

The Syntax of Chapter 84 of the *lex Irnitana* and the Jurisdictional Limit of the Local Magistrates

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Abstract

The *lex Irnitana*, found in 1981 and first published in 1986, contains a detailed description of the local jurisdiction of Roman municipia, thus it is of outstanding importance not only for provincial cities but also for the procedural law of Rome itself. Certain aspects of the regulation, however, raise questions. In the present study I examine the upper limit of local jurisdiction as described in the charter: according to the traditional interpretation, the upper limit of 1,000 sestericii could be overpassed if the parties agreed, whereas more recently (Wolf, Torrent) the view has emerged that the 1,000 sestericii constituted an absolute maximum, which could not be exceeded even with the consent of the parties. In my opinion, the latter view is untenable not only from a legal and logical point of view, but also grammatically.

Keywords: *lex Irnitana*, municipal jurisdiction, duumvir iure dicundo

Chapter 84 of the *lex Irnitana* is of outstanding importance for the study of Roman procedural law,¹ but it is also a text that raises numerous problems,²

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¹ Cf. e.g. METZGER 2015, 274. Page 286 is based entirely on the description of the *lex Irnitana*.

² E.g. for the problem of the destination of *vadimonium*, see JOHNSTON 1987, 65; RODGER 1990, 150; *contra* GALSTERER 1988, 87; BURTON 1996, and later RODGER 1997, 160. For the range of cases involving *infamia*, see D'ORS 1984. For the possible(?) litigation against a

and its complex syntactic structure is frequently emphasized in scholarly literature.³ According to this chapter, the local *duoviri* may only exercise jurisdiction⁴ in cases involving a sum of 1000 *sestertii* or less (*quae res HS ∞ minorisve / erit*, 3–4)⁵ – except for a number of specifically enumerated matters (lines 4–17) which, regardless of value, fall outside their judicial competence. At the same time, according to the traditional interpretation,⁶ if the parties agreed to this (*si uterque, inter quos ambigeretur, / volet*, 17–18), cases involving more than 1000 *sestertii* could also be conducted before the local magistrates, without the need to appeal to the governor. However, in a study originally published in 2000,⁷ Joseph Georg Wolf argued – primarily on linguistic grounds – that the *si uterque...* clause cannot refer to the 1000 *sestertii* limit, but only to the exceptional cases.⁸ Accordingly, in his view, the 1000 *sestertii* constitutes an absolute upper limit and under no circumstances could cases exceeding this value be conducted locally, whereas the exceptional cases could be tried by the local magistrates – provided that the parties agreed to this *and* the case fell within the 1000 *sestertii* upper limit. Wolf’s argument is accepted, for example, by Torrent;⁹ it is also referred to, though without a clear position, by di Cintio¹⁰ and Lukits;¹¹ whereas Metzger, Talamanca, and Lamberti argue explicitly against it.¹² It seems that the latter scholars consider Wolf’s analysis to be grammatically correct, but too strict and mechanical, as it does not take into

slave, see METZGER 2014. Cf. Gai. Dig. 50.1.107: *Cum servo nulla actio est*. For the different interpretation of the word *privatim*, see MANTOVANI 2006, 310–313. For the upper value (200 vs. 1000 HS) and the categories of actions of the aedilician *iurisdictio*, see RODGER 1990, 151; WOLF 2012; METZGER 2013, 210.

³ Already GONZÁLEZ 1986, 227 (*The grammatical structure of the relative clause of the first 17 lines of the chapter is not of the simplest.*), more recently e.g. LAMBERTI 2016, 187 (*presenta le maggiori difficoltà interpretative*); LAMBERTI 2021, 340 (*eine komplexe Syntaxis*). Several scholars have also attempted to illustrate the structure of the sentence visually, cf. LEBEK 1993, 166–167; WOLF 2012, 12–13; METZGER 2013, 208.

⁴ On the question in general, see RODGER 1996.

⁵ In what follows, ‘*quae res...*’ will always refer to this clause.

⁶ See WOLF 2012, 11. note 27. with detailed bibliography, for more recent literature, see DI CINTIO 2021, 72. note 162.

⁷ WOLF 2012.

⁸ In the same way, WOLF 2011, 27.

⁹ TORRENT 2008, 1003.

