

## Chapter XVII: Foundation Of Constantinople.--Part IV.

Those who, in the imperial hierarchy, were distinguished by the title of Respectable, formed an intermediate class between the illustrious praefects, and the honorable magistrates of the provinces. In this class the proconsuls of Asia, Achaia, and Africa, claimed a preeminence, which was yielded to the remembrance of their ancient dignity; and the appeal from their tribunal to that of the praefects was almost the only mark of their dependence. [110] But the civil government of the empire was distributed into thirteen great Dioceses, each of which equalled the just measure of a powerful kingdom. The first of these dioceses was subject to the jurisdiction of the count of the east; and we may convey some idea of the importance and variety of his functions, by observing, that six hundred apparitors, who would be styled at present either secretaries, or clerks, or ushers, or messengers, were employed in his immediate office. [111] The place of Augustal proefect of Egypt was no longer filled by a Roman knight; but the name was retained; and the extraordinary powers which the situation of the country, and the temper of the inhabitants, had once made indispensable, were still continued to the governor. The eleven remaining dioceses, of Asiana, Pontica, and Thrace; of Macedonia, Dacia, and Pannonia, or Western Illyricum; of Italy and Africa; of Gaul, Spain, and Britain; were governed by twelve vicars or vice-proefects, [112] whose name sufficiently explains the nature and dependence of their office. It may be added, that the lieutenant-generals of the Roman armies, the military counts and dukes, who will be hereafter mentioned, were allowed the rank and title of

Respectable.

[Footnote 110: Eunapius affirms, that the proconsul of Asia was independent of the praefect; which must, however, be understood with some allowance. the jurisdiction of the vice-praefect he most assuredly disclaimed. Pancirolus, p. 161.]

[Footnote 111: The proconsul of Africa had four hundred apparitors; and they all received large salaries, either from the treasury or the province See Pancirol. p. 26, and Cod. Justinian. l. xii. tit. lvi. lvii.]

[Footnote 112: In Italy there was likewise the Vicar of Rome. It has been much disputed whether his jurisdiction measured one hundred miles from the city, or whether it stretched over the ten thousand provinces of Italy.]

As the spirit of jealousy and ostentation prevailed in the councils of the emperors, they proceeded with anxious diligence to divide the substance and to multiply the titles of power. The vast countries which the Roman conquerors had united under the same simple form of administration, were imperceptibly crumbled into minute fragments; till at length the whole empire was distributed into one hundred and sixteen provinces, each of which supported an expensive and splendid establishment. Of these, three were governed by proconsuls, thirty-seven by consulars, five by correctors, and seventy-one by presidents.

The appellations of these magistrates were different; they ranked in successive order, the ensigns of and their situation, from accidental circumstances, might be more or less agreeable or advantageous. But they were all (excepting only the pro-consuls) alike included in the class of honorable persons; and they were alike intrusted, during the pleasure of the prince, and under the authority of the praefects or their deputies, with the administration of justice and the finances in their respective districts. The ponderous volumes of the Codes and Pandects [113] would furnish ample materials for a minute inquiry into the system of provincial government, as in the space of six centuries it was approved by the wisdom of the Roman statesmen and lawyers.

It may be sufficient for the historian to select two singular and salutary provisions, intended to restrain the abuse of authority.

1. For the preservation of peace and order, the governors of the provinces were armed with the sword of justice. They inflicted corporal punishments, and they exercised, in capital offences, the power of life and death. But they were not authorized to indulge the condemned criminal with the choice of his own execution, or to pronounce a sentence of the mildest and most honorable kind of exile. These prerogatives were reserved to the praefects, who alone could impose the heavy fine of fifty pounds of gold: their vicegerents were confined to the trifling weight of a few ounces. [114] This distinction, which seems to grant the larger, while it denies the smaller degree of authority, was founded on a very rational motive. The smaller degree was infinitely

