

BIBLIOGRAPHY

Main tablet:

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Subsidiary fragment:

CIL XI (1888), 1144; *CIL* I² (1918), 601; *CIL* I² (1986), p. 917.

Facsimiles (main tablet): *Legis Rubriae pars superstes, ad fidem aeris Parmensis exemplo lithographico exprimendam curavit F. Ritscheli* (Berlin, 1851); Ritschl, XXXII =

*Tafeln zu F. Ritschl's epigraphisch-grammatischen Abhandlungen (Opuscula Philologica, Band IV) (Leipzig, 1878), I–II. Photographs (main tablet): Imagines, 389; Bruna; G. Negri, in *Storia di Piacenza* I, 1 (Cassa di Risparmio di Piacenza e Vigevano, 1990), 301–3; (subsidiary fragment) Pl. VI, 1.*

Translation into German (main tablet): Bruna. Translations into English (main tablet): Hardy, 125–33; *ARS*, 86–9.

Bronze tablet, 0.54 m high x 0.72 m wide, letters 0.007–0.008 m (Col. I and Col. II, ll. 38–58), 0.005–0.006 m (Col. II, ll. 1–37), found at Veleia in 1760, now in the Museo Nazionale di Parma. The text is laid out in two columns. The figure IIII is engraved at the top between the two columns to indicate that this is the fourth tablet. The tablet is engraved in two hands, the first being responsible for Col. I and Col. II, ll. 38–58, the second for Col. II, ll. 1–37 (so also, independently, G. Brunazzi, *Arch.stor.prov.Parm.* 42, 1990 (1991), 451–62); the second engraver is much more skilled and stylish, cutting deeply and confidently, with a tendency to curve the left-hand hastae of A and V and to give a long and ornate tail to Q.

In contrast to every other Republican statute engraved at the time of its passage or adoption, the chapters are numbered, below the outspaced first line of each chapter. There are eleven ancient nail-holes, of which nine seem to belong to the first time the tablet was fixed to a wall; two seem to have been added when it was moved or taken down and then replaced.

Fragment of a bronze tablet, broken all round, 0.05 m high x 0.07 m wide, letters 0.005–0.006 m, found at Veleia, now in the Museo Nazionale di Parma. The fragment does not certainly form part of the same text as that on the main tablet; but both form of letters and style of cutting are remarkably similar to those of Col. II, ll. 1–37.

INTRODUCTION

The main tablet contains the end of a chapter on *operis noui nuntiatio*; chapters on *damnum infectum*, *pecunia certa credita*, and other loans; and the beginning of a chapter *de familia erciscunda diuidunda*. Since the last four chapters all begin with a phrase that limits their application to Cisalpine Gaul, our text has always been taken as part of a statute which laid down some of the rules of the Roman civil law for that region and, at least in Chs. XXI–XXII, related their application systematically to jurisdiction at Rome. The statute is perhaps to be dated after the suppression of the province of Gallia Cisalpina, agreed by Antony and Octavian after the second battle of Philippi in the autumn of 42 BC (Appian, *BC* V, 12, τὴν τε γὰρ Κελτικὴν τὴν ἐντὸς τῶν Ἑλλεσπontiῶν ἔδωκε Καίσαρος ἀξιοῦντος αὐτόνομον ἀφιέναι γνώμη τοῦ προτέρου Καίσαρος; Laffi, 10–22: that part of his argument, which depends on holding that this text and the Este Fragment, **Law 16**, form part of the same statute, is not cogent, since the relationship of the rules of the Este Fragment to jurisdiction at Rome is quite different from that documented here.)

Gradenwitz argued that our text was neither coherent nor correct as it stood, but was the result of a contamination of two texts involving the transfer of the rules of one text to the situation of the other and *vice versa*. The argument was refuted by Wlassak: see Laffi, 8–9.

In cases of *damnum infectum* in Ch. XX, the text prescribes two formulae, if there is a failure to make a promise or give security, respectively, according to a decree which a local magistrate has issued *ex lege Rubria seiue id pl.sc. est* (Col. I, ll. 29 and 38). It has usually been supposed that the Lex Rubria is the name of the statute represented by our text; and hence that the formulae, intelligibly enough, cite the authority which a different chapter of the statute, not surviving, conferred on a local magistrate to issue decrees. Mommsen, however, became increasingly convinced (1902), that statutes which laid down rules for a particular region or place were *leges datae*, which he held to be incompatible with passage through an assembly. And he observed perfectly correctly (not refuted by Laffi, 9–10), that the presence of the phrase *ex h.l. n.r.* in our text is not proof that it was passed through an assembly, since the phrase also occurs in the Lex Coloniae Genetivae, **Law 25**, which it is impossible to regard as passed through an assembly; one may now add that it occurs also in the Lex Flavia (for an explanation, see the General Introduction, Ch. II). Nonetheless, we do not think that our text looks at all like the Lex Coloniae Genetivae and think that it is a *lex rogata*. But just as there is no reason for not identifying this text with the Lex Rubria, so there is also no positive reason in favour of doing so. If this text is the Lex Rubria, it dealt elsewhere with the powers of local magistrates; otherwise, these will have formed part of another statute.

