonship of Arimneftus, that is, from the first year of the ninety-first Olympiad -, so that, if *from* be exclusive, and complete years be meant, the cause was tried in the second year of the hundred and fourth Olympiad, when Chariclides was Archon. This was the year after Demosthenes, who was then in all probability a pupil of Ifaeus, had spoken in his own cause against his guardians.

153. Philotemon was slain at Chios] Most probably in one of the engagements mentioned by Thucydides in his eighth book. Timotheus, whom Phanestratus accompanied, was perhaps the son of Conon, who afterwards acquired such fame by his victory at Leucas; and Chxreas, who married the daughter of Eu&emon, might

have been the son of Archestratus, whose actions are recorded by the historian.

155. —more than three talents] That is, including the price of the Haves, without which the sums enumerated amount to less than three talents by four minas and fifty drachmas. The text is extremely clear, but Reifke's note gives me infinite trouble; nor can I yet comprehend by what method of computation he made the whole sum rise to four talents, wanting fifteen minas. He was not, *forsooth*, with all his leading, *a great arithmetician*.

166 —yet how can a man be said to have died childless] We must here give Reifke the applause, which he justly deserves, for a most happy and ingenious emendation. The original, in the edition of Stephanus, is, *πῶς ἐν Αἰσχυμῶτις*; but, in that of Aldus, it is, *ΠΩΣ ΟΥΝ ΑΝΑΙΣΙΜΟΣ ΤΙΣ*, which was manifestly corrupted by the change of three letters from *ΠΩΣ ΟΥΝ ΑΠΑΙΣ ΗΝ ΟΣΤΙΣ*; so that the imaginary personage, JSimus* vanishes at once, and there remains a perfect*—ous intelligible sentence. Another correction, which I cannot adopt, was proposed by the writer of a few notes on a loose piece of paper, now preserved at Eton, in an edition of the Greek orators, which formerly belonged to Mr. Topham. These notes were transcribed by Taylor, and his transcript was sent by Dr. Aikew to

Reifke, who constantly cites it by the name of *liber Tophams*, desiring that nobody will ask him who *Topfiam* was, and frankly declaring that he could not tell. I mention this trifle for the sake of those, whose curiosity may be raised by seeing the references to this unknown critick.

173. —who has since been appointed hierophant] The '*Upotpoivrri*;', who conducted the ceremony of initiation into the mysteries, was not permitted to marry after his appointment to that sacred office; but a previous state of celibacy was not a necessary qualification. Lyfias, in his speech against Andocides, mentions one Diodes, son of Zacorus the hierophant.

This cause was probably heard a short time after the Corinthian war.

189. —I am not without hopes] It is remarkable, that this passage of Iphiclus is copied almost word for word by Demosthenes in his first speech against his guardian Aphobus, as the reflections upon torture [p. 192] are repeated by him in one of those against Onetor. Demosthenes was very young, when he delivered those four speeches; but I cannot see sufficient ground for believing that Iphiclus composed them, although he might have given them a few touches with his pencil: they are not too highly finished for a boy of eighteen, who had studied under such a master, whose language and manner he zealously imitated.

205. —a few ftony fields] In the old editions, *φελιάδα χωρία ατῖα ἐκείνω δέδωκε*. I wonder that Reifke fhould entertain a doubt concerning the genuine reading of this paflage, when he cites Harpocraton, who fays exprefsly, that Ifæus, in this very fpeech, ufes *φελλία* for *a fiony place where goats browfe** The orator wrote, *φελλέας δὲ*, which fome reader thought proper to explain imperfe&ly in the margin by *χωρίων ατῖα*; *fields fo called* \ and, when this rude glofs found its way into the text, the original itfelf was corrupted.

206. —when I have brought him to a trial] Diodes was afterwards profecuted; and Ifseus compofed a fpeech againft him, from which ten or eleven words are cited by Harpocraton.

209. Aftyhilus died at Mitylene, whither he had failed with the army] I once imagined that he might have failed with Thrafybulus, who was fent on an expedition againft Lefbos in the archonihip of Philodes, the year after the taking of Lechseum ; but, as it afterwards appears, that he had ferved at Corinth, in Theflaly, and during the whole Theban war, which was not concluded till the third year of the hundred and third Olympiad, I am at a lofs to determine on what occafion he could have gone with the army to Mitylene, unlefs it was in the focial war, in which Lefbos, probably, took fome part, as her neighbour Chios was fo warmly engaged

in it. If my conjecture be juft, this was, perhaps, one of the laft fpeeches written by Ifaeus; who, according to the hypothecs in my prefatory difcourfe, muft have been at lead fixty years old when he compofed it.

226. —the daughter of Ariftarchus and fifter of Cyronides] This was the truth; but the text, which I think imperfect, makes him declare his mother to be the fifter of Ariftarchus. She would, indeed, have been the fifter of the younger Ariftarchus, if his adoption had been legal; but why it was neceffary to admit the legality of that adoption before the magiftrate, and even to acknowledge it on record, I cannot conceive.

234. —After this came the Corinthian war] It follows from this paffage, that the fpeech was delivered fome time after the ninety-fixth Olympiad, above one-and-twenty centuries ago.

239. I begin my defence, judges, with a recital of the laws] I fuppofe that the laws of Solon concerning inheritances, were read by the clerk, before Theopompus opened his defence.

242. Phylomache obtained a fentence in her favour] The year in which this fentence was pronounced is lixed with the utmoft certainty by a depofition preferved in the fpeech of Demofthenes againft Macartatus, concerning which I intend to difcourfe at large in the commentary. The witnefles depofe, " that they were

The patrimony of Theopompus must have been included in the farm at GENEa; and it is necessary to read *πεντακισχίλια* in the valuation of Hagnias's estate. The interest of the forty minas at nine obolus's a month, is properly computed; and the young man's fortune, including the legacy of Theophon, was exactly eight talents, or seventeen hundred pounds. Nothing can be more clear than the text, nothing more simple than the calculation; yet the perplexity, to which Reifke was reduced, is perfectly ridiculous; for, by jumbling the principal with the interest, and the rents with the value of the estate, and by adding together all the sums named in the whole paragraph, he makes the property of Stratocles amount to more than ten talents. "Verum fatebor enim, fays he, ad calculandum et omnes omnino artes mathematicas invita Minerva natus sum." He then attempts a correction, but, finding even that irreconcilable with the computation which follows, he concludes in despair—"ut brevis sum, in componendis hisce rationibus pecuniariis exitum non reperiō."

258. The Lacedaemonians would consider such an expedition as a breach of the peace] This was, probably, the general peace concluded in the third year of the hundred and third Olympiad, and broken the next year in the air

chonship of Chio. The Macartatus, against whom Demofthenes composed his speech, was the son of Theopompus, mentioned in the preceding page, who was appointed to preserve the name and family of the bold adventurer, his maternal uncle.

268. When I commanded a galley in the archonship of Cephifodotus.] That is, in the third year of the hundred and third Olympiad; but if *CephifoJorus* be the true reading, as Sylburgius was inclined to believe, this speech must have been composed either during the fecial war, or after it; and Ifaeus must have had the happiness of seeing his pupil advance towards the perfection of eloquence; for the oration against Lepines was delivered nearly at the same time. It appears from Harpocraton, who cites three lines from this speech, that the citizen, who asserted the freedom of Eumathes, was named Xenocles,

A
: O M M E N T A R Y
ON
ISJEUS.

THE ten speeches of Iſæus are the moſt ancient in the world on the intereſting ſubject of legal and teſtamentary ſucceſſion to property, except, perhaps, that of Iſocrates on the eſtate of Thraſylochus in Ægina, which has rather the air of a rhetorical exerciſe than of a real addreſs to a court of judicature, and tends very little to elucidate the topicks, which it is now my intention to diſcuſs: next to theſe in order of time on the ſame ſubject are two ſpeeches of Demofthenes, one againſt Leochares, and the other againſt Macartatus; from the ſecond of which I have received ſo much light, that, if it had not been extant, I ſhould not have underſtood many paſſages in my author. It was my firſt deſign to ſubjoin at full length this very cu-

rious monument of Athenian jurisprudence; but, as the speech consists chiefly of depositions and recitals of various laws, which give it very much the resemblance of a well drawn brief, I think it better to sum up the evidence in the cause, with such observations as will render it perspicuous, and to illustrate the whole with a complete pedigree of the family, which will also be useful in explaining other parts of the Atticklaw. Demosthenes himself had intended, as he tells the court, to draw a genealogical table for their inspection; but, reflecting that those jurymen who sat at a distance would be unable to have a distinct view of it, he thought it necessary to explain it by words, which all of them might hear: what Demosthenes chose to omit, I have performed with great care for the convenience of the reader; and here we may take notice of the advantage which justice derives among us in similar causes from the facility of multiplying copies; for, as a number of pedigrees may be printed at an expense not to be considered in important trials, the court, the jury, and the bar, may easily go along with the leading counsel, and form a perfect idea of the question before them. The difficulty, indeed, of explaining a long genealogy by words alone, especially where many of the persons bear exactly the same name, together with the number

of miftakes occafioned by the negligence of copyifts, made the fpeech againft Macartatus fo dark and perplexed, that the learned almoft gave it up as inexplicable ; and, when Oporinus complained to Wolfius that he could not comprehend the whole of his Latin verfion, " Do you," faid the tranflator, " understand the Greek ?" " No," faid the other. " Then," replied Wolfius, " we are even ; and we fhall, I believe, have " many companions in our ignorance." The grave editor's remark, that, " although the " fpeech take its title from *Macartatus* or *mojl* " *happy*, yet it makes the interpreter *m Jt mifer-* " *able*, and although it relate to the inheritance " of *HagniaSy* a name fignificative of *purity*, yet " the text of it is by no means *pure*" may I how with how bad a grace a icholar attempts to be witty. I confefs, that the whole compofition appeared to me more oblcure than the oracles which are cited in it ; until I perceived, before I had even feen the Leipzick edition, that the tenth fpeech of Ifeus was delivered in a previous caufe concerning the fame eftate ; that it was compofed by the great mailer in defence of the very Theopompus, whom his illuftrious pupil afterwards attacked fo vehemently ; and that the two fpeeches, though each of them apart was extremely dark, reflected fo ftrong a light on each other, that both became perfectly lu-

urinous. The account, which I fhall now give, of the numerous family, in which fuch cafes arofe as employed the firft advocates of Greece, will include a commentary on both their fpeeches, and neceffarily comprife an explanation of feveral heads in the laws of Solon.

BUSELUS, a burgels of (Eon, was father of five fons, among whom he diftributed his property; and they became the heads of as many diftinct branches, which continued to flourifh and fpread themfelves, till HAGNIAS died childlefs, and, though an attempt was made to prove the contrary, intefate. His fortune was not much more than fix hundred pounds; but no fortune ever gave birth to fo much litigation, and, confequently, to fo much knavery. Two very different ftories are told concerning the merits of the firft claimants; one, which the reader will recoiled, by Ifeus in the perfon of Theopompus, and another by Dcmofthenes in the perfon of Sofitheus, who married Phylo-mache, the fecond of that name. If we believe Theopompus, who does not appear in a very favourable light, Hagnias aftually made a will in favour of his niece, with a fubftitution to Glauco after her death; but he gives no particular account, how Phylomache, if the will was valid, was able to obtain a fentence againft Qlauco, and to difpoffefs him : Sofitheus, on the

other hand, afferts, that the will was proved to be a forgery, and that the whole was the contrivance of Theopompus himself, who gave the principal evidence for Glauco, and a brother of his, named Glaucus. It is agreed, that Theopompus afterwards commenced a fuit againft Phylomache, and fucceeded in it; but Ifeus afcribes his fuccefs to the fuperiority of his title, while Demofthenes imputes it to an artifice by which the jury were circumvented; for he avers, that the two half-brothers of Hagnias, defigning to aflift Theopompus in their turn, joined w^th him and one Eupolemus in claiming the eftate; that the archon, therefore, permitted the claimants to fpeak four times as long as the defendant, for each of them had the fame quantity of water in his clepsydra: that the confederates gave falfe evidence for one another, and told a number of grofs lies, w^hich Phylomache's advocate had not time to refute; that the jurymen were perplexed and divided; but that Theopompus gained his caufe by a very fmall majority.

The next fuit, which the fortune of Hagnias produced, was the information againft Theopompus, for whom Ifeus wrote his tenth fpeech; and in that alfo (whether juftly or not we fhall afterwards examine) he had a verdid in his favour; for, after his death, we find his fon, the younger Macartatus, in poffeffion of the dis-

puted estate; and it is he, against whom the husband of Phylomache set up a claim for the third Eubulides : what was the event of this last suit, it is impossible to discover with certainty; but, in order to fix with tolerable accuracy the respective merits of all the claimants, I shall recapitulate the Athenian laws of inheritances and devises, comparing them, as I proceed, with those of some other nations, ancient and modern, and shall thence take occasion to illustrate the nine preceding speeches of Iphiclus.

I shall first review the laws of heirship by proximity of blood; and, secondly, the laws of heirship by appointment, which was either by adoption during life, or by testamentary disposition; and, under the last head, I shall consider first how wills were made at Athens, and next how they were revoked.

I. Had Hagnias died leaving only male issue, his sons would have taken equal shares of his inheritance, like heirs in gavelkind ; a law no less favourable to that just balance of property which Solon meant to establish, than the law of primogeniture is agreeable to the military aristocracies, in which it has prevailed; but there was another principle in the Athenian government, which, without counteracting the spirit of equality, kept the partibility of estates within proper limits; for, as the most expensive offices

were filled by men of a certain census, it was highly expedient that there should always be a number of citizens moderately rich, who might contribute to the publick charges, without being too much elevated by opulence above the common level. Hence proceeded the complaints against men, who had dissipated or aliened an estate, out of which galleys used to be furnished, and entertainments provided.

Thus, in the iixth speech, Thraflyllus urges with vehemence, and even calls witnesses to prove, that the fortune of Apollodorus, which was known to have contributed largely to the naval expenses, had been reduced to nothing by the negligence and profusion of his adversaries; and he afterwards declares the duty of a good citizen to consist in preserving his estate, and in paying his contributions with alacrity: so, in the tenth, Theopompus guards against any suspicion of having aliened a certain farm with a view to an exemption from serving the publick offices; and, in the third fragment, the guardian censures his ward for having sold and dissipated his patrimony, which he might have rendered serviceable to his country and honourable to himself. Now, as these accusations were attended with very serious ill consequences to those who deserved them, as most of **the** Athenians were animated by a true spirit of pa-

triotism, and is a gentleman, proud, poor, and idle, was a monster unknown in their state, I cannot help considering the law of partible inheritances as not only the most natural, but at Athens even the wisest, and the law of primogeniture as a great evil introduced into some countries for the prevention of greater. It were superfluous to add, as the subject has been exhausted by others, an enumeration of the many illustrious nations, who have shown no preference to the first-born, or to discontinue, after Selden and the Mihi, on the double portion of the Hebrews; but it may be necessary to observe, that the succession *in stirpes* prevailed, most probably, at Athens in the descending line, as it certainly did in the collateral: thus, had Bufelus died worth live talents, leaving his sons Cieocritus, Stratius, Hagnias, Habron, and the children only of his son Eubulides, each of the four sons would have taken one talent, and Philager, Eudemon, Callistratus, representing their father, would have succeeded to twenty minas each. This would have occasioned a subdivision of the fortune left by Bufelus; but the industry of his grandsons, incited and rewarded by the spirit of the constitution, would soon have raised their property to a just height, as a well almost exhausted by too large draughts is quickly and plentifully supplied by the spring.

IL If Hagnias had left iffue male ajid female, the fons would have taken equal fhares of his eftate, but muft have affigned fuitable portions to their filters : thus if Sofitheus had died worth three talents, Eubulides, whom he had emancipated, would have been entitled to no part of them, but Sofia, Meneftheus, and Calliftratus, would have received each a talent, and muft have contributed to their filler's fortune ; and thus, on the death of the firft Hagnias, his only fon Polemo would have inherited his whole eftate, but muft have given Philomache in marriage with a portion conformable to his inheritance : what fhare of it was in this manner transferred to the fitters, I cannot determine; but am inclined to think that the affignment of it was left to the affection and liberality of the brothers. It was reckoned highly difgraceful to be ungenerous on thefe occafions; and, in the fpeech on the eftate of Ariftarchus, the complainant recommends himfelf to the favour of the jury, by-informing them, that, *although his pojfejjions were inconjiderable, he had given his Jifler in marriage with as hand/orne a portion as he could /pare.* Befides, a fufpicion of illegitimacy was call upon girls, who were married with a fmall fortune in proportion to the eftate of their fathers; thus, when Pyrrhus left three talents, and his daughter Phiia was taken by

Xenocles with a thousand drachmas only, there was great reason to believe, and Ifaeus warmly contended, that her husband knew her to be illegitimate, since he married her *without even a tenth part of her paternal estate*: but here I cannot help dissenting from Perizonius, who seems to have collected from this passage, that the tenth part of the inheritance was the usual portion given to fillers among the Athenians, as it was among the Hebrews ; for I find no trace in the other speeches of any fixed rule ; and even, in the very cause to which I have just alluded, *eighteen* minas, or the tenth part of three talents, would have been thought a moderate portion out of an inheritance, which at Athens was esteemed considerable; but Phila had not near so much; and it happened, that the fortune of a thousand drachmas, which she received from her brother by adoption, was exactly the *νοθήα*, or *half-blood's party* which was usually allotted to an illegitimate child. It is probable, that the portion was often adapted to the circumstances of the husband; for twenty minas were given to Stratocles, and as many to Theopompus, with their respective wives, whence the latter proves the scantiness of his own fortune, urging that *if small a sum would not have been given to a man of large possessions*; and the husband, indeed, was commonly bound in the *Τυπωίον*, or *marriage*

fettlement^ to assign a part of his own estate of equal value at lead with the portion, as a security for its being restored to the person who gave it, in case either of a divorce, or of the wife's death without issue; and the property thus settled was distinguished, like all other hypothecated estates, by small columns and inscriptions, called *opoi*, erected on the land, or affixed to the houses, and containing a specification of the sum for which they were pledged. This method, which resembled the *donatio propter nuptias* of the ancient Romans, appears more simple than our modern *settlements*; and, as the Athenian *avopaia* or *hypothecations* were open and notorious, like our old feoffments, they seem to have provided for the issue of the marriage no less effectually than the estates in strict settlement so strongly tied by our conveyancers; but, as to the fortunes of daughters, our trusts and long terms, over which our courts of equity have so ample a jurisdiction, secure a provision for them with more determinate exactness than the law of *Athens*; where however it is reasonable to believe, that the Archon could compel the sons to assign competent portions.

In this place I cannot forbear mentioning an instance in our own law, where justice, reason, and fair analogy, are not yet, as I apprehend, completely disengaged from the shackles of **feu-**

dal ftri&nefs. The celebrated rule, that " where-
 " ever an eftate of freehold is given to the an-
 " ceftor, and a fubfequent limitation is made, in
 " the fame conveyance, ta his *heirs* or the *heirs*
 " of his body, he fhall take in the firft cafe a
 " fee-fimple, and in the fecond, a fee-tail," has
 certainly prevailed for near five hundred years;
 and, as it is not only venerable on account of
 its antiquity, but has been the bafis of moft ti-
 tles in the kingdom, let us hope that it will pre-
 vail for as many centuries more, without caring
 whether it was originally contrived, that the lord
 might not lofe his wardfhip, relief, and other
 profits of his feignory, or whether it was de-
 signed to facilitate the alienation of property, and
 to prevent the inconvenience of leaving the fee
 in abeyance; or, laftly, whether it only means
 that, in general, thofe who take by the *name* of
 heirs, muft take in the *capacity* of heirs, that is
 by defcent, and confequently that their anceftor
 muft have a defcendible eftate. Whatever might
 have been the reafon of the rule (and each of
 the juft-mentioned reafons is fupported by great
 authorities), it could only have been a fubfidiary
 or fuppletory rule, calculated to afcertain the in-
 tention of parties, where other evidence of in-
 tention was either wanting or doubtful; but,
 where the meaning is clear beyond a fhadow of
 doubt, that the perfons defcribed as heirs are not

to take in that quality, and especially where hardships and contradictions would follow such a construction, the rule ought in sense and reason to give way, or rather it ought not to be called in aid, when the intent is plain without it. Let us therefore suppose, that, in consideration of an intended marriage, the father of the wife settles an estate *upon the husband for his life, remainder to the wife for her life, remainder to the heirs of his body on her to be begotten*: no man can harbour a doubt of the intention to secure a provision for the issue of the marriage ; yet what can restrain the parents from levying a fine or suffering a recovery ? What can hinder the husband from aliening the estate, dissipating the money arising from it, like Xencenetus in the eighth speech of Iphigeneia, and leaving his children in extreme indigence ? Had articles only been made *before* marriage in the same words, or had there been both articles and a settlement referring expressly to them, equity would have made the husband tenant for life with remainder in tail to the issue ; but, if there had been no executory agreement, and only a deed executed, I do not know that any court would interfere, or even incline to give relief on the ground of mistake, the parties having inadvertently used words, which carry an estate-tail, when they clearly intended a strict settlement ; yet if the intent be

not indubitable, a court of equity ought not to depart from the technical import of the terms even in articles, and, if it be unquestionable, a court of law, one would imagine, ought to give it efficacy over artificial words, even in a deed; nor would respectable authorities be wanting, if this were the place for producing them, to prove, that " the words *heirs* or *heirs of tie body*, are " not to be construed as words of limitation, " either in a will or in a deed, when the intention of the testator or of the parties is plainly " declared, or manifestly appears, that they shall " be construed as words of purchase." This question, indeed, is not likely to arise on a marriage-settlement, in which it is usual to give estates for life to the parents, with contingent remainders in tail to the first and every other son, after the interposition of trustees to preserve them; but I have seen settlements in the form above supposed; and I thought this digression proper enough in comparing the laws of England with those of Athens, to which we will now return.

If the brother was an infant, and the sisters marriageable, it may naturally be imagined, that the guardian allotted their portions out of his ward's estate; and we find, that the four daughters of Stratocles were married with handsome fortunes during the guardianship of their uncle

Theopompus: thus It appears, in the fourth cause, that Dicaeogenes gave the fifth of the complainant to Protarchides, with a house in Ceramicus worth forty minas; a large portion, if we consider the many shares into which the estate had been divided, and the inhuman conduct of Dicaeogenes towards his cousins.

It may seem strange that the law of SOLON, mentioned by Plutarch, which prohibited the $\phi\epsilon\rho\iota\gamma$ or *portion* (as it is commonly rendered), and ordained " that a bride should *bring* in marriage " no more than three robes and some utensils of " small value," should in less than two centuries be fallen totally into disuse, especially as all Solon's ordinances had been made perpetual after the archonship of Euclid by the law of Diocles; but, although the words $\phi\epsilon\rho\iota\gamma$ and $\pi\epsilon\tau\epsilon\chi\epsilon$ be generally used as synonymous, yet *Petit* with great reason supposes that they were different: the legislator could never have forbidden the latter, or the *for time* given by heirs with their female relations, for which his institutions carefully provided; but, as the luxury of new-married women in apparel, trinkets, and furniture, had become excessive, he gave a reasonable check to it by restraining the $\phi\epsilon\gamma\gamma\alpha$ or *bridal presents* to three robes and a few moveables. Thus, when Ciryne gave his daughter to Naufimenes with twenty-five minas, *together with clothes and some*

little ornaments of gold, the money appears to have been the *πρῶτον*, and the rest, what was properly called *ῥεστίον*; although the motive assigned by Plutarch for Solon's regulation, namely, that he would not have marriage considered as a vile traffick for gain, but as a contract founded on affection, and intended for purposes beneficial to the state, might have induced him to abolish or limit both the one and the other. At the same time I am aware, that the *σποῖον* of the more modern Greek jurists were, probably, the same with the *παραπρῶτον*, or *goods over and above the portion*, which are mentioned by Ulpian in the Digest, and from which our term *paraphernalia* is apparently borrowed; but, on the whole, I am persuaded that there was a distinction between the two words in the ancient Attick dialect. In some respects the *πρῶτον* itself resembled our paraphernalia, as it was not divisible by the husband, nor considered as his absolute property; but it had this further advantage, that it was not liable to the claims of his creditors, even on a deficiency of assets.

It will not be foreign from the subject, to remark in this place, that the customary law of the old *Arabians* obliged every brother to give his sister in marriage with a fortune; and that, in order to evade this law, it was usual among¹ them to contract double marriages, one man

taking the fifter of another without a portion, and giving his own fifter in return on the fame terms; but this practice, which they called *Sbigar*, was declared illegal by Mahomed. The di-
 viiion of an inheritance enjoined in the fourth chapter of the Alcoran is very remarkable; it is there ordered generally, that *a mak Jt:all have the fo are oftwo females*; fo that, by the Mahomedan rule, Charidcmus would have had two thirds, and Phanoftrate one third, of the eftate left by their father Stratius: for Selden is miftaken in fuppofing, that each would have fucceeded to a moiety. Perhaps, this ordinance of the Afiatick lawgiver was more confonant to natural juftice than that of Solon, who feems to have made the fortunes of Athenian women too vacrue and precarious.

III. Let us now put the cafe, that Hagnias had died leaving only female iffue; the next of kin, who would have been entitled to the fucceffion, had there been no children, might have claimed the daughters in marriage, together with their inheritance, of which their fons born in wedlock would have taken poffeffion at their full age. if a fon was left, as in the former cafe, his fifter was called ἐπιτροικὴ or *fortuneſs* j but a daughter, who had no brother, was diſtinguiſhed by the name of ἐπικληρὴς or *oxheireſs*; and this I mention, becauſe the latter word occurs per-

petually in the speeches of Ifaeus. Thus, in the ninth cause, when the daughter of Ariftarchus, on the emancipation of Cyronides, and the death both of Demochares and her fister, became fole heirefs, her father's brother Ariftomenes, or, on his refufal, her firft coufin Apollodorus, might have applied to the Archon, and obtained a decree for taking her in marriage; and, in the fame manner, Phylomache, the only daughter of Eubulide?, was claimed and married by Sofithcus, whoſe title will appear in a ſubſequent part of this commentary. The right of the neareſt kinfman to marry the heirefs was fo firmly eſtabliſhed, that even the aft of her own father could not fupervene it; and hence aroſe the moſt iniquitous and intolerable of all the Athenian laws, an odious remnant of the ancient inſtitution, which Solon in part abolifhed, *that cjiatcs JJjould remain for ever in the family of the deceaſed*; for we learn from the ſecond ſpeech, that even if a father had given his daughter in marriage to a perſon whom he approved, yet, if he died without legitimate ſons, the next of kin might take her from her husband and marry her himſelf, and Ifaeus mentions it as a known faſt, that many men had by this law been deprived, of their wives ; but Petit was clearly deceived in imagining, that the ſame law prevailed, when the father had *devi/ed* his

property together with his daughter; for in that case the next heir was wholly excluded. Yet farther; when the unjust guardian Ariftomenes, in defiance of the law, gave his niece without her estate, and with *a portion only*, to the father of the complainant, and when her husband afterwards applied to her kinsmen for the inheritance, to which she was intitled, and which they illegally possessed, they compelled him to desist from his claim by threatening to dissolve his matrimonial union, and to demand his wife for one-of them, as her nearest relation.

Nothing can be conceived more cruel than the state, of servitude in which women were kept by the polished Athenian?, who might have boasted of their tutelar goddess Minerva, but had certainly no pretensions on any account to the patronage of Venus. All unnecessary restraints upon love, which contribute so largely to relieve the anxieties of a laborious life, and upon marriage, which conduces so eminently to the peace and good order of society, are odious in the highest degree; yet at Athens, whence Arts, laws, humanity, learning, and religion are said to have sprung, a girl could not be legally united with the object of her affection, except by the consent of her father or controller, who was either her father or her grandfater, her brother or her guardian : their *domination* over her

was transferred to the husband, by whom flic was ufually confined to the minute details of domeftick economy, and from whom fhe might in fome inftances be torn, for the fake of her fortune, by a fecond coufin, whom probably fhe detefted; nor was her dependence likely to ceafe; for we may collect from the fpeech on the eftate of Philodtemon, that even a widow was at the difpofal of her neareft kinfman, either to be married by him, or to be given in marriage, according to his inclination or caprice. Yet more; a husband might bequeath his wife, like part of his eftate, to any man whom he chofe for his fucccfibr; and the mother of Demofthenes was a&ually left by will to Aphobus, with a portion of eighty minas: the form of fuch a bequeft is preferved in the firft fpeech againit Stephanus, and runs thus:—^u This is the laft will of Pafio
 " the Acharnean. I give my wife Archippe to
 " Phormio, with a fortune of one talent in Pe-
 " parrhethus, one talent in Attica, a houfe wortli
 " a hundred minas, together with the female
 " flaves, the ornaments of gold, and whatever
 " elfe may be in it." For all thefe hardfhips, which the Athenian women endured, a very poor compenfation was made by the law of Solon, which ordered their husbands to fleep with them three times a month.

Whether the fairer, but weaker, part of our

species should, in well-ordered states, succeed to an entire inheritance, and dispose of it as their passion or fancy prompts them, may admit of some doubt; and we find on this point a remarkable diversity in the laws of different nations, and of the same nation in different ages; on which subject Pcrizonius has written a learned dissertation. The most ancient suit, perhaps, of which any account remains, was that instituted by the five daughters of Zelophehad, who died without sons, for *a portion among the brethren of their father*: they gained their cause; and it was thenceforth a rule among the Jews, that "if a man died, having no son, his inheritance should go to his daughter;" but when it was remonstrated, that, if Mahla, Noa, Hagla, Milca, and Tirza, were to marry the sons of other tribes, their inheritance would be taken from the tribe of their father, the divine legislator answered, *Let the daughters of Zelophehad marry whom they think best; only in the family of their father's tribe let them marry*; and if Solomon had made no other restriction, his ordinance would have been more conformable to nature and reason; but the narrow policy of keeping an estate confined in a single family can be justified by no good principle whatever.

The pagan Arabs, although divided into tribes, had no such restraint upon their natural

inclinations; for there is not a more common topick in their ancient elegiac poems than the separation of two lovers by the removal of the tents belonging to their respective tribes, which were not connected, like those of the Hebrews and Greeks, by any regular bond of union, but seem to have been distinct and independent communities: as their institutions, indeed, were perfectly military, they excluded women, who were unable to serve in their wars, from all right of succession to property; but *Mahomed*, like another Justinian, abolished this law of his countrymen, and ordained expressly, *that females should have a determinate part of what their parents and kinsmen left, whether it were little or whether it were much*, allowing a double portion to the males, on account, says he, of the advantages which God has given them over the other sex.

Among the early inhabitants of *Rome*, both males and females were permitted to inherit the possessions of their ancestors; and this appears to have been the law of the twelve tables, which were derived in part from the institution of Solon; but the middle jurisprudence, departing from the old simplicity so favourable to legislation, admitted females only to a fraternal inheritance, and rejected all other female relations **from** the agnatic succession, as if they had been

perfed frangers, till the Praetorian equity mitigated this rigour by degrees; and Juftinian, whofe benevolence in this refped has been highly commended, reforted the Decemviral law, with fona additional direftions of his own. The feudal law, like that of the old Arabians, and from the fame principle of military policy, generally excluded daughters, unlefs there had been a fpecial inveftiture of their father in favour of them ; and it is almoft fuperfluous to mention the itri&nefs of the *Sa/ick* feudifts, who preferred one fex to the total cxclufion of the other: our own laws obferve a medium between their feverity and the latitude of the imperial conftitution.

