

## CHAPTER XI

### THE LAW OF WATER-RIGHTS IN ROME, A. D. 97

Roma aeterna.

TIBULLUS (54-19 B. C.), ii. 5, 23.

Eternal Rome.

ANOTHER instructive feature of the Two Books of Frontinus is found in the paragraphs in which he deals with the law of water-rights, a subject that now, as well as then, no conscientious supervisor or administrator of water-power, or of water-conducting properties, can afford to ignore or neglect. It is significant to observe, in this connection, that in Bruns' "Fontes," a work giving the sources of the Roman law, the subject of water-rights is treated principally by means of extracts from Frontinus. I commence with Chapter 94. "No private person shall conduct other water than that which flows from the basins onto the ground." This is ancient law, says Frontinus. And even this much was granted only to public baths and to fulling-mills. In another place, 110, Frontinus adds: "Those waters also that I have called lapsed, namely, those that come from leakage out of the cisterns or the pipes, are subject to grants; but these are only rarely given by the sovereign."

107. "The right to granted water does not pass either to the heirs, or to the buyer, or to any new occupant of the land. The public bathing establishments had from old times the privilege that water once granted to them should remain theirs forever. We know this from old votes of the Senate, of which I give one below. Nowadays, every grant of water is renewed to the new owner." And then follows the law, 108, which I will not transcribe.

109. Thirty days' notice was given by the Emperor Nerva, before the water was to be shut off. In case of syndicates, the grant held till the last member of the syndicate alienated his interest in the estate.

Similar regulations with regard to overflow water are found in the laws (43 B. C.) of the colony of Genetiva,<sup>1</sup> a Spanish colony, now called Osuna, Sec. 100: "If any colonist shall wish to conduct waste water for private uses, he shall go to the duumvir and shall demand that the matter be referred to the decurions. Then that duumvir to whom



ROMA AETERNA.<sup>2</sup>

application has been made shall refer the matter to the decurions when not less than forty are present. If the majority of the board who are then present shall rule that the waste water can be used for private purposes, let this water be used to such an extent as may not do injury to any private person, and let there be right and power so to do."

<sup>1</sup> Bruns, *Fontes Juris Romani Antiqui*, sixth ed., p. 133.

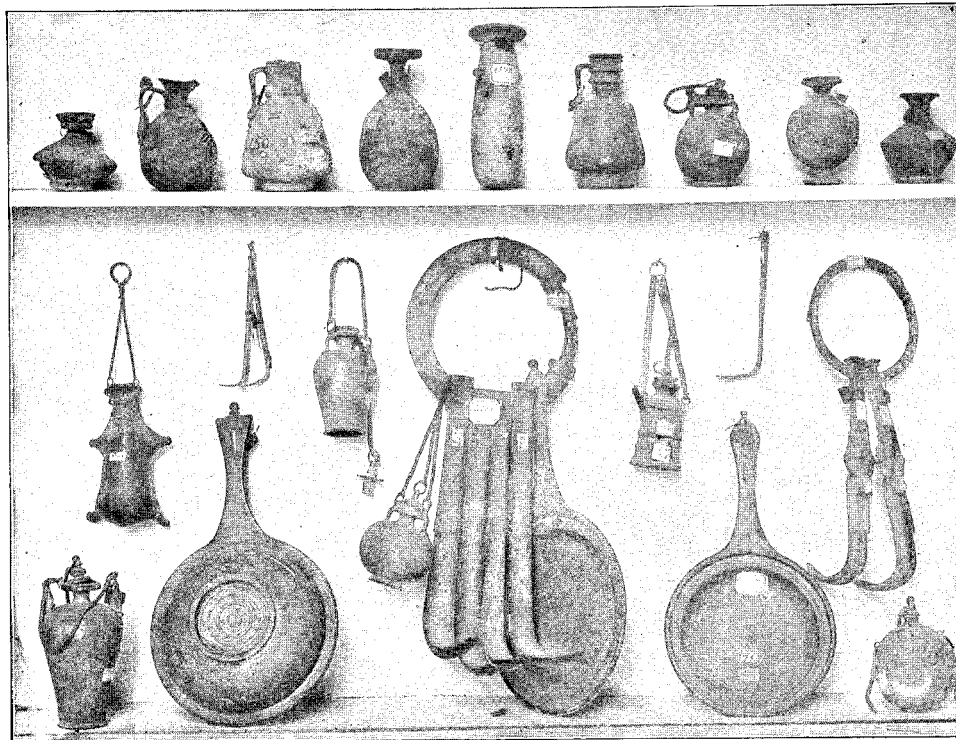
<sup>2</sup> The celebrated supposedly Etruscan statue of a she-wolf and the twins, typifying the founding of Rome. From the Capitoline Museum. "So ugly that it is handsome."



PUBLIC BATHING ROOM IN POMPEII.

A brazier to heat the room behind the grating.