A necessary preliminary to any interpretation of Chs. XXI–XXII is a correct understanding of their grammatical structure; unfortunately, however, this cannot be altogether separated from the process of interpretation, in particular because it is clear on any showing that the text as we have it contains errors of engraving. Our understanding of Chs. XXI and XXII is expressed in our arrangement of the translation.

In relation to Chs. XXI–XXII, we anticipate what we say in the Commentary. In the case of *pecunia certa credita*, below a fixed limit, Ch. XXI, a *confessus* who does not pay up and an *indefensus* are both treated as equal to a *damnatus* and are subject to *ductio*. In the case of actions, other than for *pecunia certa credita*, below a fixed limit, Ch. XXII, a *confessus* who does not give security and an *indefensus* are treated as if everything had happened at Rome: only the praetor or his replacement can order execution.

The essential difference between the two chapters is discussed by Thomas, 92–3, with earlier bibliography: *confessio in iure* is not admission of guilt, but admission of obligation. Since a judgment necessarily involves a fixed sum of money, only a *confessus* or *indefensus* in respect of a fixed sum of money can be treated as a *damnatus*. In other cases, the defendant may well admit liability to a sum alleged by the claimant; but the rules of procedure cannot assume that he will; and an estimation of the sum of money due may still be necessary. It follows that the magistrate may still have to instruct the judge and the judge may still have to fix the sum, the act to which his function is reduced by the *confessio*. Since in Ch. XXII there may be *missio in bona*, jurisdiction at this point depends on Rome.

Under Ch. XXII, furthermore, the claimant may indicate that the sum involved is less than 15,000 sesteratii; but the authority of the praetor is necessary, since the sum involved may be more than 10,000 sesteratii: see Thomas, 92 n. 14.

Since *ductio* is a much less severe sanction than *missio in bona*, it may be used by local magistrates. Note that *pecunia certa credita* may have covered large areas of the business of small communities and the statute may have been less restrictive of local powers than appears at first sight.

For the two chapters, see also in general Gaius IV, 48–52.

(Contra M. Wlassak, *RE* III, 2 (1899), 1995–2000, ‘Cessio bonorum’, at 1995–6, one would not expect to find any mention of *cessio bonorum* in this text: if the institution or

something like it existed at this date – as it may have done: see on the Tabula Heracleensis, **Law 24**, ll. 113–17 – the reference to Rome in Ch. XXII would have been sufficient to bring it into play.)

Col. II, ll. 24 and 28, allude to rules elsewhere in the statute on the limits of local jurisdiction and the circumstances in which they could be exceeded. It has usually been held, before and after Frederiksen (1964), that local magistrates could not order *missio in bona*, and we have followed the traditional view. The arguments for it in Laffi, 29–31, inevitably depend in large measure on the view that the procedure for *damnum infectum* in Rome in this period was the same as in the second-third centuries AD.

TEXT

Main tablet, Col. I:

iussum iudicatumue erit, id ratum ne esto; quodque quis-
que quomq(ue) d(e) e(a) r(e) decernet interd(e)ictue seiue sponsionem
fieri iudica(rei)ue iubebit iudiciumue quod d(e) e(a) r(e) dabit, is
4 in id decretum interdictum sponsionem iudicium exceptio-
nem addito addiue iubeto: 'q(ua) d(e) r(e) operis noui nuntiationem
IIuir IIIuir praefectusue eius municipi non remeisserit'. *vacat*

XX

qua de re quisque et a quo in Gallia Cisalpeina damnei infectei

8 ex formula restipularei satisue accipere uolet, et ab eo quei
ibei i(us) d(e)icet postulauerit, idque non k(alumniae) k(aussa) se facere iurauerit,
tum is, quo

d(e) e(a) r(e) in ius aditum erit, eum, quei in ius eductus erit, d(e) e(a) r(e) ex formu-
la repromittere et, sei satis darei debebit, satis dare iubeto de-

12 cernito. quei eorum ita non repromeisserit aut non satis dede-
rit, sei quid interim damni datum factumue ex ea re aut ob e(am) r(em) eo-
ue nomine erit, quam ob rem, utei damnei infectei repromissio

satisue datio fieri(t), postulatum erit, tum mag(istratus) proue mag(istratu) IIuir
16 IIIuir praefec(tus)ue, quoquomque d(e) e(a) r(e) in ius aditum erit, d(e) e(a) r(e) ita
ius

deicito iudicia dato iudicareque iubeto cogito, proinde atque sei

d(e) e(a) r(e), quom ita postulatum esset, damn[ei] infectei ex formula
recte repromissum satisue datum esset. d(e) [e(a) r(e)] quod ita iudicium