IV. If we fuppofe that Hagnias had left neither fons nor daughters, but grandchildren only, fome difficulties may arife in adjusting the divifion of his inheritance: there might have been
o
grandfons alone, or granddaughters alone, or both grandfons and granddaughters; and if they had all been the children of one *fan* or one daughter, I conceive that the three preceding rules are exa&ly applicable to thefe three cafes; for it is certain, that, in the defcending line, no diftindion was made at Athens between a title conveyed through a female or through a male, as there was in Rome, till the new ordinances relaxed the ancient ilridnefs. This appears

evidently from the second speech, where Iseus represents it as impossible for Endius to have been ignorant, that, had Phila been the only legitimate daughter of Pyrrhus, *her children would have succeeded to their grandfather's whole estate*; and this was the very title of Ciron's grandsons; for the writer of the Greek argument to the seventh speech was unquestionably mistaken in supposing the cause to be *strong in equity but weak in law*, and in imagining that the orator most artfully suppressed the rule concerning *the preference given to those who claim through males*; a rule which did not relate to lineal defendants, as we learn with certainty from the speech on the estate of Apollodorus : had the second Phylomache, therefore, died before her father Eubulides, her four sons and daughter would have been, on his death, in the same situation, as if they had been his children. We may next conceive, that BUSELUS had survived his five sons, and then died, leaving as many talents to be distributed among all their issue : it is probable, that Oenantbe would have taken, as heiress, the share of her father Cleocritus ; and that the daughter of Habron also would have had one talent; secondly, that Charidemus and Polemo would have taken each a fifth part of the inheritance, giving marriage-portions respectively to their fillers: and thirdly^ that the remaining ta-

leiit would,;as I remarked before, have been divided equally among the three fons of Etibulides; and thus, if Charidemus had been dead, the great-grandfons Theopompus, Stratocles, and Stratius would have received each of them a third part of his allotment, or twenty minas; and, had Polemo been gone, his talent would have defcended to HAG NIAS with the fame obligation to give his filler a fortune: in fadt the inheritance of Hagnias was two talents and fifty minas, fo that Bufelus muft have left fourteen talents and ten minas, or above three thousand pounds fterling, unlefs we fuppofe, that his fon Hagnias, and his grandfon Polemo, had augmented their fortune by diligence or parfimony.

I muft here obferve, that I have no certain authority for this fucceffion *injlrpes* to a grandfathers eftate at Athens: it is clear, indeed, from the fixth fpeech of Ifaeus, that *a daughter Jhared her paternal inheritance equally with a grandfon by another daughter deceafed*\ but if the firft Hagnias had furvived both Polemo and Phylomache, I cannot fee what claim Eubulidd\$II. could have made to his property, except on a fuppofition, that; the grandchildren fucceeded *in capita*; for he could have gained nothing by reprefentiqg his mother, who was hcrfelf no *heirefs*, but a *portionefs* only, and

would have been wholly excluded **by herbrother**.

Thefe is a difficult paflage in the fpeech tm the eftate of PHILOCTEMON, which relates to the queftion now before us, and which feems to have been imperfectly explained by *Dejiderius Heraldus*, whose *Animadverfions on Salmqfius*, although equal in virulence to the inve&ives of Milton, are a very rich mine of learning on the fubje&t of *Attick* and *Roman* law. His words are thefe: "The *ἰνδιμασία* or contejl for
 " *marrying an heirefs*, took place, not only if
 " one or more daughters were left without a
 " * brother, but alfo if one of them remained fin-
 " gle, after their father had given the reft in
 " marriage; as we may fairly coiled: from the
 " fpeech of Ifaeus on the inheritance of *PhiloSlc-*
 " *mon*, where it appears, that Euctemon had
 " left feveral daughters, one of whom was un-
 " married, *together with afon whofurvived him*;
 " and that a man, who called himfelf their
 " neareft kinfman, claimed this daughter, whose
 " fhare of Eu&emon's eftate was become liable
 " to coriteft. Now that Eudtemon had feveral
 " daughters, and that one of them was unmar-
 " ried, is evident from the fpeech; and the foi-
 " lowing paflage alludes to the *ἰνδιμασία*: 06-
 " *ferve too the affurance of Androcles, who firft*
 " *claiyed-jor himftlf the daughter of Eufifemon,*

" as if the had been the beirefs, and injiied on
 " bis right to a fifth part of the property, as if it
 " had been liable to litigation, yet has now
 " averred that Euctemon left a legitimate fon.
 " Has he not by this clearly convicted himfelf of
 " having given falfe evidence ? He certainly has;
 "for, had a fon of EuStemon begotten in wedlock
 " been living, his daughter could not have been
 " beirefs, nor could the ejlate have been open to
 " controverfy. By thefe words he impeached
 " the proteftation of Androcles, who aflerted
 " the right of Antidorus to Eu&emon's inhe-
 " ritage, as his legitimate fon, but had himfelf
 " demonftrated the fallity of his own averment,
 " by claiming the unmarried daughter of the
 " deceafed as her next of kin, together with a
 "fifth part of the eftate (we muft fuppofe that
 "four daughters were married), which he could
 " never have done, had a legitimate fon of Euc-
 " temon been alive; fince, in that cafe, the
 " daughters were excluded from the fucceffioi*,
 " and received portions from their father ox
 " their brother." How plaufible this appears !
 but Ifæus exprefsly tells the court, that Eude-
 mon had only two daughters, the widow of
 Chaereas, who had one daughter, and the wife
 of Phanoftratus, who had two foi>s: now Er-
 gamenes, Megemon, and Philo&emoa alLdie#
 without illie before their father, and we *auft

imagine, when we are examining the claim of Androcles, that the last of them had no son by adoption or will; in which case, if the wives of Chaereas and Phanoftratus took as *daughters* and heiresses of Euemon, each of them would have been entitled to a *moiety* of his fortune, or, if the second daughter had been also dead, her share would have been divided between Chaeroftratus and his brother; but I am inclined to believe, that they claimed as *representatives* of their three brothers, and it will presently be shown in the proper place, how the widow, whom Androcles demanded in marriage, might have had a right to no more than a *fifth* part of the inheritance.

V, In regard to the *melancholy succession*, as it was justly called, of parents to the possessions of their deceased children, there has been a great variety in the ordinances or customs of ancient and modern nations both in Europe and Asia. The Jewish law of inheritances depended almost wholly on the following rules, 1. The children of the deceased succeeded to his property, and, on failure of them, his father inherited. 2, The heir being dead, he was represented by his issue. 3. Males were preferred to females in equal degree. If Sofitheus, therefore, had been a native of Judea, his estate would have descended to his four sons, the eldest, *Softa*, taking his double

fliare; but if all of them had been dead without children, the daughter would have taken the whole; the dying childless, the property would have ascended to *Sofia* I. the father of *Sofitheus*; and his heir would have been traced equally in the same manner; that is, the brothers of the deceased would have succeeded as partners, but the eldest would not have been entitled to a double portion: on default of brothers and their issue, the sisters would have been called to the succession; and, none of them or their children being alive, the inheritance would have gone up to *Callistratus* the grandfather, if living; or, if not, to his sons, the uncles of *Sofitheus*, and their issue, or, on failure of that line, to the aunts; but, had they too been dead without children, and had the great-grandfather *Eubulides* I. been alive, it would still have ascended to him, or devolved upon *Philager* and *Eudemus* the great uncles, and the heirs of their bodies; and they also failing, it would have been inherited by the other sons of the ancestor *Bufelus*, and their descendants representing them, so as to be distributed, according to the flocks, among all the agnatic branches, the half-blood and the maternal relations being wholly rejected. These rules of descent, which are concisely laid down in the book of Numbers, and fully explained in the *Mishna* have the merit of extreme

fimplicity; and are in truth no moſe than limitations to all the anceftors Ifucceflively, and the heirs male of their bodies, with remainders to their iffue female, in the ſame manner as the children of the perſon deceaſed inherit his eſtate, but without the ſame regard to primogeniture.

At Athens, as well as at Jeruſalem, the mother was excluded from the inheritance of her ſon: this we learn from the ſpeſch on the eſtate of Hagnias, where Theopompus mentions the claim ſet up for the *mother of the deceaſed; a relation*, he admits, *the near eſt of all by nature; but not recogniſed by law among the degrees of ſucceſſion*; and he prevailed, accordingly, by the ſuperior ſtrength of his title. There is, indeed, another part of the ſame ſpeech, which might lead us at firſt to imagine, that ſhe was only ſoſtoponed to all the heirs on the paternal ſide, and that ſhe took an equal ſhare with a brother of the half blood; but the preceding paſſage is expreſs, that ſhe was not admiffible to the inheritance; and it may be remembered, that ſhe bore a double relation to Hagnias, both as hi* mother and his ſecond couſin; for ſhe was the filler of Stratius, and the *for or confanguine a* of Theſcpompus himſelf.

The Decemviral law, which ſeems in this inſtance to have been borrowed from that of *Solon*, included mothers from the right of ſucceſſion

to their children ; but this rigour was mitigated by the lenity of the Prsetors, who fometimes gave relief, on the ground of proximity, by their edids *Unde Cognati*, and Claudius Cæfar would not fufier a mother to be deprived qf the fmall confolation, which the fortune of her deceafed fon could afford her. It appears from the fpeech of Cicero for A. Cluentius, that, by the municipal law of *Larinum*, a borough-town of Italy, the poffeffions of Avitus would have gone to his mother Saffia, if he had died intef-tate \ but the law of the twelve tables prevailed at *Rome*, till after the fubverfion of the republick; the amendment of that unnatural ftridnefs was begun by the juft-mentioned Emperor, promoted by the *Senatus confultum Tertullianum* in the time of *Hadrian*, and completed, with fome reafonable reftridtions, by the Juftinianean code.

Our ftatute of diftributions, which was penned by a civilian, and in fome meafure refembles the Roman law, gives the perfonal effeds of intef-tate, who die without wife or ifliie, to his mother, as well as his father, in exelufion of their other children; and the ftatute of James the Second, like the novel conftitutionjs, ordained, that the mother fhould take an equal (hare with the brothers and fitters, and the reprefeatatives of them: but the principles **of the feudal policy***

from which our fyftem of real property was derived, made it impoffible for lineal anceftors to inherit; and, although our Henry the Firft, like the Emperor Claudius, reftored the right of fucceffion in the afcending line, yet the old rigour ftill prevails in England, as the fame rule, drawn from the fame fource, obtains alfo in France. Whether a fimilar maxim was adopted by the ancient *Arabs*, to whofe military inftitutions it feems agreeable, I have no certain knowledge; few monuments of that people remain[^]ing, except their wild fongs on the fubjects of love and war; but *Mahomed* exprefsly ordered, that " even if a man left a child, his parents " fhould have each of them a iixth part of his ^{<c} poffeffions; that, if he died childlefs, his mother fhould take a third part, or if he had " brethren, a fixth, after payment of his debts " and legacies:" as a reaibn for this ordinance he adds, " You know not whether your parents " or your children confer upon you the greater " benefit." The fucceffion of afcendants might have been repugnant to the very eflence of feuds; but our laws would have been more natural, as well as convenient, if the tranfmiffion of all property had been dire&ed by nearly the fame rules, and the diftin&ion between lands and goods had been left to philofophical analyfts **and** fpeculative lawyers.

The maxim in *Littleton* prohibited only the *lineal* ascent of an inheritance; but at Athens the *collateral* ascendants also were excluded from the succession; and this appears to have been the reason, why, if no testamentary guardian had been appointed, the Archon usually gave the guardianship of the infant heir to his uncle, in conformity to the law of *Solon*, which directed that *none should be nominated guardians, who would inherit the estate on the death of the minor*; an ordinance, which confirms the wisdom of our common law. When the heir had several uncles, the magistrate chose one of them according to his discretion: thus *Dinias* was appointed guardian to his nephews, the grandsons of *Polyarchus*; for, although on failure of their paternal and maternal kindred within the limited degrees, he might by possibility have succeeded *jure agnationis*, yet so remote a contingency was not considered; and guardians are expressly named by the old grammarians among the *XW«T««* or *dtjlant relations*, by whom *Phaenops* complains in *Homer* that his possessions would be divided, since his two sons, *Xanthus* and *Thoon*, had perished in battle. *Ariftomenes*, for the same reason, was nominated guardian to his brother's children; and here we may take occasion to illustrate or correct the rule as to the marriage of heiresses to their nearest kindred,

viho^*ift* *they bad not been living*_y *would have inherited the ejiatei* for the orator fays, that Ariftomenes had the option *either to take his niece him-Jeff* or demand her in marriage for his fon ; fince if ihe had been dead, the fortune of Ariftarchus would have devolved upon him, Cyronides having been previaufly emancipated: but no fmall difficulty arifes from the fecond fpeech, in which it is faid more than once, that, if Phila had been a legitimate child, and neither of her coufins would have married her, fhe might have been claimed by Lyfimenes, or Pylades, or Chæron, who, if they were the maternal uncles of Pyrrhus, as I firft imagined, could not poffibly have been his heirs, and, if they were his paternal uncles, muft have been poftponed to all his kinfmen, as far as the fecond coufins, both on his father's and on his mother's fide; fo that we muft fuppofe, either that he had no fuch kinfmen, or that the rule before laid down is erroneous, and that an heirefs might be claimed by her relation in the *nearejl degree*, whether he could have inherited the eftate or not.

The perpetual exclufion of the maternal uncle from the right of fucceffion, would naturally induce the Archon to appoint him guardian to his fitter's fon ; but if any juft exception could be made to him by the mother herfelf or any other friend, he might certainly be fuperfeded:

thus Diodes, a man accused of the blackest crimes, obtained the guardianship of his nephew, by intimidating his sister, and preventing her from opposing his claim; but Thudippus, who had been at variance with his brother Euthycrates, and was even suspected of having occasioned his death, was not thought a fit person to manage the affairs of young *Afiyphilus*, whom the magistrate therefore committed to the care of his father-in-law Theophrastus.

In the fourth speech we see this delicate and important office given to Dicacogenes III. who most infamously abused his trust, and who, if his father Proxenus was really uncle to the deceased, must have been *proprior fobrinus*, or *oncle a la mode de Bretagne*, as the French express that relation, or *Welch* uncle, as we sometimes call it, to his ward Cephifodotus and the other complainants; whence it may be inferred, that he was not within the degrees of succession; but this point I cannot determine with positive certainty.

Among other articles of a guardian's duty at Athens, he was required by the law to let the estate of the minor to the best advantage, taking good security from the lessees for the payment of the rents; for which purpose the guardian presented a *petition*, and a jury was chosen to establish by their verdict the propriety of the

transaction: but a very remarkable passage in the fifth speech of Iphiasus, shows how negligently this duty was performed; for, when the associates of Alee, who had a complete ascendant over old Euemon, falsely set forth in their petition, that her two bastards were the adopted sons of Philodemon and Ergamenes, and that they were testamentary guardians of the infants, praying that their estates might be let to farmers, the court not only neglected to call for proofs of those allegations, but proceeded as of course, and would actually have delivered the property of Chserefratus to a vile set of impostors, if some of his friends had not seasonably been informed of the confederacy. It is probable, indeed, that, when the proclamation was made, the crier called upon all persons interested, to {show cause why the land or houses should not be let; but they should have had longer notice; and the whole passage is so difficult, that the more I reflect on the nature and consequences of such a conspiracy, the less I understand, how it could ultimately have availed the conspirators; nor is it possible, that such a transaction could long have been kept secret at Athens, where so flagrant an insult on public justice would have been punished with the last severity. *Heraldus*, who of all modern jurists has made the best use of Iphiasus, comments at

large on this paflage, but exprefles fome little doubt of its true meaning: his interpretation, however, coincides in general with mine; and I incline to agree alfo with Petit, who conceives that the eftates of minors were let in the month of September, or the beginning of the Attick year, when the old leafes ufually expired; at which time, as he afferts, the courts of juftice were fupplied with their proper *complement* of jurymen, whence he explains the words of my author, " as foon as the courts were full," which Heraldus tranflates, *proximis judiciis et frequenti foro*. I may add, that a fentence in the eighth book of *Pollux* favours the notion of Petit; but the inveftigation of thefe minute points belongs properly to notes.

It appears from many paflages of my author, as well as from the elegant fpeech of Lyfias againft Diogiton, and the known cafe of Demofthenes himfelf, how frequently and fcandaloufly the Athenian guardians • injured their wards: thus Archedamus, who affifted APOLLODORUS as his advocate and advifer, gained two decrees by a great majority againft Eupolis, who had defrauded his nephew of above fix hundred pounds; while the condud of Dicæogenes and of Diodes was ftill more iniquitous. At the age of fixteen a ward might compel his guardian to account by a fuit brought in his

own name; and Demofthenes proceeded againft Aphobus in his feventeenth year; but it feems to have been doubtful, whether, during his minority, he could have maintained a civil adtion againft his guardian for an eftate, to which he was entitled; for, when Theopompus complained that he was cruelly and unneceffarily harafed with an iWy/kxfe or *publick profecuiion*^ and urged, as an argument in his favour, that the friends of young Stratocles had not regularly claimed his moiety of the inheritance, they answered, that a *minor could not bring a civil action again/I his guardian*: this he denied, and challenged them to produce the law, by which fuch an a&ion was forbidden; nor does there feem, indeed, any good reafon for fuch a prohibition. Had it been really as they contended, yet Theopompus intimated an ingenious mode of obtaining juftice: " let a petition, fays he, " be prefented to the Archon, that the eftate " may be let to farm, and then will the leffee " have a right to commence a fuit againft me, " if I refufe to give him poffeffion."

VI. As Hagnias in fad died childlefs, his brothers, the fons of Polemo, would have inherited his poffeffions together, and their children would have fucceeded *to the Jhares of their fathers** by the expr^fs words of Solon, to the exclufion, I imagine, of the fitters; and, if none of his bro-

thers or their children had been living, the Afters wouM have been called to the fucceffion; but, as the legiflator has not faid that the children of fitters fhould fucceed to the {hares of their mothers, it is natural to conclude, that they took *in capita*; and this is the only way, in which I am able to folve the difficulty in the ipeech on the eftate of Philoftemon, where it appears that Androcles claimed the widow of Chaereas with a *fifth* part of the inheritance; for fhe would have been entitled to a greater fhare as heirefs either of her father or of her brothers, unlefs we fuppofe, that the property of Eu&emon was divided in equal proportion among the *two* fillers and their *three* children. Had Phanoftratus and his wife been dead, leaving only one fon, and had the other fitter been fingle or childlefs, the eftates of her brothers, dying intefate and without ifTue, would have gone in moieties to Chaereftratus and his aunt, according to the cafe of Thrafybulus, who took an equal fhare with the wife of Pronapis, of the fortune left by his uncle the fon of Eupolis; but it feems probable, that if the wife of JEfchines had been alive, fhe would have been entitled to a *third* part of the inheritance.

Thus, ou the death of DICJEOGENES, his four Mers and all their children feem to ha*e had a title to equal portions of his eftate; for

Menexcnus and Cephifodotus are said exprefsly to have claimed the fame fhare with their cou-
 ftn, who fpoke in the caufe, and w/ioje fitter (for I adopt the emendation propofed by ReHke) is alfo said to have been entitled equally with her mother. Thefe rights were varicrufly blended by the intermarriages of the firft coufins; and here it may be obferved, that a brother was permitted at Athens, as we learn from the feventh fpeech of Ifaeus, to marry the daughter of his father, not of his mother; but I recoiled no Athenian law by which a man was refrained from marrying the fifter of his wife, a contract forbidden by the Alcoran, and commonly fup-
 pofed to be prohibited by the eighteenth chapter of *Leviticus*: my opinion on that fubjeft, which I have had no reafon to change, has already been made publick by my much-lamented friend Mn ALLEYNE, whose virtues, learning, and talents promifed no lefs honour to himfelf than advantage to his country. We might here enumerate thirty cafes, in which the poffeffions of a perfon deceafed were diftributable at Athens to his fons or daughters, brothers or fitters, or their children, feverally or in concurrence; but, if a diftin&ion be made between thofe who claim through females and thofe who derive their title through males, the number will amount to ninety-fix; and in all the poffible cafes, the

refpe&ive claims may, I think, eafily be adjufted by the help of the preceding rules.

VII. I now proceed to the coufms of Hag-nias, and muft begin with remarking, that Solon made an eflential difference between them and the lineal defcendants of a perfon deceafed, or his brothers and fifters and their children; for the preference to males and the ifllie of males was applied to coufins only, and *M. Auger* is certainly miftaken in fuppofmg that nieces or the children of nieces were poftponcd to nephews or their fons. The grammarian, who wrote the Greek arguments to Ifoens, fell into the fame error; although the diftinfion is fully explained by the orator himfelf in the fixth fpeech; where he fays, " that the law gives " the filter and the lifter's l'on an equal {hare " of their father's and their brother's fortune: " but that when a couiin dies, or any kinfman " in a remoter degree, the male relations are " called to the fucceffion before the female; for " it is ena&ed, that males and the children of " males, if any be living, fhall be preferred, al- " though they are lefs nearly related to the de- " ceafed." The children, therefore, of *Cirons* daughter had a better title than his nephew, whether he was a brother's or a lifter's fou; and the fine reafoning of *J feus* on that point was, indeed, as he intimates himfelf, almoft fuper-

flUous; but the fitter of Stratius IL who flood in the fame degree of relation to Hagnias with Theopompus, was wholly excluded from the fucceffion; thus, if APOLLODORUS had died without having appointed an heir, his eftate would have defcended to Thrafybulus, his firft coufin once removed, in preference to the wife of Pronapis, who was nearer by one degree; but as he waived his right and admitted the adoption of Thrafyllus, the female coufin and her hufband fet up a claim to the inheritance.

The Attick laws prcferved by Demofthenes* and the recitals of them in Ifacus, mutually correct and explain each other: thus the law of inheritances in the fpeech againft Macartatus is fupplied by the opening of the fpeech on the eftate of Hagnias; and the paflage above cited from my author muft be amended from the compofition of his immortal pupil, by adding the words *provided that they belong to the fame branch*; on which provifo the title of young Ebulides folely depended. *M. Auger* has translated this paflage in the following manner: " males and the children of males fhall have the " preference, provided that they ftand in the " fame degree, and be not farther removed;" but he unqueftionably mifunderftood it; and the article of *fuccejjions*, indeed, is the lead perfect of any in his valuable work.

Few words in the Greek and Latin languages are more vague than those, which express the different relations of *dv^Ur^* or *covfinage* but I must leave a precise interpretation of them to philologists, and be contented here with observing, that, in Isseus*and Demosthenes, *dntyA* always mean the sons of brothers and sisters, or *Jirjl* cousins, whose children, or the *second* cousins, were called *d^idhl* by the Athenians, and by the Romans, *fobrini* which last relation both Eubulides II. by his father Philager, and the three sons of Charidenuis, bore to Hagnias, whose property was in dispute. A first cousin *once removed* was also distinguished by the name of *av^aSaV*, or son of the avfyior: thus Cleon and ASTYPHILUS were first cousins; and the son of Cleon was *dntyzt*; to the deceased, but not, I believe, conversely; although the sons of Aftyphilus and of Cleon would have been reciprocally *av^a&l* to each other. The attentive reader must have anticipated my remark, that Cleon would have been heir at law to his first cousin, if his father Thudippus had not been adopted by another family; and this was*the title of Hagnon and Hagnotheus to the estate of NICOSTRATUS: thus, on the death of Hagnias, the son of his aunt Phylomache was entitled to the succession; for, although he derived his relation to the deceased through a female, yet

Theopompus, who claimed wholly through males, *belonged to a different branch* or family, namely, to that of Stratius I. ; and Wolfius, as Perizonius observes, was mistaken in supposing that Theopompus had the better title. Had a *brother* of Polemo, indeed, left a son, he would have excluded Eubulides, and not only he, but *his son too, although in a remoter degree*, would have been preferred. On failure of first cousins and their children, *the second* cousins on the father's side were admitted to the inheritance, which they took, as in their own right, *in capita*; although the first cousins once removed would have taken *in stirpes*, as representing their fathers : so Theopompus, Stratocles, Stratius, Eubulides, and Menestheus, would have succeeded *to fifth* parts of the estate, the daughter of Callistratus being rejected, as well as Stratonides, the son of Oenante; but Theopompus, the only surviving second cousin, would have been entitled to the whole, if Eubulides had not borne a double relation to Hagnias, one part of which Ifasus very artfully suppressed. As to the claim set up by the son of Stratocles, it seems to have been incapable of support; for, although there be some little variation in the different copies of the law, yet we may safely conclude, that the children of second cousins were not within the legal degrees of succession; and so the court at

Athens determined, for Theopompus died in poffeffion of the whole fortune-

No fecond coufins being alive, the half-blood was admitted in the fame order; that is, the brothers and fillers, nephews and nieces, on the mother's fide, or, on failure of them, the firft coufins and their children, and, laftly, the fecond coufins, but no farther; for, if no maternal kinfmen exifted within thofe degrees, the *agnatic* or next of kin on the paternal fide, were the heirs at law; and their proximity was traced by counting the degrees from the common anceftor: thus, if Theopompus too had been gone, the half-brother *Glauco* would have fucceeded; or, he being dead without iffue, the maternal firft coufins or iffue of Stratius IL and, perhaps, of Theopompus and Stratocles. I muft here again mention a moft difficult paffage in the tenth fpeech, to which I before alluded. It is there faid exprefsly, that, " i f *Glauco* had relinquished " his claim, the *mother of him and of Hagntas* " might then have juftly entered into litigation " for the property of her fon; and, as ihe would " have difputed with perfons by no means ad- " miffible to the fucceffion, fhe w^rould clearly " have obtained a fentence for the moiety, both " law and natural juftice confpiring in her fa- " vour." Now the mother of Hagnias was his fecond coufin on the father's fide; and, as fuch.

would have been entitled to his inheritance on failure of *males* in the same degree, to the exclusion, as one would have imagined, of the half-blood: how then could her son Glaucus have claimed before her? What occasion had {he to wait for a waiver of his right? Was a female paternal second cousin postponed to *zjzater uterinus* by the words of the law, which gave a preference to males? The more I consider this passage, the more it perplexes me • and I have not yet found any satisfactory solution of the difficulty.

I will close this section with observing, that, if the preceding interpretation of the laws be right, and males were only preferred *in the same branch*, the title of the second Phylomache was better than that of Theopompus, who must, therefore, as Demosthenes asserts, have gained a verdict in his favour by some contrivance or surprise.

VIII. I have all along proceeded on a supposition that the heirs of a person deceased were *legitimate children*, who are defined by the first Attick law to be those *born in wedlock of a woman duly betrothed* but the thirteenth law, which excluded bastards from *the succession to sacred or civil rights*, must have been re-enacted after the time of Solon, who was appointed legislator one hundred and eighty years before the archon-

flip of Euclid. We have already observed that his laws were made only for a century, and, though they were all perpetuated by Diodes, yet that concerning *bafiards* is said to have been revived by *Pericles* and *Ariftophon*, who added to the definition of legitimacy, that *both parents muft be citizens*; and this point we fee carefully proved in the fragment of the fpeech for Euphiletus. The laws of the Greek iflands, however, feem to have differed in this refped from thofe of Athens; for in JEgina, as we learn from Ifocratcs, the illegitimate fifter of Thrafylolochus intituted a fuit againft his devifee, who, inftead of refting his defence on her inability to inherit, was fatisfied with proving the will, and dilcourfmg at large on the friendfhip which had fubfifted between him and the deceafed.

I come now to the fecond part of my commentary, in which I propofed to explain the modes of *appointing* an heir among the Athenians, on failure of *natural* heirs or lineal defendants.

I. Frequent mention is made by the Grecian orators' of *defolate heritages*, as they are called by ISAIAH: now a family was confidered as ~~fixing~~ *fixing* or *become deolate*, when the laft occupier of an eftate left no ion by nature or by appointment, who might perform holy rites at hk tomb, preferve his race, and, by tranfmitting fil*

name to a perpetual chain of fucceflbrs, confer on him a kind of immortality. As this idea mult have been extremely pleafing to men, whofe views of a better life were rather faint glimmerings of hope than well-founded expectations, they were very early indulged with the power of *adopting* fons: hence, as Ifasus obferves in the fixth fpeech, " all they, who thought " their end approaching, took a provident care " that their families might not become extindt; * and if they had no heirs by birth, yet they left " fons at leaf by adoption." The prefervation of names might have been one reafon for the preference given to males in the Attick laws of fuccefion; and it is very remarkable, that, both in Hebrew and Arabick, the word for a male implies *remembrance*, and that for a female, *06/i-vion*\ but this diftin&ion would not have exifted, if it had been enacted, that the hufband of an heirefs fhould either afTume the name of her anceftor, or give it to one of his fons: even in our own country, and in very modern times, we fee a number of devifes to men *on condition* that they take the names of the devifors, or to women, *provided that* they marry perfons of a particular name; fuch has been the fondnefs of mankind, in moft ages and nations, for the jingle of empty founds! At Athens children were named on the tenth day after they were born,

as on the *lujlrical* day of the Romans; and male infants, as we see in the pedigree of Hagnias, usually received the names of their grandfathers, or some compounds of them, a method recommended in the laws of Plato. Thus one would have thought, that the son of Oenanthe should have been called *Cleocritus*, and **that the** name of *Stratonides* should have been given to a grandson of Stratius; but parents were at liberty to impose names as they pleased; and Sositheus in Demosthenes mentions the motives which induced him to call his four sons, Sofias, Eubulides, Menestheus, and Callistratus. Female children also were frequently named after their grandmothers: thus the name of Phylomache descended to her grand-daughter; and the uncles of PYRRHUS asserted, that he gave his daughter Phila the name of his own mother *Clitaretas* which would have been a strong argument for her legitimacy. This custom was useful in keeping the branches of a family distinct, especially as males were preferred only in the same branch; and it was forcibly urged against Theopompus, that neither his brethren nor his ancestors bore the name of *Hagnias*, or of *Eubulides*, nor any similar to them, such as Hagnon, Hagnotheus, or Eubulus; while the other two branches were equally clear of any name like that of Stratius, from whom he descended; it may be worth

while to add, that a change of names often took place at Rome, as M. Brutus, who had been adopted by his uncle, is named Q^aCaepio Brutus in a decree of the senate; but it was usual, on some occasions, to alter the termination only, as Octavius, after the death of his adopter C. Caesar, was called *Offavianus* and, for a similar reason, one of Cicero's letters is addressed to T^a *Pomponianus* Atticus.

The public interest also was greatly concerned in preventing the deforestation of heritages; for it was expedient, that estates, which contributed to defray the general expenses, should be preserved as long as possible; and this mode was preferable in a free government to the laws of entails and fiscal claims to vacant inheritances: hence we find, that SOLON directed the chief magistrate to prevent the total extinction of families; and hence, if a man died intestate and childless, it was incumbent on the next heir to emancipate one of his own sons or near relations, and appoint him, by a kind of adoption, son to the deceased, together with his name and a considerable portion of his estate. Thus, on the death of Apollodorus the son of Eupolis, one of his sisters ought to have given her own son both his name and part of his fortune; but, as this duty was neglected by the wives of Pronaxis and Ephichines, their first confu-

took care to adopt Thrafyllus, whilst he lived; and the speech on the estate of APOLLODORUS is so clear and full a commentary on this method of adoption *during* /{fe, that it were quite superfluous to write more diffusely on the subject: a few observations, however, may be added without impropriety.

Both at Athens, as we learn from Isæus, and at Rome, as A. Gellius informs us, an adopted ion acquired all the rights, both sacred and civil, and succeeded to all the advantages and burdens, of the new family into which he was introduced; nor was he considered in any other light than that of a son by nature born in lawful wedlock, whence the orator asks, " how Philæte-
" mon could have died without a child, when
" he had actually adopted his nephew;" but all pretensions whatever to the inheritance of his natural father were wholly lost by adoption or emancipation: thus Cleon was first cousin to ASTYPHILUS, but as his father had been adopted by another person, he no longer bore any relation to the deceased; yet, if Thudippus had left a son in the house of his adopter, and returned, as he lawfully might, into his ancient family, and if Cleon had been born after that return, either he or his son would have been heir to Aftyphilus, in preference to the half-brother. A maternal inheritance, indeed, was not

loft by adoption; for the father only was changed : fo, when Thrafybulus was adopted by Hippolochides, he ftill retained and aferted his title to the eftate of his mother's brother, a moiety of which he aftually received; and he would have taken, as male coufm, the whole fortune of Apollodorus, if the adoption of Thraffyllus had been illegal.