¹⁰ DI CINTIO 2021, 72. note 162. This note also contains an excellent summary of the relevant problems and literature.

¹¹ LUKITS 2014, 23. note 24 (with the doubtful assumption that the agreement of the litigating parties might also apply to non-*municipes* and non-*incolae*).

¹² TALAMANCA 1998–1999, 735–738; METZGER 2013; LAMBERTI 2016. They primarily employ legal arguments and relevant legal sources, e.g. whether as parallels the *lex Rubria* and the *frg. Atestinum* are still valid, or rather the later Paulus and Ulpian, see below.

account the syntactic complexity of the *leges publicae* and their occasionally 'unorthodox' use of language.¹³ In the present study I attempt to demonstrate that Wolf's view is problematic not only from legal or logical perspectives, but is also clearly untenable from a strictly syntactical point of view: it uses minute syntactic subtleties, yet fails to recognize that this interpretation fundamentally disrupts the syntactic structure of the main clause.¹⁴

Among these syntactic subtleties, we can find e.g. the alleged clear and consistent distinction between *aut* and *-ve*.¹⁵ I do not want to take a position on the question of from where the expressions concerning *praeiudicium* should be excluded and to where they should be moved, since this does not concern the subject under examination. However, the mere use of *-ve* instead of *aut* cannot in itself serve as an argument in the text. On the one hand, even if we assume perfect coherency,¹⁶ namely, that *neque* introduces the major categories of exceptions, within which *aut* introduces the subcategories, and *-ve* the sub-subcategories, it does not mean that we should – or even can – interpret lines 4–17 based on that basis alone. E.g. we may argue that the clause containing *praeiudicium* in lines 16/17 stands with *-ve* connection, and thus does not fit perfectly into the series of clauses previously introduced by *aut*, precisely because it constitutes an absolute exception (cf. lines 19–20), whereas the others do not. On the other hand, it can be proven that within the charter the use of conjunctions is not so consistent,¹⁷ and therefore no argument can be based on this. Thus, the proper structure of the main clauses is much more important and reliable than the arguments based on the usage of the 'weak distinctives'.

According to Wolf, the correct interpretation of this long and complex sentence depends primarily on the word *etia|m* in line 17: the *de is re[bus etia|m], si uterque, inter quos ambigetur...* cannot refer to the *quae res HS (sestertium) ∞*

¹³ TALAMANCA 1998–1999, 736, note 284: *rispetto a testi della sintassi non sempre ortodossa, e di certo non semplice*. I agree with the phrase *non semplice*, but I find the *non sempre ortodossa* part a misleading exaggeration: the sentence is indeed complex, yet syntactically perfectly interpretable. Lamberti holds the same view (LAMBERTI 2016, 203–204): *la strutturazione del caput è complessa ... il senso – a mio avviso – è chiaro, si da un punto di vista lessicale e sintattico*. If we regard the sentence structure as irregular *a priori*, this entails that we do not even attempt to put it fully in order grammatically. Wolf falls into this very error. Furthermore, I maintain not only that alongside Wolf's interpretation the traditional interpretation may also be grammatically correct, but that Wolf's interpretation is grammatically incorrect.

¹⁴ In the present study I do not address other problems that are not relevant to the question, but focus solely on the main structure of the sentence.

¹⁵ WOLF 2012, 12, note 28; 13 and 32, METZGER 2013, 218: '*weak disjunctive*'.

¹⁶ As WOLF 2012, 13 does.

¹⁷ Cf. ILLÉS 2012, 377.

(mille) *minorisve / erit* clause, since that would mean: *Der Duumvir soll Jurisdiktion haben über eine Rechtssache, die 1000 Sesterzen wert ist oder weniger, ... über diese Rechtssache*¹⁸ *auch*,¹⁹ *wenn beide Parteien es wollen*. This in itself appears to be a logical argument: in this sentence the inclusion of *auch* indeed seems peculiar. Thus, according to Wolf, because of the *etiam* (also, auch), the clause requiring the agreement of the parties can apply only to the exceptions – and more precisely, to the last category of exceptions: *A duumvir shall have jurisdiction over a case that is worth 1000 sestertii or less, except if ... (exceptions listed in lines 4–17), but over these (exceptional) cases also, if both parties so wish*.²⁰