20 datum iudicareue iussum iudicatumue erit, ius ratumque esto,
dum in ea uerba, sei damnei infectei repromissum non erit, iudi-
cium det itaque iudicare iubeat: 'i(udex) e(sto). s(ei), ant(e)quam id iudicium
q(ua) d(e) r(e) a(gitur) factum est, Q. Licinius damni infectei eo nomine, q(ua) d(e)
24 r(e) a(gitur), eam stipulationem quam is quei Romae inter peregrei-
nos ius deicet in albo propositam habet, L. Seio reipromeississet:

tum quicquid eum Q. Licinius ex ea stipulatione L. Seio d(are) f(acere) opor-
t(e)ret ex f(ide) b(ona) d(um)t(axat) (sestertium) ^{vvv}, e(ius) i(udex) Q. Licinium L.
Seio, sei ex decreto IIuir(ei)

28 IIIuir(ei) praefec(tei)ue Mutinensis, quod eius <is> IIuir IIIuir praefec(tus)-
ue ex lege Rubria, seiue id pl(ebei){ue} sc(itum) est, decreuerit, Q. Licinius eo

nomine qua d(e) r(e) a(gitur) L. Seio damnei infectei repromittere noluit, c(ondemnato); s(ei) n(on) p(arret), a(bsoluto)'; aut sei damnei infectei satis datum non erit,

32 in ea uerba iudicium det: 'i(udex) e(sto). s(ei), antequam id iudicium q(ua) d(e) r(e) a(gitur)

⟨f⟩actum est, Q. Licinius damnei inf⟨e⟩ctei eo nomine, q(ua) d(e) r(e) a(gitur), ea stipulatione quam is qui Romae inter peregrinos ius deicet in albo propositam habet, L. Seio satis dedisset: tum q(uic)q(uid) eum

36 Q. Licinium ex ea stipulatione L. Seio d(are) f(acere) oporteret ex f(ide) b(ona) d(um)t(axat) ⟨(sestertium) vac⟩,

e(ius) i(udex) Q. Liciniu⟨m⟩ L. Seio, sei ex decreto IIuir(ei) IIIuir(ei) praef(ectei)ue Muti-
nensis, quod eius is IIuir IIIuir praefect(us) ex lege Rubria, sei-
ue id pl(ebei){ue} sc(itum) est, decreuerit, Q. Licinius eo nomine q(ua) d(e) r(e) a(gitur)

40 L. Seio damnei infectei satis dare noluit, c(ondemnato); s(ei) n(on) p(arret), a(bsoluto)'; dum IIuir

IIIuir i(ure) d(eicundo) praefec(tus)ue d(e) e(a) r(e) ius ita deicat curetue, ut ei ea nomina et municipium colonia locus in eo iudicio, quod ex ieis

quae proxsume s(cripta) s(unt) accipie{n}tur, includ⟨a⟩ntur concipiantur,

44 quae includei concipei s(ine) d(olo) m(alo) oporteret debe⟨re⟩tue, ne quid ei qui d(e) e(a) r(e) aget petetue captionei ob e(am) r(em) aut eo nomine esse possit; neue ea nomina, qua⟨e⟩ in earum qua formula quae s(upra)

s(cripta) ⟨est⟩ s(unt), aut Mutina⟨m⟩ in eo iudicio includei concipei curet, nise⟨i⟩

48 iei, quos inter id iudicium accipietur leisue contestabitur,

iei nominibus fuerint, quae in earum qua formula ⟨quae⟩ s(upra) s(cripta) est ⟨s(unt)⟩,

et nisei sei Mutinae ea res agetur; neue quis mag(istratus) proue mag(istratu),

neue quis, pro quo imperio potestateue erit, intercedito nei-

52 ue quid aliud facito, quo minus d(e) e(a) r(e) ita iudicium detur

III

Col. II

iudiceturque. *vacat*

XXI

a quoquomq(ue) pecunia certa credita, signata forma p(ublica) p(opulei) R(omanei), in eorum quo o(ppido) m(unicipio) c(olonia) p(raefectura)

f(oro) u(eico) c(onciliabulo) c(astello) t(erritorio)ue, quae sunt eruntue in Gallia Cisalpeina, petetur, quae res non

4 pluris (sestertium) (quindecim milibus) erit, sei is eam pecuniam in iure apud eum, qui ibei i(ure) d(eicundo) p(raerit), ei qui

eam petet, aut ei quouis nomine ab eo petetur, d(are) o(portere) debereue se confessus

erit, neque id quod confessus erit soluet satisue faciet, aut se sponsione

iudicioque utei{ue} oportebit non defendet, seiue is ibei d(e) e(a) r(e) in iure non

8 responderit, neque d(e) e(a) r(e) sponsionem faciet neque iudicio utei oportebit

se defendet: tum de eo, a quo ea pecunia petita erit, deque eo, quod eam pecuniam d(are) o(portebit), s(iremp)s res lex ius caussa que o(mnibus) o(mnium) r(erum) esto atque ut ei esset esseue

oporteret, si is, qui ita confessus erit, aut d(e) e(a) r(e) non responderit aut se