When the adopted fon died without children, and confequently without having returned to his natural family, the poffeffions of the adopter defcended to his right heirs; as, on the deceafe of Endius, the fifter of PYRRHUS demanded and obtained his eftate, the illegitimacy of Phila and the legality of the adoption being clearly proved: had Phila been legitimate, it appears from the pleadings in the caufe, that an adverfe poffeffion of *twenty* years would not have barred her title; and we muft fuppofe, that the limitation o f / w years related only to a&ions brought, and not to *protejiations* or *entries* made by lineal defendants, who took poffeffion, if they pleafed, without inftituting a fuit for their inheritance. The fpeech of Demofthenes, in the caufe between *Ariftodtmus* and *Leochares*, contains a great deal of curious learning concerning adoptions ; for the principal queftion was, *whether en adopted Jon could himfelf adopt another*•, and the argument of Demofthenes, who maintained

the negative, was in substance this: " An adopted son cannot *devise* the property acquired by adoption, for Solon gave the power of devising only to *unadopted* citizens; he cannot, therefore, by *adopting* a son, give him a right to the same property, for a devise is in fact a species of adoption, and both kinds were prohibited together; besides, there cannot be two adopted sons at the same time; and the law permits the return of the first in one case only, that is, when he leaves a legitimate son of his own in the family of the person who adopted him." As to the other question, *who was heir at law to Archuades*, there was no kind of difficulty in it; for the complainant descended from a *brother*, and was therefore preferred by the express words of the law to the issue of *&fijler* but how Ariftoteles could be considered as heir to Leocrates, who was related to him in the *ninth* degree of the civilians, I am at a loss to determine: there are many other dark passages in the speech, which I leave to the interpreters of Demosthenes, it being my sole business at present to illustrate Isæus. One thing only I may remark with *M. Auger*; that no objection was taken to the adoption of Leocrates, because the supposed adopter had never been married; and I at first thought with him, that *the adopted son must necessarily have been a genuine citizen*;

but the if agment in defence of *Euphiletus* seems to prove, that foreigners were sometimes adopted, unless we suppose, as I think we may, that Ifseus was there speaking of *supposititious*, not of adopted, sons. The true end and essential conditions of an adoption at *Rome* are explained with admirable perspicuity by Cicero, in his noble speech/ir *the rejlitution of his Palatine house*, in which he proves that *Clodius* had been illegally adopted : it appears from that whole business, that a Roman, properly qualified in other respects, might adopt a man of a different rank from himself; but such an adoption, it seems, was forbidden by the laws of *Molina* and *Sip/inuSj* either during life or by testament, whence Ifocrates takes pains to show, that the devisee of *Thraflylochus* was *a citizen wferiour to none of the Siphnians*, and educated in the same manner with his friend. •

IL The power of devising property, which SOLON introduced at Athens but two hundred years before the birth of Demofthenes, is next to be considered; and the preceding speeches evidently show how much litigation and imposture followed the introduction of it; an objection, indeed, which lies in some degree against the laws of succession ; for, when NICOSTRATUS was dead, there appeared no fewer than seven false claimants of his estate by a variety of

fictitious titles. I cannot ascribe the definition of Athenian liberty to this alteration made in the ancient law, and am inclined to doubt the *fact* of its having produced excessive wealth in some citizens, whilst others were impoverished: there are many instances in the Greek orators of persons, who had succeeded, as heirs, to several estates; but the disadvantages and odium, which attended an excess of riches, were confidently greater at Athens than the benefits or pleasures arising from affluence. Various causes contributed to the subversion of the Athenian state: had Philip never existed, or been less ambitious, had Hyperides and Demosthenes understood the art of war as well as that of rhetoric, had the gold of Persia and Macedonia been less powerful, and the abettors of tyranny less assiduous, Athens might have continued to flourish in splendour and freedom, whether Solon's institution had taken place, or the former frugality had prevailed. Plutarch, indeed, whose judgment is highly to be respected, ascribes the decline of the Spartan government to a similar relaxation of the old severity by the law of *Epitadeus*, which permitted a devise of lands or goods from the natural heir, in opposition to the ordinance of LYCURGUS, which prohibited any alienation of them; and he imputes even the proposal of such a law to a motive of repent-

ment or of covetoufnefs; for *Epitadeus*, fays he, was a proud feditious man, and had quarrelled bitterly with his own fon 5 but the permiffion given by him to alien an eftate at all, and not merely to leave it by will, was the evil of which the hiftorian complains; for, when mod of the inheritances in Lacedsemon had been transferred from the lawful heirs, there remained only feven hundred genuine citizens, among whom not more than one hundred were in poffeffion of lands : yet, if the Athenian filver had not found its way into *Sparta*, the law would have been innocent, although lefs expedient in a military, than in a commercial, nation.

Whether the law of Solon was politick or not, it had the merit of concifenefs and fimlicity, and the ftudent may not be difpleafed to compare it with the ilatute of our Henry the Eighth, who certainly was not a Solon: but it would be foreign from my defign to difcource upon it at large, much lefs to fubjoin a treatife on devifes, or to analyfe every word in the well-known definition of *Modejlinus*. So many books have been written upon wills by civilians and common lawyers, that the fubjedl is almoft exhausted, and the paffages in my author, where mention is made of them, are fo clear as to require very little explanation : it will be fufficient, therefore, to conclude this commentary, as I at

first proposed, with a few remarks on **the** execution and revocation of an Athenian will. I have already observed, that the *appointment* of an heir by a man's last testament was regarded at Athens as a mode of *adopting* a son; and of this testamentary *adoption*, for so the Greek orators call it, we have several examples in Iseus: thus the devise *oiPhiloSlemon* is treated all along as an adoption; but his power to devise or adopt in the lifetime of his father is somewhat questionable, since in fact he nominated a representative of himself as son of Eudemon, His power, however, being admitted, let us examine the manner in which it was exercised. We may take notice, in the first place, that, although *Cato* the *Censor* repented of his having passed a *Jingle day without a will*, yet the old Athenians were not so provident; for they commonly deferred the execution of their wills, till they were impelled by the apprehension of some approaching danger: thus, when *Apollodorus* was on the point of sailing with the army to *Corinth*, he left his estate, in case of his death, to the daughter of *Archedamns*; and it was argued by the son of *Theophrastus*, that, since *AJiylphilus*^ who was a soldier by profession, had made no will before his campaigns in the *Corinthian* and *Theban* wars, it was very improbable that he should have chosen to make one, just before his adven-

ture to *Mitylene*[^] in which he was left exposed to peril. Theopompus also, whose business it was to insert, that *Hagnias* had devised his fortune to Glaucō, mentions, as a reason why he devised it at all, that *he was preparing to fail on a publick embassy* and Philoctemon is said to have adopted Chserefratus by will, lest he should perish in one of his frequent expeditions by land or sea: if, in these cases, possession of the estates had been given to the donees, they would have been complete *donationes mortis causa*, many examples of which may be found in the ancient poets and historians of Greece; but they seem to have been regular devises according to the law of Solon. The express words of that law, as well as the common sense of mankind, required that a testator should have the full enjoyment of his reason and liberty, without which no instrument executed by a man can with any propriety be called his *will*: thus it was contended, that Philoctemon's disposition of his property was exactly agreeable to the law, since he had no legitimate children, and had been advanced by his fellow-citizens to the highest honours on account of his superiour talents; and it was no uncommon dilemma, of which we have examples at the conclusion of the first and eighth speeches, " that either no **will** at all had " been made by the deceased, or **this**, if it had,

" it was invalid, fince he could not have difm-
 " herited his relation, whom he always loved,
 " or adopted a perfon, whom he always ab-
 " horred, without having loft his fenfes by the
 " effects of poifon or difeafe." From this *fpe-*
icious mode of reafoning proceeded the *Roman*
do&rine of *inofficious* testaments, which were fet
 afide on a prefumption of infanity, or of fuch
 caprice as amounted to folly; thus the will of
Mbutius, who, having two daughters of equal
 merit, left his eftate to one of them exclufively
 of the other, was confidered as a proof of mad-
 nefs.

The power and underftanding of an Athenian
 teftator being indifputable, he wrote his will in
 the fimpleft and cleareft manner, and commonly
 in the following form : " Philoctemon the Ce-
 " phifian made this teftament. If any accident
 " fhould befall me, and if my wife fhould not be
 " delivered of a child, I give all my eftate and
 " intereft to my nephew Chsereftratus, whom I
 " adopt as my fon ; and I bequeath one talent
 " to my wife, together with my houfe at Ce-
 " phifia." We may coll:ed: from a paffage in
 the eighth fpeech, that it was not abfolutely ne-
 ceffary for a will to be attefted ; it was ufual,
 however, to have witneffes, and prudent to con-
 vene as many friends and relations as could be
 aflcmbled, iHwhoſe prefencce the will was ac-

knowledged by the testator, but the contents of it were seldom disclosed: it was then *sealed up* for the purpose of secrecy, and generally committed to the care of some kinsman, who was not interested in the destruction of it, or whose integrity was wholly unsuspected. Thus the testament of old *Eubemon* was deposited with his friend Pythodorus, and that of his son with his brother-in-law Chaereas ; and the pretended will of *Alciphilus* was said to have been left in the custody of his uncle Hierocles; but the Athenian wills were sometimes placed, for greater security, in one of the publick temples, a method frequent also at Rome; and the will of Cleonymus was, probably, secured in this manner, since, when he wished to cancel it, he sent Pofidippus for the *drwo* or *Mdile*, who had the care of all the great buildings at Athens. Notwithstanding these precautions, a number of forged wills were continually set up; and, notwithstanding the wise provisions of the law, as great a number were obtained by improper influence ; but, though the profligacy of the Athenians has been ascribed to the form of their government, yet, if we consider the multitude of forgeries and impositions of the same kind, which almost every circuit in England brings to light, we shall be forced to confess, that the people of Attica were profligate, *not because* they

had a popular government, but *although* they had it i and we muſt look for another ſource of their wickedneſs and of our own, which I conceive to be this; that, " in artificial ſociety, " money ſoon acquires a value inconſiſtent with " virtue and honeſty."

There is a vein of juſt reaſoning on the evidence of wills in the ſpeech on the eſtate of *AT-cojiratus*, whoſe teſtament, as well as that of *Ajlyphilus*, appears to have been forged ; but he muſt be an unſkilful advocate, who cannot make his own caſe plauſible; and, as the arguments on the other ſide are not extant, it is impoſſible for us to decide the cauſes with juſtice: the ſame may be obſerved as to all the queſtions of mere fact, which ariſe in the ſpeeches of *Iſaſus*; but ſo many diſintereſted witneſſes, whoſe depositions are preſerved by his pupil, confirm the pedigree of *HAGNIAS*, that it is equally impoſſible for us to doubt the truth of it.

If *PHILOCTEMON* had adopted *Chsereſtratus* in his life-time, an afterborn child would have been coheir with his adopted ſon; but he might have deſired to leave his entire poſſeſſions to his own iſſue; and ſuch an adoption would have been irrevocable, except for the moſt weighty reaſons, whilſt a teſtamentary appointment might be revoked at pleaſure. The revocation of wills was uſually performed at Athens

with great ceremony, and in the presence of a magistrate; for those, with whom they had been deposited, would not surrender or unseal them, except by the authority of the court, lest they should at any time be charged with having altered them: hence Pythodorus refused to give up the testament of Euctemon, and, when he was called before the Archon, declared that he could have no wish to detain it, but insisted, that, as Chsereas was present, when Euctemon committed the will to his charge, and as an infant daughter of Chsereas was living, whose interests might be affected by the revocation of it, he was authorized to keep it, until her guardian or husband could secure him from any trouble on her account; and the court approved of his caution; but the will was revoked, it seems, by the *subtck* declaration of Euctemon, that it was no longer valid.

The speech on the estate of Cleonymus clearly shows the formality with which a testament was rescinded; and the question on the *virtual* revocation is discussed with elegance; nor could Ifseus be easily answered, if the *asusual* revocation was in truth prevented by the contrivance of the devisees, from which both reason and justice would have forbidden them to derive advantage. I have hitherto purposely abstained from citing *English* cases on the important sub-

jedl of devifes and revocations, becaufe I wifhed to avoid even the appearance of profeflional oftentation, and becaufe the books, in which they may be read, are on the {helves of every ftudent, who will find it an agreeable exercife to confider how thefe Athenian cafes would have been decided at Weftminfter; but I cannot help alluding to the cafe of *Burton* and *Gowell* in the thirty-fifth year of Elizabeth, where a man executed a devife at Pulham, and afterwards lying fick at Sterfton, faid, " *my will made at Pulham pall not Jland,*" and it was holden that thefe words revoked the will, becaufe the verb apparently future denoted a prefent refolution, but a declaration of a future intention would not have been fufficient: fuch words, however, fpoken in private, would not have amounted to a revocation at Athens, any more than with us after the ftatute of frauds.

Before I conclude this commentary, I muft take notice of a few circumftances in one or two of the fpeeches; and, firft, of a paflage in that juft mentioned, where *Polyarchies* is faid to have directed, that, " if his fon Cleonymus died " without iflue, the eftate fhould go to his grandr " fons:" now, if this direction had been contained in a will of the grandfather, Cleonymus could hardly have been empowered to deprive the perfons in remainder of their intereft, fince

the Athenians had not even an idea of estates-tail by implication, much less of recoveries by which those entails might be barred; we must, therefore, suppose that this was only a *devise* or *recommendation* of Polyarchus, which his son might legally, although not very decently, disregard. Next, it may be remarked, that, in the real testament of *Philoclemon* and in the pretended one of *Hagnias*, we may discover the rudiments of those *substitutions*, which form so large a part of our modern systems: Hagnias is supposed to have devised his property to his piece, and, after her death, to his half-brother *Gaucus* who, when she died, entered upon the estate by virtue of the remainder, which had been veiled in him; but such limitations were

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I believe, uncommon among the Athenians, whose jurisprudence was not entangled with the subtle doctrine of contingent and vested interests, or the multitude of perplexing questions, to which the capricious fancy of testators, with a little help from conveyancers, has constantly given birth in England; nor would the ancient courts have suffered justice to be impeded by the technical niceties which confined our countrymen, to whom devises, on their first introduction, appeared, they said, of a *marvellous nature* and a single question, in the case of *Curius* and *Coponius* which the Roman tribunal decided

juftly in one day, was agitated in our courts for near forty years, I check myfelf on the profpect of the vaft field, into which this fubjed would lead me, remembering, that it is the fole duty of a commentator to illuftrate his author; and the fpeeches of *IS ÆUS* are made, I flatter myfelf, fufficiently clear by the preceding obfervations; although, I confefs, that fome few clouds and dark places are left in them, which more leifure than my late engagements have permitted me to enjoy, might perhr.ps have enabled me to difperfe and elucidate. I am fully fenfible, that deep rcfearches into the legal antiquities of *Greece* and *Rome* are of greater ufe to fcholars and contemplative perfons, than to lawyers and men of bufinefs; that *Brafton* and *Littleton*, *Coke* and *Rolle*, are the proper objects of our ftudy; and that, if a client were to afk his counfel whether he had an eftate for life or in-tail, he would receive little fatisfa&ion from being told, that, whatever eftate he had, he might devife it by the law of *Solon*, provided the devifee took his daughter in marriage; but the ableft advocates and wifeft judges have frequently embellifhed their arguments with learned allufions to ancient cafes; and fuch allufions, it muft be allowed, are often ufeul, always ornamental; and, when they are introduced without pedantry, never fail to pleafe. So delight-

ful, indeed, is the study of laws, general and particular, ancient and modern, Asiatick and European, that even the fine arts are not more alluring; and it is with pleasure, as well as firmness, that I adopt the resolution of CICERO, which cannot be more forcibly or concisely expressed than in the very words of his letter to Varro: "Mihi hæc videntur—li nemo utetur
" opera, tamen et scribere et legere *moxirefa*, et *fi*
" minus in curia atque in foro, at in Uteris et
" libris, ut doctissimi veteres fecerunt, navare
" rempublicam, et de moribus ac legibus quæ-
" rere."

SACONTALA;
OR,
THE FATAL RING:

AN
INDIAN DRAMA.

By CALIDAS.

TRANSLATED FROM THE
ORIGINAL SANSKRIT AND PRACRIT.

PREFACE-

IN one of the letters which bear the title of EDIFYING, though most of them swarm with ridiculous errors, and all must be consulted with extreme diffidence, I met, some years ago, with the following passage: " In the north of India " there are many books, called Nats, which, " as the Brahmens assert, contain a large portion " of ancient history without any mixture of fable;" and having an eager desire to know the real state of this empire before the conquest of it by the Savages of the North, I was very felicitous, on my arrival in Bengal, to procure access to those books, either by the help of translations, if they had been translated, or by learning the language in which they were originally composed, and which I had yet a stronger inducement to learn from its connexion with the administration of justice to the Hindus; but when I was able to converse with the Brahmens, they assured me that the Nats were not histories, and abounded with fables ; that they were

extremely popular works, and consisted of conversations in prose and verse, held before ancient Rajas in their public assemblies, on an infinite variety of subjects, and in various dialects of India: this definition gave me no very distinct idea; but I concluded that they were dialogues on moral or literary topics; whilst other Europeans, whom I consulted, had understood from the natives that they were discourses on dancing, music, or poetry. At length a very sensible Brahmen, named Radheant, who had long been attentive to English manners, removed all my doubts, and gave me no less delight than surprise, by telling me that our nation had compositions of the same sort, which were publicly represented at Calcutta in the cold season, and bore the name, as he had been informed, of plays. Resolving at my leisure to read the best of them, I asked which of their Nats was most universally esteemed; and he answered without hesitation, *Sacountala*, supporting his opinion, as usual among the Pandits, by a couplet to this effect: " The ring of *Sacountala*, in which the " fourth act, and four stanzas of that act, are " eminently brilliant, displays all the rich exuberance of *Calidasa's* genius." I soon procured a correct copy of it; and, assisted by my teacher *Ramalochan*, began with translating it verbally into English, which bears so great a resemblance

to Sanscrit, that it is more convenient than any modern language for a scrupulous interlinear version: I then turned it word for word into English, and afterwards, without adding or suppressing any material sentence, disengaged it from the stiffness of a foreign idiom, and prepared the faithful translation of the Indian drama, which I now present to the publick as a most pleasing and authentick picture of old Hindu manners, and one of the greatest curiosities that literature of Asia has yet brought to light.

Dramatick poetry just have been immemorially ancient in the Indian empire : the invention of it is commonly ascribed to Bharata, a sage believed to have been inspired, who invented also a system of music which bears his name; but this opinion of its origin is rendered very doubtful by the universal belief, that the first Sanscrit verse ever heard by mortals was pronounced in a burst of repentment by the great Valmiki, who flourished in the first age of the world, and was author of an Epic Poem on the war of his contemporary, Rama, king of Ayodhya ; so that no drama in verse could have been represented before his time; and the Indians have a wild story, that the first regular play, on the same subject with the Ramayan, was composed by Hanumat or Hanuman, who commanded an army of Satyrs or Mountaineers in Rama's expedition

againſt Lanca: they add, that he engraved it on a ſmooth rock, which, being diſtatisfied with his compoſition, he hurled into the ſea; and that, many years after, a learned prince ordered expert divers to take impreſſions of the poem on wax, by which means the drama was in great meaſure reſtored; and my Pandit affures me that he is in poſſeſſion of it. By whomſoever or in whatever age this ſpecies of entertainment was invented, it is very certain, that it was carried to great perfection in its kind, when Vicramaditya, who reigned in the firſt century before Chriſt, gave encouragement to poets, philoſophers, and mathematicians, at a time when the Britons were as unlettered and unpoliſhed as the army of Hanumat: nine men of genius, commonly called the nine gems; attended his court, and were ſplendidly ſupported by his bounty; and Calidas is unanimouſly allowed to have been the brighteſt of them.—A modern epigram was lately repeated to me, which does ſo much honour to the author of Sacontala, that I cannot forbear exhibiting a literal verſion of it: " Poetry was the ſportful daughter of Valmic, and, having been educated by Vyafa, ſhe choſe Calidas for her bridegroom after the manner of Viderbha: ſhe was the mother of Amara, Sundar, Sanc'ha, Dhanic; but now, old and decrepit, her beauty faded, and her unadorned

" feet flipping as she walks, in whose cottage
" does she disdain to take shelter?"

All the other works of our illustrious poet, the Shakespeare of India, that have yet come to my knowledge, are a second play, in five acts, entitled *Urvashi*; an heroic poem, or rather a series of poems in one book, on the Children of the Sun; another, with perfect unity of action, on the Birth of *Cumara*, god of war; two or three love tales in verse; and an excellent little work on *Sanfcrit Metre*, precisely in the manner of *Terentianus*; but he is believed by some to have revised the works of *Valmiki* and *Vyasa*, and to have corrected the perfect editions of them which are now current: this at least is admitted by all, that he stands next in reputation to those venerable bards; and we must regret, that he has left only two dramatick poems, especially as the stories in his *Raghuvansa* would have supplied him with a number of excellent subjects.—Some of his contemporaries, and other Hindu poets even to our own times, have composed so many tragedies, comedies, farces, and musical pieces, that the Indian theatre would fill as many volumes as that of any nation in ancient or modern Europe: all the Pandits assert that their plays are innumerable; and, on my first inquiries concerning them, I had notice of more than thirty, which they consider as the flower

of their Natacs, among which the ^Malignant Child, the Rape of Ufha, the Taming of Durvafas, the Seizure of the Lock, Malati and Madhava, with five or fix dramas oii the adventures of their incarnate gods, are the moft admired after thofe of Calidas. They are all in verfe, where the dialogue is elevated; and in profe, where it is familiar: the men of rank and learning are reprefented fpeaking pure Sanfcrit, and the women Pracrit, which is little more than the language of the Brahmens melted down by a delicate articulation to the foftnefs of Italian; while the low perfons of the drama fpeak the vulgar diale&s of the feveral provinces which they are fuppofed to inhabit.

The play of Sacontala muft have been very popular when it was firft reprefented; for the Indian empire was then in full vigour, and the national vanity muft have been highly flattered by the magnificent introduction of thofe kings and heroes in whom the Hindus gloried; the fcenery muft have been fplendid and beautiful; and there is good reafon to believe, that the court at Avanti was equal in brilliancy during the reign of Vicramaditya, to that of any monarch in any age or country—Dufhmanta, the hero of the piece, appears in the chronological tables of the Brahmens among the Children of the Moon, and in the twenty-firft generation

after the flood; so that, if we can at all rely on the chronology of the Hindus, he was nearly contemporary with Obed, or Jeffe; and Puru, his most celebrated ancestor, was the fifth in descent from Budha, or Mercury, who married, they say, a daughter of the pious king, whom Vilhnu preserved in an ark from the universal deluge : his eldest son Bheret was the illustrious progenitor of Guru, from whom Pandu was lineally descended, and in whose family the Indian Apollo became incarnate; whence the poem, next in fame to the Ramayan, is called Mahabharat.

As to the machinery of the drama, it is taken from the system of mythology, which prevails to this day, and which it would require a large volume to explain ; but we cannot help remarking, that the deities introduced in the Fatal Ring are clearly allegorical personages. Marichi, the first production of Brahma, or the Creative Power, signifies light, that subtil fluid which was created before its reservoir, the sun, as water was created before the sea ; Casyapa, the offspring of Marichi, seems to be a personification of infinite space, comprehending innumerable worlds; and his children by Aditi, or his active power (unless Aditi mean the primeval day, and Diti, his other wife, the night), are Indra, or the visible

firmament, and the twelve Adityas, or suns, presiding over as many months.

On the characters and conduct of the play I shall offer no criticism; because I am convinced that the tastes of men differ as much as their sentiments and passions, and that, in feeling the beauties of art, as in smelling flowers, tasting fruits, viewing prospects, and hearing melody, every individual must be guided by his own sensations and the incommunicable associations of his own ideas. This only I may add, that if *Sacuntala* should ever be acted in India, where alone it could be acted with perfect knowledge of Indian dresses, manners, and scenery, the piece might easily be reduced to five acts of a moderate length, by throwing the third act into the second, and the sixth into the fifth; for it must be confessed that the whole of Dushmanta's conversation with his buffoon, and great part of his courtship in the hermitage, might be omitted without any injury to the drama.

It is my anxious wish that others may take the pains to learn Sanscrit, and may be persuaded to translate the works of Calidas: I shall hardly again employ my leisure in a task so foreign to my professional (which are, in truth, my favourite) studies; and have no intention of translating any other book from any language,

except the Law Traft of Menu, and the new Digeft of Indian and Arabian laws; but, to fhew, that the Brahmens, at leaft, do not think polite literature incompatible with jurifprudence, I cannot avoid mentioning, that the venerable compiler of the Hindu Digeft, who is now in his eighty-fixth year, has the whole play of Sactantala by heart; as he proved when I laft conferred with him, to my entire conviction. Left, however, I fhould hereafter feem to have changed a refolution which I mean to keep inviolate, I think it proper to fay, that I have already tranflated four or live other books, and among them the Hitopadefha, which I undertook, merely as an exercife in learning Sanfcrit, three years before I knew that Mr. Wilkins, without whofe aid I fhould never have learnt it, had anyrhoifghf "of giving the lame work to the publick.

PERSONS OF THE DRAMA.

Dushmanti Emperor of India.

Sacountala the Heroine of the Piece.

Anusud.

Amritamivada, ^ Damsels attendant on her.

Maddhavi, the Emperor's Buffoon.

(Amritam'i, an old female Hermit.

Syugandha,) .. „

. , , > two bran mens.

Xaradisa, }

Cannd) Foster-father of Sacountala.

Cumbh'dacjy a Fisherman.

Misra C\<\, a Nymph.

Mudit Charioteer of Indra.

A little Boy.

\J I >/ Deities, Parents of Indra.

Aditi, jy

Officers of State and Police, Brahmens, Damsels, Hermit?,
Pupils, Chamberlains Warders of the Palace, Messengers
Attendants.

THE PROLOGUE.

A Brahmen pronounces the benediction.

WATER was the first work of the Creator; and Fire receives the oblations ordained by law; the Sacrifice is performed with solemnity; the Two Lights of heaven distinguish time; the subtil Ether, which is the vehicle of sound, pervades the universe; the Earth is the natural parent of all increase; and by Air all things breathing are animated: may IS A, the God of Nature, apparent in these eight forms, bless and sustain you !

The Manager enters.

Man. What occasion is there for a long speech?—*[Looking towards the dressing-room]*—When your decorations, Madam, are completed, be pleased to come forward.

An Attendant enters.

ABr. I attend, Sir.—What are your commands?

Man. This, Madam, is the numerous and polite⁴ assembly of the famed Hero, our king Vicramaditya, the patron of every delightful art; and before this audience we must do justice to a new production of C'lidas, a dramatick piece, entitled Sacontala, or, The Fatal Ring: it is requested, therefore, that all will be attentive.

ABr. Who, Sir, could be inattentive to an entertainment so well intended ?

Man. [Smiling] I will speak, Madam, without reserve.—As far as an enlightened audience receive pleasure from our theatrical talents, and express it, so far, and no farther, I set a value on them; but my own mind is diffident of its powers, how strongly forever exerted.

Aclr. You judge rightly in measuring your own merit by the degree of pleasure which this assembly may receive ; but its value, I trust, will presently appear.—Have you any farther commands ?

Man. What better can you do, since you are now on the stage, than exhilarate the souls, and gratify the sense, of our auditory with a song ?

Aclr. Shall I sing the description of a season ? and which of the seasons do you chuse to hear described ?

Man. No finer season could be selected than the summer, which is actually begun, and abounds with delights. How sweet is the close

of a fummer day, which invites our youth to bathe in pure freams, and induces gentle (lumber under the fhades refrefhed by fylvan breezes, which have paffed over the blooming Patalis and ftole their fragrance!

ASlr. [*Singing.*] " Mark how the foft blof-
" foms of the Nagacefar are lightly kifled by the
" bees! Mark how the damfels delicately place
" behind their ears the flowers of Sirifha!"

Man. A charming ftrain! the whole company fparkles, as it were, with admiration; and the mufical mode to which the words are adapted, has filled their fouls with rapture. By what other performance can we enfore a continuance of their favour?

ASlr. Oh! by none better than by the Fatal Ring, which you have juft announced.

Man. How could I forget it! In that moment I was lulled to diftra&ion by the melody of thy voice, which allured my heart, as the king Duihmanta is now allured by the fwift antelope.

[*They both go out.*]

SACONTALA;

OR,

TUE FATAL RING.

ACT I.

SCENE—A FOREST.

Dufhmanta, *in a car, pursuing an antelope, with a bow and quiver, attended by his Charioteer.*

Char. *[Looking at the antelope, and then at the king.]*

W H E N I cast my eye on that black antelope, and on thee, O king, with thy braced bow, I see before me, as it were, the God Mahefa chasing a hart, with his bow, named pinaca, braced in his left hand.

Dujhm. The fleet animal has given us a long chase. Oh ! there he runs, with his neck bent gracefully, looking back, from time to time, at the car which follows him. Now, through fear of a descending shaft, he contracts his forehead, and extends his flexible haunches; and now^r,

through fatigue, he pauses to nibble the grass in his path with his mouth half opened. See how he springs and bounds with long steps, lightly flammg the ground, and rifmg high ia the air! And now so rapid is his flight, that he is scarce discernible!

Char. The ground was uneven, and the horses were checked in their course. He has taken advantage of our delay. It is level now, and we may easily overtake him.

Diifom. Loosen the reins.

Char. As the king commands.—[*He drives the car first at full speed, and then gently.*]—He could not escape. The horses were not even touched by the clouds of dust which they raised ; they toiled their manes, erected their ears, and rather glided than galloped over the smooth plain.

Duflm. They soon outran the swift antelope.—Obje&s which, from their distance, appeared minute, presently became larger: what was really divided, seemed united, as we palled ; and what was in truth bent, seemed straight. So swift was the motion of the wheels, that nothing, for many moments, was either distant or near. [*He fixes an arrow in his bow*]

[*Behind the scenes.*] He must not be slain. This antelope, O king, has an asylum in our forest: he must not be slain.

Char. [*Lijlening and Looking.*] Juft as the animal prefents a fair mark for your arrow, two hermits are advancing to interrupt your aim.

Dujhm. Then flop the car.

Char. The king is obeyed.

\He draws in the reins.

Enter a Hermit and his Pupil.

Herm. [*Raifmg his hands.*] Slay not, O mighty fovereign, flay not a poor fawn, who has found a place of refuge. No, furely, no; he muft not be hurt. An arrow in the delicate body of a deer would be like fire in a bale of cotton. Compared with thy keen fhafts, how weak muft be the tender hide of a young antelope ! Replace quickly, oh ! replace the arrow which thou haft aimed. The weapons of you kings and warriors are deftined for the relief of the oppreffed, not for the deftruction of the guiltlefs.

Dufhm. [*Saluting them.*] It is replaced.

[He places the arrow in his quiver.

Herm. [*With joy.*] Worthy is that ad of thee, moft illuftrious of monarchs; worthy, indeed, of a prince defcended from Puru. Mayft thou have a fon adorned with virtues, a fovereign of the world !

Pup. [*Elevating both his hands.*] Oh ! by all means, may thy fon be adorned with every virtue, a fovereign of the world !

Dujhm. [*Bowing to them.*] My head bears with reverence the order of a Brahmen*

Herm. Great king, we came hither to colled: wood for a folemn facrifice; and this foreft, on the banks of the Malim, affords an afylum to the wild animals prote&'cd by Sacontala, whom our holy preceptor Canna has received as a fa-cred depofit. If you have no other avocation, enter yon grove, and let the rights of hofpitality be duly performed. Having feen with your own eyes the virtuous behaviour of thofe whofe only wealth is their piety, but whofe worldly cares are now at an end, you will then exclaim, " How many good fubje&s are defended by this " arm, which the bowftring has made callous!"

Dujh?n. Is the mafter of your family at home ?

Herm. Our preceptor is gone to Somatirt'ha, in hopes of deprecating fome calamity, with which deftiny threatens the irreproachable Sacontala ; and he has charged her, in his abfence, to receive all guefts with due honour.

Dujhm. Holy man, I will attend her; and fhe, having obferved my devotion, will report it favourably to the venerable fage.

Both. Be it fo; and we depart on our own bufinefs. [*The Hermit and his Pupil go out.*

Dufom. Drive on the car. By vifiting the abode of holinefs, we fhall purify our fouls.

Chan As the king (may his life be long!)
 commands, *[He drives on.*

Dujhm. *[Looking on all fides;]* That we are
 near the dwelling-place of pious hermits, would
 clearly have appeared, even if it had not been
 told.

Char. By what marks ?