However, the problem with Wolf's syntactic analysis is already clearly apparent from the above: he translates the relative clause *quae res HS (sestertium) ∞ (mille) minorisve / erit* as *über eine Rechtssache, die 1000 Sesterzen wert ist oder weniger*. But where, in Latin, is the word corresponding to the German *über*?²¹ A few pages earlier we read: *Die Grundregel ist: qua de re ... quae res HS ∞ minorisve erit ... Ilviri ... iuris dictio ... esto*.²² Thus, it seems that Wolf interprets the relative pronoun *qua* as demonstrative pronoun *ea*, since the sentence *qua de re ... quae res HS ∞ minorisve erit ... Ilviri ... iuris dictio ... esto* makes no sense in this structure on its own. In a word-for-word translation it would mean *concerning which case ... which case is worth 1000 sestertii or less ... the duumvir shall have jurisdiction*. Moreover, in my opinion *qua de re* rather belongs to *agere, petere, persequi volent*;²³ otherwise, a *si* or some similar conjunction would be required, but none is found. If *qua de re* belongs to *agere ... volent*: *Those who are citizens or resident inhabitants of that municipium, in which case (qua de re) they wish to sue or claim among themselves ...* Otherwise we are left with a simple declarative sentence, which does not fit into the context at all: *Those who are citizens or resident inhabitants of that municipium, who wish to sue or claim among themselves ...* Whereas, with a *si* supplement, it could still mean: *If they wish to sue, then the duumvir shall have jurisdiction*.

However, there is no explicit trace of this *qua=ea* interpretation in Wolf's work, and he does not speak here of any necessary emendation. Although he does not provide a full translation in the study under examination, the problem emerges implicitly in his 2011 translation volume, where he must make two semantic supplements (*in all diesen Rechtssachen* and *in einer Streitsache* before the clause in question) in order to be able to translate the sentence.²⁴ In the same translation he renders the opening words of the *chapter* (*qua de re*) as

¹⁸ For the singular-plural problem, see below.

¹⁹ Emphasis mine.

²⁰ WOLF 2012, 15.

²¹ Either *de* + ablative or a genitive would be required, see below.

²² WOLF 2012, 13.

²³ *Contra* RODGER 1990, who, like Wolf, connects it directly to the *duumvir's iurisdictio*.

²⁴ See also METZGER 2013, 215.

in einer Streitsache (which he also inserts as a supplement before the *quae res...* clause), instead of in *welcher Streitsache*; nor is it clear how the passage in question (*de is re[bus etia]m, si uterque, inter quos ambig[er]etur, volet*) becomes in his translation *und in <all> diesen Fällen auch <dann nicht, wenn jede der beiden <Parteien>, die miteinander streiten, es will.*²⁵ Wolf's translation would correspond, for example, to the structure of the following passage: 89 (XA16–17):²⁶ *de ea re, quae HS ω minorisve erit*; in chapter 84, however, there is *qua*, not *ea*.

In case of a literary text (e.g. Caesar), one might still assume that *qua* stands in the sense of *ea*, but in this charter there is no example of this; moreover, this is the first sentence of the chapter, so there is nothing to which it could refer back. In addition, Wolf does not argue that we should take it this way; it seems he does not notice the problem.²⁷ Let us examine the syntactical problems taking as a basis the usage of language in the *lex Irnitana* and the *lex Malacitana*. The pronouns *is*, *ea*, *id* – with or without the word *res* – can without difficulty refer back to matters already discussed, whether to a specific word or more generally, without precise grammatical agreement.

Is, *ea*, *id* referring back to specific words:

- 20 (IIIA28, 30–31): *eisque* (namely, the previously mentioned *quaestors*, twice);
- 31 (IIIC52–57): *Eique ... destinanto* (namely, the *Ilviri* who will be in office in a year in which there will be fewer than 63 *decuriones*);
- E/43 (VA47): *...conlega eius eos ne dimittito...* (*eius*: namely, the *Ilvir* of the previous clause, *eos*: namely, the *decuriones conscriptosve* of the previous clause);
- Mal. 51 (I20–22): *...eorum omnium ... deque is omnibus ...* (namely, the previously listed persons);
- Mal. 53 (I49): *...eisque ...* (namely, the previously mentioned *incolae*);

²⁵ For a non-word-for-word but accurate German translation, see: GALSTERER 1999, 244–245.