more liable to abuse. The passions of a provincial magistrate might frequently provoke him into acts of oppression, which affected only the freedom or the fortunes of the subject; though, from a principle of prudence, perhaps of humanity, he might still be terrified by the guilt of innocent blood. It may likewise be considered, that exile, considerable fines, or the choice of an easy death, relate more particularly to the rich and the noble; and the persons the most exposed to the avarice or resentment of a provincial magistrate, were thus removed from his obscure persecution to the more august and impartial tribunal of the Praetorian praefect. 2. As it was reasonably apprehended that the integrity of the judge might be biased, if his interest was concerned, or his affections were engaged, the strictest regulations were established, to exclude any person, without the special dispensation of the emperor, from the government of the province where he was born; [115] and to prohibit the governor or his son from contracting marriage with a native, or an inhabitant; [116] or from purchasing slaves, lands, or houses, within the extent of his jurisdiction. [117] Notwithstanding these rigorous precautions, the emperor Constantine, after a reign of twenty-five years, still deploras the venal and oppressive administration of justice, and expresses the warmest indignation that the audience of the judge, his despatch of business, his seasonable delays, and his final sentence, were publicly sold, either by himself or by the officers of his court. The continuance, and perhaps the impunity, of these crimes, is attested by the repetition of impotent laws and ineffectual menaces. [118]

[Footnote 113: Among the works of the celebrated Ulpian, there was one in ten books, concerning the office of a proconsul, whose duties in the most essential articles were the same as those of an ordinary governor of a province.]

[Footnote 114: The presidents, or consulars, could impose only two ounces; the vice-praefects, three; the proconsuls, count of the east, and praefect of Egypt, six. See Heineccii Jur. Civil. tom. i. p. 75. Pandect. l. xlvi. tit. xix. n. 8. Cod. Justinian. l. i. tit. liv. leg. 4, 6.]

[Footnote 115: Ut nulli patriae suae administratio sine speciali principis permissu permittatur. Cod. Justinian. l. i. tit. xli. This law was first enacted by the emperor Marcus, after the rebellion of Cassius. (Dion. l. lxxi.) The same regulation is observed in China, with equal strictness, and with equal effect.]

[Footnote 116: Pandect. l. xxiii. tit. ii. n. 38, 57, 63.]

[Footnote 117: In jure continentur, ne quis in administratione constitutus aliquid compararet. Cod. Theod. l. viii. tit. xv. leg. 1. This maxim of common law was enforced by a series of edicts (see the remainder of the title) from Constantine to Justin. From this prohibition, which is extended to the meanest officers of the governor, they except only clothes and provisions. The purchase within five years may be recovered; after which on information, it devolves to the

treasury.]

[Footnote 118: *Cessent rapaces jam nunc officialium manus; cessent, inquam nam si moniti non cessaverint, gladiis praecedentur, &c. Cod. Theod. 1. i. tit. vii. leg. 1.* Zeno enacted that all governors should remain in the province, to answer any accusations, fifty days after the expiration of their power. *Cod Justinian. 1. ii. tit. xlix. leg. 1.*]

All the civil magistrates were drawn from the profession of the law. The celebrated Institutes of Justinian are addressed to the youth of his dominions, who had devoted themselves to the study of Roman jurisprudence; and the sovereign condescends to animate their diligence, by the assurance that their skill and ability would in time be rewarded by an adequate share in the government of the republic. [119] The rudiments of this lucrative science were taught in all the considerable cities of the east and west; but the most famous school was that of Berytus, [120] on the coast of Phoenicia; which flourished above three centuries from the time of Alexander Severus, the author perhaps of an institution so advantageous to his native country. After a regular course of education, which lasted five years, the students dispersed themselves through the provinces, in search of fortune and honors; nor could they want an inexhaustible supply of business in a great empire already corrupted by the multiplicity of laws, of arts, and of vices. The court of the Praetorian praefect of the east could alone furnish employment for one hundred and fifty advocates, sixty-four of whom were distinguished by peculiar privileges, and two were annually chosen, with

a salary of sixty pounds of gold, to defend the causes of the treasury. The first experiment was made of their judicial talents, by appointing them to act occasionally as assessors to the magistrates; from thence they were often raised to preside in the tribunals before which they had pleaded. They obtained the government of a province; and, by the aid of merit, of reputation, or of favor, they ascended, by successive steps, to the illustrious dignities of the state. [121] In the practice of the bar, these men had considered reason as the instrument of dispute; they interpreted the laws according to the dictates of private interest and the same pernicious habits might still adhere to their characters in the public administration of the state. The honor of a liberal profession has indeed been vindicated by ancient and modern advocates, who have filled the most important stations, with pure integrity and consummate wisdom: but in the decline of Roman jurisprudence, the ordinary promotion of lawyers was pregnant with mischief and disgrace. The noble art, which had once been preserved as the sacred inheritance of the patricians, was fallen into the hands of freedmen and plebeians, [122] who, with cunning rather than with skill, exercised a sordid and pernicious trade. Some of them procured admittance into families for the purpose of fomenting differences, of encouraging suits, and of preparing a harvest of gain for themselves or their brethren. Others, recluse in their chambers, maintained the dignity of legal professors, by furnishing a rich client with subtleties to confound the plainest truths, and with arguments to color the most unjustifiable pretensions. The splendid and popular class was composed of the advocates, who filled the Forum with the sound of their turgid and loquacious rhetoric.