12 sponsione iudicioque ut ei oportebit non defenderit, eius pecuniae iei qui eam suo nomine petierit quod eam d(are) o(portebit), ex iudici(bu)s dateis iudi-

careue recte iussis iure lege damnatus esset fuisset. qu(e)ique quomque

IIuir IIIuir praefec(tus)ue <i>bei i(ure) d(eicundo) p(raerit), is eum, qui ita quid confessus erit

16 neque id soluet satisue faciet, eum(que) qui se sponsione iudicioque ut ei {ue} oportebit non defenderit aut in iure non responderit neque id soluet satisue faciet, t(antae) p(ecuniae), quanta ea pecunia erit de qua tum inter eos ambigetur dumt(axat) <(sestertium) ^{vac}> (quindecim milia), s(ine) f(raude) s(ua) duci iubeto; quique eorum quem, ad quem

20 ea res pertinebit, duxerit, id ei fraudi poenaeue ne esto; quodque ita factum actum iussum erit, id ius ratumque esto. quo minus in eum, qui ita uadimonium Romam ex decreto eius, qui ibei i(ure) d(eicundo) p(raerit), non promiserit

aut uindicem locupletem ita non dederit, ob e(am) r(em) iudicium recup(eratorium) is, qui

24 ibei i(ure) d(eicundo) p(raerit), ex h(ac) l(ege) det iudicareque d(e) e(a) r(e) ibei curet, ex h(ac) l(ege) n(ihilum) r(ogatur).

XXII

a quo quid praeter pecuniam certam creditam, signatam forma p(ublica) p(opulei) R(omanei),

in eorum quo o(ppido) m(unicipio) c(olonia) p(raefectura) <f(oro)> u(eico) c(onciliabulo) c(astello) t(erritorio)ue quae sunt eruntue in Gallia cis Alpeis,

petetur, quodue quom eo agetur, quae res non pluris (sestertium) (quindecim milibus) erit, et si

28 ea res erit, de qua re omni pecunia ibei ius deice iudiciaue darei ex h(ac) l(ege) <o(portet)> o(portebit),

si is eam rem, quae ita ab eo petetur deue ea re cum eo agetur, ei qui eam

petet deue ea re aget, aut iei quodius nomine ab eo petetur quomue eo age-

tur in iure apud eum, qui ibei i(ure) d(eicundo) p(raerit), d(are) f(acere) p(raestare)

restituereue oportere aut

32 se debere, eiusue eam rem esse aut se eam habere, eamue rem de qua arguetur se fecisse, obligatumue se eius rei noxiaeue esse confessus erit deixeritue neque d(e) e(a) r(e) satis ut ei oportebit faciet aut, si sponsionem fieri oportebit, sponsionem non faciet non †restituēt†,

36 neque se iudicio ut ei oportebit defendet, aut si d(e) e(a) r(e) in iure nihil responderit, neque d(e) e(a) r(e) se iudicio ut ei oportebit defendet: tum de eo a quo ea res ita petetur quomue eo d(e) e(a) r(e) ita agetur, deque eo, quod eam rem d(are) f(ierei) p(raestarei) restitui satisue d(e) <e(a)> r(e) fieri oportebit,

40 s(iremp)s l(ex) r(es) i(us) c(aussa)q(ue) o(mnibus) o(mnium) r(erum) e(sto), atque ut ei esset esseue oporteret si is, qui ita

- quid earum rerum confessus erit aut d(e) e(a) r(e) non responderit neq(ue)
 se iudicio utei oportebit defenderit, de ieis rebus Romae apud pr(aetorem)
 eumue quei de ieis rebus Romae i(ure) d(eicundo) p(rae)esset in iure confessus esset,
44 aut ibei d(e) e(a) r(e) nihil respondisset aut iudicio se non defendisset;
 p(raetor)q(ue) isue quei d(e) e(is) r(ebus) Romae i(ure) d(eicundo) p(raerit) in eum et
 in heredem eius d(e) e(is) r(ebus) om-
 nibus ita ius deicito decernito eosque duci bona eorum possideri
 proscribeuiue ueneireque iubeto, ac sei is heresue eius d(e) e(a) r(e) in
48 iure apud eum pr(aetorem) eumue quei Romae i(ure) d(eicundo) {p.} praesse(t),
 confessus es-
 set aut d(e) e(a) r(e) nihil respondisse(t) neque se iudicio utei oportuis-
 set defendisset; dum ne quis d(e) e(a) r(e) nisei pr(aetor) isue quei Romae i(ure)
 d(eicundo) p(raerit)
 eorum quouis bona possideri proscribeui ueneire duceique
52 eum iubeat.