²⁶ The precise textual references in the notes are always given as follows: for the *lex Irnitana*, the number of chapter, tablet, column, and line; for the *lex Malacitana* and *lex Salpensana*, the number of chapter, column, and line. Semantic supplements are always placed in parentheses; for the sake of clarity, epigraphic features are indicated only when they are relevant to the question at hand.

²⁷ In WOLF's edition there are also instances where his interpretation worsens the accepted text: for example, in line 33 of chapter 52 (WOLF 2011, 78–79) he appears to accept the form *Ilvir* instead of the correct supplement *Ilvir(is)* (the uncertainty arising from his inconsistent use of the Leiden Conventions), in order to agree with *alter*. But in this way the *duoviri* disappear from among the officials to be elected, so that only *aediles* and *quaestors* are elected – even according to his German translation – but the *duoviri* not.

- Mal. 55 (II7): ... *aeque singulae* ... (namely, the previously mentioned *curias*);
- 69 (VIII A22 and 31): ... *eorum maior pars*... (namely, the previously mentioned *decuriones conscripti*);
- 86 (IX C16): ... *Eosque* ... *discribito* (namely, the previously mentioned judges).

Is, ea, id referring back in a more general way:

- The phrase *adversus ea* occurs on numerous occasions with reference to what precedes;²⁸
- 19 (III A8): *si quid praeter ea* (namely, the previously listed duties)...
- 31 (III C 52): ...*de ea re relatum erit*... (namely, the circumstance that there are fewer than 63 *decuriones*, and therefore others must be elected to reach the required number);
- A/39 (VA1): ...*de ea re referetur*... (namely the – lost – antecedents);
- B/40 (VA10–11): ... *in ea re faciat* ... (namely, the consultation with the *decuriones*);
- C/41 (VA42): *de <ea> re rettulerit*... (namely, the annulment of the decrees of the *decuriones*);
- J/48 (VC10–23): ...*earum* ... (on several occasions, the matters mentioned earlier, e.g. the leasing of municipal property, etc.);
- 61 (VII 35): ... *ob eam rem*... (namely, the illegitimate election of a *patronus*);
- 64 (VII B38–39): ... *legemque eis vendendis dicere*... (namely, for the previously mentioned matters, e.g. pledge);
- 69 (VIII A30–33): *utique* ... *iudicaverit litem aestumaverit, ita ea iudicatio litisve aestimatio iusta rataque esto*;
- 71 (VIII B3): ... *ob eam rem* ... (namely, because someone failed to appear as a witness);
- 76 (VIII C16): ... *deque ea re*... (namely, the inspection of municipal real estate);
- 87 (IX C51–XA1): *Quodque is hac lege iudicaverit litem aestumaverit, it iustum ratumque esto*.

Thus, the possibility that the phrase *de is rebus* refers not to the *quae res* ... clause but to the *neque* catalogues – whether to all of them or even just to the last one – cannot be excluded in itself.

It should be noted that the phrase *de is rebus* is plural,²⁹ while the *quae res* is singular because of the *erit*. This, however, is a type of *anacoluthon* that is

²⁸ See LAMBERTI 1993, 397 *apud adversus*.

²⁹ LEBEK 1993, 166 and 168 precisely for this reason, makes the supplement *q(uibus) d(e) r(ebus)* instead of *q(ua) d(e) r(e)*; see also METZGER 2013, 215.

not alien to these laws.³⁰ Thus, this cannot serve as an argument against connecting *de is rebus* with *quae res*, since even in the case of parallel texts we find singular-plural discrepancies: *ve/nerint* IrnIIIB4/5 ~ *venerit* SalA17; *dicat* IrnVIIIB40 ~ *dicant* MalD50; *incolaeve* IrnVIIIA11 ~ *incolave* MalE68, etc.³¹ Other grammatical discrepancies, e.g.: 19 (IIIA8–13): ...*si quid* ...*faciendum esse censuerint, eas res* omnes curandi, *faciendi* ... *ius potestatemque habento*...; 82 (IXA30–31): ...*quas* *vias itinera* ... *inmittere commutare* ... *volet, dum ea* ...*fiant*...; 85 (IXB30–35): *Quaecumque edicta, quasve formulas* ... *ea omnia*...