Careless of fame and of justice, they are described, for the most part, as ignorant and rapacious guides, who conducted their clients through a maze of expense, of delay, and of disappointment; from whence, after a tedious series of years, they were at length dismissed, when their patience and fortune were almost exhausted. [123]

[Footnote 119: Summa igitur ope, et alacri studio has leges nostras accipite; et vosmetipsos sic eruditos ostendite, ut spes vos pulcherrima foveat; toto legitimo opere perfecto, posse etiam nostram rempublicam in par tibus ejus vobis credendis gubernari. Justinian in proem. Institutionum.]

[Footnote 120: The splendor of the school of Berytus, which preserved in the east the language and jurisprudence of the Romans, may be computed to have lasted from the third to the middle of the sixth century Heinecc. Jur. Rom. Hist. p. 351-356.]

[Footnote 121: As in a former period I have traced the civil and military promotion of Pertinax, I shall here insert the civil honors of Mallius Theodorus. 1. He was distinguished by his eloquence, while he pleaded as an advocate in the court of the Praetorian praefect. 2. He governed one of the provinces of Africa, either as president or consular, and deserved, by his administration, the honor of a brass statue. 3. He was appointed vicar, or vice-praefect, of Macedonia. 4. Quaestor. 5. Count of the sacred largesses. 6. Praetorian praefect of the Gauls; whilst he might yet be represented as a young man. 7. After a

retreat, perhaps a disgrace of many years, which Mallius (confounded by some critics with the poet Manilius; see Fabricius Bibliothec. Latin. Edit. Ernest. tom. i.c. 18, p. 501) employed in the study of the Grecian philosophy he was named Praetorian praefect of Italy, in the year 397. 8. While he still exercised that great office, he was created, in the year 399, consul for the West; and his name, on account of the infamy of his colleague, the eunuch Eutropius, often stands alone in the Fasti. 9. In the year 408, Mallius was appointed a second time Praetorian praefect of Italy. Even in the venal panegyric of Claudian, we may discover the merit of Mallius Theodorus, who, by a rare felicity, was the intimate friend, both of Symmachus and of St. Augustin. See Tillemont, Hist. des Emp. tom. v. p. 1110-1114.]

[Footnote 122: Mamertinus in Panegyri. Vet. xi. [x.] 20. Asterius apud Photium, p. 1500.]

[Footnote 123: The curious passage of Ammianus, (l. xxx. c. 4,) in which he paints the manners of contemporary lawyers, affords a strange mixture of sound sense, false rhetoric, and extravagant satire. Godefroy (Prolegom. ad. Cod. Theod. c. i. p. 185) supports the historian by similar complaints and authentic facts. In the fourth century, many camels might have been laden with law-books. Eunapius in Vit. Aedesii, p. 72.]

III. In the system of policy introduced by Augustus, the governors, those at least of the Imperial provinces, were invested with the

full powers of the sovereign himself. Ministers of peace and war, the distribution of rewards and punishments depended on them alone, and they successively appeared on their tribunal in the robes of civil magistracy, and in complete armor at the head of the Roman legions. [124] The influence of the revenue, the authority of law, and the command of a military force, concurred to render their power supreme and absolute; and whenever they were tempted to violate their allegiance, the loyal province which they involved in their rebellion was scarcely sensible of any change in its political state. From the time of Commodus to the reign of Constantine, near one hundred governors might be enumerated, who, with various success, erected the standard of revolt; and though the innocent were too often sacrificed, the guilty might be sometimes prevented, by the suspicious cruelty of their master. [125] To secure his throne and the public tranquillity from these formidable servants, Constantine resolved to divide the military from the civil administration, and to establish, as a permanent and professional distinction, a practice which had been adopted only as an occasional expedient. The supreme jurisdiction exercised by the Praetorian praefects over the armies of the empire, was transferred to the two masters-general whom he instituted, the one for the cavalry, the other for the infantry; and though each of these illustrious officers was more peculiarly responsible for the discipline of those troops which were under his immediate inspection, they both indifferently commanded in the field the several bodies, whether of horse or foot, which were united in the same army. [126] Their number was soon doubled by the division of the east and west; and as separate generals of the same rank and title