Frontinus speaks of baths and the fulling-mills as favored consumers of water in Rome under the law, as indeed they long were. If I do not describe the use of water by the baths of Rome to any great extent, it is because that subject is the common property of so great a number of books; beginning with the monologue, "De Thermis veterum," of good Dr. Andrea Baccio, professor of botany in



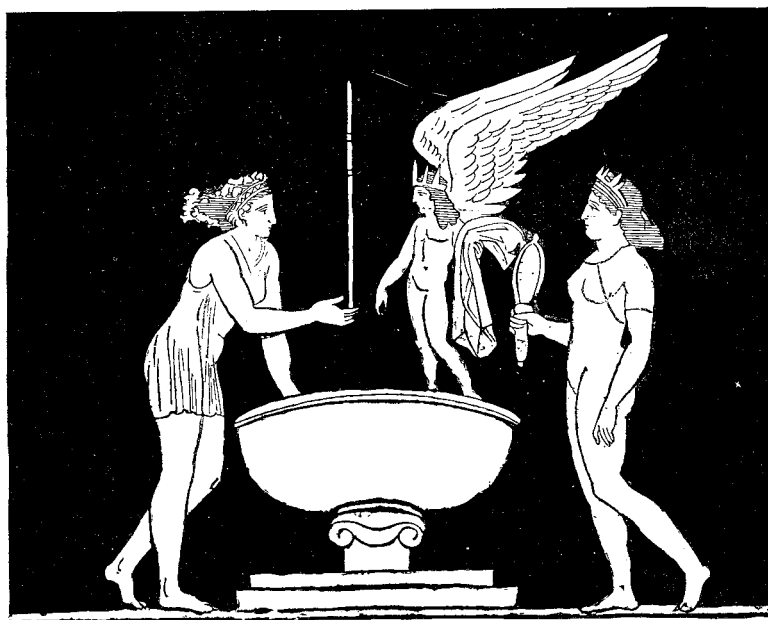
ANCIENT ROMAN UTENSILS FOR THE BATH.<sup>1</sup>

Rome 1567-1600 and thence extending through almost every treatise on Roman architecture, or on the remains of ancient Rome, down to the present day. I give only a few illustrations of such baths selected from many procured in Rome and Naples.

The following passage may serve to show the luxury indulged in by the Romans in this matter of elegant bathing establishments, in the

<sup>1</sup> The curved pieces are used to scrape the limbs and body; the others are vessels to hold unguents, and metallic looking-glasses. From Pompeii.

first half of the first century. Seneca,<sup>1</sup> having gone on a visit to the villa, then some two hundred years old, of Scipio the greater, at Liternum, in Campania, was astonished to find how simple, plain, bare, and dark the bathing rooms were. "Who would be content with such at the present day?" says he. "Who would not consider himself a beggar if he bathed in a room whose walls did not shine with the fire



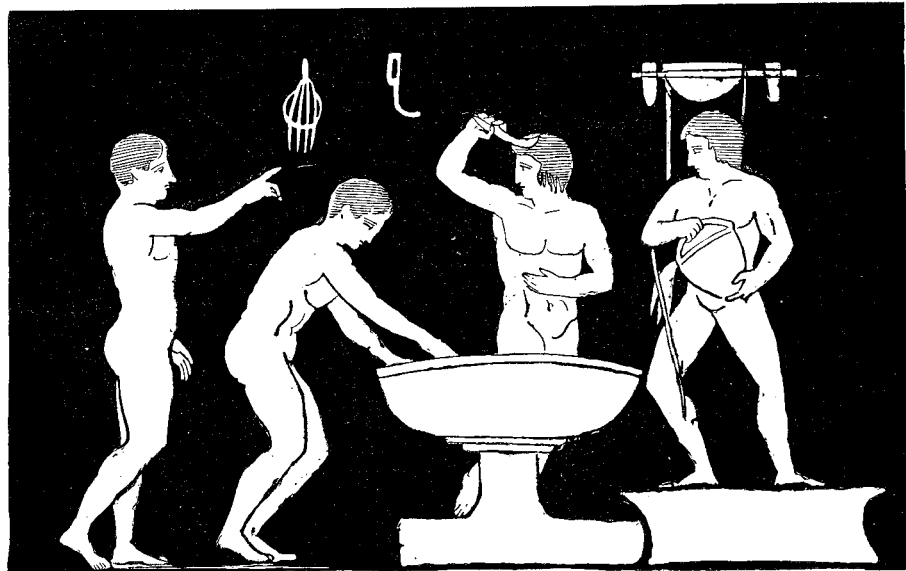
SCENE OF BATHS (WOMEN).<sup>2</sup>

of jewels; if the marble of Egypt were not inlaid with the marble of Numidia and panelled with mosaics; if the ceiling were not wainscoted with crystal; if the tanks were not carved out of Parian marble; if the water did not flow from silver faucets? And yet I am speaking only of the baths of the people: what shall we see when we come to those of the select? What statues! columns, which have nothing to support, and which are there only for ornament! What masses of water falling in cascades with a loud noise! We have reached such a refinement of luxury that our feet may not tread upon anything but precious stones."