The problem, however, is that if the *de is rebus* does not refer to the *quae res* ... clause, then the relative clause *quae res* ... is left without any connection.³² Is it reasonable to assume such careless or even ‘unorthodox’ usage of syntax in our texts – namely, that a *qui, quae, quod* relative clause is connected to nothing, but merely hangs in the air as a general indication of the topic in question? Examining the texts of the *lex Irnitana* and the *lex Malacitana*, we find that different types of usage can be regarded as regular, or at least customary. The entirely regular, ‘textbook’ versions are the connection of *qui, quae, quod* with *is, ea, id*, or the one of *qui, quae, quod* with a specific noun, but without *is, ea, id*. *Qui, quae, quod* with *is, ea, id*:

- 19 (IIIA1–5): *Aediles, qui in eo municipio* ... *creati sunt et in aedilitate nunc sunt, ii aediles*... *sunto*;
- 19 (IIIA13–14): ...*de is rebus et inter eos, de quibus et inter quos*...;
- 22 (IIIA48–50): *Qui quaeve*...*consecutus consecuta erit, is ea*...;
- 25 (IIIB29–31): *is ius ea[e]que potestas* ... *quod ius quaeque potestas*...;
- 26 (IIIB35–37): *Ilviri qui*..., *aediles qui* ... *quaestores qui* ... *eorum quisque*...;
- 48/J (VC10–17): *Quaecumque publica* ... *aliaeve res* ... *earum quam rem* ... *in earum qua re* ... *ob earum quam rem* ... *ex earum qua re ob earumve quam rem* ...;
- 49/K (VC36, 40–41): ...*de is rebus, de quibus* ... (twice);
- 64 (VIIB39–40): *eam legem* ... *quam legem*...;
- 66 (VIIC17–18): *quaeque multae* ..., *eas multas*...;
- 83 (IXA36–43): *quod opus quamque munitionem* ... *in eo opere eave munitione*;
- 86 (IXB43–47): *qui Ilviri* ... *aut si uter eorum aberit* ... *alter* ... *iudices legito*;
- 87 (IXC51–XA1): *Quodque* ...*iudicaverit, it* ...*iustum ratumque esto*;
- 88 (XA11): *qui*... *recipitatores dati erunt, eorum* ... *iudicatio* ... *esto*;

³⁰ Cf. MOMMSEN 1905, 348, who is cited by WOLF 2012, 15. note 43. as well.

³¹ For this topic, see D’ORS 2006, 749–804.

³² WOLF 2011, 119 and 121 does not make the syntactical structure of the Latin sentence clear either – partly because of his supplements.

- 89 (XA16–21): *de ea re, quae* HS ω minorisve erit..., iudicem arbitrumve danto;
- 92 (XB28–31): *in eos dies ... quos dies... ... quibusque diebus...quibusque diebus...*;
- 93 (XB53–55): *quibus* de rebus ... de *iis* rebus...; *quo* iure ... *eo* iure.

Qui, quae, quod with nouns without *is, ea, id*:

- 19 (IIIA4–5): *quique* ibi postea ... aediles creati erunt, (namely, *ii*) *aediles* ... *sunto*;
- 30 (IIIC33–39): *qui* senatores ... *quique* postea ..., *qui* eorum omnium, (namely, *ii*) ...*decuriones co[ns]criptive* ... *sunto*;
- Mal. 51 (I5–7): ...*pauciores erunt* (namely, *ii*), *quorum*...rationem habere oporteat;
- 64 (VIIB46–47): *Quaeque* lex ita dicta erit, (namely, *ea*) *iusta rataque* esto;
- 92 (XB43 and 48): ...*quorum* res agetur, (namely, *ii*) *omnes*... (twice).