were appointed on the four important frontiers of the Rhine, of the Upper and the Lower Danube, and of the Euphrates, the defence of the Roman empire was at length committed to eight masters-general of the cavalry and infantry. Under their orders, thirty-five military commanders were stationed in the provinces: three in Britain, six in Gaul, one in Spain, one in Italy, five on the Upper, and four on the Lower Danube; in Asia, eight, three in Egypt, and four in Africa. The titles of counts, and dukes, [127] by which they were properly distinguished, have obtained in modern languages so very different a sense, that the use of them may occasion some surprise. But it should be recollected, that the second of those appellations is only a corruption of the Latin word, which was indiscriminately applied to any military chief. All these provincial generals were therefore dukes; but no more than ten among them were dignified with the rank of counts or companions, a title of honor, or rather of favor, which had been recently invented in the court of Constantine. A gold belt was the ensign which distinguished the office of the counts and dukes; and besides their pay, they received a liberal allowance sufficient to maintain one hundred and ninety servants, and one hundred and fifty-eight horses. They were strictly prohibited from interfering in any matter which related to the administration of justice or the revenue; but the command which they exercised over the troops of their department, was independent of the authority of the magistrates. About the same time that Constantine gave a legal sanction to the ecclesiastical order, he instituted in the Roman empire the nice balance of the civil and the military powers. The emulation, and sometimes the

discord, which reigned between two professions of opposite interests and incompatible manners, was productive of beneficial and of pernicious consequences. It was seldom to be expected that the general and the civil governor of a province should either conspire for the disturbance, or should unite for the service, of their country. While the one delayed to offer the assistance which the other disdained to solicit, the troops very frequently remained without orders or without supplies; the public safety was betrayed, and the defenceless subjects were left exposed to the fury of the Barbarians. The divided administration which had been formed by Constantine, relaxed the vigor of the state, while it secured the tranquillity of the monarch.

[Footnote 124: See a very splendid example in the life of Agricola, particularly c. 20, 21. The lieutenant of Britain was intrusted with the same powers which Cicero, proconsul of Cilicia, had exercised in the name of the senate and people.]

[Footnote 125: The Abbe Dubos, who has examined with accuracy (see *Hist. de la Monarchie Francoise*, tom. i. p. 41-100, edit. 1742) the institutions of Augustus and of Constantine, observes, that if Otho had been put to death the day before he executed his conspiracy, Otho would now appear in history as innocent as Corbulo.]

[Footnote 126: Zosimus, l. ii. p. 110. Before the end of the reign of Constantius, the *magistri militum* were already increased to four. See *Velesius ad Ammian.* l. xvi. c. 7.]

[Footnote 127: Though the military counts and dukes are frequently mentioned, both in history and the codes, we must have recourse to the Notitia for the exact knowledge of their number and stations. For the institution, rank, privileges, &c., of the counts in general see Cod. Theod. l. vi. tit. xii.--xx., with the commentary of Godefroy.]

The memory of Constantine has been deservedly censured for another innovation, which corrupted military discipline and prepared the ruin of the empire. The nineteen years which preceded his final victory over Licinius, had been a period of license and intestine war. The rivals who contended for the possession of the Roman world, had withdrawn the greatest part of their forces from the guard of the general frontier; and the principal cities which formed the boundary of their respective dominions were filled with soldiers, who considered their countrymen as their most implacable enemies. After the use of these internal garrisons had ceased with the civil war, the conqueror wanted either wisdom or firmness to revive the severe discipline of Diocletian, and to suppress a fatal indulgence, which habit had endeared and almost confirmed to the military order. From the reign of Constantine, a popular and even legal distinction was admitted between the Palatines [128] and the Borderers; the troops of the court, as they were improperly styled, and the troops of the frontier. The former, elevated by the superiority of their pay and privileges, were permitted, except in the extraordinary emergencies of war, to occupy their tranquil stations in the heart of the provinces. The most flourishing cities were oppressed by the intolerable weight