*Dujhm** Do you not obferve them ? See under
 yon trees the hallowed grains which have been
 fcattered on the ground, while the tender female
 parrots were feeding their unfledged young in
 their pendent nefts. Mark in other places the
 fhining pieces of poliflied ftone which have
 bruifed the oily fruit of the facred Ingudi.
 Look at the young fawns, which, having ac-
 quired confidence in man, and accuftomed them-
 felves to the found of his voice, frifk at pleafure,
 without varying their courfe. Even the furface
 of the river is reddened with lines of confecrated
 bark, which float down its fream. Look again;
 the roots of yon trees are bathed in the waters
 of holy pools, which quiver as the breeze plays
 upon them; and the glowing luftre of yon frefh
 leaves is obfcured, for a time, by fmoke that
 rifes from oblations of clarified butter. See too,
 where the young roes graze, without apprehen-
 fion from our approach, on the lawn before
 yonder garden, where the tops of the facrificial

gfafs, cut for fome rdigious rite, are fprmkletj around.

Char. I now obferve all thofe marks of fome holy habitation.

Dujhm. [*Turning dfide.*] This awful fanctuary, my friend, muft not be violated. Here, therefore, ftop the car; that I may defcend.

Char. I hold in the reins. The king may defcend at his pleafure.

Dujhm. [*Having djcended, and looking at his own drejs.*] Groves devoted to religion muft be entered in humbler habiliments. Take thefe regal ornaments;—[*the Charioteer receives them*]—and, whilft I am obferving thofe who inhabit this retreat, let the horfes be watered and drefled.

Char. Be it as you direct ! [*He goes out.*]

Dujhm. [*Walking round and looking.*] Now then I enter the fanctuary.—[*He enters the grove.*]—Oh! this place muft be holy, my right arm throbs.—[*Pau/ing and conjidering.*']—What new acquifition does this omen promife in a fe* queftered grove ? But the gates of predefined events are in all places open.

[*Behind the fcenes*] Come hither, my beloved companions; Oh! come hither.

Dujhm. [*Lijiening.*] Hah! I hear female voices to the right of yon arbour. I am refolved to know who are converfing.—[*He walks round*

and looks.]—There are some damfels, I see, belonging to the hermit's family who carry water-pots of different fizes proportioned to their ftrength, and are going to water the delicate plants. Oh! how channingly they look! If the beauty of maids who dwell in woodland retreats cannot eafily be found in the recedes of a palace, the garden flowers muft make room for the blofbms of the foreft, which excel them in colour and fragrance. [*Hejiands gazing at them.*

Enter Sacontala, Anufuy6, and Priyamvada.

Anu. O my Sacontala, it is in thy fociety that the trees of our father Canna feem to me delightful; it wdl becomes thee, who art foft as the frefh-blown Mallica, to fill with water the canals which have been dug round thefe tender fhrubs.

Sac. It is not only in obedience to our father that I thus employ myfelf, though that were a fufficient motive, but I really feel the affe&ion of a lifter for thefe young plants.

Watering them.

Pri. My beloved friend, the fhrubs which you have watered flower in the fummer, which is now begun: let us give water to thofe which have pafled their flowering time; for our virtue will be the greater when it is wholly difinte! refted.

Sac. Excellent advice! [*Watering other plants.*

Dujhm. [*Afide in transport*] How! is that Canna's daughter, Sacontal&?—[*With surprize.*]—The venerable sage must have an unfeeling heart, since he has allotted a mean employment to so lovely a girl, and has dressed her in a coarse mantle of woven bark. He, who could with that so beautiful a creature, who at first sight ravishes my soul, should endure the hardships of his austere devotion, would attempt, I suppose, to cleave the hard wood Sarm with a leaf of the blue lotos. Let me retire behind this tree, that I may gaze on her charms without diminishing her confidence. [*He retires.*]

Sac. My friend Priyamvada has tied this mantle of bark so closely over my bosom that it gives me pain: Anufuya, I request you to untie it.

[*Anufuya unties the mantle.*]

Pri. [*Laughing.*] Well, my sweet friend, enjoy, while you may, that youthful prime, which gives your bosom so beautiful a swell.

Dujhm. [*Afide.*] Admirably spoken, Priyamvada! No; her charms cannot be hidden, even though a robe of interwoven fibres be thrown over her {boulders, and conceal apart of her bosom, like a veil of yellow leaves enfolding a radiant flower. The water lily, though dark most may settle on its head, is nevertheless beautiful; and the moon with dewy beams is rendered yet brighter by its black spots. Thence bark itself ac-

quires elegance from the features of a girl with antelope's eyes, and rather augments than diminishes my ardour. Many are the rough ftklks which support the water lily; but many and exquisite are the blossoms which hang on them.

Sac. [*Looking before her.*] Yon Amra tree, my friends, points with the finger of its leaves, which the gale gently agitates, and seems inclined to whisper some secret. I will go near it.

[They all approach the tree.]

Pri. O my Sacontala, let us remain some time in this shade.

Sac. Why here particularly?

Pri. Because the Amra tree seems wedded to you, who are graceful as the blooming creeper which twines round it.

Sac. Properly are you named Priyamvada, or speaking kindly.

Dujhm. [*Ajtde.*] She speaks truly. Yes; her lip glows like the tender leaflet; her arms resemble two flexible stalks; and youthful beauty Adelines, like a blossom, in all her lineaments.

Anu. See, my Sacontala, how yon fresh Mallica, which you have named Vanadofini, or Delight of the Grove, has chosen the sweet Amra for her bridegroom.

Sac. [*Approaching, and looking at it with pleasure.*] How charming is the season, when the

nuptials even of plants are thus publicly celebrated! *[She lands admiring it.]*

Pri. [Smiling.] Do you know, my Anufuya, why Sacontala gazes on the plants with such rapture?

Anu. No, indeed: I was trying to guess. Pray, tell me.

Prj. "As the Grove's Delight is united to a fruitable tree, thus I too hope for a bridegroom to my mind."—That is her private thought at this moment.

Sac. Such are the flights of your own imagination. *[Inverting the water-pot.]*

Anu. Here is a plant, Sacontala, which you have forgotten, though it has grown up, like yourself, under the fostering care of our father Canna.

Sac. Then I shall forget myself.—O wonderful!—*[approaching the plant.]*—O Priyamvada! *[looking at it with joy]* I have delightful tidings for you.

Pri. What tidings, my beloved, for me?

Sac. This Madhavi-creeper, though it be not the usual time for flowering, is covered with gay blossoms from its root to its top.

Both. [Approaching it joyfully.] Is it really so, sweet friend?

Sac. Is it so? look yourselves.

Pri. [With eager news.] From this omen, Sa-

jgantala, I announce you an excellent htjibaad, who will very foon take you by the hand.

[Bath girls look at Sacontala.

Sac. [Jpifpkqfed.] A ftrange_fancy of yours!

Pri. Indeed, my beloved, I fpeak not jefflingly. I heard fomething from our father Canna. Your nurture of thefe plants has profpered; and thence it is, that I foretel your approaching nuptials.

Anu. It is thence, my Priyamvada, that (he has watered them with fo much alacrity.

Sac. The Madhavi plant is my fitter; can I do otherwife than cherifh her?

[Pouring water on it.

Du/Im. [A/ide.] I fear fhe is of the fame religious order with her foffer-father. Or has a miftaken apprehenfion rifen in my mind? My warm heart is fo attached to her, that fhe cannot but be a fit match for a man of the military clafs. The doubts which awhile perplex the good, are foon removed by the prevalence of their ftrong inclinations. I am enamoured of her, and fhe cannot, therefore, be the daughter of a Brahmen, whom I could not marry.

Sac. [Moving ber head.'] Alas! a bee has left the bloffom of this Mallica, and is fluttering rourid my face. *[She exprefjes uneajmefs.*

Dujhm. [Aside, with affeSlion.'] How often have I fcea mx court damfek affectedly turn

their heads aside from some roving insect, merely to display their graces! but this rural charmer knits her brows, and gracefully moves her eyes through fear only, without art or affectation. Oh! happy bee, who touched the corner of that eye beautifully trembling; who, approaching the tip of that ear, murmured as softly as if thou wert whispering a secret of love; and who sipped nectar, while she waves her graceful hand, from that lip, which contains all the treasures of delight! Whilst I am solicitous to know in what family she was born, thou art enjoying bliss, which to me would be supreme felicity.

Sac. Disengage me, I entreat, from this importunate insect, which quite baffles my efforts.

Pri. What power have we to deliver you? The king Dufhmanta is the sole defender of our consecrated groves.

Dujhm. [*Ajide.*] This, is a good occasion for me to discover myself—[*advancing a little.*]—I must not, I will not, fear. Yet—[*checking himself and retiring*]—my royal character will thus abruptly be known to them. No; I will appear as a simple stranger, and claim the duties of hospitality.

Sac. This impudent bee will not rest. I will remove to another place.—[*Stepping aside and looking round.*]-Away away! He follows me

wherever I go. Deliver me, oh! deliver me
foom this diftreffs.

rDufbrn. [*Advancing bajtily.*] Ah! While the
 race of Puru govern the world, and refrain even
 the moft profligate, by good laws well admini-
 ftered, has any man the audacity to moleft the
 lovely daughters of pious hermits?

[They look at him with emotion.

Anu. Sir, no man is here audacious; but this
 damfel, our beloved friend, was teafed by a flut-
 tering bee. *[Both girls look at Sacontala.*

Dufim. [*Approaching her.*] Damfel, may thy
 devotion profper!

[Sacontala looks on the ground, hajhful andfilent.

Ann. Our gueft muft be received with due
 honours.

Pri. Stranger, you are welcome. Go, my
 Sacontala; bring from the cottage a bafkct of
 fruit and flowers, This river will, in the mean
 time, fupply water for his feet.

[Looking at the water-pots.

Dujhm, Holy maid, the gentlenefs of thy
 fpeech does me fufficient honour,

Anu. Sit down awhile on this bank of earth,
 fpread with the leaves of Septaperna: the fhade
 is refreshing, and our lord muft want repofe after
 his journey.

Dujhm. You too muft all be fatigued by your

hospitable attentions; rest yourself, therefore, with me,

Pri. [*AJide to Sacontala.*] Come, let us all be feasted : our guest is contented with our reception of him. [*They all feast themselves.*]

Sac. [*AJide.*] At the sight of this youth I feel an emotion scarce consistent with a grove devoted to piety.

Dujhm. [*Gazing at them alternately.*] How well your friendship agrees, holy damsels, with the charming equality of your ages, and of your beauties!

Pri. [*AJide to Anufuya.*] Who can this be, my Anufuya? The union of delicacy with robustness in his form, and, of sweetness with dignity in his discourse, indicate a character fit for ample dominion.

Anu< [*Afide to Priyamvada.*] I too have been admiring him. I must ask him a few questions.—[*Aloud.*] Your sweet speech, Sir, gives me confidence. What imperial family is embellished by our noble guest? What is his native country? Surely it must be afflicted by his absence from it. What, I pray? could induce you to humiliate that exalted form of yours by visiting a forest peopled only by simple anchorites?

Sac. [*AJide.*] Perplex not thyself, O my heart! let the faithful Anufuyd direct with her counsel the thoughts which rise in thee.

Dujhm. [*AJde.*] How fhall I reveal, or how fhall I difguife myfelf?—[*Mufmg.'*]—Be it fo.—
[*Aloud to Anuftiya.*] Excellent lady, I am a ftudent of the Veda, dwelling in the city of our king, defcended from Puru; and, being occupied in the difcharge of religious and moral duties, am come hither to behold the fanctuary of virtue.

Anu. Holy men, employed like you, are our lords and mafters.

[*Sacontala looks modeft, yet with affection; while her companions gaze alternately at her and at the king.*]

Anu. [*Ajide to Sacontala.*] Oh! if our venerable father were prefent—

Sac. What if he were ?

Ann. He would entertain our gueft with a variety of refrefhments.

Sac. [*Pretending difpleafure.*] Go too; you had fome other idea in your head; I will not Men to you. [*SheJits apart.*]

Dufhm. [*AJide to Anufuya and Priyamvada.*] In my turn, holy damfels, allow me to alk one queftion concerning your lovely friend.

Both. The requeft, Sir, does us honour.

Dujhm. The fage Canna, I know, is ever intent upon the great Being; and muft have declined all earthly connedions. How then can this damfel be, as it is faid, his daughter ?

Anu. Let our lord hear. There is, in the family of Cufa, a pious prince of extensive power, eminent in devotion and in arms.

Dujhm. You speak, no doubt, of Caufica, the sage and monarch.

Anu. KttfiSK»jSir, that he is in truth her father; while Canna bears that reverend name, because he brought her up, since she was left an infant*

Dujhm. Left? the word excites my curiosity; and raises in me a desire of knowing her whole story.

Anu. You shall hear it, Sir, in few words.—When that sage king had begun to gather the fruits of his austere devotion, the gods of Swerga became apprehensive of his increasing power, and sent the nymph Menaca to frustrate, by her allurements, the full effect of his piety.

Dujhm. Is a mortal's piety so tremendous to the inferior deities? What was the event?

Anu. In the bloom of the vernal season, Caufica, beholding the beauty of the celestial nymph, and wafted by the gale of desire——

[She Jiops and looks modestly.]

Dujhm. I now see the whole. Sacontala then is the daughter of a king, by a nymph of the lower heaven.

Anu. Even so.

Dujhm. *[Aside.]* The desire of my heart is gratified.—*[Aloud.]* How, indeed, could her

tranfeendent beauty be, the portion of mortal birth? Yon yght, that fparkles with tremulous beams, proceeds not from a terreftrial cavern.

[SacontalaT?^ *modeftly, with her eyes on the ground.*

Dujhm, [*Again afide.*"\ Happy man that I am? Now has my fancy an ample range. Yet, having heard the pleafantry of her companions on the fubjeft of her nuptials, I am divided with anxious doubt, whether fhe be not wholly deftined for a religious life.

^H *Pri.* [*Smiling, and looking fr/t at Sacontala, then at the king.*] Our lord feems defirous of a&ing other queftions.

[*Sacontala rebukes Priyamvada with her hand.*

Dujhm. You know my very heart, I am, indeed, eager to learn the whole of this charmer's life; and muft put one queftion more.

Pri. Why fhould you mufe on it fo long?— [*Afide.*] One would think this religious man wa& forbidden by his vows to court a pretty woman.

Dujhm. This I afk. Is the ftrid rule of a hermit fo far to be obferved by Canna, that he cannot difpofe of his daughter in marriage, but muft check the natural irnpulfe of juvenile love? Can fhe (oh prepofterous fate!) be deftined to refide for life among her favourite antelopes, the black luilre of whole eyes is far furpaffed by hers?

Pri. Hitherto, Sir, our friend has lived happy in this consecrated forest, the abode of her spiritual father; but it is now his intention to unite her with a bridegroom equal to herself.

Dufm. [*Aji de, with ecstacy.*] Exult, oh my heart, exult. All doubt is removed; and what before thou wouldst have dreaded as a flame, may now be approached as a gem inestimable.

Sac. [*Seeming angry.*] Anufuya, I will stay here no longer.

Anu. Why so, I pray?

Sac. I will go to the holy matron Gautami, and let her know how impertinently our Priyamvada has been prattling. [*She rises.*]

Anu. It will not be decent, my love, for an inhabitant of this hallowed wood to retire before a guest has received complete honour.

[*Sacontala, giving no answer, offers to go**]

Dufm. [*AjiJe.*] Is she then departing?— [*He rises, as if going to stop her, but checks himself*]—The actions of a passionate lover are as precipitate as his mind is agitated. Thus I, whose passion impelled me to follow the hermit's daughter, am restrained by a sense of duty.

Pri. [*Going up to SacontalL*] My angry friend, you must not retire.

Sac. [*Stepping back and frowning.*] What should detain me?

Pri. You owe me the labour, according to

our agreement, of watering two more shrubs. Pay me first, to acquit your confidence, and then depart, if you please. *[Holding her.*

Dufhm. The damsel is fatigued, I imagine, by pouring so much water on the cherished plants. Her arms, graced with palms like fresh blossoms, hang carelessly down; her bosom heaves with strong breathing; and now her dishevelled locks, from which the firing has dropped, are held by one of her lovely hands. Suffer me, therefore, thus to discharge the debt. —*[Giving his ring to Priyamvadd. Both damsel, reading the name Dufhmanta, inscribed on the ring> look with surprise at each other.]*—It is a toy unworthy of your fixed attention; but I value it as a gift from the king.

Pri. When you ought not, Sir, to part with it. Her debt is from this moment discharged on your word only. *[She returns the ring.*

Anu. You are now released, Sacontala, by this benevolent lord—or favoured, perhaps, by a monarch himself. To what place will you now retire?

Sac. *[Jide.]* Must I not wonder at all this if I preserve my senses?

Pri. Are not you going, Sacontal?

Sac. Am I your subject? I shall go when it pleases me.

Dufm. *[Jide* looking at Sacontala.]* Either

THE FATAL RING.

KJ&F

(he is affe<5ted towards me, ks I am towards her, or I am diftra&ed with joy. She mingles not her difcourfe with mine; yet, when I fpeak, flic liftens attentively. She commands not her actions in my prefence; and her eyes are engaged on me alone.

Behind' the fcenefj] Oh pious hermits, preferve the animals of this hallowed foreft\ The king Dufhmanta is hunting in it. The duft raifed by the hoofs of his horfcs, which pound the pebbles ruddy as early dawn, falls like a fwarm of blighting infedts on the confecrated boughs which fuftain your mantles of woven bark, rnoift with the water of the fstream in which you have bathed.

Dujhm.. [Afide.] Alas ! my officers, who are fearching for me, have indifcreetly difturbed this holy retreat.

Again behind the fcnef..] Beware, ye hermits, of yon elephant, who comes overturning all that oppofehim; now he fixes his trunk with violence oa a lofty branch that obftructs his way; and now he is entangled in the twining ftalks of the Vratati. How are our facred rites interrupted ! How are the protected herds difperfed! The wild elephant, alarmed at the new appearance of a car, lays our breft wafte.

Dujhm. [s'fi.ie.'] How unwillingly am I offending the devout foixilcis! Yes; 1 muft go to them inllanlly

Pri. Nd&le ftranger, we are confounded with dread of the enraged elephant. With your permiffion, therefore, we retire to the hermit's cottage. .

Anu. O Sacontala, the venerable matron will be much diftreffed on your account. Come quickly, that we may be all fafe together.

Sac. [*Walking Jlowly.*"] I am flopped, alas *I* by a fudden pain in my fide.

Dufhm. Be not alarmed, amiable damfels. It fhall be my care that no difturbance happen in your facred groves.

Pri. Excellent ftranger, we were wholly unacquainted with your ftation; and you will forgive us, we hope, for the offence of intermitting awhile the honours due to you: but we humbly requeft that you will give us once more the pleafure of feeing you, though you have not now been received with perfect hofpitality.

Dufhm. You depreciate your own merits. The fight of you, fweet damfels, has fufficiently honoured me.

Sac. My foot, O Anufuya, is hurt by this pointed blade of Cufa grafs; and now my loofe veft of bark is caught by a branch of the Curuvaca. Help me to difentangle myfelf, and fupport me. [*She goes out, looking from time to time at Dufhmanta, and fupported by the damfels.*]

Dufhm. [*Sighing.*] They are all departed; **and** I too, alas! muft depart. For how fhort a

moment have I been bleſſed with a ſight of the incomparable Sacontal! I will ſend my attendants to the city, and take my ſtation at no great diſtance from this foreſt. I cannot, in truth, divert my mind from the ſweet occupation of gazing on her. How, indeed, ſhould I otherwiſe occupy it? My body moves onward; but my reſtleſs heart runs back to her; like a light flag borne on a ſtaff againſt the wind, and fluttering in an oppoſite dire&ion. [*He goes out.*]

A C T II.

SCENE—A PLAIN, with royal pavilions on the
Jkirt oftbeforejl.

Madhavva. [Sighing and lament ing. "]

STRANGE recreation this !—Ah me! I am wearied to death.—My royal friend has an unaccountable taste.—What can I think of a king so passionately fond of chafing unprofitable quadrupeds ?—" Here runs an antelope ! there goes " a boar!"—Such is our only conversation.—Even at noon, in excessive heat, when not a tree in the forest has a shadow under it, we must be skipping and prancing about, like the beasts whom we follow.—Are we thirsty? We have nothing to drink but the waters of mountain torrents, which taste of burned stones and mawkish leaves.—Are we hungry? We must greedily devour lean venison, and that commonly roasted to a stick.—Have I a moment's repose at night ?—My slumber is disturbed by the din of horses and elephants, or by the songs of slave-girls hollering out, " More venison, more venison !"—Then comes a cry that pierces my ear, " Away " to the forest, away!"—Nor are these my only grievances: fresh pain is now added to the smart

of my first wounds; for, while we were separated from our king, who was chafing a foolish deer, he entered, I find, yon lonely place, and there, to my infinite grief, saw a certain girl, called Sacontala, the daughter of a hermit: from that moment not a word of returning to the city!—These distressing thoughts have kept my eyes open the whole night.—Alas! when shall we return?—I cannot set eyes on my beloved friend Dushmanta since he set his heart on taking another wife.—[*Stepping aside and looking*]—Oh! there he is.—How changed!—He carries a bow, indeed, but wears for his diadem a garland of wood-flowers.—He is advancing: I must begin my operations.—[*He leans on a staff.*]—Let me thus take a moment's rest.—[*Aloud.*]

*t)ushmanta enters, as described**

Dushm. [*Aside, sighing.*] My darling is not so easily attainable; yet my heart aflames confidence from the manner in which she seemed affected: surely, though our love has not hitherto prospered, yet the inclinations of us both are, fixed on our union.—[*Smiling.*]—Thus do lovers agreeably beguile themselves, when all the powers of their souls are intent on the objects of their desire!—But am I beguiled? No; when she cast her eyes even on her companions, they sparkled with tenderness; when she moved her graceful

arms, they dropped, as if languid with love; when her friend remonstrated against her departure, she spoke angrily—All this was, no doubt, on my account.—Oh ! how quick-fighted is love in discerning his own advantages!

Mddb. [*Bending downward, as before.*] Great prince ! my hands are unable to move; and it is with my lips only that I can mutter a blessing on you. May the king be victorious!

Dujhm. [*Looking at him and failing.*] Ah ! what has crippled thee, friend Madhavya ?

Mddh. You strike my eye with your own hand, and then ask what makes it weep.

DuJm. Speak intelligibly. I know not what you mean.

Mddh. Look at yon Vetas tree bent double in the river. Is it crooked, I pray, by its own weight, or by the force of the stream ?

Dujhm. It is bent, I suppose, by the current

*Mddh.** So am I by your Majesty.

Dujhm. How so, Madhavya ?

Mddh. Does it become you, I pray, to leave the great affairs of your empire, and so charming a mansion as your palace, for the sake of living here like a forester ? Can you hold a council in a wood ? I, who am a reverend Brahmin, have no longer the use of my hands and feet: they are put out of joint by my running all day long after dogs and wild beasts. Favour me, I

entreat, with your permiffion to repofe. but a fingle day.

Du/Im. [*Afide.*] Such are this poor fellow's complaints; whilst I, when I think of Canna's daughter, have as little relifh for hunting as he: How can I brace this bow, and fix a haft in the firing, to fhoot at thofe beautiful deer who dwell in the fame groves with my beloved, and whose eyes derive luftre from hers ?

Mddb. [*Looking Jiedfajily at the king.*] What fcheme is your royal mind contriving ? I have been crying, I find, in a wildernefs.

Dufom. I think of nothing but the gratification of my old friend's wifhes.

Mddh. [*Joyfully.*] Then may the king live long! [*Rifing but count erfeiting feeblenefs*

Dujhm. Stay; and liften to me attentively.

Mddb. Let the king command.

Dufhm. When you have taken repofe, I fhall want your affiftance in another bufinefs, that will give you no fatigue.

Mddb. Oh! what can that be, unlefs it be eating rice-pudding ?

Dufom. You fhall know in due time.

Mdd/u I fhall be delighted to hear it.

Dufhm. H o k ! who is there ?

The Chamberlain enters.

Cham, Let; my fovereign command me.

Dufhm. Raivataca, bid the General attend.

Cham. I obey.—\He goes out, and returns with /^General.]—Cojne quickly, Sir, the king ftands expefting you.

Gen. [*JJide, looking at Dulhmanta.*] How comes it that hunting, which moralifls reckon a vice, fhould be a virtue in the eyes of a king? Thence it is, no doubt, that our emperor, occupied in perpetual toil, and inured to conftant heat, is become fo lean, that the funbeams hardly affect him; while he is fo tall, that he looks to us little men, like an elephant grazing on a mountain: he feems all foul.—[*Aloud, approaching the king.*]—May our monarch ever be victorious!—This foreft, O king, is infefted by beafts of prey: we fee the traces of their huge feet in every path.—What orders is it your ple^fure to give?

Dujhm. Bhadrafena, this moralizing Madhavya has put a ftop to our recreation by forbidding the pleafures of the chafe.

Gen. [*Afide to Madhayya.*] Be firm to your word, my friend; whilft I found the king's real inclinations.—[*Aloud.*] O! Sir, the fool talks idly. Confider the delights of hunting, The body, it is true, becomes emaciated, but it is light and fit for exercife. Mark how the wild beafts pf various kinds are varioufly affe&ed by fear &nd by rage! What pleafure equals that of a

proud archer, when his arrow hits the mark as it flies?—Can hunting be justly called a vice? No recreation, fitly, can be compared with it.

Mddh. [Angrily.] Away, thou false flatterer! The king, indeed, follows his natural bent, and is excusable; but thou, son of a slave girl, hast no excuse.—Away to the wood!—How I wish thou hadst been seized by a tiger or an old bear, who was prowling for a Ikakal, like thyself!

Dujhm. We are now, Bhadrafena, encamped near a sacred hermitage; and I cannot at present applaud your panegyric on hunting. This day, therefore, let the wild buffaloes roll undisturbed in the shallow water, or toss up the sand with their horns; let the herd of antelopes, assembled under the thick shade, ruminate without fear; let the large boars root up the herbage on the brink of yon pool; and let this my bow take repose with a slackened firing.

Gen. As our lord commands.

Dujfim. Recall the archers who have advanced before me, and forbid the officers to go very far from this hallowed grove. Let them beware of irritating the pious: holy men are eminent for patient virtues, yet conceal within their bosoms a scorching flame; as carbuncles are naturally cool to the touch; but, if the rays of the sun have been imbibed by them, they burn the hand,

MdSf Away now, and triumph on the de*
lights of hutitingr "

*Gen** The king's orders are obeyed.

*[He goes but**

Dufhm. *[To his attendants.]* Put off your hunting apparel; and thou, Raivataca, continue in waiting at a little diftance.

Cham. I fhall obey. *[Goes out.*

*Madb** So! you have cleared the ftage: not even a fly is left on it. Sit down, I pray, on this pavement of fmooth pebbles, and the Ihade of this tree fhall be your canopy: I will fit by you; for I am impatient to know what will give me no fatigue,

Dufhm. Go firft, and feat thyfelf.

*Mddh** Come, my royal friend.

[They both fit under a tree.

Dufhm. Friend Madhavya, your eyes have not been gratified with an objed which beft deserves to be feen.

Madh. Yes, truly; for a king is before them.

Dufhm. All men are apt, indeed, to think favourably of themfelves; but I meant Sacontala, the brighteft ornament of thefe woods.

Madh. *[Aftde.]* I muft not foment this paffion.
~—*[Aloud.]* What can you gain by feeing her? She is a Brahmen's daughter, and confequently no match for you!

Dufhm. What! Do people gaze at the new

moon, with uplifted heads and fixed eyes, from a hope of possessing it ? But you must know, that the heart of Dulhanta is not fixed on an object which he must for ever despair of attaining*

Mddl. Tell me now.

Dujhm. She is the daughter of a pious prince and warrior, by a celestial nymph; and, her mother having left her on earth, she has been fostered by Canna, even as a fresh blossom of Malati, which droops on its pendant stalk, is raised and expanded by the sun's light.

Mddl [*Laughing.*] Your desire to possess this ruddy girl, when you have, women bright as gems in your palace already, is like the fancy of a man, who has lost his relih for dates, and longs for the four tamarind.

Dufim. Did you know her, you would not talk so wildly.

Mddb. Oh! certainly, whatever a king admires must be superlatively charming.

Dufim. [*Smiling.*] What need is there of long description ? When I meditate on the power of Brahma, and on her lineaments, the creation of so transcendent a jewel outshines, in my apprehension, all his other works: she was formed and moulded in the eternal mind, which had raised with its utmost exertion, the ideas of perfect shapes, and thence made an assemblage of all abstract beauties.

Mddb. She muft render, then, all other handfome women contemptible.

Dufhm. In my mind fhe really does. I know not yet what blefled inhabitant of this world will be the poffeffor of that faultlefs beauty, which now refembles a bloffom whofe fragrance has not been diffufed; a frefh leaf, which no hand has torn from its ftalk; a pure diamond, which no polifher has handled; new honey, whofe fweetnefs is yet untasted ; or rather the celeftial fruit of collected virtues, to the perfection of which nothing can be added.

Mddb. Make hafte, then, or the fruit of all virtues will drop into the hand of fome devout ruftick, whofe hair fhines with oil of Ingudi.

Dufom. She is not her own miftrefs; and her fofter-father is at a diftance.

Mddb. How is fhe difpofed towards you ?

Dufhm. My friend, the damfels in a hermit's family are naturally referved: yet flie did look at me, wifhing to be unperceived; then flic fmiled, and ftarted a new fubject of converfation. Love is by nature averfe to a fudden communication, and hitherto neither fully difplays, nor wholly conceals, himfelf in her demeanour towards me.

Mdd/i. [*Laughing.*] Has fhe thus taken poffeffion of yourjheart on fo tranfient a view ?

Dufhm. When fhq walked about with her

female friends, I saw her yet more distantly, and my passion was greatly augmented. She said sweetly, but untruly, " My foot is hurt by " the points of the Cufa grafts:" then (he flopped ; but soon, advancing a few paces, turned back her face, pretending a wish to disentangle her vest of woven bark from the branches in which it had not really been caught,

Mdd/i. You began with chafing an antelope, and have now started new game: thence it is, I presume, that you are grown so fond of a consecrated forest.

Dujhm. Now the business for you, which I mentioned, is this: you, who are a Brahmen, must find some expedient for my second entrance into that asylum of virtue.

Mddh. And the advice which I give is this; remember that you are a king.

Dujhm. What then ?

Mddh. " Hola! bid the hermits bring my " sixth part of their grain." Say this, and enter the grove without scruple.

Dujhm. No, Madhavya: they pay a different tribute, who, having abandoned all the gems and gold of this world, possess riches far superior. The wealth of princes, collected from the four orders of their subjects, is perishable; but pious men give us a sixth part of the fruits of their piety; fruits which will never perish.

Behind the fcenes.] Happy men that we are! we have aow attained the objed of our defire.

Dujhm. Hah! I hear the voices of fome religious anchorites.

The Chamberlain enters.

Cham. May the king be victorious!—Two young men, fons of a hermit, are waiting at iny ftation,^r and foliciting an audience.

Dujhm. Introduce them without delay.

Cham. As the king commands.—[*He goes out, and re-enters with two JJrahmens.*—Come on; come this way.

Firft Brdhm. [*Looking at the king.*] Oh! what confidence is infpired by his brilliant appearance! —Or proceeds it rather from his difpofition to virtue and holinefs?—Whence comes it, that my fear vanifhes?—He now has taken his abode in a wood which fupplies us with every enjoyment; and with all his exertions for our fafety, his devotion increafes from day to day. —The praife of a monarch who has conquered his paffions afcends even to heaven: infpired bards are continually finging, " Behold a virtuous prince !" but with us the royal name ftands firft: " Behold, among kings, a fage !"

Second Brdhm. Is this, my friend, the truly virtuous Dufhmanta?

Firft Brdhm. Even he.

Second Br&hm. It is not then wonderful, that he alone, whose arm is lofty and strong as the main bar of his city gate, possesses the whole earth, which forms a dark boundary to the ocean; or that the gods of Swerga, who fiercely contend in battle with evil powers, proclaim victory gained by his braced bow, not by the thunderbolt of IN DR A.

Both, [Approaching him.] O king, be victorious !

Dujhm. [Returning.] I humbly salute you both.

Both. Blessings on thee !

Dufim. [Repeating.] May I know the cause of this visit?

First Ilrahm. Our sovereign is hailed by the pious inhabitants of these woods; and they implore——

Dujhm. What is their command ?