We also find numerous examples where, although the corresponding word – either a noun, or a pronoun – is not present, it is fully clear to what³³ the relative pronoun belongs:

- 22 (IIIA46–47): ...*qui* civitatem Romanam consequentur, (namely, *ii*) *maneant*...;
- 23 (IIIA54–55): *qui* civitatem Romanam consequere{re}ntur, (namely, *ii*) *iura libertorum retineant*;
- 26 (IIIB46): ...*quo[s]que* prohibere possit, (namely, *eos*) *prohibiturum*...;
- 39/A (VA4–5): *quodque* maior pars ... censuerit, (namely, *id*) *pronuntiatio*....;
- 45/G (VB25–28): *adprobaverit* decurionibus conscriptisve (namely, *eive iisve*), *cui<ve>* *quibusve* ... negotium datum erit...;
- Mal. 53 (I45–47): ...*quicumque* ... habebit, (namely, *is*) *ex curiis sorte ducito unam*...;
- Mal. 55 (II16–18): ... *et qui* honorem petent, (namely, *ii*) *singulos custodes* ... *ponant*;
- Mal. 57 (II53–54): ...*quos* ea curia fecerit, (namely, *eos*) *pronuntiari iubeto*...;
- 63 (VIIB3–5): *Qui* Ivoir iure dicundo praeit, (namely, *is*)... *locato*;
- 63 (VIIB4–5): ...*quit* (=quid) aliud locari oportebit, (namely, *id*) *locato*;
- 63 (VIIB5–9): *Quasque* locationes fecerit, *quasque* leges dixerit, *quaeque* praedia ... *quique* ... cognitores ..., (namely, *eae, ii*) *in tabulas communes* ... *referantur facito*...;

³³ To which clause, and with what minimal semantic supplements.

- 63 (VIIB10–13): *proposita habeto* (namely, *eo loco*), ...**quo loco**...esse censuerint;
- 96 (XC11): ...**quod quemque** ... oportebit, (namely, *is id*) facito.

There are cases where the connection may appear less obvious at first glance, yet even there it is clear to what the relative pronoun belongs, and with minimal semantic supplementation the text is both syntactically and semantically clear:

- 26 (IIIB38–40): ...*in diebus quinque proximis*, **ex quo** *Ilvir* ... esse coeperit ... The meaning is clear: *ex quo* (namely, *tempore, die*), or it may even be an elliptical demonstrative pronoun: ...*proximis ei diei/ei tempori, ex quo*...;³⁴
- 28 (IIIC11): ... *uti qui* ...: *utique* in 30IIIC38, but *uti qui* in the *lex Salpensana* as well. However, it does not make any sense with *qui*, therefore, the correct form must be *utique*, thus this expression does not belong here;
- F/44 (VB4–5): *earumq(ue) decuriarum* **quique** *in is erunt, sortitionem facito*. An *eorum* supplement is necessary (*earumq(ue) decuriarum (eorumque) qui in is erunt, sortitionem facito*), but the meaning is clear;
- Mal52 (I31–32): ...*si ei causa* **quae** *inciderit, q(uo) m(inus)*... Because of the *si* it actually has the sense of (*ali*)*quis*, but in any case, it belongs to *quo minus*: such a (serious) illness that ...;
- Mal. 56 (II32–39): **Qua**{*m*} *in curia* ... *prioremque renuntiatio*, namely, *in ea curia*;
- 60 (VIIA14): ... **quo die** *comitia habebuntur, antequam suffragium ferantur*... (namely, *eo die*);
- 61 (VIIA32): ... *patrociniumve cui detulerit* ... Here the *cui* is not the form of the *qui, quae, quod* but of the *quis, quid*, that is to confer the office of patronus upon someone;
- 62 (VII39–40): ... **quaeque ei oppido continentia aedificia erunt, aedificium detegito** ... It is indeed an *anacoluthon*, certainly a later interpolation,³⁵ which was not properly worked in, yet even so it functions with a simple supplementation: *aedificium (eave aedificia) detegito*;
- 67 (VIIC32): ...*decurionibus conscriptisve* **cuive** ... namely, *decurionibus conscriptisve (eive), cui* ... *negotium datum erit* (at G/45 as well);
- 71 (VIIB3): ... *neue* **quoi** *multam dicat, pignusve ob eam rem a quo capiat, qui in eum: nequis* (nobody): the *quoi* (namely, *cui*) and *a quo* belong to the *qui in eum*: let no one impose a fine ... on anyone who ...;
- 93 (XB53–55): *ii inter se agunto*, **quo** *cives Romani inter se iure civili agunt, agent*, namely, *eo iure* or *eo modo/quo modo*.

³⁴ It generally continues with *quibus*, see LAMBERTI 1993, 431: *diebus*.

³⁵ D'ORS 1986, 141.