XXIII

- queiquomque in eorum quo o(ppido) m(unicipio) c(olonia) p(raefectura) f(oro) u(eico)
 c(onciliabulo) c(astello) t(erritorio)ue quae in Gal-
 lia Cisalpeina sunt erunt, i(ure) d(eicundo) p(raerit), is inter eos, quei de fami-
 lia{i} erceiscunda deiuidunda iudicium sibi dari reddeuiue
56 in eorum quo o(ppido) m(unicipio) c(olonia) p(raefectura) f(oro) u(eico)
 c(onciliabulo) c(astello) t(erritorio)ue, quae s(upra) s(crypta) s(unt), postu-
 lauerint, ita ius deicito decernito iudicia dato iudicare
 iubeto, utei in eo o(ppido) m(unicipio) c(olonia) p(raefectura) f(oro) u(eico)
 c(onciliabulo) c(astello) t(erritorio)ue, in quo is, quouis

Subsidiary fragment:

- [---]IIIV! II[---]
 [---]curato e+[---]
 [---]+ ea lex ita[---]
4 [---]sc]reipta in[---]

APPARATUS CRITICUS

Main tablet, Col. I:

- 1 [QVOM EX H.L. OPERIS NOVI NVNTIATIONEM IIVIR IIIIVIR PRAEFECTVSVE EIVS
 MUNICIPEI REMEISSERIT, QVOD DE EA RE IVDICIVM DATVM IVDICAREVE] IVSSVM ..., *CIL*
 2 INTERDIICETVE, *aes*
 3 IVDICAVERITVE, *aes*
 9 I(VRE) D(EICVND)O {P(RAERIT)}, *CIL*
 15 FIEREI, *aes*: corr. Ritschl; FIEREI {IVBEATVR}, *CIL*
 18 DAM[NEI], *CIL*
 22 ANTFQVAM, *aes*
 26 OPOR/TIRET, *aes*
 28 EIVS IIVIR, *aes*: corr. Huschke

- 33 EACTVM, INFFCTEI *aes*
 36 HS ^{vac}, omitted on *aes*
 37 Q. LICINIVS, *aes*
 43 INCLVDENTVR, *aes*: corr. Huschke
 44 OPORTERET DEBEBITVE, *aes*; OPORTERE ⟨EI VI⟩DEB⟨VN⟩TV⟨R⟩, *CIL*
 46–7 QVA, *aes*, EST, omitted on *aes*; QVA⟨E⟩ IN ... FORMVLA {QVAE} S.S.S., *CIL*
 47 MVTINA, NISE, *aes*
 49 QVAE, S(VNT), omitted on *aes*; QVAE IN ... FORMVLA S.S.⟨S.⟩, *CIL*

Col. II

- 7 See Ritschl, 55–6; Löfstedt, *Syntactica* II, 230 n. 2
 13 IVDICIEIS, *aes*
 14 QVOIQVE, *aes*
 15 VBEI, *aes*
 16 EVM QVEI, *aes*; see Ritschl, 55–6; Löfstedt, *Syntactica* II, 230 n. 2
 23 IVDICIVM RECVP(ERATIONEM), *CIL*
 26 O.M.C.P.E.V.C.C.TVE, *aes*
 28 EX H.L. D.O., *aes*
 29 At end, EAM ⟨REM⟩, *CIL*
 30–1 The T of AGET and the F of F(ACERE) are imperfectly formed
 35 ⟨AVT⟩ NON RESTITVET, *CIL*
 39 D.F.R., *aes*
 48 I.D.P. PRAESSE, *aes*
 49 RESPONDISSE, *aes*
 58 QUOIVS / [DE BONEIS AGETVR, DOMICILIVM HABVERIT, IVDICIVM FIAT ET IN ID IVDICIVM EXCEPTIONEM ADDITO: 'QVAE BONA EIVS FVERINT, QVEI IN EO OPPIDO DOMICILIVM HABVERIT'], Mommsen (1858); QUOIVS / [DE BONEIS AGETVR, DOMICILIVM HABVERIT, IVDICIVM FIAT ---], *CIL*

Subsidiary fragment:

- 1 IIIVII, *CIL*
 2 Upright hasta visible at end of line: perhaps ei[---]
 3 First letter c or s: perhaps [--- *postha*]ç

TRANSLATION

We have used a series of numbered clauses in the Translation to indicate what we believe to be the structure of the text.

Main tablet:

Col. I, ll. 1–6 [Whatever --- or] order [to judge] shall have been made or (whatever) shall have been judged, it is not to be binding; and whatever anyone shall ever decree or forbid concerning that matter, or if he shall order a *sponsio* to be made or judgment ⟨to be⟩ given or shall prescribe any trial-procedure concerning that matter, he is to add or order to be added in that decree or interdict or *sponsio* or trial-procedure the exception: 'concerning which matter the IIvir or IIIvir or prefect of that *municipium* shall not have suspended notification against new construction'.

Ch. XX

Il. 7–19 Concerning whatever matter and from whomever anyone shall wish in Cisalpine Gaul in respect of potential loss to demand a promise according to the (proper) form of words or to take security, and (he) shall have requested the person who shall administer justice there and shall have sworn that he is not doing it by way of a false charge, then the person to whom approach shall have been made for a pre-trial concerning that matter is to order and decree that the person who shall have been brought for a pre-trial is to promise according to the (proper) form of words and, if it shall be necessary for security to be given, is to give security concerning that matter. Whoever of them shall not have promised in this way or shall not have given security, if in the meanwhile any loss shall have been inflicted or caused arising out of that matter or because of that matter or on that account, because of which matter it shall have been requested that there should be a promise or a giving of security in respect of potential loss, then the magistrate or promagistrate, or *IIvir* or *IIIvir* or prefect, to whomsoever approach shall have been made for a pre-trial concerning that matter, is to administer justice and prescribe trial-procedures and order and compel judgment concerning that matter, exactly in such a way as (he would) if, when it had been requested in that way, there had duly been a promise according to the (proper) form of words or security had been given in respect of potential loss concerning that matter.