First Brdbm. In the absence of our spiritual guide, Canna, some evil demons are disturbing our holy retreat. Deign, therefore, accompanied by thy charioteer, to be master of our asylum, if it be only for a few short days.

Dujhm. [Eagerly.] I am highly favoured by your invitation.

Mddh. [Aside.] Excellent promoters of your design! They draw you by the neck, but not against your will.

Dujhm. Raivataca, bid my charioteer bring my car, with my bow and quiver.

*Clam** I obey, *[He goes out**

Firft Brdfom.- Such eondefcenfion well becomes thee, who art an univerfal.guardian.

*Second Brdhm** Thus do the defendants of Puru perform their engagement to deliver their fubje&s from fear of danger.

Dujbm. Go firft, holy men : I will follow instantly.

Both. Be ever viCTorious! *[They go out.*

Dufhm. Shall you not be delighted, friend Madhavva, to fee my Sacontala ?

Mddh. At firft I fhould have had no objection ; but I have a confiderable one fince the ftory of the demons.

Dufm. Oh! fear nothing: you will be near me.

*Madh** And you, I hope, will have leifure to prote& me from them.

'The Chamberlain re-enters.

Cham. May our lord be vi&orious ! The imperial car is ready; and all are expecting your triumphant approach. Carabba too, a meffenger from the queen-mother, is juft arrived from the

Dufhm. Is he really come from the venerable queen ?

Cham. There can be no doubt of it.

Vujhm. Let him appear before me.

*[The Chamberlain goes out, and returns
with the Meffenger,*

Cham, There ftands the king—O Carabba, approach him with reverence.

Mef. [*Profi rating himfe/f.*] May the king be ever vi&orious!—The royal mother fends this meflage——

Dujhm. Declare her command.

Mejl Four days hence the ufual faft for the advancement of her fon will be kept with fo-lemnity; and the prefence of the king (may his life be prolonged !) will then be required.

Diifhm. On one hand is a commiffTion from holy Brahmens ; on the other, a command from my revered parent: both duties are facred, and neither muft be negledeed.

Madh. [*Laughing.*] Stay fufpended between them both, like king Trifancu between heaven and earth; when the pious men faid, " Rife!" and the gods of Swerga faid, " Fall!"

Dufhm. In truth I am greatly perplexed. My mind is principally diftratted by the diftance of the two places where the two duties are to be performed; as the fteam of a river is divided by rocks in the middle of its bed.—[*Miffing.*']—Friend Mddhavya, my mother brought you up as her own fon, to be my playfellow, and to di~vert me in my childhood. You may very properly a& my part in the queen's devotions. Return then to the city, and give an account of my diftreffs through the commiffillon of thefe reverend forefters.

MM. That I will;—- but you could not really suppose that I was afraid of deacons!

Dujhm, HoV come you, who are an egregious Brahmen, to be so bold on a sudden?

Mddb. Oh! I am now a young king,

Duffm. Yes, certainly; and I will dispatch my whole train to attend your highness, whilst I put an end to the disturbance in this hermitage.

Mddh. [*Strutting,*] See, I am a prince regnant.

^sDujhm. [*Afide*] This buffoon of a Brahmen has a flippery genius. He will perhaps disclose my present pursuit to the women in the palace. I must try to deceive him.—[*faking Madhavaya by the hand.*]—I shall enter the forest, be allured, only through respect for its pious inhabitants; not from any inclination for the daughter of a hermit. How far am I raised above a girl educated among antelopes; a girl, whose heart must ever be a stranger to love!—The tale was invented for my diversion. .

MddL Yes, to be sure; only for your diversion.

Dujhm. Then farewell, my friend; execute my commission faithfully, whilst I proceed—to defend the anchorites, [*ditto* out.

ACT III.

SCEIgE—*Tfie HERMITAGE in a Grave.*

The Hermit's Pupil bearing confecratedgraft.

Pupil. [Meditating with wonder.']

How great is the powtfrof Dufhmanta!—The monarch and his charioteer had no fooner entered the grove than we continued our holy rites without interruption.—What w^rords can defcribe him?—By his barely aiming a fhaft, by the mere found of his bow-ftring, by the fimple murmur of his vibrating bow, he difperfes at once our calamities.—Now then I deliver to the priefts this bundle of frefli Cufa grafs to be fcattered round the place of facrifice—*[Looking behind the Jcenes.]*—Ah ! Priyamvada, for whom are you carrying that ointment of Usira roo% and thofe leaves of water lilies?—*[Li/lening attentively.]*—What fay you?—That Sacontala is extremely difordered by the fun's heat, and that you have procured for her a cooling medicine! Let her, my Priyamvada, be diligently attended; for (he is the darling of our venerable father Canna,—I will adminifter, by the hand of Gali-

tami, fome healing water confecrated in the ceremony called Vaitana. *[He goes out.*

Dufhmanta *enters, expreffing the dijtraftion of a lover.*

Dujhm. I well know the power of her devotion : that flie will fuffer none to difpofe of her but Canna, I too well know. Yet my heart can no more return to its former placid ftate, than water can reafcend the fteep, down which it has fallen.—O God of Love, how can thy darts be fo keen, fince they are pointed with flowers ?—Yes, I difcover the reafon of their keennefs. They are tipped with the flames which the wrath of Hara kindled, and which blaze at this moment, like the Barava fire under the waves: how elfe couldft thou, who waft confumed even to afhes, be ftill the inflamer of our fouls ? By thee and by the moon, though each of you feems worthy of confidence, we lovers are cruelly deceived. They who love as I do, afcribe flowery ihafts to thee, and cool beams to the moon, with equal impropriety; for the moon fheds fire on them with her dewy rays, and thou pointeft with fharp diamonds thofe arrows which feem to be barbed with blofloms. Yet this god, who bears a fifh on his banners, and who wounds me to the foul, will give me real delight, if he deftroy me with the aid of my beloved, whole

eyes are large and beautiful as those of a roe.—
 O powerful divinity, even when I thus adore
 thy attributes, hast thou no companion? Thy
 fire, O Love, is fanned into a blaze by a hundred
 of my vain thoughts.—Does it become thee to
 draw thy bow even to thy ear, that the (haft,
 aimed at my bosom, may inflict a deeper wound?
 Where now can I recreate my afflicted soul by
 the permission of those pious men whose uneasinesses
 I have removed by dismissing my train?
 —[*Sighing.*]—I can have no relief but from a
 sight of my beloved.—[*Looking up.*]—This intensely
 hot noon must, no doubt, be passed by
 Sacontala with her damsels on the banks of this
 river over-shadowed with Tamalas.—It must be
 so:—I will advance thither.—[*Walking round
 and looking,*]—My sweet friend has, I guess,
 been lately walking under that row of young
 trees; for I see the stalks of some flowers, which
 probably she gathered, still unfurrowed and
 some fresh leaves, newly plucked, still dropping
 milk.—[*Feeling a breeze.*]—Ah! this bank has
 a delightful air!—Here may the gale embrace
 me, wafting odours from the water lilies, and
 cool my breast, inflamed by the bodiless god,
 with the liquid particles which it catches from
 the waves of the M&lini.—[*Looking down.*]—
 Happy lover! Sacontala must be somewhere in
 this grove of flowering creepers; for I discern

on the yellow sand at the door of yon arbour
 some recent footsteps, raised a little before, and
 depressed behind by the weight of her elegant
 limbs.—I shall have a better view from behind
 this thick foliage.—*[He conceals himself looking
 vigilantly.]*—Now are my eyes fully gratified.
 The darling of my heart, with her two faithful
 attendants, repose on a smooth rock strown
 with fresh flowers.—These branches will hide
 me, whilst I hear their charming conversation.

[He retreats and conceals, and gazes.]

Sacanta and her two Damfels discovered.

Both. *[Fanning her.]* Say, beloved Sacanta,
 does the breeze, raised by our fans of broad lotus
 leaves, refresh you?

Sac. *[Mournfully.]* Why, alas, do my dear
 friends take this trouble?

[Both look for a while at each other.]

Djinn. *[Aside.]* Ah! she seems much indis-
 posed. What can have been the fatal cause of
 so violent a fever?—Is it what my heart suggests?
 Or—*[Musing.]*—I am perplexed with doubts.—
 The medicine extracted from the balmy Usra
 has been applied, I see, to her bosom; her only
 bracelet is made of thin filaments from the stalks
 of a water lily, and even that is loosely bound
 on her arm. Yet, even thus disordered, she is
 exquisitely beautiful—Such are the hearts of

the young! Love and the fun equally inflame us; but the fcoiching heat of fummer leads not equally to happinefs with the ardour of youthful defires.

Pri. [*Ajide to Anufiia.*] Did you not ob-
(erve how the heart of Sacontald was affe&ed by
the firft fight of our pious monarch? My fufpi-
cion is, that her malady has no other caufe.

Ann. [*AJide to Priyamvada.*] The fame fu-
fpicion had rifen in my mind. I will afk her
at once.—[*Aloud.*]—My fweet Sacontala, let me
put one queftion to you. What has really oc-
cafioned your indifpofition?

Dujlim. [*AJide,*] She muft now declare it.
Ah! though her bracelets of lotos are bright
as moon beams, yet they are marked, I fee, with
black fpots from internal ardour.

Sac. [*Half raijing herjelf*] Oh! fay what
you fufpedt to have occafioned it.

Ami. Sacontala, we muft neceffarily be igno-
rant of what is paffing in your breaft; but I fu-
fpedt your cafe to be that which we have often
heard related in tales of love. Tell us openly
what caufes your illnefs. A phyfician, without
knowing the caufe of a diforder, cannot even
begin to apply a remedy.

Dnjhm. [*AJide.*] I flatter myfelf with the ,
fame fufpicion.

Sac. [*AJide.*] My pain is intolerable; yet I
cannot haftily difclofe the occafion of it.

Pri. My fweet friend, Anufiia, fpeaks rationally. Confider the violence of your indifpofition. Every day you will be more and more emaciated, though your exquifite beauty has not yet forfaken you.

Dujbm. [*slide.*] Moft true. Her forehead is parched ; her neck droops ; her waift is more flender than before; her fhoulders languidly fall; her completion is wan; fhe refembles a Madhavi creeper, whose leaves are dried by a fultry gale: yet, even thus transformed, fhe is lovely, and charms my foul.

Sac. [*Sighing.*] What more can I fay? Ah! why fhould I be the occafion of your forrow?

Pri For that very reafon, my beloved, we are felicitous to know your fecret fince, when each of us has a fhare of your uneafinefs, you will bear more eafily your own portion of it.

Duftm. [*ffide.*] Thus urged by two friends, who fhare her pains as well as her pleafures, fhe cannot fail to diiclofe the hidden caufe of her malady; whilst I, on whom fhe looked at our firft interview with marked affe&ion, am filled with anxious defire to hear her anfwer.

Sac. From the very infant when the accomplished prince, who has juft given repofe to our hallowed foreft, met my eye——

[Ste breaks off, and looks modefl.

Both. Speak on, beloved Sacontala.

Sac. From that infant my affe&ion was un-

alterably fixed on him—and thence I am reduced to my present languor.

Anu. Fortunately your affection is placed in a man worthy of yourself.

Pri. Oh! could a fine river have deserted the sea and flowed into a lake?

Dujhm. [Joyfully.] That which I was eager to know, her own lips have told. Love was the cause of my distemper, and love has healed it; as a summer's day, grown black with clouds, relieves all animals from the heat which itself had caused.

Sac. If it be no disagreeable talk, contrive, I entreat you, some means by which I may find favour in the king's eyes.

DuJJ?m. [Aside.] That request banishes all my cares, and gives me rapture even in my present uneasy situation.

Pri. [Aside to Anufuya.] A remedy for her, my friend, will scarce be attainable. Exert all the powers of your mind; for her illness admits of no delay.

Anu. [Aside to Priyamvada.] By what expedient can her cure be both accelerated and kept secret?

Pri. [As before.] Oh! to keep it secret will be easy; but to attain it soon, almost insuperably difficult.

Anu. [As before.] How so?

Pr/. The young king feemed; I admit, by Jiis tender glances, to be enamoured of her at firft Jlgfit; and he has been obferved, w^rithin thefe few days, to be pale and thin, as if his paffion had kept him long awake.

Dujhm. [*Afide.*] So it has——This golden bracelet, fullied by the flame which preys on me, and which no dew mitigates, but the tears gufhing nightly from thefe eyes, has fallen again and again on toy w^Trif, and has been replaced on my. emaciated arm.

Pri. [*Aloud.*] I have a thought, Anufuya—Let us write a love letter, which I will conceal in a flower, and, under the pretext of making a refpe&ful offering, deliver it myfelf into the king's hand.

Anu. An excellent contrivance ! It pleafes me highly ;—but what fays our beloved Sacontala ?

Sac. I muft confider, my friend, the poffible confequences of fuch a ftep.

Pri. Think alfo of a verfe or two, which may fuit your paflion, and be confiftent with the character of a lovely girl born in an exalted family.

Sac. I will think of them in due time; but my heart flutters with the apprehenfion of being reje&ed.

Dujhm. [*AJide.*] Here ftands the man fu* premely bleffed in thy prefence, from whom, O timid girl, thou art apprehenfive of a refufal!

Here {lands the man., from whom, O beautiful maid, thou fearest reje&Lon, though he loves t|iee diftra&edly. He who fliall poffefs thee will feek no brighter gem; and thou art the gem which I am eager to poffefs.

Ann. You depreciate, Sacontala, your own incomparable merits. What man in his fenfes would intercept with an umbrella the moonlight of autumn, which alone can allay the fever caufed by the heat of the noon ?

Sac. [*Smiling.*] I am engaged in thought.

[*She meditates.*

DuJJj/n. Thus then I fix my eyes on the lovely poetefs, without clofing them a moment, while fhe meafures the feet of her verfe : her forehead is gracefully moved in cadence, and her whole afpe&ft indicates pure affection.

Sac. I have thought of a couplet; but we have no writing implements.

Pri. Let us hear the words; and then I will mark them with my nail on this lotos leaf, foft and green as the breaft of a young paroquet: it may eafily be cut into the form of a letter.— Repeat the verfes.

Sac. " Thy heart, indeed, I know not: but
" mine, oh ! cruel, love warms by day and by
4< night; and all my faculties are centered on
« thee."

Dujlm. [*Hajlily advancing, and pronouncing*
n wr/h in the fame meafure." Thee. O llender

** maid, love only warms; but me he burns;
 " as *tfce*, day-ftar only ftifles the fragrance of the
 " mght-flower, but quenches the very orb of
 " tlie moon."

Ann. [*Looking at him joyfully.*] Welcome,
 great king : the fruit of my friend's imagination
 has ripened without delay.

[*Sacotala expreffes an inclination to rife.*

DuJlom. Give yourfelf no pain. Thofe delicate
 limbs, which reft on a couch of flowers,
 thofe arms, whole bracelets of lotos are difar-
 ranged by a flight preffure, and that fweet frame,
 which the hot noon feems to have difordered,
 muft not be fatigued by ceremony.

Sac. [*Afide.*] O my heart, canft thou not reft
 at length after all thy fufiferings ?

Amu Let our fovereign take for his feat a part
 of the rock on which he reftes.

[*Sacotala makes a little room.*

Dujhm. [*Seating himfelf*] *Priyamvada*, is not
 the fever of your charming friend in fome de-
 gree abated ?

Pri. [*Smiling.*] She has juft taken a falutary
 medicine, and will foon be reftored to health.
 But, O mighty prince, as I am favoured by you
 and by her, my friendfliip for *Sacotala* prompts
 me to converfe with you for a few moments.

Dujlm. Excellent damfel, fpeak openly; and
 ftipprefs nothing.

J?ri. Our lord fhall hear.

Dujhm. I am attentive.

Pri. By dispelling the alarms of our pious hermits, you have discharged the duty of a great monarch.

Dujhm. Oh ! talk a little on other subjects.

Pri. Then I must inform you that our beloved companion is enamoured of you, and has been reduced to her present languor by the restless divinity, love. You only can preserve her inestimable life.

Dujhm. Sweet Priyamvada, our passion is reciprocal ; but it is I who am honoured.

Sac. [Smiling, with a mixture of affection and repentment.] Why should you detain the virtuous monarch, who must be afflicted by so long an absence from the secret apartments of his palace ?

Dufom. This heart of mine, oh thou who art of all things the dearest to it, will have no object but thee, whose eyes enchant me with their black splendour, if thou wilt but speak in a milder strain. I, who was nearly slain by love's arrow, am destroyed by thy speech.

Anu. [Laughing.*] Princes are said to have many favourite comforts. You must allure us, therefore, that our beloved friend shall not be exposed to affliction through our conduct*

Dufm. What need is there of many words ? Let there be ever so many women in my pa-

Jace, I will have only two objects of perfect regard; the fea-girt earth, which I govern, and your fweet friend, whom I love.

Both. Our anxiety is diffipated.

[Sacontalajtr/wj- *in vain to conceal her joy;*

Pri. [AJide to Anufuya.] See how our friend recovers her fpirits by little and little, as the peahen, oppreffed by the fummer heat, is refrefhed by a foft gale and a gentle fhower.

Sac. [To the damfeh.~\ Forgive, I pray, my offence in having ufed unmeaning words : they were uttered only for your amufement in return for your tender care of me.

Pri. They were the occafion, indeed, of our ferious advice. But it is the king who muft forgive: who elfe is offended ?

Sac. The great monarch will, I truſt, excuſe what has been faid either before him or in his abſence.—[AJide to the dam/els*] Intercede with him, I entreat you.

Dufim. [Smiling.] I would cheerfully forgive any offence, lovely Sacbntala, if you, who have dominion over my heart, would allow me full room to fit by you, and recover from my fatigue, on this flowery couch preffed by your delicate limbs.

Pri. Allow him room; it will appeaſe him, and make him happy.

Sac. [Pretending anger, ^J^aPriyamvada.]

Be quiet, thou mischief-making girl! Doft thou fport with me in my prefent weak ftate ?

Anu. [*Looking behind the fcenes.*] O! my Priyamvada, there is our favourite young antelope running wildly and turning his eyes on all fides: he is, no doubt, feeking his mother, who has rambled in the wide foreft. I muft go and aflift his fearch.

Pri. He is very nimble; and you alone will never be able to confine him in one place. I murt accompany you.

[Both going out.

Sac. Alas! I cannot confent to your going far: I fhall be left alone.

Both. [*Smiting.*] Alone! with the fovereign of the world by your fide !

[They go out.'

Sac. How could my companions both leave me?

Dujhm. Sweet maid, give yourfelf no concern. Am not I, who humbly iblicit your favour, prefent in the room of them ?—*[djide.]*—I muft declare my pafiiom——*[AloiuiL]*—Why fhould not I, like them, wave this fan of lotos leaves, to raife cool breezes and diffipate your uneafinefs ? Why fhould not I, like them, lay foftly in my lap thofe feet, red as water lilies, and prefs them, O my charmer, to relieve your pain ?

Sac. I should offend against myself, by receiving homage from a person entitled to my respect;

[She rises, and walks slowly through weakness.]

Dufhm. The noon, my love, is not yet passed; and your sweet limbs are weak. Having left that couch where fresh flowers covered your¹ bosom, you can ill sustain this intense heat with so languid a frame. *[Gently draws her back.]*

Sac. Leave me, oh leave me. I am not, indeed, my own mistress, or—the two damsels were only appointed to attend me. What can I do at present?

Dufhm. *[Aside?]* Fear of displeasing her makes me bashful.

Sac. *[Overhearing him.]* The king cannot give offence. It is my unhappy fate only that I accuse.

Dufhm. Why should you accuse so favourable a destiny?

Sac. How rather can I help blaming it, since it has permitted my heart to be affected by amiable qualities, without having left me at my own disposal?

Dufhm. *[Aside.]* One would imagine that the charming sex, instead of being, like us, tormented with love, kept love himself within their hearts, to torment him with delay.

[Sjacontala going out.]

Dujhm. [*Afide.*] How! muft I then fail of attaini ngjelicity?

[Following her, and catching thej kirt vf her mantle.

Sac. [*Turning back.*'] Son of Puru, prcfervc thy reafon ; oh ! preferve it.—The hermits aic bufy on all fides of the grove.

Dufom. My charmer, your fear of them i\$ vain. Canna himfelf, who is deeply verfed ia the fcience of law, will be no obftacle to our union. Many daughters of the holieft men have been married by the ceremony called Gand* harva, as it is praitified by Indra's band, and even their fathers have approved them.—*[Looking round.]*—What fay ycu ? are you ftill inflexible? Alas! I muft then depart.

[Going from her afw paces, then looking back.

Sac. [*Moving al/o afcivjieps, aud then turning back her face*] Though I have refufed compliance, and have only allowed you to converts with me for a moment, yet, O fou of Puru——let not Sacontald be wholly forgotten.

Dufim. Enchanting girl, fhould you be removed to the ends of the world, you will be fixed- in this heart, as the fhade of a lofty tree remains with it even when the day is departed.

Sac. [*Going out*] *aji de.*] Since I have heard his protcftations, my feet move, indeed, bat

without advancing. I will conceal myfdf' behind thofe flowering Curuvacas, and.thence I fhall fee the refult of his paffion.

[S/je hides herfelf behind the florubs.

T>ujhm> [Ajide.] Can you leave me, beloved Sacontala; me who am all afFe&ion ? Could you not have tarried a Jingle moment ? Soft is your beautiful frame, and indicates a benevolent foul; yet your heart is obdurate: as the tender Sirifha hangs on a hard ftalk.

Sac. [AJide.~ I really have now loft the power of departing.

Dujhm. [Ajide.] What can I do in this retreat fince my darling has left it?—*[Mu/ing and looking round.~*—Ah ! my departure is happily delayed.—Here lies her bracelet of flowers, exquisitely perfumed by the root of Usira which had been fpread on her bofom: it has fallen from her delicate wrift, and is become a new chain for my heart.

*[Taking up the bracelet with reverence**

Sac. [Ajide, looking at her hand Ah me! fuch was my languor, that the filaments of lotos ftalks which bound my arm dropped on the ground unperceived by me.

Du/lim [Ajide, placing it in his bofom.~* Oh! how delightful to the touch !—From this ornament of your lovely arm, O my darjing, though it be inanimate and fenfelefs, your unhappy lover

had regained confidence—a blifs which you refused to confer.

Sac. [*Afide.*] I can ftay here no longer* By this pretext I may return.

[*Going Jlowly towards him.*

Dufhm. [*With rapture.*] Ah ! the emprefs of my foul again blefles thefe eyes. After all my mifery I was deftined to be favoured by indulgent heaven.—The bird CMtac, whofe throat was parched with thirft, fupplicated for a drop of water, and fuddenly a cool fteam poured into his bill from the bounty of a frefh cloud.

Sac. Mighty king, when I had gone half way to the cottage, I perceived that my bracelet of thin ftalks had fallen from my wrift ; and I return becaufe my heart is almoft convinced that you muft have feen and taken it; Reftore it, I humbly entreat, left you expofe both yourfelf and me to the cenfure of the hermits,

Du/Im. Yes, on one condition I will return it.

Sac. On what condition ? Speak——

Dujhm. That I may replace it on the wrift to which it belongs.

Sac. [*Afide.*] I have no alternative.

[*Approaching him.*

Dufhm. But in order to replace it, we muft both be feated on that fsmooth rock.

[*Both Jit dowlfr*

Dujhm. [*Taking her hand.*] O exquisite soft«
hefs! This hand has regained its native strength
and beauty, like a young shoot of Camalata: or
it resembles rather the god of love himself, when,
having been consumed by the fire of Hara's
wrath, he was restored to life by a flower of
ne&ar sprinkled by the immortals.

Sac. [*Prejng his hand.*] Let the son of my
lord make haste to tie on the bracelet.

Dujhm. [*AJide, with rapture.*] Now I am
truly bleffed.—That phrase, the son of my lord,
is applied only to a husband.—[*Aloud.*]—My
charmer, the clasp of this bracelet is not easily
loofened: it must be made to fit you better.

Sac. [*Smiling.*] As you please.

Dujhm. [*Quitting her hand.*] Look, my dar-
ling: this is the new moon which left the firma-
ment in honour of fuperior beauty, and, having
defended on your enchanting wrift, has joined
both its horns round it in the fhape of a bracelet.

Sac. I really fee nothing like a moon: the
breeze, I fuppofe, has fhaken fome duft from the
lotos flower behind my ears, and that has ob-
fcured my fight,

DuJJm. [*Smiling.*] If you permit me, I will
blow the fragrant duft from your eye.

Sac. It would be a kindness j but I cannot
truft you.

X)ujhm. Oh! fear not, fear not. A new fervant never tranfgrefles the command of his iniftrefs.

Sac. But a fervant over-afliduotis deferves no confidence.

Dujhm. [*AfideJ*] I will not let flip this charming occafion.—[*Attempting to raife her head—* Sacontala faintly repels him, but fits JililL*—O damfel with an antelope's eyes, be not apprehenfive of my indifcretion.—[*Sacontala looks up for a moment, and then bajhfully drops her head—Dufhmanta, ajide, gently raifmg her head.*]]—* That lip, the foftnefs of which is imagined, not proved, feems to pronounce, with a delightful tremour, its permillion for me to allay my thirft.

Sac. The fon of my lord feems inclined to break his promife.

Dujhm. Beloved, I was deceived by the proximity of the lotos to that eye which equals it in bright nefs. [*He blows gently on her eye**

Sac. Well: now I lee a prince who keeps his word as it becomes his imperial chara&er. Yet I am really afhamed that no defert of mine entitles me to the kind fervice of my lord's fon.

Dujhm. What reward can I defire, except that which I confider as the greateft, the fragrance of your delicious lip ?

Sac. Will that content you ?

*Dujhm** The bee is contented with the mere odour of the water lily.

Sac. If he were not, he would get no remedy.

Dujhm. Yes, this and this——

[KiJJing her eagerly]*

Behind the fenes. Hark f the Chacravaca is calling Her mate on the bank of the M&lini: the night is beginning to fspread her fhades.

Sac. [*Lijiening alarmed.*] O fon of my lord, the matron Gautami approaches to enquire after my health. Hide yourfelf, I entreat, behind yon trees.

Du/km. I yield to neceffity. *[He retires]*

Gautami enters with a vafe in her hand.

Gaut. [*Looking anxiously at Sacontala.*] My child, here is holy water for thee.—What! haft thou no companion here but the invifible gods; thou who art fo much indifpofed?

Sac. Both Priyamvada and Anuftiya are juft gone down to the river.

Gaut. [*Sprinkling herJ*] Is thy fever, my child, a little abated?

[Feeling her hand.]

Sac. Venerable matron, there is a change for the better.

Gaut. Then thou art in no danger. Mayft thou live many years! The day is departing i let us both go to the cottage*

Sac. [*JJide, rifing Jowly.*] O my heart, no fooner hadft thou begun to tafte happinefs, than the occafion flipped away! [*Sbe advances a few JiepS) and returns to the arbour**—O bower of twining plants, by whom my forrows have been difpelled, on thee I call; ardently hoping to be once more happy under thy fhade.

[Sfie goes out with Gautamu

Dujhm. [*Returning to the bower, and Jig/ring.*] How, alas, have my defires been obftru&ed!—Could I do lefs than kife the lips of my charmer, though her modeft cheeks were half averted; lips, whose fweetnefs had enchanted me, even when they pronounced a denial?—Whither now can I go? I will remain a while in this arbour of creepers, which my darling's prefence has illuminated.—[*Looking round.*]—Yes; this is her feat on the rock, fpread with bloffoms, which have been prefled by her delicate limbs.—Here lies her exquifite love letter on the leaf of a water lily; here lay her bracelet of tender filaments which had fallen from her fweet wrift—Though the bower of twining Vetafas be now defolate, fince my charmer has left it, yet, while my eyes are fixed on all thefe delightful memorials of her, I am unable to depart.—[*Mufing.*]—Ah! how imperfe&ly has this affair been conduded by a lover, like me, who, with his darling by his fide, has let the occafion flip.—Should Sacontala

vifit once more this calm retreat, the opportunity fhall not pafs again unimproved : the pleasures of youth are by nature tranfitory.—Thus my foolifh heart forms refolutions, while it is diftra&ed by the fudden interruption of its hap^ pinefs. Why did it ever allow nie to quit without effed the prefence of my beloved ?

Behind the/certes. O king, while we are beginning our evening facrifice, the figures of blooel-thirfty demons, embrowned by clouds colle&ed at the departure of day, glide over the facred hearth, and fpread confirmation around.

DuJim. Fear not, holy ipen.—Your king will prpte6l you, *[He goes out,*

ACT IV.

SCENE—A L A W N *before the Cottage.*

'The two damfels are difcovered gathering flowers.

Anujuya.

vJ MY Priyamvada, though our fweet friend has been happily married, according to the rites of Gandharvas, to a bridegroom equal in rank and accomplifhments, yet my affectionate heart is not wholly free from care; and one doubt gives me particular uneafmefs.

Pri. What doubt, my Anufuya ?

Ann. This morning the pious "prince was difmiffed with gratitude by our hermits, who had then completed their myftick rites: he is now gone to his capital, Haftinapura, where, furrounded by a hundred women in the receffes of his palace, it may be doubted whether he will remember his charming bride.

Pri. In that refpect you may be quite eafy. Men, fo well informed and well educated as he, can never be utterly deftitute of honour.—We have another thing to confider. When our father Canna fhall return from his pilgrimage, and

fhall hear what has paffed, I cannot tell how he may receive the intelligence.

Anu. If you afk my opinion, he will, I think, approve of the marriage.

Pri. Why do you think fo ?

Anu. Becaufe he could defire nothing better, thah that a hufband fo accomplifhed and fo exalted fhould take Sacontala by the hand. It was, you know, the declared objeft of his heart, that fhe might be fuitably married; and, fince heaven has done for him what he moft wifhed to do, how can he poffibly be difTatisfied ?

Pri. You reafon well; but—*[Looking at her bafket]*—My friend, we have plucked a fufficient ftore of flowers to fcatter over the place of facrifice.

Anu. Let us gather more to decorate the temples of the goddeffes who have procured for Sacontala fo much good fortune.

[They both gather more flowers.

Behind the fcenes. It is I—*Hola !*

Amu *[Lijlemng.]* I hear the voice, as it feems, of a gueft arrived in the hermitage.

Pri. Let us haften thither. Sacontala is now repofing; but though we may, when fhe wakes, enjoy her prefence, yet her mind will all day be abfent with her departed lord.

Anu. Be it fo; but we have occaion, you Jcno^r, for all thefe flowers. . *They advance.*

Again behind the scenes. How! dost thou ftrow no attention to a gueft? Then Tear my imprecations——" He on whom thou art mecli-
" taring, on whom alone thy hcart is now fixed,
" while thou negle&eft a pure gem of devotion
" who demands hofpitality, fhall forget thee,
" when thou feeft him next, as a man reftored
" to fobriety forgets the words which he uttered
" in a ftate of intoxication."

[Both damjels look at each other with affliBion]*

Pri. Wo is me! Dreadful calamity! Our beloved friend has, through mere abfence of mind, provoked by her negled:, fome holy man who expe&ed reverence.

Anu. *[Looking.]* It muft be fo; for the cho-lerick Durvasas is going haftily back.

Pri. Who elle has power to confume, like raging fire, whatever offends him? Go, my Anufuya; fall at his feet, and perfuade him, if poffible, to return: in the mean time I will prepare water and refreshments for him.

Anu. I go with eagernefs. *[She goes out.]*

Pri. *[Advancing haftily, ber foot flips.]* Ah! through my eager hafte I have let the bafket fall; and my religious duties muft not be portioned. *[She gathers fieflo flowers,*

Anufuya re-enters.

Anu. His wrath, nay beloved, pafles all bounds.

—Who living could now appease him by the humblest prostrations or entreaties? yet at last he a little relented.

Pri. That little is a great deal for him,—But inform me how youfoothed him in any degree.

Anu. When he positively refused to come back, I threw myself at his feet, and thus addressed him: " Holy sage, forgive, I entreat, " the offence of an amiable girl, who has the " highest veneration for you, but was ignorant, " through distraction of mind, how exalted a personage was calling to her,"

Pri. What then? What heard he?

Anu. He answered thus: " My word must " not be recalled; but the spell which it has " raised shall be wholly removed when her lord " shall see his ring." Saying this, he disappeared.

Pri. We may now have confidence in, for before the monarch departed, he fixed with his own hand on the finger of Sacontala the ring, on which we saw the name Dufhmanta engraved, and which we will instantly recognize. On him therefore alone will depend the remedy for our misfortune.