In sum: if the phrase *de is rebus* does not belong to *quae res...*, then some semantic supplementation is still required for *quae res*; it cannot simply hang in the air. That is, there must be, for example, a *de is rebus* clause... But this is indeed there: *de is rebus ... Ilviri ... iuris dictio ... esto*. Thus, we must either accept the traditional interpretation, or assume an unprecedented syntactic anomaly and the necessity of inserting an entire main clause.

Having seen that Wolf's interpretation creates a serious syntactic problem, let us now examine whether the interpretation of *etiam* is indeed such a grave issue. Although the supplements *ite]m* and *et du]m*³⁶ do indeed make the text more readily comprehensible, in my view the matter does not depend on this; the original *etia]m* supplement may mean the same thing, and therefore, for the sake of the argument, I shall retain the *etia]m*. Since, in my opinion, the difficulty is not caused by *etiam* itself, but by the misleading punctuation of most editions³⁷ and in the wrong sense ('also'). However, *etiam* also carries the meanings 'furthermore, moreover, in addition' (*ferner, sogar*,³⁸ *in addition, as well*,³⁹ *imo, vel, licet*),⁴⁰ and it can attach to the following word as well as to the preceding one. Thus, with the alteration of a single comma we can resolve the problem assumed by Wolf but in fact non-existent: instead of ... *de is re]bus etia]m, si uterque, inter quos ambig[er]etur, volet, de ceteris quo[que] o[mn]ibus*⁴¹ ... we should read ... *de is re]bus, etia]m si uterque, inter quos ambig[er]etur, volet de ceteris quo[que] o[mn]ibus*⁴² ... Since the original Latin text contains no 'commas,' the repositioning or deleting of the comma does not require any textual emendation, whereas acceptance of Wolf's view would necessitate a supplement (e.g. the insertion of a *de is rebus ...* somewhere, as Wolf himself does in his 2011 translation).⁴³

³⁶ LEBEK 1993, 167: *ite]m*; METZGER 2013, 223: *ite]m* or *et du]m*; LAMBERTI 2016, 189: *ite]m*. Wolf, in his study, does refer to LEBEK 1993, but he does not take the *item* supplement into account.

³⁷ E.g. GONZALEZ 1986, 176; D'ORS 1986, 82; LAMBERTI 1993, 350; WOLF 2012, 10–12; GONZALEZ FERNANDEZ 2008, 51: ... *de is re]bus etia]m, si uterque ...*; in contrast, and rightly: LEBEK 1993, 167: ... *de is re]bus - ite]m: si uterque ...*; METZGER 2013, 223: ... *de is re]bus ite]m si uterque ...* or ... *de is re]bus et du]m si uterque ...*; LAMBERTI 2016, 189: ... *de is re]bus, ite]m, si uterque ...*

³⁸ HOFMANN – SZANTYR 1972, 484.

³⁹ OLD 623.

⁴⁰ DIRKSEN 1887, 331.

⁴¹ ... *about these matters as well; and about all the other matters, if each of the two parties is willing ...*

⁴² ... *about these matters and additionally about all the other matters, if each of the two parties is willing ...*

⁴³ Wolf does not do this in the Latin text, nor in his 2011 Latin edition.

Beyond all this, we must also state – and Wolf himself acknowledges this, especially under the chapter heading *Inkongruenzen*⁴⁴ – that his interpretation creates problems at numerous other points, which he must in some way resolve, or at least attempt to resolve:

1. The absolute limit of 1000 *sestertii* appears extremely low in comparison with the penalties specified in the law; for this he provides no explanation.⁴⁵
2. In support of an absolute upper limit stand the *fragmentum Atestinum* and the *lex Rubria*;⁴⁶ by contrast, however, there is e.g. Paul. Dig. 50.1.28 (*ad ed. I*): *Inter convenientes et de re maiori apud magistratus municipales agetur*.⁴⁷ According to Wolf, the former are the relevant ones, since Paulus is later and, because of the first book of the *edictum*, his text applies to cities of Roman citizenship in Italy (*die Bürgergemeinden Italiens*), whereas the *lex Irnitana* concerns a first-century Latin city (*das Recht der latinischen Gemeinde Irni in der Baetica*).⁴⁸ Lamberti, by contrast, quite rightly raises the question why, in the early third century, Paulus would have drawn a distinction between '*municipia civium Romanorum*' and '*municipia con ius Latii*'; moreover, on the basis of Ulp. Dig. 5.1.1, the agreement of the disputing parties likewise takes precedence, the aim being self-evidently the relief of the governor's burden.⁴⁹ Furthermore, according to Lamberti, the *fragmentum Atestinum* and the *lex Rubria* are not valid parallels, since before the *lex Iulia iudiciorum privatorum* the agreement between the parties was not relevant, but afterwards it was. In addition, it should also be emphasized that the texts of both inscriptions (the *fragmentum Atestinum* and the *lex Rubria*) can be dated to the mid-first century BC,⁵⁰ and are therefore about 150 years earlier than the *lex Irnitana*; Paulus and Ulpian, on the other hand, were active about 150 years later, so the argument that these laws are temporally closer to the text under examination does not hold.
3. Since the expression *invito alterutro* in chapter 69 indicates that the agreement of the litigating parties is connected to the value of the