Il. 19–20 Concerning [that matter,] whatever trial-procedure shall have been prescribed in this way or whatever order to judge shall have been made or whatever judgment shall have been given, is to be legal and binding.

Il. 21–31 provided that, (1) if there shall not have been a promise in respect of potential loss, he prescribe a trial-procedure in these words and order to judge in this way: ‘(Name) is to be judge. Supposing, before that trial-procedure concerning the matter which is at issue has been prescribed, Q. Licinius had promised to L. Seius, on that account, (namely) concerning the matter which is at issue, that stipulation in respect of potential loss which the person who shall administer justice at Rome in relation to foreigners has published in his *album*: then, whatever it would be appropriate for that Q. Licinius by that stipulation to give to or do for L. Seius in good faith, up to (*vacat*) sestertii, for that the judge is to condemn Q. Licinius in respect of the suit of L. Seius, if Q. Licinius on that account, (namely) concerning the matter which is at issue, was unwilling to make a promise to L. Seius in respect of potential loss, according to the decree of the *IIvir* or *IIIvir* or prefect of Mutina, which (that) *IIvir* or *IIIvir* or prefect shall have decreed on it according to the Lex Rubria, or if (including if) it is a plebiscite; if it shall not (so) appear, he is to acquit (him)’;

Il. 31–40 or (provided that), (2) if security shall not have been given in respect of potential loss, he prescribe a trial-procedure in these words: ‘(Name) is to be judge. Supposing, before that trial-procedure concerning the matter which is at issue has been prescribed, Q. Licinius had given security to L. Seius in respect of potential loss, on that account, (namely) concerning the matter which is at issue, according to that stipulation which the person who shall administer justice at Rome in relation to foreigners has published in his *album*: then, whatever it would be appropriate for that Q. Licinius according to that stipulation to give to or do for L. Seius in good faith, up to (*vacat*) sestertii, for that the judge is to condemn Q. Licinius in respect of the suit of L. Seius, if Q. Licinius on that account, (namely) concerning the matter which is at issue, was unwilling to give security to L. Seius in respect of potential loss, according to the decree of the *IIvir* or *IIIvir* or prefect of Mutina, which that *IIvir* or *IIIvir* or prefect shall have

decreed on it according to the Lex Rubria, or if (including if) it is a plebiscite; if it shall not (so) appear, he is to acquit (him)';

l. 40 – Col. II, l. 1 provided that a *IIvir* or *IIIvir* for the administration of justice or prefect administer justice concerning that matter in such a way (that) or see that those names and that *municipium*, colony or place be included and expressed in that trial-procedure, which shall be accepted according to those rules which are written down next above, which it would be appropriate or necessary to be included or expressed without wrongful deceit, in order that the person who shall bring action or suit concerning that matter may not suffer any disadvantage because of that matter or on that account; and provided that he do not see that those names, which are in any form of words which (is) written down above, or *Mutina* are included or expressed in that trial-procedure, unless those persons, between whom that trial-procedure shall be accepted or *litis contestatio* shall take place, shall have had those names, which (are) in any form of words (which is) written down above, and unless that matter shall be at issue at *Mutina*; nor is any magistrate or promagistrate or anyone, by virtue of whatever *imperium* or power he shall have, to intercede or do anything else to the effect that a trial-procedure may not be prescribed in this way concerning that matter and that (that matter) may not

Fourth (tablet)

be judged.

Ch. XXI

ll. 2–3 (1) From whomever a definite amount of money lent shall be sued for, marked with the public type of the Roman people, in any town, *municipium*, colony, prefecture, *forum*, village, *conciliabulum*, castle, or territory of those which are or shall be in Cisalpine Gaul,

ll. 3–4 (2) which matter shall not be worth more than 15,000 sesterii,

ll. 4–6 (3a) if he (the defendant) shall have admitted at a pre-trial before the person who shall be in charge of the administration of justice there that it is appropriate for him to give or that he owes that money to the person who shall sue for it or to the person in whose name it shall be sued for from him,

l. 6 (3b) and shall not pay, or give security for, what he shall have admitted,

ll. 6–7 (4a) or shall not defend himself with a *sponsio* and in a trial as shall be appropriate,

ll. 7–9 (4b) or if (including if) he shall not have responded (at all) at a pre-trial there concerning that matter, and (as a result) shall not make a *sponsio* concerning that matter and shall not defend himself in a trial as shall be appropriate,

ll. 9–11 (5) then, concerning the person from whom that money shall have been sued for and concerning the person to whom it shall be appropriate for that money to be given,

position, statute, law and case are to apply to everyone in respect of every matter exactly as they would apply or it would be appropriate for them to apply,

ll. 11–12 (6a) = (3a and 3b) if the person who shall have admitted in this way,

(6b) = (4a and 4b) or shall not have responded concerning that matter or shall not have defended himself with a *sponsio* and in a trial as shall be appropriate,

ll. 12–14 (7) were or had been condemned according to law and statute, on the basis of judges appointed and duly ordered to judge, in that sum in respect of the suit of the person who shall have sued for it in his own name or to whom it shall be appropriate for it to be given.