of quarters. The soldiers insensibly forgot the virtues of their profession, and contracted only the vices of civil life. They were either degraded by the industry of mechanic trades, or enervated by the luxury of baths and theatres. They soon became careless of their martial exercises, curious in their diet and apparel; and while they inspired terror to the subjects of the empire, they trembled at the hostile approach of the Barbarians. [129] The chain of fortifications which Diocletian and his colleagues had extended along the banks of the great rivers, was no longer maintained with the same care, or defended with the same vigilance. The numbers which still remained under the name of the troops of the frontier, might be sufficient for the ordinary defence; but their spirit was degraded by the humiliating reflection, that they who were exposed to the hardships and dangers of a perpetual warfare, were rewarded only with about two thirds of the pay and emoluments which were lavished on the troops of the court. Even the bands or legions that were raised the nearest to the level of those unworthy favorites, were in some measure disgraced by the title of honor which they were allowed to assume. It was in vain that Constantine repeated the most dreadful menaces of fire and sword against the Borderers who should dare desert their colors, to connive at the inroads of the Barbarians, or to participate in the spoil. [130] The mischiefs which flow from injudicious counsels are seldom removed by the application of partial severities; and though succeeding princes labored to restore the strength and numbers of the frontier garrisons, the empire, till the last moment of its dissolution, continued to languish under the mortal wound which had been so rashly or so weakly inflicted

by the hand of Constantine.

[Footnote 128: Zosimus, l. ii. p. 111. The distinction between the two classes of Roman troops, is very darkly expressed in the historians, the laws, and the Notitia. Consult, however, the copious paratitlon, or abstract, which Godefroy has drawn up of the seventh book, de Re Militari, of the Theodosian Code, l. vii. tit. i. leg. 18, l. viii. tit. i. leg. 10.]

[Footnote 129: *Ferox erat in suos miles et rapax, ignavus vero in hostes et fractus.* Ammian. l. xxii. c. 4. He observes, that they loved downy beds and houses of marble; and that their cups were heavier than their swords.]

[Footnote 130: Cod. Theod. l. vii. tit. i. leg. 1, tit. xii. leg. i. See Howell's Hist. of the World, vol. ii. p. 19. That learned historian, who is not sufficiently known, labors to justify the character and policy of Constantine.]

The same timid policy, of dividing whatever is united, of reducing whatever is eminent, of dreading every active power, and of expecting that the most feeble will prove the most obedient, seems to pervade the institutions of several princes, and particularly those of Constantine. The martial pride of the legions, whose victorious camps had so often been the scene of rebellion, was nourished by the memory of their past exploits, and the consciousness of their actual strength. As long as

they maintained their ancient establishment of six thousand men, they subsisted, under the reign of Diocletian, each of them singly, a visible and important object in the military history of the Roman empire. A few years afterwards, these gigantic bodies were shrunk to a very diminutive size; and when seven legions, with some auxiliaries, defended the city of Amida against the Persians, the total garrison, with the inhabitants of both sexes, and the peasants of the deserted country, did not exceed the number of twenty thousand persons. [131] From this fact, and from similar examples, there is reason to believe, that the constitution of the legionary troops, to which they partly owed their valor and discipline, was dissolved by Constantine; and that the bands of Roman infantry, which still assumed the same names and the same honors, consisted only of one thousand or fifteen hundred men. [132] The conspiracy of so many separate detachments, each of which was awed by the sense of its own weakness, could easily be checked; and the successors of Constantine might indulge their love of ostentation, by issuing their orders to one hundred and thirty-two legions, inscribed on the muster-roll of their numerous armies. The remainder of their troops was distributed into several hundred cohorts of infantry, and squadrons of cavalry. Their arms, and titles, and ensigns, were calculated to inspire terror, and to display the variety of nations who marched under the Imperial standard. And not a vestige was left of that severe simplicity, which, in the ages of freedom and victory, had distinguished the line of battle of a Roman army from the confused host of an Asiatic monarch. [133] A more particular enumeration, drawn from the Notitia, might exercise the diligence of an antiquary; but the historian will

content himself with observing, that the number of permanent stations or garrisons established on the frontiers of the empire, amounted to five hundred and eighty-three; and that, under the successors of Constantine, the complete force of the military establishment was computed at six hundred and forty-five thousand soldiers. [134] An effort so prodigious surpassed the wants of a more ancient, and the faculties of a later, period.

[Footnote 131: Ammian. 1. xix. c. 2. He observes, (c. 5,) that the desperate sallies of two Gallic legions were like a handful of water thrown on a great conflagration.]

[Footnote 132: Pancirolus ad Notitiam, p. 96. Memoires de l'Academie des Inscriptions, tom. xxv. p. 491.]