Anu. Come, let us now proceed to the shrines of the goddesses, and implore their succour.

[Both advance.

Pri. *[Looking.]* See, my Anufuya, where our

beloved-friend fits, motionless as a picture, supporting her languid head with her left hand. With a mind so intent on one object, she can pay no attention to herself, much less to a stranger.

Anu. Let the horrid imprecation, Priyamvada, remain a secret between us two: we must spare the feelings of our beloved, who is naturally susceptible of quick emotions.

Pri. Who would pour boiling water on the bosom of a tender Mallica? *[Both go out]*

A Pupil *^TCanna enters,*

Pup. I am ordered by the venerable Canna, who is returned from the place of his pilgrimage, to observe the time of the night, and am, therefore, come forth to see how much remains of it. *[Walking round, and observing the heavens.]—*On one side, the moon, who kindles the flowers of the Ofhadhi, has nearly sunk in his western bed; and, on the other, the sun, seated behind his charioteer Arun, is beginning his course: the lustre of them both is conspicuous, when they rise and when they set; and by their example should men be equally firm in prosperous and in adverse fortune.—The moon has now disappeared, and the night flower pleases no more: it leaves only a remembrance of its odour, and languishes like a tender bride whose pain is intolerable in the absence of her beloved.—Thq

ruddy mora impuqjles the dew drops on the branches of yonder Vadari; the peacock, {haking off fleep, haftens from the cottages of hermits interwoven with holy grafs; and yonder antelope, fpringing haftily from the place of facrifice, which is marked with his hoofs, raifes himfelf on high, and ftretches his graceful limbs. —How is the moon fallen from the fky wijſi diminifhed beams! the moon who had fet his foot on the head of Sumeru, king of mountains, find had climbed, fcattering the rear of darknefs, even to the central palace of Vifhnu!—Thus do the great men of this world afcend with extreme labour to the fummit of ambition, but eafily and qyickly defcend from it

Anufuya enters meditating.

Anu. [Afide.] Such has been the affe&ion of Sacontala, though ſhe was bred in auftere devotion, averſe from fenfual enjoyments!—How unkind was the king to leave her!

Pup. [Afide.] The proper time is come for performing the homa: I muſt apprife our preceptor of it, *[He goes out.]*

AM. The ihades of night are difpcrfed ; and I am hardly awake; but were I ever fo perfectly in nfy fenſes, what could I now do? My hands move not readily to the ufual occupations of the morning.—Let the blame be caſt on love,

on love only, by whom our friend has been reduced to her present condition, through a monarch who has broken his word.—Or does the imprecation of Durvafas already prevail?—How else could a virtuous king, who made so solemn an engagement, have suffered so long a time to elapse without sending even a message?—Shall *Tgp* convey the fatal ring to him?—Or what expedient can be suggested for the relief of this incomparable girl, who mourns without ceasing?—Yet what fault has she committed?—With all my zeal for her happiness, I cannot summon courage enough to inform our father Canna that she is pregnant.—What then, oh ! what step can I take to relieve her anxiety?

Priyamvada enters.

Pri. Come, Anufuya, come quickly. They are making suitable preparations for conducting Sacontala to her husband's palace.

Anu. [*With surprise.*] What say you, my friend?

Pri. Hear me. I went just now to Sacontala, meaning only to ask if (he had slept well—

Anu. What then? oh! what then?

Pri. She was sitting with her head bent on her knee, when our father Canna, entering her apartment, embraced and congratulated her.—" My sweet child," said he, " there has been a " happy omen; the young Brahmen who offi-

"ciated in our morning sacrifice, though his*
 * fight was impeded by clouds of smoke, drop-
 "ped the clarified butter into the very centre of
 " the adorable flame.—Now, since the pious aſt
 " of my pupil has prospered, my foster child
 " muſt not be ſuffered any longer to languish in
 " ſorrow ; and this day I am determined to fend
 " thee from the cottage of the old hermit who
 " bred thee up, to the palace of the monarch who
 " has taken thee by the hand."

Anu. My friend, who told Can na what paſſed
 in his abſence ?

Pri. When he entered the place where the
 holy fire was blazing, he heard a voice from
 heaven pronouncing divine meaſures.—

Anu. [*Amazed.*] Ah! you aſtoniſh me.

Pri. Hear the celeſtial verſe:—" Know that
 " thy adopted daughter, O pious Brahmen, has
 " received from Duſhmanta a ray of glory de-
 " ſtined to rule the world \ as the wood Sami
 " becomes pregnant with myſterious fire."

Anu. [*Embracing Priyamvada.*] I am delight-
 ed, my beloved ; I am tranſported with joy. But
 —ſince they mean to deprive us of our friend fo
 ſoon as to-day, I feel that my delight is at leaſt
 equalled by my ſorrow.

Pri. Oh! we muſt ſubmit patiently to the art-
 guiſh of parting. Our beloved friend will now*
 be happy, and that ſhould conſole us.

Anu. Let us now make haſte to dreſs her ia

bridal array. I have already, for that purpose, filled the fliell of a cocoa nut, which you see fixed on an Amra tree, with the fragrant duft of Nagacefaras: take it down, and keep it in a fresh lotos leaf, whilst I collect some Gorachana from the forehead of a sacred cow, some earth from consecrated ground, and some fresh Cufa grafts, of which I will make a paste to ensure good fortune.

Pri. By all means. [*She takes down the perfume.—Anufuya goes out.*]

Behind the scenes. O Gautami, bid the two Mifras, Samgarava and Saradwata, make ready to accompany my child Sacontala.

Pri. [*Lijlening.*] Love no time, Anufuya, love no time. Our father Canna is giving orders for the intended journey to Haftinapura.

Anufuya re-enters with the ingredients of her charm.

Anu. I am here: let us go, my Priyamvadd-
[*They both advance.*]

Pri. [*Looking.*] There Hands our Sacontala, after her bath at sundown, while many holy women, who are congratulating her, carry baskets of hallowed grain.—Let us hasten to greet her.

Enter Sacontala, Gautami, and female Hermits.

Sac. I prostrate myself before the goddess*

Gaut. My child, thou canst not pronounce too often the word goddess: thus wilt thou procure great felicity for thy lord.

Hewn Mayst thou, O royal bride, be delivered of a hero! *[The Hermits go out.]*

Both damsels. *[Approaching Sacontala.]* Beloved friend, was your bath pleasant?

Sac. O! my friends, you are welcome: let us sit a while together. *[They seat themselves.]*

Anu. Now you must be patient, whilst I bind on a charm to secure your happiness.

Sac. That is kind.—Much has been decided this day: and the pleasure of being thus attended by my sweet friends will not soon return.

[Wiping off her tears.]

Pri. Beloved, it is unbecoming to weep at a time when you are going to be so happy.—*[Both damsels burst into tears as they dress her.]*—Your elegant person deserves richer apparel: it is now decorated with such rude flowers as we could procure in this forest.

Canna V Pupil enters with rich clothes.

Pup. Here is a complete dress. Let the queen wear it auspiciously; and may her life be long!

[The women look with astonishment]*

Gaut. My son, Harita, whence came this apparel?

Pup. **From the** devotion of our father Canna,,

Gaut. What doft thou mean ?

Pup. Be attentive;⁴ The venerable fage gave this order: " Bring frefh flowers for Sacontald " from the moft beautiful trees;" and fuddenly the woodnymphs appeared, raifing their hands, which rivalled new leaves in beauty and foftnefs. Some of them wove a lower mantle bright as the moon, the prefage of her felicity; another preffed the juice of Lacfha to ftain her feet exquisitely red; the reft were bufied in forming the gayeft ornaments; and they eagerly flowered their gifts on us.

Pri. [*Looking at Sacontala.*] Thus it is, that even the bee, whole neft is within the hollow trunk, does homage to the honey of the lotos flower,

Gaut. The nymphs muft have been committed by the goddefs of the king's fortune, to predict the acceffion of brighter ornaments in his palace, [*Sacontald looks modeft.*

*Pup** I muft haften to Canna, who is gone to bathe in the Malini, and let him know the fig-nal kindnefs of the woodnymphs. [*He goes out*

Anu. My fweet friend, I little expected fo fplendid a drefs:—how fhall I adjust it properly ? —[*Confidering.*—]—Oh. ! my {kill in painting will fupply me with fome hints; and I will difpofe the drapery according to art.

Sac. I well know your affe&ion for hioou

Canna enters meditating.

Can. [*dfide.*] This day muft Sacontel& depart: that is refolved; yet my foul is fipitten with anguifli.—My fpeech is interrupted by a torrent of tears, which my reafon fuppreffes and turns inward: my very fight is dimmed.—Strange that the affli&ion of a forefter, retired from the haunts of men, fhould be fo exceffive! —Oh, with what pangs muft they who are fathers of families, be affli&ed on the departure of a daughter! [*He walks roundmujing.*

Pri, Now, my Sacontala, you are becomingly decorated: put on this lower veft, the gift of fylvan goddefles.

[*Sacontala rifes, and puts on the mantle.*

Gaut. My child, thy fpiritual father, whose eyes overflow with tears of joy, ftands defiring to embrace thee. Haften, therefore, to do him reverence. [*Sacontala modefily bows to him.*

Can: Mayft thou be cherifhed by thy hufband, as Sarmifhtha was cherifhed by Tayati! Mayft thou bring forth a fovereign of the world, as flie brought forth Puru!

Gaut. This, my child, is not a mere benediction ; it is a boon a&ually conferred.

Can. My beft beloved^ come and Walk with me round the facrificial fire.—[*They all advance.*]
-rMay thefe fires preferne thee! Fires which

ttle FAT At RING. Ui

spring to their appointed stations O'er the holy
hearth, and consume the consecrated wood, while
the fresh blades of mysterious Cufa lie scattered
around them !—Sacramental fires, which destroy
sin with the rising fumes of clarified butter 1—
[Sacountala "Walks with solemnity round the hearth"]
—Now set out, my darling, on thy auspicious
journey*—[Looking round.]—Where are the at-
tendants, the two Mifras ?

*Enter Sarngarava and Saradwata**

Both. Holy sage, we are here*

Can. My son, Sarngarava, show thy sister her
Way.

Sam. Come, damsel -

[They all advance]*

Can. Hear, all ye trees of this hallowed forest
ye trees, in which the Sylvan goddesses have
their abode * hear, and proclaim, that Sa-
cunta is going to the palace of her wedded lord;
she who drank not, though thirsty, before you
were watered; she who cropped not, through
affection for you, one of your fresh leaves, though
she would have been pleased with such an orna-
ment for her locks & she whose chief delight was
in the season when your branches are fringed
with flowers!

CHORUS *of invifible* WOODNYMPHS»V

May her way be attended with profperity!
 May propitious breezes fprinkle, for her delight,
 the odoriferous dull of rich bloffoms! May pools
 of clear water, green with the leaves of the lotos,
 refresh her as fhe walks! and may ftiady
 branches be her defence from the fcorching fun-
 beams ! [*All HJlen with admiration.*

Sam. Was that the voice of the Cocila wifh-
 ing a happy journey to Sacontala?—Or did the
 nymphs, who are allied to the pious inhabitants
 of thefe woods, repeat the warbling of the mu-
 fical bird, and make its greeting their own ?

Gaut. Daughter, the fylvan goddefles, who
 love their kindred hermits, have wifhed you pro-
 fperity, and are entitled to humble thanks.

[*Sacontala walks round, bowing to the nymphs.*

Sac. [AJide](#) to Priyamvada.] Delighted as I
 am, O Priyamvada, with the thought of feeing
 again the fon of my lord, yet, on leaving this
 grove, my early afylum, I am fcarce able to
 walk.

Pri. You lament not alone.—Mark the
 affliction of the foreft itfelf when the time of
 your departure approaches ! 'The female an-
 telope browfes no more on the colle&ed Cufa
 grafs; and the peahen ceafes to dance on the
 lawn: the very plants of the grove, whofe pale

leaves fall on the ground, lose their strength and their beauty.

Sac. Venerable father, suffer me to address this Madhavi creeper, whose red blossoms inflame the grove.

Can. My child, I know thy affection for it.

Sac. [*Embracing the plant.*] O most radiant of twining plants, receive my embraces, and return them with thy flexible arms: from this day, though removed to a fatal distance, I shall for ever be thine.—O beloved father, consider this creeper as myself.

Can. My darling, thy amiable qualities have gained thee a husband equal to thyself: such an event has been long, for thy sake, the chief object of my heart; and now, since my solicitude for thy marriage is at an end, I will marry thy favourite plant to the bridegroom Amra, who sheds fragrance near her.—Proceed, my child, on thy journey.

Sac. [*Approaching the two damsels.*] Sweet friends, let this Madhavi creeper be a precious deposit in your hands.

Anu. and Pri. Alas! in whose care shall we be left?
[*They both weep.*]

Can. Tears are vain, Anufuya: our Sacentala ought rather to be supported by your firmness, than weakened by your weeping.

[*All advance.*]

Sac. Father! when yon female antelope, who now moves flowly from the weight of the young pnes with which fhe is pregnant, fhall be delivered of them, fend me, I beg, a kind meflage with tidings of her fafety.—Do not forget.

Gan. My beloved, I will not forget it.

Sac, {*Advancing, then flopping.*} Ah! what is it that clings to the fkirts of my robe, and detains me ? *[S/ie turns round\ and looks.*

*Can** It is thy adopted child, the little fawn, whofe mouth, when the iharp points of Cufagrafs had wounded it, has been fo often fmeared by thy hand with the healing oil of Ingudi; who has been fo often fed by thee with a hand[^]ful of Syamaka grains, and now will not leave the footfteps of his prote£trefs.

Sac. Why doft thou weep, tender fawn, for me, who muft leave our common dwelling-place? —As thou waft reared by me when thou hadft loft thy mother, who died foon after thy birth, fo will my fofter-father attend thee, when we are ieparated, with anxious care.—Return, poor thing, return—we muft part.

[S/ie burjls into tears.

Can. Thy tears, my child, ill fuit the occafion : we fhall all meet again: be firm: fee the dired road before thee, and follow it.—When the big tear lurks beneath thy beautiful eyelafhes, let thy,refolution check its firft efforts to

difengage itself.—In thy paffage over this earth, where the paths are now high, now low, and the true path feldom diftinguifhed, the traces of thy feet muft needs be unequal; but virtue will prefs thee right onward.

Sam. It is a facred rule, holy fage, that a benevolent man fhould accompany a traveller till he meet with abundance of water; and that rule you have carefully oblerved : we are now near the brink of a large pool. Give us, therefore, your commands, and return.

Can. Let us reft a while under the fhade of this Vata tree——[*They all go to the Jshade.*]—What meflage can I fend with propriety to the noble Dufhmanta ?

[*He meditates.*

Anu. [*AJide to SzLContall*] My beloved friend, every heart in our afylum is fixed on you alone, and all are affli&ed by your departure.—Look; the bird Chacravaca, called by his mate, who is almoft hidden by water lilies, gives her no answer; but having dropped from his bill the fibres of lotos ftalks which he had plucked, gazes on you with inexpressible tendernefs.

Can. My fon Samgarava, remember, when thou fhalt prefent Sacontala to the king, to addrefs him thus, in my name : " Coixfidering us " hermits as virtuous, indeed, but rich only in " devotion, and confidering alfo thy own exalt-

" ed birth, retain thy love for this girl, which
 " ^{cc} arofe in thy bofom without any interference of
 " her kindred; and look on her among thy
 " wives with the fame kindnefs which they ex-
 " perience: more than that cannot be demand-
 " ed; fmce particular affection muft depend on
 * the will of heaven."

Sam. Your meflage, venerable man, is deeply rooted in my remembrance.

Can. [hooking](#) tenderly at Sacontala.] Now, my darling, thou too muft be gently admonifhed.—We, who are humble forefters, are yet acquainted with the world which we have for-
 & ken.

Sam. Nothing can be unknown to the wife.

Can. Bear, my daughter——When thou art fettled in the manfion of thy hufband, I how due reverence to him, and to thofe whom he reveres: though he have other wives, be rather an affectionate handmaid to them than a rival.—Should he difpleafe thee, let not thy repentment lead thee to difobedience.—In thy conduct to thy domefticks be rigidly juft and impartial; and feek not eagerly thy own gratifications,——By fuch behaviour young women become refpedable; but perverse wives are the bane of a family.—~
 What thinks Gautami of this leffon?

Cant. It is incomparable : • — my child, be fure to remember it.

Can. Come, my beloved girl, grfe #*parting embrace to me and to thy tender companions.

Sac. Muft Anufuya and Priyamvada return, to the hermitage?

Can. They too, my child, muft be fuitably married; and it would not be proper for them yet to vifit the city; but Gautami will accompany thee.

Sac. [*Embracing him* *P*] Removed from the bofom of my father, like a young fandal tree, rent from the hills of Malaya, how fhall I exift in a ftrange foil ?

Can. fee not fo anxious. When thou fhalt be miftrefs of a family, and confort of a king, thou mayft, indeed, be occasionally perplexed by the intricate affairs which arife from exuberance of wealth, but wilt then think lightly of this tranfient affliction, efpecially when thou {halt have a fon (and a fon thou wilt have) bright ils the rifing day-ftar.—Know alfo with certainty, that the body muft neceffarily, at the appointed moment, be feparated from the foul: who, then, can be immoderately affii&ed, when the weaker bounds of extrinfick relations are loofened, or even broken.

Sac. [*Falling at his feet.* \ My father, I thus humbly declare my veneration for you.

Can. Excellent girl, may my effort for thy happinefs prove fuccefsful.

Sac. fyifprMchtng her two companions.] Come, then, my beloved friends, embrace me together,
[T&ey embrace her.

Anu. My friend, if the virtuous monarch should not at once recoiled you, only show him the ring on which his own name is engraved.

Sac. [Starting.] My heart flutters at the bare apprehension which you have raised.

Pri. Fear not, sweet Sacontala: love always raises ideas of misery, which are seldom or never realized.

Sam. Holy sage, the fun has risen to a considerable height; let the queen hasten her departure.

Sac. [Again embracing Canna.] When, my father, oh! when again (shall I behold this asylum of virtue?

Can. Daughter, when thou shalt long have been wedded, like this fruitful earth, to the pious monarch, and shalt have borne him a son, whose car shall be matchless in battle, thy lord shall transfer to him the burden of empire, and thou, with thy Dufhmanta, shalt again seek tranquillity, before thy final departure, in this loved and consecrated grove.

Gaut. My child, the proper time for our journey passes away rapidly: suffer thy father to return.—Go, venerable man, go back to thy

-«ianfi\$ n, from, which flie it doomrd to be fo long abfent.

Can. Sweet child, this delay interrupts *mf* religious duties,

Sac, You, my father, will perform them long without ibrrrow; but I, alas I am deftined to bear afflidion*

Can. O! my daughter, compel me not to ne~gled my daily devotions,—[&£&#g.]—*No_f my forrow will not be diminifhed.—Can it ceafe, my beloved, when the plants which rife luxuriantly from the hallowed grains which thy hand has ftrown before my cottage, are continually in my fight? Go, may thy journey proffer*

[*Sacntala goes out with Gautamt and the two Mifras.*

*Both dam/els** [*Looking after Sacntala with anguifo.*] Alas! alas! o^r beloved is hidden by the thick trees.

Can. My children, fince your friend is at length departed, check your immoderate grief and follow me. [*They all turn back.*

Both. Holy father, the grove will be a perfed vacuity without Sacntala.

Can. Your affEdion will certainly give it that appearance.—[*He walks round meditating.*]—Ah me!—Yes; at laft my weak mind has attained its due firmnefs after the departure of my Sacntala.—In truth a daughter muft fooner or

later be the property of another; and, having
»ow fent her to her lord, I find my foul clear
and undifturbed, like that of a man who has re-
stored to its owner an* ineftimable depofit which
he long had kept with follicitude.

[They go out.]

ACT V.

SCENE—*The PALACE.**An old Chamberlain, fighting.**Chamberlain.*

ALAS! what a decrepit old age have I attained!—This wand, which I first held for the discharge of my customary duties in the secret apartments of my prince, is now my support, whilst I walk feebly through the multitude of years which I have passed.—I must now mention to the king, as he goes through the palace, an event which concerns himself: it must not be delayed,—[*Advancing slowly*]\—What is it?—Oh! I recoiled: the devout pupils of Canna desire an audience.—How strange a thing is human life!—The intellects of an old man seem at one time luminous, and then on a sudden are involved in darkness, like the flame of a lamp at the point of extinction.—[*He walks round and looks.*]\—There is Dufhmanta: he has been attending to his people, as to his own family; and now with a tranquil heart seeks a solitary chamber; as an elephant the chief of his herd, leaving

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BACOmALA't OU,

grazed the whole morning* and being heated by the meridian sun, repairs to a cool station during the oppressive heats.—*—Since the king is just risen from his tribunal, and must be fatigued, I am almost afraid to inform him at present that Canna's pupils are arrived; yet how should they who support nations enjoy rest?—The sun yokes his bright steeds for the labour of many hours; the gale breathes by night and by day; the prince of serpents continually sustains the weight of this earth; and equally incessant is the toil of that man* whose revenue arises from a sixth part of his people's income *[He walks about.*

*Enter Dufhmanta, Mddhavya, and Attendants**

Dujhm. *[Looking oppressed with business.]* Every petitioner having attained justice, is departed happy; but kings who perform their duties conscientiously are afflicted without end.—The anxiety of acquiring dominion gives extreme pain; and when it is firmly established, the cares of supporting the nation incessantly harass the sovereign; as a large umbrella, of which a man carries the staff in his own hand, fatigues while it shades him.

Behind the scenes. May the king be victorious.^r

Two Bards repeat Jianzas.

Firjiz Bard. Thou seekest not thy own plea-

future: no; it is for the people that thou art har-
 raffed from day to day. Such, when thou wast
 created, was the disposition implanted in thy
 soul! Thus a branchy tree bears on his head
 the scorching sunbeams, while his broad shade
 allays the fever of those who seek shelter under
 him.

Second Bard. When thou wieldest the rod of
 justice, thou bringest to order all those who have
 deviated from the path of virtue: thou biddest
 contention cease: thou wast formed for the pre-
 servation of thy people: thy kindred possess,
 indeed, considerable wealth; but so boundless is
 thy affection, that all thy subjects are considered
 by thee as thy kinsmen.

Dujhm. [*Lifting.*] That sweet poetry re-
 freshes me after the toil of giving judgements
 and publick orders*

Madh. Yes; as a tired bull is refreshed when
 the people say, " There goes the lord of cattle."

Dujhm. [*Smiling.*] Oh! art thou here, my
 friend: let us take our seats together.

[*The king and Madhavyayfr* downs—
Mufick behind the jette s.]

Mddh. Listen, my royal friend. I hear a well-
 tutied Vina founding, as if it were in concert
 with the lutes of the gods, from yonder apart-
 ment.—The queen Hanfamatl is preparing, I
 imagine, to greet you with a new song.

m

mmm&tttm,

'^**Obamj** [*Afide**] The king's mind fecm\$ in-leal wx fome other bufmefs. Lmpft.JTO? Jbia leifure. [Retiring on onejide.

.SONG. [*Behindthescenes.*]

" Sweet bee, who, defirous of extracting fre(h
" honey, waft wont to kifs the foft border of the
" new-blown Amra flower, how canft thou now
" be (ktisfied with the water lily, and forget the
" firft objea of thy love?"

Dujhm. The ditty breathes a tender paffion.

Mddb. Does the king know its meaning? It is too deep for me.

Du/hm. [*Smiling.*] I was once in love with Hanfamat), and am now reproved for continuing fo long abfent from her.—Friend Madhavya, inform the queen in my name that [feel the reproof.

% *M&dh* As the king commands; but—[*Rif-ingjlow/y.*—My friend, you are going to feize, a fliarp lance with another man's hand. I cannot relifli your commiffion to an enraged woman.—A hermit cannot be happy till he has taken leave pf all paffions whatever.

*Dujhm** Go, my kind friend: the urbanity of thy difcourfe will appeafe hen

*Madh** What an errand! [He goes out

Dujhm. [*AJide**\ A h! what makes me fo melancholy on hearing a mere fong on abfence, when I am not in fad feparated from any real object of my affe&ion?—Perhaps the fadnefe of men, otherwife happy, on feeing beautiful forms and liftening to fweet melody, arifes from fome faint remembrance of paff joys and the traces of connexions in a former ftate of exiftence.

[*He Jits penfive and Jorrowful*

Cham, [*Advancing humbly.*] May our fove-reign be vi&orious!—Two religious men, with fome women, are come from their abode in a foreft near the Snowy Mountains, and bring a meffage from Canna.—The king will command.

Dujhm. [*Surprised.*] What! are pious hermits arrived in the company of women?

Cham. It is even fo.

Dujhm. Order the prieft Somaratd, in my name, to fhew them due reverence in the form appointed by the Veda; and bid him attend me. I {hall wait for my holy guefts in a place fit for their reception.

Cham. I obey.

[*He goes out.*

Dujhm. Wardour, point the way to the hearth of the confecrated fire.

Ward. This, O king, this is the way.—[*He walks before.*]—Here is the entrance of the hal-lowed enclofure; and there ftands the venerable cow to be milked for the facrifice, looking bright

from the recent fprinkling of myftick water.—
Let the king afcend.

*[Dufhmanta is raifed to the place offacrifice
on the Jhoulders ofhis War dour s.*

Dujhm. What meflage can the pious Canna have fent me ?—Has the devotion of his pupils been impeded by evil fpirits—or by what other calamity?—Or has any harm, alas! befallen the poor herds who graze in the hallowed foreft?—Or have the fins of the king tainted the flowers and fruits of the creepers planted by female hermits ?—My mind is entangled in a labyrinth of confufed apprehenfions.

Ward. What our fovereign imagines, cannot poffibly have happened ; iince the hermitage has been rendered fecure from evil by the mere found of his bowftring. The pious men, whom the king's benevolence has made happy, are come, I prefume, to do him homage.

Enter S&rngarava, Saradwata tfWGautami, leading Sacontala by the hand; and before them the old Chamberlain and the Prieft.

Cham. This way, refpectable ftrangers; come this way.

Sam. My friend Saradwata, there fits the king of men, who has felicity at command, yet (hows equal refpect to all: here no fubjeifc, even of the loweft clafs, is received with contempt.

Nevertheless, my soul having ever been & free from attachment, to worldly things, I consider this hearth, although a crowd now surrounds it, as the station merely of consecrated fire.

Sdrad. I was not less confounded than yourself on entering the populous city; but now I look on it, as a man just bathed in pure water, on a man smeared with oil and dust, as the pure on the impure, as the waking on the sleeping, as the free man on the captive, as the independent on the slave.

Priejl. Thence it is, that men, like you two, are so elevated above other mortals.

Sac. [*Perceiving a bad omen.*] Venerable mother, I feel my right eye throb ! What means this involuntary motion?

Gaut. Heaven avert the omen, my sweet child ! May every delight attend thee !

[They all advance.

Priejl. [*Shewing the king to them.*] There, - holy men, is the protector of the people; who has taken his seat, and expects you.

Sam. This is what we wished; yet we have no private interest in the business. It is ever thus: trees are bent by the abundance of their fruit; clouds are brought low, when they teem with falubrious rain ; and the real benefactors of mankind are not elated by riches.

Ward. O king, the holy guests appear before

you with placid looks, indicating their affection*

Dujhm. [*Gazing at Sacontal^.*] Ah! what damfel is that, whose mantle conceals the far greater part of her beautiful form?—She looks, among the hermits, like a fresh green bud among faded and yellow leaves.

Ward. This at least, O king, is apparent; that {he has a form which deserves to be seen more distinctly.

Dujhm. Let her still be covered: she seems pregnant; and the wife of another must not be seen even by me.

Sac. [*With her hand to her bosom*] O my heart, why dost thou palpitate?—Remember the beginning of thy lord's affection, and be tranquil.

Prieji. May the king prosper! The respectable guests have been honoured as the law ordains; and they have now a message to deliver from their spiritual guide: let the king deign to hear it.

Dujhm. [*With reverence.*] I am attentive.

Both Mi/ras. [*Extending their hands.*] Vido-ry attend thy banners!

Dujhm. I respectfully greet you both.

Both. Blessings on our sovereign!

Dujhm. Has your devotion been interrupted?

Sdffu How should our rites be disturbed, when thou art the preserver of all creatures? How> when the bright sun blazes, should darkness cover the world?

Dujbm. [*djide.*] The name of royalty produces, I suppose, all worldly advantages!—\AkuiL\—Does the holy Canna then prosper?

Sam. O king, they who gather the fruits of devotion may command prosperity. He first inquires affectionately whether thy arms are successful, and then addresses thee in these words:—

Dujhm. What are his orders?

Sdrn. " The contract of marriage, reciprocally made between thee and this girl, my daughter, I confirm with tender regard; since thou art celebrated as the most honourable of men, and my Sacontala is Virtue herself in a human form, no blasphemous complaint will henceforth be made against Brahma for suffering discordant matches: he has now united a bride and bridegroom with qualities equally transcendent.—Since, therefore, (he is pregnant by thee, receive her in thy palace, that she may perform, in conjunction with thee, the duties prescribed by religion."

Gaut. Great king, thou hast a mild answer; and I wish to address thee in few words.

Dujhm. [*Smiling.*] Speak, venerable matron.

Gmt She waited not the return of her spiritual father; nor were thy kindred consulted by thee. You two only were present, when your nuptials were solemnized: now, therefore, converse freely together in the absence of all others.

Sac. [*Afide.*] What will my lord say?

Dujhm. [*AJide, perplexed.*] How strange an adventure!

Sac. [*AJide.*] Ah me! how disdainfully he seems to receive the message!

Sdrriy [*AJide.*] What means that phrase which I overheard, "How strange an adventure?"—*[Aloud.]*—Monarch, thou knowest the hearts of men. Let a wife behave ever so discreetly, the world will think ill of her, if she live only with her paternal kinsmen; and a lawful wife now requests, as her kindred also humbly entreat, that whether she be loved or not, she may pass her days in the mansion of her husband.

Dujhm. What sayest thou?—Am I the lady's husband?

Sac. [*Ajide with anguish.*] O my heart, thy fears have proved just.

Sam. Does it become a magnificent prince to depart from the rules of religion and honour, merely because he repents of his engagements?

Dujhm. With what hope of fuccels could this groundlefs fable have been invented ?

Sam. [*Angrily.**] The minds of thofe whom power intoxicates are perpetually changing.

Dujhm. I am reproved with too great fev erity.

Gaut. [*To Sacontala.*] Be not afhamed, my fweet child: let me take off thy mantle, that the king may recollect thee. [*She unveils her.*

Dujhm. [*Afidt, looking at Sacontala.*] While I am doubtful whether this unblemifhed beauty which is difplayed before me has not been poffeffed by another, I refemble a bee fluttering at the clofe of night over a bloflbm filled with dew; and in this ftate of mind, I neither can enjoy nor forfake her.

Ward. [*Afide to Dufhmanta.*] The king bed knows his rights and his duties : but who would hefitate when a woman, bright as a gem, brings luftre to the apartments of his palace?

Sam. What, O king, dees thy ftrange filence import ?

Dujhm. Holy man, I have been meditating again and again, but have no recolle&ion of my marriage with this lady. How then can I lay afide all confideration of my military tribe, and admit into my palace a young woman who \% pregnant by another hufband ?

Sac. [*Afide.*] Ah! wo is me.—Can there be

a doiibt even of our nuptials?—The tree of my hope, which had rifen fo luxuriantly, is at once broken down.

Sdrn. Beware, left the godlike fage, who would have bellowed on thee, as a free gift, his ineftimable treafure, which thou hadft taken, like a bafe robber, fhould now ceafe to think of thee, who art lawfully married to his daughter, and fhould confine all his thoughts to her whom thy perfidy difgraces.

Sdrad. Reft a while, my Sarngarava; and thou, SacontaM, take thy turn to fpeak; fince thy lord has declared his forgetfulnefs.

Sac. [*Aftde.*] If his affe&ion has ceafed, of what ufe will it be to recall his remembrance of me?—Yet, if my foul muft endure torment, be it fo: I will fpeak to him.—[*Aloud to Dufh-manta.*]—O my hufband!—[*Pcw/ing.*]— Or (if the juft application of that facred word be ftill doubted by thee) O fon of Puru, is it breaming, that, having been once enamoured of me in the confecrated foreft, and having fhown the excefs of thy paffion, thou fhouldft this day deny me with bitter expreffions ?