ll. 14–19 (8) And whoever shall be in charge of the administration of justice there as IIvir, IIIvir or prefect,

he is to order taking into custody of the person,

(9a) = (3a and 3b) who shall have admitted anything in this way and shall not pay it or give security for it,

(9b) = (4a and 4b) (and) the person, who shall not have defended himself with a *sponsio* and in a trial as shall be appropriate or shall not have responded (at all) at a pre-trial,

(9c) and shall not pay it or give security,

(10) for so much money as that sum shall be which shall then be at issue between them, up to 15,000 (sestertii),

without personal liability;

ll. 19–21 and whoever shall have taken into custody anyone to whom that matter shall pertain, that is not to be a matter of liability or penalty for him; and whatever shall have been done or carried out or ordered in this way, it is to be legal and binding.

ll. 21–4 Nothing is proposed according to this statute, to the effect that the person who shall be in charge of jurisdiction there may not prescribe a recuperatorial trial because of that matter according to this statute, against the person who shall not have promised security for (appearance at) Rome in this way – according to the decree of the person who shall be in charge of jurisdiction there – or shall not have provided a (sufficiently) rich guarantor in this way, and see that judgment is given there concerning that matter.

Ch. XXII

ll. 25–8 (1) From whom anything shall be sued for, except for a definite amount of money lent, marked with the public type of the Roman people, in any town, *municipium*, colony, prefecture, (*forum*), village, *conciliabulum*, castle, or territory of those which are or shall be in Gaul this side of the Alps, or concerning whatever there shall be action against him,

(2a) which matter shall not be worth more than 15,000 sestertii,

(2b) and if the matter is that about which matter it (is or) shall be appropriate according to this statute for there to be jurisdiction there in the whole sum and for trial-procedures to be prescribed,

ll. 29–34 (3a) if he (the defendant) shall have admitted or shall have stated at a pre-trial before the person who shall be in charge of the administration of justice there, that it is appropriate or that he is obliged to give or perform or provide or restore in respect of that matter – which shall be the subject of a suit against him in this way or (if) there shall be an action against him concerning that matter – to the benefit of the person who shall sue in respect of it or shall bring an action concerning that matter, or of the person in whose name there shall be a suit against him or action shall be brought against him,

(3b) or (else) that the object in question belongs to him (the claimant) or that he (the defendant) has it, or (else) that he has done that thing about which there shall be a dispute, or (else) that he is obliged in respect of that matter or damage,

l. 34 (3c) and shall not give security concerning that matter as shall be appropriate,

ll. 34–6 (4) or, if it shall be appropriate for a *sponsio* to take place, (he) shall not make a *sponsio* (and) shall not ???, and (he) shall not defend himself in a trial as shall be appropriate,

ll. 36–7 (5) or if he shall not have responded (at all) at a pre-trial, and shall not defend himself in a trial concerning that matter as shall be appropriate,

Il. 38–40 (6) = (1) then, concerning the person from whom that matter shall be sued for in this way or (if) there shall be an action against him in this way,
(Compare 3a and 3c) and concerning the person to whom it shall be appropriate for that matter to be given or performed or provided or restored, or for security to be given concerning (that) matter,

statute, position, law and case are to apply to everyone in respect of every matter exactly as they would apply or it would be appropriate for them to apply,

Il. 40–1 (7a) = (3a and 3b and 3c) if the person who shall have admitted any of those matters in this way,

Il. 41–2 (7b) = (5) or shall not have responded concerning that matter and shall not have defended himself in a trial as shall be appropriate,

Il. 42–3 (8a) = (3a and 3b and 3c) had admitted at a pre-trial concerning those matters at Rome before the praetor or the person who was in charge of jurisdiction concerning those matters at Rome,

I. 44 (8b) = (5) or had not responded at all there concerning that matter or had not defended himself in a trial;

Il. 45–7 (9) and the praetor or the person who shall be in charge of jurisdiction concerning those matters at Rome is to administer justice and decree in this way in respect of him and his heir concerning all those matters, and is to order taking into custody of these persons and for their goods to be seized or put up for sale and sold,

Il. 47–52 (10a) = (3a and 3b and 3c) as if he or his heir had admitted at a pre-trial concerning that matter before that praetor or the person who was in charge of the administration of justice at Rome,

(10b) = (5) or had not responded at all concerning that matter and had not defended himself in a trial as would have been appropriate;

(11) provided that concerning that matter no-one except the praetor or the person who shall be in charge of jurisdiction at Rome may order the goods of any of them to be seized or put up for sale or sold or him to be taken into custody.