⁴⁴ WOLF 2012, 35sqq.

⁴⁵ WOLF 2012, 35. note 165.

⁴⁶ CRAWFORD 1996, 313sqq. and 461sqq.

⁴⁷ *If the parties agree to this, then they may litigate before the municipal magistrate even in a case involving a greater amount (namely, than prescribed by the law).*

⁴⁸ WOLF 2012, 36.

⁴⁹ LAMBERTI 2016, 188 and 205.

⁵⁰ Cf. CRAWFORD 1996, 313sqq. and 461sqq.

case, there is thus no consistency between the chapters 69 and 84; according to Wolf, the compilation was not sufficiently harmonized.⁵¹

4. If Wolf's interpretation is correct, the *de ceteris* clause is redundant, and the *neque in iis praeiudicium* etc. creates a contradiction, so it must be deleted.⁵²

Thus, in order for Wolf's interpretation to be correct, several textual modifications are required: in chapter 84 the deletion of *neque in iis praeiudicium* ...; the insertion of a *de is rebus omnibus* or something similar so that *quae res* is not left standing alone;⁵³ in chapter 69, either accepting that the law is not coherent, or excluding *invito alterutro*. In addition, the upper limit of local jurisdiction is extremely low, placing a great burden on the governor, whereas in fact the aim must have been to relieve the governor's workload;⁵⁴ furthermore, we would have to reject the validity of the seemingly general passages of Paulus and Ulpian. In sum: Wolf's interpretation generates more problems than it solves.

What, by contrast, must we do in order for the traditional interpretation to be grammatically acceptable? Merely move a comma, and either accept the meaning 'furthermore' for *etia]m*, or make an *ite]m* or *et du]m* emendatio. None of which involves any real change of the transmitted text: there were, after all, no commas, and the beginning of *etia]m* is broken off, so this emendation is of an entirely different kind (supplementing a broken passage) than Wolf's conjectures (deleting or supplementing the transmitted text). In light of the above, while Wolf's interpretation completely disrupts the structure of the sentence and causes various problems both in the chapter in question and elsewhere as well, the traditional interpretation⁵⁵ remains far more consistent not only with legal considerations⁵⁶ but also with syntactic ones.⁵⁷

⁵¹ WOLF 2012, 37–40.

⁵² WOLF 2012, 31–32.

⁵³ This escapes Wolf's attention.

⁵⁴ LAMBERTI 2016, 207. On the burdens of the governor's *conventus*, see an extreme(?) example from Egypt: in AD 209, within three days, 1,804 petitions were submitted to the governor: 'ΑΩΔ', P. Yale I 61, 7, cf. LEWIS 1981, 121, with other data, and BURTON 1975. However, HORSTKOTTE 1996, 189–193 emphasizes that the actual handling of a substantial portion of cases could be delegated by the governor to lower authorities, but even in this case, the delegation of 1,804 petitions to the appropriate authorities could itself have required a considerable amount of time.

⁵⁵ With regard to the main structure of the sentence, in my view Lebek's division and *item* supplement (LEBEK 1993, 166–167) had already resolved all the problems; Wolf – although he cites Lebek's study – takes no notice of the *item* supplement.

⁵⁶ As noted already by Talamanca and Lamberti.

⁵⁷ To make the text fully fluent, at most an *et* needs to be inserted between *volent* and *quae res* in line 3. But in fact, this is not necessary either.

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