Dujhm. [*Covering bis ears.*] Be the crime removed from my foul!—Thou haft been inftucted for fome bafe purpofe to vilify me, and make me fall from the dignity which I have hitherto fupported j as a river which has bujft its banks

and altered its placid current, overthrows the trees that had ripened aloft on them.

Sac. If thou fayst this merely from want of reflection, I will restore thy memory by producing thy own ring, with thy name engraved on it!

Du/Im. A capital invention !

Sac. [Looking at her finger. ~\ Ah me! I have no ring. [She fixes her eyes <with anguish on GautamL

Gaut. The fatal ring must have dropped, my child, from thy hand, when thou tookest up water to pour on thy head in the pool of Sachitirtha, near the station of Sacrivatara.

Du/Im. [Smiling.] So skillful are women in finding ready excuses!

Sac. The power of Brahma must prevail: I will yet mention one circumstance.

Dujhm. I must submit to hear the tale.

Sac. One day, in a grove of Vetafas, thou tookest water in thy hand from its natural vase of lotus leaves——

Du/bm. What followed ?

Sac. At that instant a little fawn, which I had reared as my own child, approached thee; and thou smiledst with benevolence: " Drink thou « first, gentle fawn." He would not drink from the hand of a stranger, but received water eagerly from mine; when thou smiledst, with increas-

mg affedion: *'Thus every creature loves its
 " companions; you are both forefters alike, and
 " both alike amiable."

Dujhm. By fuch interefted and honied falfehoods are the fowls of voluptuaries enfnares !

Gaut. Forbear, illuftrious prince, to fpeak harfhly. She was bred in a facred grove where flie learned no guile.

Dufhm. Pious matron, the dexterity of females, even when they are untaught, appears in thofe of a fpecies different from our own.—What would it be if they were duly intrufted !—The female Cocilas, before they fly towards the firmament, leave their eggs to be hatched, and their young fed, by birds who have no relation to them.

Sac. [*With anger.*] Oh! void of honour, thou meafureft all the world by thy own bad heart. What prince ever refembled, or ever will refemble, thee, who weareft the garb of religion and virtue, but in truth art a bale deceiver; like a deep well whose mouth is covered with fmiUing plants!

Dujlm. [*Afide.*] The rufficity of her education makes her fpeak thus angrily and inconliftently with female decorum.—She looks indignant; her eye glows; and her fpeech, formed of harfh terms, falters as fhe utters them. Her lip, ruddy as the Bimba fruit, quivers as if it

were nipped with froft; and her eyebrows, naturally fsmooth and equal, are at once irregularly contracted.—Thus having failed in circumventing me by the apparent luftre of fimplicity, the has recourfe to wrath, and fnaps in two the bow of Cama, which, if Ihe had not belonged to another, might have wounded me.—\Alou4^\—The heart of Dufhmanta, young woman, is known to all; and thine is betrayed by thy prefent demeanor.

Sac. [*Ironically.*] You kings are in all cafes to be credited implicitly: you perfe&ly know the refped which is due to virtue and to mankind; while females, however modeft, however virtuous, know nothing, and fpeak nothing truly. —In a happy hour I came hither to feek the objeft of my affedVion: in a happy moment I received the hand of a prince defcended from Puru; a prince who had won my confidence by the honey of his w^rords, whilft his heart concealed the weapon that was to pierce mine.

[She bides her face and weeps.

Scirn, This infuffcrable mutability of the king's temper kindles my wrath. Henceforth let all be circumfpedt before they form fecret connections: a friendfhip haftily contra&ed, when both hearts are not perfe&tly known, muft ere long become enmity.

Dufim. Wouldft thou force me then to com^

commit an enormous crime, relying solely on her smooth speeches ?

Sam. [*Scornfully*] Thou hast heard an answer.—The words of an incomparable girl, who never learned what iniquity was, are here to receive no credit; while they, whose learning conflicts in [^]coiling others, and inquiring into crimes, are the only persons who speak truth!

Dujhm. O man of unimpeached veracity, I certainly am what thou describest; but what would be gained by accusing thy female associate ?

Sam. Eternal misery.

Dujhm. No ; misery will never be the portion of Puru's descendants.

Sam. What avails our altercation ?—O king, we have obeyed the commands of our preceptor, and now return. Sacontala is by law thy wife, whether thou desert or acknowledge her; and the dominion of a husband is absolute.—Go before us, Gautam/.

[*The two Misras and Gautami returning.*

Sac. I have been deceived by this perfidious man; but will you, my friends, will you also forsake me ?

[*Following them.*

Gaut. [*Looking back.*] My son, Sacontala follows us with affectionate supplications. What can (he do here with a faithless husband; she who is all tenderness ?

Sdm. [*Angrily to Sacontala.*] O wife, who

feest the faults of thy lord, doft thou' defire independence ? [Sacontal4y?^j, and trembles.

Sdrad. Let the queen hear. If thdb beeft what the king proclaims thee, what right hast thou to complain ? But if thou knoweft the purity of thy own foul, it will become thee to wait as a handmaid in the manfion of thy lord Stay, then, where thou art: we muft return to Canna.

Dufom. Deceive her not, holy men, with vain expectations. The moon opens the night flower; and the fun makes the water lily bloffom: each is confined to its own objed: and thus a virtuous man abftains from any connection with the wife of another.

Sam. Yet thou, O king, who feareft to offend religion and virtue, art not afraid to defert thy wedded wife \ pretending that the variety of thy publick affairs has made thee forget thy private contract.

Dujhm. [To his Prieji.] I really have no remembrance of any fuch engagement; and I affc thee, my fpiritual counfellor, whether of the two offences be the greater, to forfake my own wife, or to have an intercourfe with the wife of another ?

Prieji. [lifter fome deliberation.] We may adopt an expedient between both.

Dufhm. Let my venerable guide command.

Prieji. The young woman may dwell till her delivery in my houfe.

Dufhm. For what purpose ?

Priejl. Wife astrologers have allured the king, that he will be the father of an illustrious prince* whose dominion will be bounded by the western and eastern seas: now, if the holy man's daughter shall bring forth a son whose hands and feet bear the marks of extensive sovereignty, I will do homage to her as my queen, and conduct her to the royal apartments; if not, (he shall return in due time to her father.

Dajhm. Be it as you judge proper,

Prieft. [To Sacontala.] This way, my daughter, follow me.

Soc. O earth! mild goddess, give me a place within thy bosom!

She goes out weeping with the Priest; while the two Mifras go out by a different way with Gautami——DufhmantajfeWi meditating on the beauty of Sacontala; but the imprecation still clouds his memory]*

Behind the scenes. Oh ! miraculous event!

Dufbm. [Lightning.] What can have happened f

The Priest re-enters.

Prieft. Hear, O king, the stupendous event. When Canna's pupils had departed, Sacontala, bewailing her adverse fortune, extended her arms and wept; when——

Dujhm. What then?,

Prie/t. A body of light, in a female 'fhape, defcended near Apfaraftirt'ha, where the nymphs of heaven are worftuped; and having caught her haftily in her bofom, difappeared.

[All exprefs aftonijhment.

Dujhm. I fufpeded from the beginning fome work of forcery.—The bufinefs is over; and it is needlefs to reafon more on it.—Let thy mind, Somarata, be at reft.

Prieft. May the king be vidorious.

[He goes out.

Dujhm, Chamberlain, I have been greatly haraffed; and thou, Warder, go before me to a place of repofe.

Ward. This way; let the king come this way*

Dujhm. *[Advancing^ afide.]* I cannot with all my efforts recoiled my nuptials with the daughter of the hermit; yet fo agitated is my heart, that it almoft induces me to believe her ftory.

[AUgo out.

ACT VI.

SCENE—A STREET.

Enter a Superintendent of Police with two Officers, leading a man with his bands bound.

First Officer. Striking the prisoner.

TAKE that, Cumbhilaca, if Cumbhilaca be thy name; and tell us now where thou gottest this ring, bright with a large gem, on which the king's name is engraved.

Cumbh. [Trembling.] Spare me, I entreat your honours to spare me : I am not guilty of so great a crime as you suspect.

First Off. O distinguished Brahmen, didst thou then receive it from the king as a reward of some important service ?

Cumbh. Only hear me: I am a poor fisherman dwelling at Sacravatara—

Second Off. Did we ask, thou thief, about thy tribe or thy dwelling-place?

Sup. O Suchaca, let the fellow tell his own story.—Now conceal nothing, firrah.

First Off. Dost thou hear ? Do as our master commands.

Cumbh. I am a man who suppgt my family by catching fifh in nets, ot with hooks, and by Various other contrivances.

Sup. [*Laughing.*] A virtuous vmj of gainfeg a livelihood!

Cumbfu Blame me not, mafter. The occupation of our forefathers, how low foever, muft >not be forfaken; and a man who kills animals for fale may have a tender heart though his a& be cruel.

Sup. Go on, go on.

Cumbh. One day having caught a large R6-hita fifh, I cut it open, and faw this bright ring in its ftomach; but when I offered to fell it, I was apprehended by your honours. So far only am I guilty of taking the ring. Will you now continue beating and bruifing me to death?

Sup. [*Smelling the ring.*] It is certain, Jaluca, that this gem has been in the body of a fifh. The cafe requires confideration ; and I will mention it to fome of the king's houfehold.

Both Off. Come on, cutpurfe.

[*They advance.*

Sup. Stand here, Suchaca, at the great gate of the city, and wait for me, while I fpeak to fome of the officers in the palace.

Both Off. Go, Rijayu&a. May the king favour thee. [*The Superintendent goes out.*

SACONTALA'j OR,

Second Off_n Our mailer will flay, I fear, a long while.

Firft Off. Yes; accets to kings can only be h#d at their kifure.

Second Off. The tips of my fingers itch, my friend Jaluca, to kill this cutpurfe.

Cumbh. You would put to death an innocent man.

Firft Off. [*Looking.*] Here comes our mafter.—The king has decided quickly. Now, Cumbhilaca, you will either fee your companions again, or be the food of fhakals and vultures.

The Superintendent re-enters.

Sup. Let the fifherman immediately——

Cumbh. [*In an agony.*] Oh! I am a dead man.

*Sup**——be difcharged.—Hola! fet him at liberty. The king fays he knows his innocence j and his ftory is true.

Second Off. As our mafter commands_____ *Tbm* fellow is brought back from the manfion of Yama, to which he was haftening.

[*Unbinding the fijherman.*

Cumbh [*Bowing.*] My lord, I owe my life to your kindnefs.

Sup. Rife, friend j and hear with delight that the king gives thee a fum of money equal to the

full value of the ring: it is a fortune to a man in thy station. *[Giving him the money.*

Cumbh. *[With rapture.]* I am transported with joy.

Firft Off. This vagabond seems to be taken down from the stake, and set on the back of a state elephant.

Second Off. The king, I suppose, has a great affection for his gem.

Sup. Not for its intrinsic value ; but I guessed the cause of his ecstasy when he saw it.

Both Off. What could occasion it ?

Sup. I suspected that it called to his memory some person who has a place in his heart; for though his mind be naturally firm, yet, from the moment when he beheld the ring, he was for some minutes exceedingly agitated.

Second Off. Our master has given tilt king extreme pleasure.

Firft Off. Yes; and by the means of this fish-
^atcher. *[Looking fiercely at him**

Cumbh. Be not angry—Half the money shall be divided between you to purchase wine.

Firft Off. Oh! now thou art our beloved friend.—Good wine is the first object of **four** affection.—Let us go together to the vintners.

[They all go out.

SCENE—*The GARDEN of the PALACE.*

The Jtfymph Mifrancesi appears in the air.

Mi/r. My firft talk was duly performed when I went to bathe in the Nymphs' pool; and I now muft fee with my own eyes how the virtuous king is affli&ed.—Sacontala is dear to this heart, becaufe fhe is the daughter of my belVed Menaca, from whom I received both commiflions.—[*She looks round.*—Ah? on a day full of delights the monarch's family feem oppreffed w\th fome new forrow.—By exerting my fupernaturai power I could know what has paffed ; but refpect muft be fhown to the defire of Menaca. I will retire, therefore, among thofe plants, and obferve what is done without being visible. [*She defends, and takes her Jtation.*

"Enter two Dam/els, attendants on the God of Love.

Firft Damf [*Looking at an Amr a flower.*—The bloflbms of yon Amra, waving on the green ftaU^lare frefh and light as the breath of this veri&l month. I muft prefent the goddefs Reti with a bafket of them.

Second Damf Why, my Parabhratic5, doft thou mean to prefent it alone ?

Firft Damf O my friend Madhucarica, when

a female Cocila, which my name implies, fees a blooming Amra, fhe becomes entranced, and lofes her recolle&ion.

Second Damf [*With tranfport.*] What! is the feafon of fweets actually returned ?

Firft Damf Yes; the feafon in which we jnuft fing of nothing but wine and love.

Second Damf Support me, then, while I climb up this tree, and ftrip it of its fragrant gems, which we will carry as an offering to Cama.

Firft Damf If I aflift, I muft have a moiety of the reward which the god will beftow.

Second Damf To be fure, and without any previous bargain. "We are only one foul, you know, though Brahma has given it two bodies.——[*She climbs up> and gathers the flowers.*']—Ah ! the buds are hardly opened.——Here is one a little expanded, which diffufes a charming odour——[*Taking a handful of buds.*]—This flower is facred to the god who bears a fifh on "his banner.—O fweet blofTom, which I now confecrate, thou well deferveft to point the iixth arrow of Camadeva, who now takes his bow to pierce myriads of youthful hearts.

[*She throws down a blojfonu*

The old Chamberlain enters.

Cham. [*Angrily.*] Defift from breaking off thofe half-opened buds : there will be no jubilee this year; our king has forbidden it.

Both Damf. Oh! pardon us. We really knew not the prohibition.

Cham. You knew it not!—Even the trees which the spring was decking, and the birds who perch on them, sympathize with our monarch. Thence it is, that yon buds, which have long appeared, flid not yet their prolifick duft; and the flower of the Curuvaca, though perfectly formed, remains veiled in a clofed chalice; while the voice of the Cocila, though the cold dews fall no more, is fixed within his throat; and even Smara, the god of defire, replaces the haft half-drawn from his quiver.

Mfr. [*AJide.*] The king, no doubt, is conftant and tender-hearted.

Firft Damf. A few days ago, Mitravafu, the governor of our province, difpatched us to kifs the feet of the king, and we come to decorate his groves and gardens with various emblems: thence }t is, that we heard nothing of his interdict.

Cham. Beware then of reiterating your offence.

Second Damf. To obey our lord will certainly be our delight; but if we are permitted to hear the ftory, tell us, we pray, what has induced our fovereign to forbid the ufual feftivity.

Mifr. [*dfide.*] Kings are generally fond of gay entertainments; and there muft be fome weighty reafon for the prohibition,

Cham. [*Afide.*] The affair is publick: why

should I not satisfy them?——[*Akud.*]—Has not the calamitous desertion of Sacontala reached your ears ?

Firft Dam/. We heard her tale from the governor, as far as the fight of the fatal ring.

Cham, Then I have little to add.—When the king's memory was restored, by the fight of his gem, he instantly exclaimed: " Yes, the incomparable Sacontala is my lawful wife; and " when I rejected her, I had lost my reason."—He showed strong marks of extreme affliction and penitence; and from that moment he has abhorred the pleasures of life. No longer does he exert his respectable talents from day to day for the good of his people: he prolongs his nights without closing his eyes, perpetually rolling on the edge of his couch ; and when he rises, he pronounces not one sentence aptly; mistaking the names of the women in his apartments, and through distraction, calling each of them Sacontala; then he sits abashed, with his head long bent on his knees.

Mifr. [*Afide.*] This is pleasing to me, very pleasing.

Cbam. By reason of the deep sorrow which now prevails in his heart, the vernal jubilee has been interdicted.

Both Damjl The prohibition is highly proper.

Behirid the /certes. Make way ! The king is pafling.

Cham. [*LiJleningJ*] Here comes the monarch: depart thefefore, damfels, to your own province,
[The two Damfels go out]*

Dufhmanta enters in penitential weeds, preceded by a Warder, and attended by Madhavva.

Cham. [*Looking at the king.*] Ah ! how majeftick are noble forms in every habiliment!—Our prince, even in the garb of affliction, is a venerable object.—Though he has abandoned pleafure, ornaments, and bufinefs; though he is become fo thin, that his golden bracelet falls loofened even down to his wrift; though his lips are parched with the heat of his fighs, and his eyes are fixed open by long forrow and want of fleep, yet am I dazzled by the blaze of virtue which beams in his countenance like a diamond cxquifitely polifhed.

Mi/r. [*Afide, gazing on Dufhmanta.*] With good reafon is my beloved Sacontala, though difgraced and rejected, heavily oppreffed with grief through the abfence of this youth.

Dujhm. [*AdvancingJlow/y in deep meditation.*] When my darling with an antelope's eyes would have reminded me of our love, I was afluredly (lumbering; but excefs of mifery has awakened me.

Mifr, [*Afide.*] The charming girl wij|at laft be happy.

Madh. [*Afide.*] This monarch of ours is caught again in the gale of affedion; and I hardly know a remedy for his illnefs.

Cham, [*Approaching Dufhmanta.*] May the Jcing be vidorious!—Let him furvey yon fine woodland, thefe cool walks, and this blooming garden; where he may repofe with pleafure on banks of delight.

Du/Im. [*Not attending to him.*'] Warder, inform the chief minifter in my name, that having refolved on a long abfence from the city, I do not mean to fit for fome time in the tribunal; but let him write and difpatch to me all the cafes that may arife among my fubjeds.

Ward. As the king commands.

[*He goes out.*]

Dujhm. [*To the Chamberlain.*] And thou, Parvatayana, negled not thy ftated bufinefs.

Cham. By no means. [*He goes out.*]

Madh. You have not left a fly in the garden.—Amufe yourfelf now in this retreat, which feems pleafed with the departure of the dewy feafon.

DufJjm. O Miidhavya, when perfons accused of great offences prove wholly innocent, fee how their accufers are punifhed !——A phrenfy obtruded my remembrance of any former Jove

for the daughter of the fage and now the heart-born god, who delights in giving pain, has fixed in his bow-ftring a new lhaft pointed with the bloflbm of an Amra.—The fatal ring having reftored my memory, fee me deplore with tears of repentance the lofs of my beft beloved, whom I rejected without caufe; fee me overwhelmed with forrow, even while the return of fpring fills the hearts of all others with pleafure.

Mddlu Be fill, my friend, whilst I break Love's arrows with my ftaff.

[Heftrikes off fome flowers from an Amra tree.]

Ditjhin. [Meditating.] Yes, I acknowledge the fupreme power of Brahma.—*[To Madhavya.]* Where now, my friend, fhall I fit and recreate my fight with the flender fhrubs which bear a faint refemblance to the fhape of Sacontala ?

Miidh. You will foon fee the damfel fkilled in painting, whom you informed that you would fpend the forenoon in yon bower of Madhavl creepers; and flic will bring the queen's picture which you commanded her to draw,

Dufhm. My foul will be delighted even by her picture.—Show the way to the bower.

Mddh. This way, my friend.—*[They both advance, Mihacsi following them.]* The arbour of twining Mddhavis, embellifhed with fragments of ftone like bright gems, appears by its

pleafantnefs, though without a voice, to Md thee welcome.—Let us enter it, and be feated.

[They both Jit down in the bower.]

Mi fr. [Afidef] From behind thefe branchy fhrebs I fhall behold the pi&ure of my Sacontala.—I will afterwards haften to report the fincere affe&tion of her huftiand.

[She conceafs herfelf.]

Dufim. [Sighing,] O my approved friend, the whole adventure of the hermitage is now frefh in my memory.—I informed you how deeply I was affected by the firft fight of the damfel; but when fhe was rejected by me you were not prefent.—Her name was often repeated by me (how, indeed, fhould it not?) in our converfation.—What! haft thou forgotten, as I had, the whole ftory ?

Mifr. [Afide.] The fovereigns of the world muft not, I find, be left an infant without the objects of their love.

Mdd/i. Oh, no: I have not forgotten it; but at the end of our difcourfe you allured me that your love tale was invented folely for your diverlion ; and this, in the fimplicity of my heart, I believed.—Some great event feems in all this affair to be predeftined in heaven.

Mifr. [AJide.] Nothing is more true.

Du/hm. [Having meditated."] O! my friend, fuggeft fome relief for my torment.

Madh. What new pain torments you? Virtuous men should never be thus afflicted: the most violent wind shakes not mountains.

DuJlom. When I refied on the fituation of your friend Sacontala, who must now be greatly affected by my desertion of her, I am without comfort.—She made an attempt to follow the Br&hmeifs and the matron: Stay, said the sage's pupil, who was revered as the sage himself: Stay, said he, with a loud voice. Then once more she fixed on me, who had betrayed her, that celestial face, then bedew'd with gushing tears; and the bare idea of her pain burns me like an envenomed javelin.

Mifr. [4fide.] How he afflicts himself! I really sympathize with him.

Mddb. Surely some inhabitant of the heavens must have wafted her to his mansion.

Dujhm. No; what male divinity would have taken the pains to carry off a wife so firmly attached to her lord? Menaca, the nymph of Swerga, gave her birth; and some of her attendant nymphs have, I imagine, concealed her at the desire of her mother.

Mifr. [slide.] To reject Sacontala was, no doubt, the effect of a delirium, not the act of a waking man.

Mddb. If it be thus, you will soon meet her again.

Dujhm. Alas! why do you think so?

Mddh. Because no father and mother can long endure to see their daughter deprived of her husband.

Dujhm. Was it sleep that impaired my memory? Was it delusion? Was it an error of my judgement? Or was it the destined reward of my bad actions? Whatever it was, I am sensible that, until Sacontala return to these arms, I shall be plunged in the abyss of affliction.

Mddh. Do not despair: the fatal ring is itself an example that the lost may be found.—Events which were foredoomed by Heaven must not be lamented,

Dujhm. [Looking at his ring.] The fate of this ring, now fallen from a station which it well might not easily regain, I may at least deplore.—O gem, thou art removed from the soft finger, beautiful with ruddy tips, on which a place had been assigned thee; and, minute as thou art, thy bad qualities appear from the familiarity of thy possession to mine.

Mtfr. [Aside.] Had it found a way to any other hand its lot would have been truly deplorable.—O Me'naca, how wouldst thou be delighted with the conversation which gratifies my ears!

Madh. Let me know, I pray, by what means the ring obtained a place on the finger of Sacontali

Dujhm. You fhall know, my friend.—When I was coming from the holy foreft to my capital, my beloved, with tears in her eyes, thus addreffed me: " How long will the fon of my " lord keep me in his remembrance ?"

Madh Well; what then ?

Dufom. Then, fixing this ring on her lovely finger, I thus anfwered: " Repeat each day one " of the three fyllables engraved on this gem; " and before thou haft fpelled the word Dufh- " manta, one of my nobleft officers fhall attend " thee, and conduct my darling to her palace." —Yet I forgot, I deferted her in my phrenfy.

Mifr. [*Afide.*] A charming interval of three days was fixed between their feparation and their meeting, which the will of Brahma rendered unhappy.

Madb. But how came the ring to enter, like a hook, into the mouth of a carp ?

Dujhm. When my beloved was lifting water g| her head in the pool of Sachitirt'ha, the ring muft have dropped unfeen.

Madh. It is very probable.

Mi/r. [*Afide.*] Oh! it was thence that the king, who fears nothing but injuftice, doubted the reality of his marriage ; but how, I wonder, could his memory be connected with a ring ?

Dujhm. I am really angry with this gem.

Mddh, [*Laughing.*] So am I with this ftaff.

Dufhm. Why fo, Madhavya?

Mddh. Becaufe it prefumes to be fo ftraight when I am fo crooked.—Impertinent flick!

Dujhm. [*Not attending to him.*] How, O ring, couldft thou leave that hand adorned with foft long fingers, and fall into a pool decked only with water lilies?—The anfwer is obvious: thou art irrational.—But how could I, who was born with a reasonable foul, defert my only beloved?

Mt/r. [*Afide.*] He anticipates my remark.

Mddh. [*AJide.*] So; I muft wait here during his meditations, and perifh with hunger.

Dujbm. O my darling, whom I treated with difrefped, and forfook without reafon, when will this traitor, whose heart is deeply ftung with repentant forrow, be once more blefled with a fight of thee?

A Damfel enters with a picture.

Damf. Great king, the picture is finifhed.

[*Holding it before him,*

Du/Im. [*Gazing on it.*] Yes; that is her face; thofe are her beautiful eyes; thofe her lips embellifhed with fmiles, and furpaffing the red luftre of the Carcandhu fruit: her mouth feems, though painted, to fpeak, and her countenance darts beams of afFedion blended with a variety of melting tints.

Mddh. Truly, my friend, it is a picture fweet

as love itself: my eye glides up and down to feast on every particle of it 5 and it gives me as much delight as if I were actually converfmg with the living Sacontala.

Mifn [*Afide.*] An exquisite piece of painting!—My beloved friend feems to ftand before my eyes.

Dujbm. Yet the pidure is infinitely below the original; and my warm fancy, by fupplying its imperfedions, reprefts, in fome degree, the lovelinefs of my darling.

Mifr. [*AjiJe.*] His ideas are fuitable to his excefive love and fevere penitence.

Dujhm. [*Sighing.*] Alas! I rejeded her when fhe lately approached me, and now I do homage to her pidure; like a traveller who negligently pafles by a cleat and full rivulet, and foon ardently thirfts for a falfe appearance of water on the fan4y defert.

Mddb. There are fo many female figures on tins canvas, that I cannot well diftinguifh the lady Sacontala.

Mifr. [*AJide.*] The old man is ignorant of her tranfcendent beauty; her eyes, which fascinated the foul of his prince, never fparkled, I fiippofe, on Madhavya.

Dufom. Which of the figures do you conceive intended for the queen?

Madh. [*Examining the piBure.*] It is fhe, I

ittfaglne, who looks a little fatigued; with the Aring of her veft rather loofe ; the flender ftalks of her arms falling languidly; a few bright drops on her face, and fome flowers dropping from hef untied locks. That muft be the queen; and the reft, I fuppofe, are her damfele.

Du/hm. You judge well; but my aflectidn requires fomething *mote* in the piece. Befides, through fome defeft in the colouring, a tear feems trickling down her cheek, which ill fuits the ftate in which I defired to fee her painted. —[*To the DamfeL*]— The pidure, O Chaturica, is unfinished.—Go back to the painting room and bring the implements of thy art.

Damf. Kind Madhavya, hold the pifture while I obey the king.

Dujhm. No; I will hold it.

[*Jifc takes the piBure; and the Dam/el goes out.*]

Mad/u What elfe is to be painted ?

Mifr. [*Afide.*] He delires, I prefume, to add all thofe circumftances which became the fituation of his beloved in the hermitage.

Du/hm. In this landfcape, my friend, I wifh to fee reprefented the river Malini, with fome amorous Flamingos on its green margin; farther back muft appear fome hills near the mountain Himalaya, furrounded with herds of Chamaras ; and in the foreground, a dark fpreading tree, with fome mantles of woven bark fufpended on

its branches **to** be dried **by** the funbeams; **while** a pair of black antelopes couch **in** its {**hadd and** the female gently rubs her beautiful **forehead on** the horn of the male.

• *MadA.* Add what you please; but, in my judgement, the vacant places should be filled with old hermits, bent, like me, towards the ground.

Dujhm. [*Not attending to Jbim.*] Oh! I had forgotten that my beloved herself must have some new ornaments.

Mddk What, I pray?

Mifr. [*slide.*] Such, no doubt, as become a damfel bred in a forest.

Dujhm. The artist had omitted a Sirifha flower with its peduncle fixed behind her soft ear, and its filaments waving over part of her cheek; and between her breasts must be placed a knot of delicate fibres, from the stalks of water lilies, like the rays of an autumnal moon.

Mddf Why does the queen cover part of her face, as if she was afraid of something, with the tips of her fingers, that glow like the flowers of the Cuvalaya?—Oh! I now perceive an impudent bee, that thief of odours, who seems eager to sip honey from the lotos of her mouth.

Dujhm. A bee! drive off the importunate insect.

Madh. The king has supreme power over all offenders.

Dujhm. O male bee, who approaeheft the tovely inhabitants of a (flowery grove, why doft thou expofe thyfelf to the pain of being reject-ed?—See where thy female fits on a bloflbm, and, though thirfty, waits for thy return: without thee fhe will not tafte its nectar.

Mi/r. [*AJde.*] A wild, but apt, addrefs !

Mddb. The perfidy of male bees is proverbial.

Dujlom. [*/4ngri/y.*] Shouldft thou touch, O bee, the lip of my darling, ruddy as a frefh leaf on which no wind has yet breathed, a lip from which I drank fweetnefs in the banquet of love, thou fhalt, by my order, be imprifoned in the center of a lotos.—'Doft thou ftill difobey me ?

Mad A. How can he fail to obey, fince you denounce fo fevere a punifhment ? [*Afide, laughing.*]—He is ftark mad with love and affliction; whilft I, by keeping him company, fhall be as mad as he without either.

Dujhm. After my pofitive injunction, art thou ftill unmoved ?

Mifr. [*A/ide.*] How does excefs of paffion alter even the wife !

Mddb. Why, my friend, it is only a painted bee.

Mifr. [*/sf/ide.*] Oh! I perceive his miftake: it fhows the perfection of the art. But why does he continue mufing ?

"Dujhm. What ill-natured remark was that ?—

Whilft I am enjoying the rapture of beholding her to whom my foul is attached, thou, cruel remembrancer, telleft me that it is only a picture. —[Weeping.]

Mi/r. [Afide.] Such are the woes of a fepa-rated lover! He is on all fides entangled in forrow.

Dujhm. Why do I thus indulge unremitted grief? That intercoiirfe with my darling which dreams would give, is prevented by my continued inability to repofc; and my tears will not fuffer me to view her diftinctly even in this picture.

Mifr. [Afide.] His mifery acquits him entirely of having deferted her in his perfect fenfes.

The Damfel re-enters.

Damf. As I was advancing, O king, with my box of pencils and colours——

Dujbm. [Hajii/y.] What happened ?

Dawf. It was forcibly feized by the queen Vafumati, whom her maid Pingalica had apprifed of my errand ; and fhe faid : " I will my-
* felf deliver the casket to the Ton of my lord."

Mado How came you to be releafed ?

Damf. While the queen's maid was difengaging the fkirt of her mantle, which had been caught by the branch of a thorny fhrub, I ftole away.

Dujhm. Friend Mddhavya, my great attention to Vafumati has made her arrogant; and flie will foon be here : be it your care to conceal the pi&ure.

Mddh. [*AJide.*] I wifh you would conceal it yourfelf.—[*He takes the picture, and rifes.*]—[*Aloud.*]—If, indeed, you will difentangle me from the net of your fecret apartments, to which I am confined, and fuffer me to dwell on the wall Meghach'handa which encircles them, I will hide the pidure in a place where none fhall fee it but pigeons. [*He goes out.*]

Mi/r. [*AJide **] How honourably he keeps his former engagements, though his heart be now fixed on another objed!

A Warder enters with a leaf.

Ward. May the king proffer !

Dujhm. Warder, haft thou lately feen the queen Vafumati?

Ward. I met her, O king; but when ihe perceived the leaf in my hand, fhe retired.

Dujlm. The queen diftinguifhes time: fhe would not impede my publick bufinefs.

Ward. The chief minifter fends this meflage :
" I have carefully ftated a cafe which has arifen
" in the city, and accurately committed it to
" writing: let the king deign to confider it."

Dufim. Give me the leaf,—[*Receiving it,*

and reading. J—" Be it prefented at the foot
 " of the king", that a merchant named Dhana-
 " vridghi, who had extenfive commerce at fea,
 " was loft in a late fhipwreck: he had no child
 " born ; and has left a fortune of many millions,
 " which belong, if the king commands, to the
 " royal treafury."——[*With forrow.*]—Oh !
 how great a misfortune it is to die childlefs!
 Yet with his affluence he muft have had many
 wives:—let an inquiry be made whether any
 one of them is pregnant.

Ward. I have heard that his wife, the daughter
 of an excellent man, named Sacetaca, has already
 performed the ceremonies ufual on pregnancy.