Ch. XXIII

Il. 53–8 Whoever shall be in charge of the administration of justice in any town, *municipium*, colony, prefecture, *forum*, village, *conciliabulum*, castle, or territory of those which are or shall be in Cisalpine Gaul, he is to administer justice, decree, prescribe trial-procedures, and order to judge, in relation to those who shall have requested that a trial-procedure be prescribed or provided to them concerning the distribution and division of a *familia* in any town, *municipium*, colony, prefecture, *forum*, village, *conciliabulum*, castle, or territory of those which are written down above, just as in that town, *municipium*, colony, prefecture, *forum*, village, *conciliabulum*, castle, or territory in which he whose [---]

COMMENTARY

Main tablet, Col. I:

The supplement in *CIL* for the beginning is unlikely, since *nuntiationem remittere* is relevant to a different kind of question from whether or not there can be a trial: see on I. 5 below. To include *ex hac lege* in any supplement is in any case potentially misleading, since it implies what may not have been the case, namely that our text included general

rules for *nuntiatio* *remittere* (see Laffi, 28 n. 62). Perhaps rather [*quod aliter atque utei supra scriptum est iudicium datum iudicareue*] *iussum iudicatumue erit* ... (compare ll. 19–20). It of course remains possible, contra Bruna, 45–52, that the first part of this chapter contained further provisions relating to *operis noui nuntiatio*.

ll. 1–2 *quodque quisque quomque*: odd, when *quodque quis* would do. Bruna, 63–4, supposes the reference to be to a praetor or proconsul, on the grounds that only they could grant interdicts; but the text shows precisely that the right to grant interdicts was not thus limited and was available in this period to local magistrates: see Simshäuser, 384–7; Laffi, 27–8; the Lex Flavia, Chs. 84, ll. 7–8; 85, ll. 32 and 37–8.

Interdicts are decrees which prohibit: see Gaius IV, 140; *seiue* ... *dabit* then identifies different kinds of trials, which are one possible outcome of decrees and interdicts.

l. 3 The error *iudicaueritue* perhaps suggests that the engraver was confronted with the abbreviation *iud.ue*; and that *iudicaueritue* had occurred shortly before in the text.

iudicium here = what is elsewhere called a *formula*; compare Cicero, *II in Verr.* 2, 31: *si uero illud quoque accedit, ut praetor in ea uerba iudicium det ... si iudicium sit eiusmodi*, ‘*L. Octavius iudex esto* ...’, with W. Kunkel, *Akten des VI. Internationalen Kongresses für Griechische und Lateinische Epigraphik* (Munich, 1973), 193–242, ‘*Epigraphik und Geschichte des römischen Privatrechts*’, at 200 n. 8.

l. 5 *operis noui nuntiatio*: once notification against new construction has occurred, it is only possible to proceed either if a magistrate suspends notification or if the person engaging in construction offers security; see in general *Ed.perp.* XLIII, §257; Kaser, *RPR* I, 408–9; Simshäuser, 382–4.

l. 6 The presence of *eius municipi* (= *municipiei*) without reference to other communities suggests that there was a form of words in the missing portion of the chapter, similar to those in ll. 22–31 and 32–40 below: Bruna, 75–6, is on the wrong track.

l. 7 – Col. II, l. 1 For *damnum infectum*, see in general, Kaser, *RPR* I, 407–8. We do not see that the text authorises the conclusion of Bruna, 77–8, that the statute is granting local magistrates a new right. The normal limit on local jurisdiction was presumably the same as in Chs. XXI–XXII.

ll. 8, 10, 18 *ex formula*: the praetor’s edict had attached to it a list of forms of words.

l. 8 *restipularei*: not here different from *stipulari*, ‘to demand a promise’, see ll. 23–7, compare Cicero, *Rosc.com.* 56, contra the Oxford Latin Dictionary, s.v.; the person of whom the demand is made *repromittit*, ll. 11, 12, etc. (Contrast Valerius Maximus II, 8, 2; Gaius IV, 165; and perhaps Varro, *LL* V, 182; compare Col. II, l. 35.) *et ab eo*: there is a technical anacoluthon, but it is a very common turn of phrase.

l. 9 *i(us) d(eicet)*: since this is a different chapter and may draw ultimately on a different source, there is no reason to restore on the model of Col. II, ll. 4, 15, 22, 24, 31 and 54, and postulate the omission of *p(raerit)*. Contrast l. 42 below with Col. II, l. 2. For *calumnia*, see on the Lex repetundarum, **Law 1**, ll. 19–26.

ll. 10–12 For the alternatives of *repromittere* and *satis dare*, see *Dig.* XXXIX, 2, 7pr. (Ulpian).

ll. 11–12 The decree consists of *satis dare iubere*: *ius dicere* manifestly covers *decernere*; *decernere* also covers prescribing a *iudicium*, appointing a *iudex* and ordering to judge.