<sup>1</sup> Seneca, *Epist.*, 86, 1, 6.

<sup>2</sup> From a vase in the Hamilton Collection (Tischbein, vol. i. pl. 59).

Not so well-known is the standing of the cloth-fullers in Roman life. At a time when the Romans called themselves "the masters of the world and the toga-wearing people," when the toga was the distinguishing mark of every self-respecting citizen, young and old, it naturally became important that these light-colored or white woollen mantles should be often cleansed. To some extent, the Roman fuller took the place of the modern laundryman; at all events he was a much more important member of the community, and much more nu-



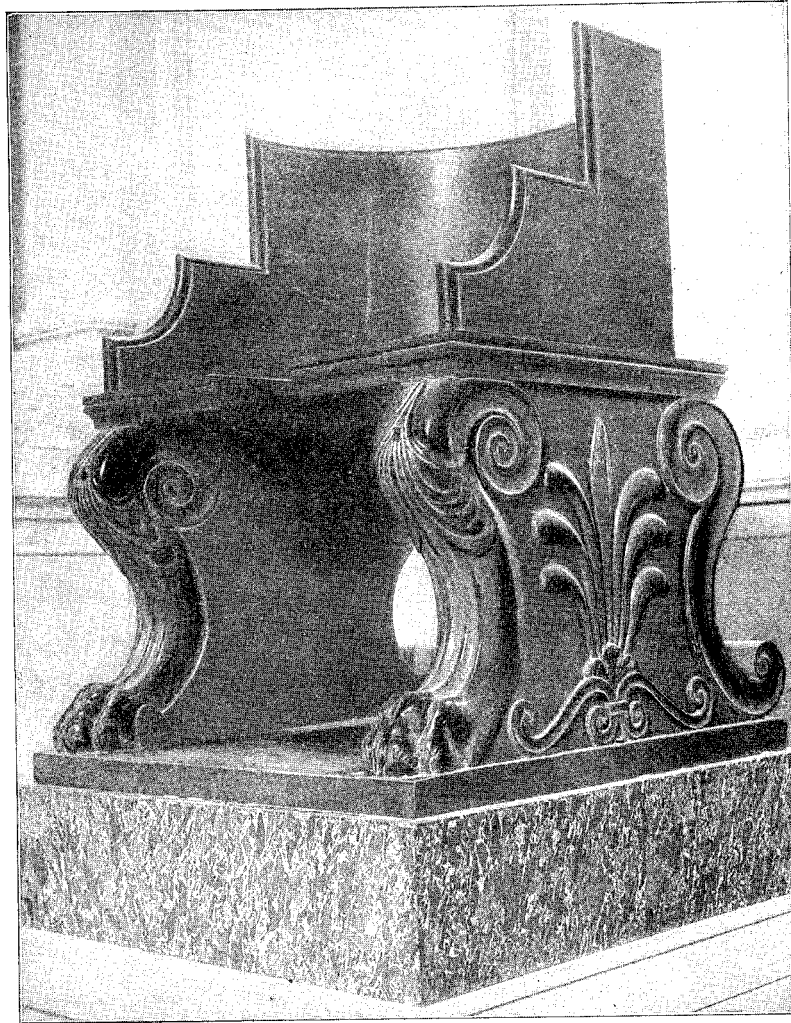
SCENE OF BATHS (MEN).<sup>1</sup>

merously represented in it, than the modern fuller. One of the finest blocks in Pompeii belonged to the guild or *collegium* of fullers, and the remains of several fulling establishments may there be studied instructively, so completely are the essentials of the shop preserved. To complete the lesson, there are in the Museum at Naples some wall paintings from a *fullonica* of Pompeii, that represent a shop of fullers at work.

In Rome, on the Esquiline Hill, were found, at intervals of more than one hundred and fifty years, the pieces of an inscription, detailing the progress and final decision by three successive chiefs of police

<sup>1</sup> Tischbein, vol. i. pl. 58.

and of the fire department of Rome, (A. D. 226 to 244, eighteen years), of an arbitration in which a certain guild of fullers claimed exemption



ANCIENT POLISHED STONE CHAIR USED IN THE BATHS.<sup>1</sup>

from water-rates by reason of ancient grants of water, and some religious considerations in the grant.<sup>2</sup> It is not clear who it was that claimed that the fullers should pay, but following Bremer, in Rhein.

<sup>1</sup> From the Vatican. There is a fine specimen in the library of Montecassino, found in the valley below.

<sup>2</sup> See p. 77, Ossig, *Römisches Wasserrecht*, 1898.

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