[Footnote 133: Romana acies unius prope formae erat et hominum et armorum genere.--Regia acies varia magis multis gentibus dissimilitudine armorum auxiliorumque erat. T. Liv. 1. xxxvii. c. 39, 40. Flaminius, even before the event, had compared the army of Antiochus to a supper in which the flesh of one vile animal was diversified by the skill of the cooks. See the Life of Flaminius in Plutarch.]

[Footnote 134: Agathias, 1. v. p. 157, edit. Louvre.]

In the various states of society, armies are recruited from very different motives. Barbarians are urged by the love of war; the citizens

of a free republic may be prompted by a principle of duty; the subjects, or at least the nobles, of a monarchy, are animated by a sentiment of honor; but the timid and luxurious inhabitants of a declining empire must be allured into the service by the hopes of profit, or compelled by the dread of punishment. The resources of the Roman treasury were exhausted by the increase of pay, by the repetition of donatives, and by the invention of new emolument and indulgences, which, in the opinion of the provincial youth might compensate the hardships and dangers of a military life. Yet, although the stature was lowered, [135] although slaves, least by a tacit connivance, were indiscriminately received into the ranks, the insurmountable difficulty of procuring a regular and adequate supply of volunteers, obliged the emperors to adopt more effectual and coercive methods. The lands bestowed on the veterans, as the free reward of their valor were henceforward granted under a condition which contain the first rudiments of the feudal tenures; that their sons, who succeeded to the inheritance, should devote themselves to the profession of arms, as soon as they attained the age of manhood; and their cowardly refusal was punished by the loss of honor, of fortune, or even of life. [136] But as the annual growth of the sons of the veterans bore a very small proportion to the demands of the service, levies of men were frequently required from the provinces, and every proprietor was obliged either to take up arms, or to procure a substitute, or to purchase his exemption by the payment of a heavy fine. The sum of forty-two pieces of gold, to which it was reduced ascertains the exorbitant price of volunteers, and the reluctance with which the government admitted of this alterative. [137] Such was the horror

for the profession of a soldier, which had affected the minds of the degenerate Romans, that many of the youth of Italy and the provinces chose to cut off the fingers of their right hand, to escape from being pressed into the service; and this strange expedient was so commonly practised, as to deserve the severe animadversion of the laws, [138] and a peculiar name in the Latin language. [139]

[Footnote 135: Valentinian (Cod. Theodos. l. vii. tit. xiii. leg. 3) fixes the standard at five feet seven inches, about five feet four inches and a half, English measure. It had formerly been five feet ten inches, and in the best corps, six Roman feet. Sed tunc erat amplior multitudo se et plures sequebantur militiam armatam. Vegetius de Re Militari l. i. c. v.]

[Footnote 136: See the two titles, De Veteranis and De Filiis Veteranorum, in the seventh book of the Theodosian Code. The age at which their military service was required, varied from twenty-five to sixteen. If the sons of the veterans appeared with a horse, they had a right to serve in the cavalry; two horses gave them some valuable privileges]

[Footnote 137: Cod. Theod. l. vii. tit. xiii. leg. 7. According to the historian Socrates, (see Godefroy ad loc.) the same emperor Valens sometimes required eighty pieces of gold for a recruit. In the following law it is faintly expressed, that slaves shall not be admitted inter optimas lectissimorum militum turmas.]

[Footnote 138: The person and property of a Roman knight, who had mutilated his two sons, were sold at public auction by order of Augustus. (Sueton. in August. c. 27.) The moderation of that artful usurper proves, that this example of severity was justified by the spirit of the times. Ammianus makes a distinction between the effeminate Italians and the hardy Gauls. (L. xv. c. 12.) Yet only 15 years afterwards, Valentinian, in a law addressed to the praefect of Gaul, is obliged to enact that these cowardly deserters shall be burnt alive. (Cod. Theod. l. vii. tit. xiii. leg. 5.) Their numbers in Illyricum were so considerable, that the province complained of a scarcity of recruits. (Id. leg. 10.)]

[Footnote 139: They were called Murci. Murcidus is found in Plautus and Festus, to denote a lazy and cowardly person, who, according to Arnobius and Augustin, was under the immediate protection of the goddess Murcia. From this particular instance of cowardice, murcare is used as synonymous to mutilare, by the writers of the middle Latinity. See Linder brogius and Valesius ad Ammian. Marcellin, l. xv. c. 12]