Dujhm, The child, though unborn, has a title
 to his father's property.—Go : bid the mini-
 fter make my judgement publick.

Ward. I obey. [*Going,*

Dufhm. Stay a while.—

Ward. [*Returning.*] I am here.

Diifhm. Whether he had or had not left off-
 fpring, the eftate fhould not have been forfeit-
 ed,—Let it be proclaimed, that whatever kinf-
 man any one of my fubjeds may lofe, Dufh-
 manta (excepting always the cafe of forfeiture
 for crimes) will fupply, in tender affection, the
 place of that kinfman.

Ward. The proclamation fhall be made.—

[*He goes out.*

[*Dufhmanta continues meditating.*]

Re-enter Warder.

O king! the royal decree, which proves that your virtues are awake after a long flumber, was heard with burfts of applaufe.

Dufhm. [*Sighing deeply.*] When an illuftrious man dies, alas, without an heir, his eftate ,goes to a ftranger; and fuch will be the fate of all the wealth accumulated by the fons of Puru.

Ward. Heaven avert the calamity!

[*Goes out.*]

Dufhm. Wo is me ! I am dripped of all the felicity which I once enjoyed.

Mi/r. [*AJide.*] How his heart dwells on the idea of his beloved !

Dufhm. My lawful wife, whom I bafely deferted, remains fixed in my foul: fhe would have been the glory of my family, and might ha\ff produced a fon brilliant as the richell fruit of the teeming earth.

Mi/r. [*Afide.*] She is not forfaken by all; and foon, I truft, will be thine.

Damf. [*Afide.*] What a change has the mifnifter made in the king by fending him that mifchievous leaf! Behold, he is deluged with tears.

Dufhm. Ah me! the departed fouls of my anceftors, who claim a {hare in the funeral cake,

which I have no for to offer, are apprehensive or losing their due honour, when Dufhmanta shall be no more on earth:—who then, alas, will perform in our family those obsequies which the Veda prescribes?—My forefathers must drink, instead of a pure libation, this flood of tears, the only offering which a man who dies childless can make them, *[Weeping.*

Mifr. *[Aside.]* Such a veil obscures the king's eyes, that he thinks it total darkness, though a lamp be now shining brightly.

Damf. Afflict not yourself immoderately: our lord is young; and when consilutious as himself shall be born of other queens, his ancestors will be redeemed from their offences committed here below.

Dujhm. *[With agony.]* The race of Puru, which has hitherto been fruitful and unblemished, ends in me; as the river Sereswati disappears in a region unworthy of her divine stream.

[He faints]*

Damf. Let the king resume confidence.—

[She supports him.]

Mifr. *[Aside.]* Shall I restore him? No; he will speedily be roused- I heard the nymph Devajanani consoling Sacotala in these words; "As the gods delight in their portion of sacrifices, thus wilt thou soon be delighted by the love of thy husband." I go, therefore, to

raife her fpirits, and pleafe my friend Menaca
with an account of his virtues and his affe&ion

[She rifes aloft and difappears.

Behind the fcenes. A Brahmen muft not be
flain : fave the life of a Brahmen.

Dujhm. *[Reviving and HJlening.]* Hah! was
not that the plaintive voice of Madhavya?

Damf. He has probably been caught with the
picture in his hand by Pingalica and the other
maids.

Dufhm. Go, Chaturica, and reprove the queen
in my name for not refraining her fervants,

Damf. As the king commands,

[She goes out.

Again behind the fcenes. I am a Brahmen, and
muft not be put to death.

Dufhm. It is manifetly fome Brahmen iu
great danger.—Hola! who is there?

The old Chamberlain enters.

Cham. What is the king's pleasure?

Dushm. Inquire why the faint-hearted Mad-
havya cries out fo piteoufly.

Cham. I will know in an infant.

[He goes out, and returns trembling.

Dujhm. Is there any alarm, Parvatayana?

Cham. Alarm enough!

Dujhm. What caufes thy tremour ?—Thus do
men tremble through age: fear fhakes the old

man's body, as **the** breeze agitates the leaves of **the** Pippala.

Cham. Oh! deliver thy friend.

Dufhm. Deliver him! from what?

Cham. From distrefs and danger,

Dufhm. Speak more plainly.

Cham. The wail which looks to all quarters of the heavens, and is named, from the clouds which cover it, Meghach'handa——

Dufhm. What of that?

Cham. From the fummit of that wall, the pinnacle of which is hardly attainable even by the Hue-necked pigeons, an evil being, invifible to human eyes, has violently carried away the friend of your childhood.

Dufhm. [*Starting up haftily.*] What! are even my fecret apartments infested by fupernatural agents?—Royalty is ever fubjected to moleftation.—A king knows not even the mifchiefs which his own negligence daily and hourly occafions:—how then fhould he know what path his people are treading; and how fhould he correct their manners when his own are uncorrected?

Behind the fcenes. Oh, help! Oh, releafe me.

Dufhm. [*Lijlening and advancing.*] Fear not, my friend, fear nothing——

Behind the fcenes. Not fear, when a monfter has caught me by the nape of my neck, and

means to snap my backbone as he would snap a fugar-cane!

Du/Jim. [*Darting bis eyes round.*] H o k! my bow——

A Warder enters with the kings how tindquher.

Ward. Here are our great hero's arms.

[*Dufhmanta takes his bow and an arrow.*

Behind thescenes. Here I ftand; and, thiriKng for thy frefh blood, will flay thee ftruggling as a tyger flays a calf.—Where now is thy pro-testor, Dufhmanta, who grafps his bow to defend the oppreffed ?

Dajhm. [*Wrathfully.*] The demon names me with defiance.—Stay, thou bafeft of monfters.—Here am I, and thou fhalt not long exift.—*[Raifing his bow.]*—Show the way, Parvatayana, to the ftairs of the terrace.

Cham. This way, great king!——

[Allgo out bafily.

The SCENE changes to a broadTERRACE,

Enter Dufhmanta.

Dufom. [*Looking round.*] A h! the place is deferted.

Behind the /certes. Save me, oh! fave me,—I fee thee, my friend, but thou canft not difcern

me, who, like a moufe in the claws of a cat, hare no hope of life.

Dujhm. But this arrow fhall diftinguifh thee from thy foe, in fpight of the magick which renders thee invifible.—Madhavya, ftand firm; and thou, blood-thirfty fiend, think not of deftroying him whom I love and will proted.—See, I thus fix a fhafth which fhall pierce thee, who deferveft death, and fhall fave a Brahmen who deferves long life; as the celeftial bird fips the milk, and leaves the water which has been mingled with it. *[He draws the bowjlring.*

Enter Matali and Madhavya.

Mat. The god Indra has deftined evil demons to fall by thy fhafths: againft them let thy bow be drawn, and caft on thy friends eyes bright with affedion.

Dufim. *[JJiomJhed, giving back his arms.]* Oh! Matali, welcome; I greet the driver of Indra's car.

Madb. What! this cutthroat was putting me to death, and thou greeteft him with a kind welcome !

Mat. *[Smiling.]* O king, live long and conquer ! Hear on what errand I am difpatched by the ruler of the firmament.

Dufim. I am humbly attentive

Mat. There is a race of Danavas, **the children** of Calanemi, whom it is found hard to fubdue—

Dujhm. This I have heard already from Nared.

Mat. The god with an hundred facrifices, unable to quell th^{at} gigantick race, commiffions thee, his approved friend, to aflail them in the front of battle; as the fun with feven fteeds depairs of overcoming the dark legions of night, and gives way to the moon, who eafily fcatters them. Mount, therefore, with me, the car of Indra, and, grafping thy bow, advance to allured vi&ory.

Dujhm. Such a mark of diftinction from the prince of good genii honours me highly; but fay why you treated fo roughly my poor friend Madhavya.

Mat. Perceiving that, for fome reafon or another, you were grievoufly affiicted, I was defirous to rouse your fpirits by provoking you to wrath.—The fire blazes when wood is thrown on it; the ferpent, when provoked, darts his head againft the allailant; and a man capable of acquiring glory, exerts himfelf when his courage is excited.

Dujhm. [*To Madhavya.*—My friend, the command of Divefpctir muft instantly he obeyed : go, therefore, and carry the intelligence to

IM

SACONTALA'j OR,

ray chidf niufter j faying to him in my name:
" Let thy wisdom fecure my people from dan-
" ger while this braced bow has a different em-
" ployment."

Madh. I obey; but with it could have been
employed without affittance from my terror.

[He goes out.]

Mat. Afcend, great king.

[*Dufhmanta ~~afends~~ and Matali drives
off the car.*]

ACT VII.

*Dulhmanta with Matali in the car of Indra,
supposed to be above the clouds,*

Dujhmanta,

1 AM fenfible, O Matali, that, for having executed the commiffion which Indra gave me, I deferved not fuch a profufion of honours

Mat. Neither of you is fatisfied. **You who** have conferred fo great a benefit on the god of thunder, confider it as a trifling aft of devotion; whilst he reckons not all his kindnefs equal to the benefit conferred.

Dujhm. There is no comparifon between the fervice and the reward.—He furpaffed my warmeft expectation, when, before he difmiffed me, he made me fit on half of his throne, thus exalting me before all the inhabitants of the Empyreum; and fmiling to fee his fon Jayanta, who flood near him, ambitious of the fame honour, perfumed my bofom with effence of **heavenly** fandal wood, throwing over **my neck a garland** of flowers blown in paradife.

Mat. O king, you deferve all imaginable re-

wards Horn the fovereign of good genii; who& empyreal feats have twice been difentangled from the thorns of Danu's race; formerly by the claws of the man-lion, and lately by thy unerring shafts.

Dujhm. My victory proceeded wholly from the aufpices of the god \ as on earth, when fervants proffer in great enterprifes, they owe their fucces to the magnificence of their lords.—^—Coudt Arun difpel the fhades of night if the deity with a thoufand beams had not placed him before the car of day?

Mat. That cafe, indeed, is parallel.—[*Driving Jbwfy.*]—See, O king, the full exaltation of thy glory, which now rides on the back of heaven! The delighted genii have been colle&ing, among the trees of life, thofe crimfon and azure dyes, with which the celeftial damfels tinge their beautiful feet; and they,, now are writing thy a&ions in verfes worthy of divine melody.

Dufim. [*Modejify.*] In my tranfport, O Matali, after the rout of the giants, this wonderful place had efcaped my notice.—In what path of the winds are we now journeying?

Mat. This is the way which leads along the triple river, heaven's brighteft ornament, and caufes yon luminaries to roll in a circle with difufed beams: it is the courfe of a gentle breeze which fupports the floating forms of the gods ;

and this path was the second step of Vishnu, when he confounded the proud Vali.

Dujhm. My internal soul, which acts by exterior organs, is filled by the sight with a charming complacency.—[*Looking at the wheels.*']—We are now passing, I guess, through the region of clouds.

Mat. Whence do you form that conjecture?

Dujhm. The car itself instructs me that we are moving over clouds pregnant with flowers; for the circumference of its wheels disperses pellucid water; the horses of Indra sparkle with lightning; and I now see the warbling Chatacas descend from their nests on the summits of mountains.

Mat. It is even so; and in another moment you will be in the country which you govern.

Dujhm. [*Looking down.*] Through the rapid, yet imperceptible, descent of the heavenly steeds, I now perceive the allotted station of men.— Astonishing prospect! It is yet so distant from us, that the low lands appear confounded with the high mountain tops; the trees erect their branchy shoulders, but seem leafless; the rivers look like bright lines, but their waters vanish; and, at this instant, the globe of earth seems thrown upwards by some stupendous power.

Mat. [*Looking with reverence on the earth,*]

How delightful is the abode of mankind!—O king, you faw diftinctly.

Du/km. Say, Matali, what mountain is that which, like an evening cloud, pours exhilarating freams, and forms a golden zone between the weftern and eaftern feas ?

Mat. That, O king, is the mountain of Gandharvas, named Hemacuta: the univerfe contains not a more excellent place for the fuccefsful devotion of the pious. There Cafyapa, father of the immortals, ruler of men, fon of Marichi, who fprang from the felf-exiftent, refides with his confort Aditi, bleffed in holy retirement

Dujhm. [*Devoutly.*] This occafion of attaining good fortune muft not be negledd: may I approach the divine pair, and do them complete homage ?

Mat. By all means.—It is an excellent idea! —We are now defcended on earth.

Dujhm. [*With wonder.*] Thefe chariot wheels yield no found; no duft arifes from them; and the defcent of the car gave me no shock.

Mat. Such is the difference, O king, between **thy** car and that of Indra!

Dufhm. Where is the holy retreat of Marichi?

Mat. [*Pointing.*] A little beyond that grove, where you fee a pious Yogi, motionlefs as a pol-

lard, holding his thick bushy hair, and fixing his eyes on the folat orb.—Mark; his body is half covered with a white ant's edifice made of raifed clay; the fkin of a fnake fupplies the place of his facerdotal thread, and part of it girds his loins; a number of knotty plants encircle and wound his neck; and furrounding birds' nefts almoft conceal his fhoulders.

Dujhm. I bow to a man of his auftere devotion.

Mat. [*Checking the reins.*] Thus far, and enough.—We now enter the fanctuary of him who rules the world, and the groves which are watered by fstreams from celeftial fources.

Dujhm. This afylum is more delightful than paradife itfelf: I could fancy myfelf bathing in a pool of nedar.

Mat. [*Stopping the car.*] Let the king de*fcend.

Dujhm. [*Joyfullydefcending,*] How canft thou leave the car ?

Mat. On fuch an occafion it will remain fixed: we may both leave it.—This way, victorious hero, this way.—Behold the retreat of the truly pious.

Dujhm. I fee with equal amazement both the pious and their awful retreat.—It becomes, indeed, pure fpirits to feed on balmy air in a foreft blooming with trees of life; to bathe in rills

dyed yellow with the golden duft of the lotos, and to fortify their virtue in the myfterious bath; to meditate in caves, the pebbles of which are unblemished gems; and to refrain their paffions, even though nymphs of exquisite beauty frolick around them: in this grove alone is attained the fummit of true piety, to which other hermits in vain afpire.

Mat. In exalted minds the defire of perfect excellence continually increafes.—[*Turning afide.*]—Tell me, Vriddhacalya, in what bufinefs is the divine fon of Marichi now engaged?—What fayeft thou?—Is he converting with the daughter of Dacflia, who practifes all the virtues of a dutiful wife, and is confulting him on moral queftions?—Then we muft await his leifure.—[*To Dufhmanta.*] Reft, O king, under the fhade of this Afoka tree, whilft I announce thy arrival to the father of Indra.

Du/Im. As you judge right. • [Matali goes out.—Dulhrnanta feels his right arm throb.] Why, O my arm, doft thou flatter me with a vain omen?—My former happinefs is loft, and mifery only remains.

Behind thefcenes. Be not fo reftlefs: in every fituation thou fhoweft thy bad temper.

Dujhm. [*LiJleningJ*] Hah! this is no place, furely, for a malignant difpofition.——Who can be thus rebuked?—[*Looking "with furprife.*]—I

fee a child, but with *no* childifh countenance or ftrengh, whpm two female anchorites are endeavouring to keep in order; while he forcibly pulls towards him, in rough play, a lion's whelp with a torn mane, who feems juft dragged from the half-fucked nipple of the lionefs!

A little Boy and two female Attendants are difcovered, as defcribed by the king.

Boy. Open thy mouth, lion's whelp, that I may count thy teeth.

Firft Atten. Intraftable child ! Why doft thou torment the wild animals of this foreft, whom we cherifh as if they were our own offspring ? ——Thou feemeft even to fpcgt in anger.—Aptly have the hermits named thee Servademana, fince thou tameft all creatures.

Dufim. Ah ! what means it that my heart inclines to this boy as if he were my own fon ? —[*Meditating.*] —Alas ! I have no fon ; and the refle&ion makes me once more foft-hearted.

Second Atten. The lionefs will tear thee to pieces if thou releafe not her whelp.

Boy. [*Smiling.*] Oh ! I am greatly, afraid of her to be fure !

[He bites his lip, as in defiance of her.]

Dujhm. [*Afide, amazed.*] The child exhibits the rudiments of heroick valour, and looks like fire which blazes from the addition of dry fuel

Firft Atten. My beloved child, fet at liberty this young prince of wild bcafts ; and I will give thee a prettier plaything.

Boy. Give it firft,—Where is it ?

[Stretching out bis hand.

Dujhm. [*Afide, gazing on the child's palm.*] What! the very palm of his hand bears the marks of empire; and whilst he thus eagerly extends it, fhows its lines of exquisite network, and glows like a lotos expanded at early dawn, when the ruddy fplendour of its petals hides all other tints in obfcurity.

Second At ten. Mere words, my Suvrita, will not pacify him.—Go, I pray, to my cottage, where thou wilt find a plaything made for the hermit's child, Sancara: it is a peacock of earthenware painted with rich colours.

Firft Atten. I will bring it speedily.

[She goes out.

Boy. In the mean time I will play with the young lion.

Second Atten. [*Looking at him with a/mile.*] Let him go, I entreat thee.

Bufhm. [*Afidc*] I feci the tendereft affection for this unmanageable child. [*Sighing.*]— How fweet muft be the delight of virtuous fathers, when they foil their bofoms with duft by lifting up their playful children, who charm them with inarticulate prattle, and ihow the white bloffoms

of their teeth, while they laugh innocently at every trifling occurrence!

Second Atten. [*Raijing her finger.*] What I doft thou fhow no attention to me?—[*Looking round.*]—Are any of the hermits near?—[*Seeing Dufhmanta.*] - Oh ! let me request you, gentle ftranger, to reieafe the lion's whelp, who cannot difengage himfelf from the grafp of this robuft child.

Du/lim. I will endeavour,—[*Approaching the Boy andfmiling.*]—O thou, who art the fon of a pious anchorite, how canft thou diflionour thy father, whom thy virtues would make happy, by violating the rules of this confecrated foreft ? It becomes a black ferpent only, to infest the boughs of a fragrant fandal tree.

[*The Boy reieafes the lion.*

Second Atten. I thank you, courteous gueft;—but he is not the fon of an anchorite.

Du/lim. His anions, indeed, which are conformable to his robuftncfs, indicate a different birth: but my opinion arofe from the fan&ity of the place which he inhabits.—[*Taking the Boy by the hand.*]—[*AJide.*]—Oh ! iince it gives me fuch delight merely to touch the hand of this child, who is the hopeful fcion of a family unconnected with mine, what rapture muft be felt by the fortunate man from whom he fprang ?

Second Atten. [*Gazing on them alternately.*] Oh wonderful!

*Dujhm** What has raifed your wonder ?

Second Atten. The aftonilhing refemblancce between the child and you, gentle ftranger, to whom he bears no relation,—It furprifed me alfo to fee, that although he has childifh humours, and had no former acquaintance with you, yet your words have reftored him to his natural good temper.

JDujhm. [*Raijing the Boy to Us bcfom*] Holy matron, if he be not the fon of a hermit, what then is the name of his family?

Second Atten. He is defcended from Puru.

Dujbm. [*Aide.~*] Hah! thence, no doubt, iprings his difpofition, and my affection for him. —[*Setting him down.*]—[*A/oud.*] It is, I know, an eftablifhed ufage among the princes of Puru's race, to dwell at firft in rich palaces with ftuccoed walls, where they protect and cherifh the world, but in the decline of life to feek humbler inanfions near the roots of venerable trees, where hermits with fubdued paffions practife auftere devotion.—I wonder, however, that this boy, who moves like a god, could have been born of a mere mortal.

Second At ten. Affable ftranger, your wonder will ceafe when you know that his mother is related to a celeftial nymph, and brought him forth in the facred foreft of Cafyapa.

Dujhm. [*AJide.*] I am tranfported.—This is a ———bonee.—[*Aloud.*]—What virtu-

Our monarch took his excellent mother by the hand?

Second Atten. Oh! I must not give celebrity to the name of a king who deserted his lawful wife.

Dufhm. [*AJide.*] Ah! she means me.—Let me now ask the name of the sweet child's mother.—[*Meditating.*] — But it is against good manners to inquire concerning the wife of another man.

"The First Attendant re-enters with a toy.

First Atten. Look, Servadema, look at the beauty of this bird, Saconta lavanyam.

Boy. [*Looking eager lyround.*] Sacontala! Oh, where is my beloved mother?

[*Both Attendants laugh.*

First At ten. He tenderly loves his mother, and was deceived by an equivocal phrase.

Second Atten. My child, she meant only the beautiful shape and colours of this peacock.

Duftjm. [*AJide.*] Is my Sacontala then his mother? Or has that dear name been given to some other woman?—This conversation resembles the fallacious appearance of water in a desert, which ends in bitter disappointment to the stag parched with thirst,

Boy. I shall like the peacock if it can run and fly; not else, *[He takes it.*

Firft Atten. [*Looking round in confufon.*] Alas, the child's amulet is not on his wrift!

Dufhm. Be not alarmed. It was dropped while he was playing with the lion: I fee it, and will put it into your hand.

Both. Oh J beware of touching it.

Firft At ten. Ah ! he has adually taken it up.
[*They both gaze with furpr ife on each other.*]

Dufhm. Here it is *i* but why would you have refrained me from touching this bright gem ?

Second Atten. Great monarch, this divine amulet has a wonderful power, and was given to the child by the fou of Manchi, as foon as the facred rites had been performed after his birth: whenever it fell on the ground, no human being but the father or mother of this boy could have touched it unhurt.

Dufhm, What if a ftranger had taken it ?

Firft Atten. It would have become a ferpent and wounded him.

Dufhm. Have you feen that confequence on any fimilar occafion ?

Both. Frequently.

Dufhm. [*With tran/port.*] I may then exult on the completion of my ardent defire.

[*He embraces the child.*]

Second Atten. Come, Suvrita, let us carry the delightful intelligence to Sacontala, whom the

harfli duties of a feparated wife have fo long oppressed,
[The Attendants go out.]

Boy. Farewell; I muft go to my mother.

Dujhm. My darling fon, thou wilt make her happy by going to her with me.

Boy. Dufhmanta is my father; and you are not Dufhmanta.

Dujhm. Even thy denial of me gives me delight.

Sac. *[enters in mourning apparel, with her long hair twifted in afmgk braid; and flowing down her back.]*

Sac. *[A/ide.]* Having heard that my child's amulet has proved its divine power, I muft either be ftrangely diffident of my good fortune, or that event which Mifracesi predicted has actually happened. *[Advancing.]*

Dujhm. *[With a mixture of joy and for row.]* Ah ! do I fee the incomparable Sacontala clad in fordid weeds ?——Her face is emaciated by the performance of auftere duties; one twifted lock floats over her Ihoulder; and with a mind perfe&ly pure, fhe fupports the long ab fence of her hufband, whofe unkindnefs exceeded all bounds.

" *Sac.* *[Seeing him, yet doubting.]* Is that the fon of my lord grown pale with penitence and affliction ?
 —If not, who is it, that fullies with his touch

the hand of my child, whose amulet should have preserved him from such indignity?

Boy. [*Going hastily to Sacontala.*] Mother, there is a stranger who calls me son.

Dushnu Oh ! my best beloved, I have treated thee cruelly; but my cruelty is succeeded by the warmest affection; and I implore your remembrance and forgiveness.

Sac. [*Aside.*] Be confident, O my heart!—
[*Aloud.*]—I shall be most happy when the king's anger has passed away,—[*Afide*]—This must be the son of my lord,

Dushm. By the kindness of heaven, O loveliest of thy sex, thou standest again before me whose memory was obscured by the gloom of fascination; as the star Rohini at the end of an eclipse rejoins her beloved moon.

Sac. May the king be—

[*She bursts into tears*

Dushm. My darling, though the word victorious be suppressed by thy weeping, yet I must have victory, since I see thee again, though with pale lips and a body unadorned.

Boy. What man is this, mother ?

Sac. Sweet child, ask the divinity, who presides over the fortunes of us both. [*She weeps.*

Dushm. O my only beloved, banish from thy mind my cruel desertion of thee.—A violent phrensy overpowered my soul.—Such, when the

darkness of illusion prevails, are the anions of the best intentioned; as a blind man, when a friend binds his head with a wreath of flowers mistakes it for a twining snake, and foolishly rejects it. *[Hefia/Is at her feet.*

Sac. Rife, my husband, oh! rife—My happiness has been long interrupted; but joy now succeeds to affliction, since the son of my lord still loves me—*[He rises.]*—How was the remembrance of this unfortunate woman restored to the mind of my lord's son?

Dujbm. When the dart of misery shall be wholly extracted from my bosom, I will tell you all; but since the anguish of my soul has in part ceased, let me first wipe off that tear which trickles from thy delicate eye-lash; and thus efface the memory of all the tears which my delirium has made thee shed.

[He stretches out his hand.

Sac. *[Wiping off her tears, and feeling the ring on his finger.]* Ah! is that the fatal ring?

Du/hm. Yes; by the surprising recovery of it my memory was restored.

Sac. Its influence, indeed, has been great; since it has brought back the lost confidence of my husband.

Dujhm. Take it then, as a beautiful plant receives a flower from the returning season of joy.

Sat I cannot again truſt it.—Let it be worn by the ſon of my lord.

Matali enters.

Mat. By the will of heaven the king has happily met his beloved wife, and ſeen the countenance of his little ſon.

Dujhm. It was by the company of my friend that my deſire attained maturity—But ſay, was not this fortunate event previouſly known to Indra?

Mat. [*Smiling.*] What is unknown to the gods?—But come: the divine Maricha deſires to ſee thee.

Dujhm. Beloved, take our ſon by the hand; and let me preſent you both to the father of immortals.

Sac. I really am aſhamed, even in thy preſence, to approach the deities.

Dujhm. It is highly proper on ſo happy an occaſion,—Come, I entreat thee.

[They all advance

*The/cette is withdrawn, and Caſyapa is diſcovered on a throne converſmg with Aditi**

Caf. [*Pointing to the king.*] That, O daughter of Dacſha, is the hero who led the ſquadrons of thy ſon to the front of battle, a ſovereign of the earth, Duſhmanta; by the means of whoſe bow

the thuttder-bolt of Indra (all its work being accomplished) is now a mere ornament of his heavenly palace.

Adu He bears in his form all the marks of exalted majesty.

Mat. [*To Dufhmanta.*] The parents of the twelve Adityas, O king, are gazing on thee, as on their own offspring, with eyes of affection.—Approach them, illustrious prince.

Dufhm. Are those, O Matali, the divine pair, sprung from Marichi and Dadhva?—Are those the grand-children of Brahma, to whom the self-existent gave birth in the beginning; whom inspired mortals pronounce the fountain of glory apparent in the form of twelve suns; they who produced my benefactor, the lord of a hundred sacrifices, and ruler of three worlds?

Mat. Even they—[*Prostrating himself with Dufhmanta.*]—Great beings, the king Dufhmanta, who has executed the commands of your son Vafava, falls humbly before your throne.

Caf. Continue long to rule the world.

Adi. Long be a warrior with a car unfattered in combat.

[*Sacotala and her four prostrate themselves.*]

Caf. Daughter, may thy husband be like Indra! May thy son resemble Jayanta! And may it thou (whom no benediction could better suit)

he equal in prosperity to the daughter of Euloman!

AS. Preserve, my child, a constant Unity with thy lord: and may this boy, for a great length of years, be the ornament and joy of you both ! Now be seated near us. *[They all sit down]*

Caf. [Looking at them by turns.] Sacontala is the model of excellent wives; her son is dutiful and thou, O king, hast three rare advantages, true piety, abundant wealth, and active virtue.

Dujhm. O divine being, having obtained the former object of my most ardent wishes, I now have reached the summit of earthly happiness through thy favour, and thy benison will ensure its permanence.—First appears the flower, then the fruit; first clouds are collected, then the flower falls: such is the regular course of causes and effects; and thus, when thy indulgence preceded, felicity generally followed.

Mat. Great indeed, O king, has been the kindness of the primeval Brahmens.

Du/hm. Bright (son of Marichi, this thy handmaid was married to me by the ceremony of Gandharvas, and, after a time, was conducted to my palace by some of her family; but my memory having failed through delirium, I rejected her and thus committed a grievous offence

againſt the venerable Canna, who is of thy divine lineage: afterwards, on feeling this fatal ring, I remembered my love and my nuptials; but the whole tranſa&ion yet fills me with wonder. My foul was confounded with ſtrange ignorance that obſcured my ſenſes ; as if a man were to ſee an elephant marching before him, yet to doubt what animal it could be, till he diſcovered by the traces of his large feet that it was an elephant.

Caf. Ceſſe, my ſon, to charge thyſelf with an offence committed ignorantly, and, therefore, innocently,—Now hear me—

Dujhm. I am devoutly attentive.

Caf. When the nymph Menaca led Sacontala from the place where thy deſertion of her had afflicted her foul, ſhe brought her to the palace of Aditi; and I knew, by the power of meditation on the Supreme Being, that thy forgetfulneſs of thy pious and lawful comfort had proceeded from the imprecation of Durvaſas, and that the ch Arm would terminate on the right of thy ring.

Dujhm. [*Aſide.*] My name then is cleared from infamy.

Sac. Happy am I that the ſon of my lord, who now recogniſes me, denied me through ignorance, and not with real averſion.—The terrible imprecation was heard, I ſuppoſe, when

my mind was intent on a different object, by my two beloved friends, who, with extreme affection, concealed it from me to spare my feelings, but advised me at parting to show the ring if my husband should have forgotten me.

Caf [Turning to Sacontala.] Thou art apprised, my daughter, of the whole truth, and must no longer repent the behaviour of thy lord. —He rejected thee when his memory was impaired by the force of a charm; and when the gloom was dispelled, his conjugal affection revived; as a mirror whose surface has been fulfilled, reflects no image; but exhibits perfect resemblances when its polish has been restored.

Dujhm. Such, indeed, was my situation.

Caf My son Dufhmanta, hast thou embraced thy child by Sacontala, on whose birth I myself performed the ceremonies prescribed in the Veda?

Dujhm. Holy Marichi, he is the glory of my house.

Caf Know too, that his heroic virtue will raise him to a dominion extended from sea to sea: before he has passed the ocean of mortal life, he shall rule, unequalled in combat, this earth with seven peninsulas; and, as he now is, called iervademana, because he tames even in childhood the fiercest animals, so, in his riper

THE FATAL RING.

m

years, he fhall acquire the name of Bhereta, becaufe he fhall fuftain and nourifh the world,

Dujhm. A boy educated by the fon of Mari-chi, muft attain the fummit of greatnefs.

Adu Now let Sacontala, who is reftored to happinefs, convey intelligence to Canna of all thefe events: her mother Menaca is in my family, and knows all that has paffed.

Sac. The goddefs propofes what I moft ardently wifh.

Caf. By the force of true piety the whole fcene will be prefent to the mind of Canna.

Dujhm. The devout fage muft be ftill exceffively indignant at my frantick behaviour.

Caf. [*Meditating.*] Then let him hear from me the delightful news, that his fofter-child has been tenderly received by her hufband, and that both are happy with the little warriour who fprang from them.—Hola ! who is in waiting ?

A Pupil enters.

Tup. Great being, I am here.

Caf Haften, Golava, through the light air, and in my name inform the venerable Canna, that Sacontala has a charming fon by Dufhmanta, whofe affe&ion for her was reftored with his remembrance, on the termination of the fpell raifed by the angry Durvafas.

Pop.' As the divinity corqpiands.

[He goes oat.

Caf My fon, reafcend the car of Indra with thy confort and child, and return happy to thy imperial feat.

Dnfhm. Be it as Manchi ordains.

Caf Henceforth may the god of the atmofphere with copious rain give abundance to thy affe&ionate fubjects; and may ft thou with frequent facrifices maintain the Thunderer's friendship! By numberlefs interchanges of good offices between you both, may benefits reciprocally be conferred on the inhabitants of the two worlds !

Dujhm. Powerful being, I will be ftudious, as far as I am able, to attain that felicity.

Caf What other favours can I beftow ou thee ?

Ditjhm. Can any favours exceed thofe already bellowed ?——Lee every king apply himfelf to the attainment of luppinefs for his people ; let Sercfwati, the goddefs of liberal arts, be adored by all readers of the Veda; and may Siva, with an azure neck and red locks, eternally potent and felf-exifting, avert from me the pain of another birth in this periihable world, the feat of crimes and of punifhment.

\All go out.

END OF THE SEVENTH VOLUME.

