

by a private citizen.²⁴ The immunity in private suits that Varro attributes to aediles can then be seen as a general principle, with exceptions to be found in legislation that antedated the development of the principle.²⁵ The Scantinian law might have left the censors similarly liable to prosecution.²⁶

On balance, a civil procedure is more probable. Other censors and aediles must have been prosecuted in the late Republic; we do not hear of these suits, and our sources are more likely to be silent about civil cases than criminal ones. Again, we know that aediles could be prosecuted under the *lex Aquilia de damno*, but we cannot point to a *quaestio perpetua* in which aediles could be tried (and we can point to one in which they were immune). Since sexual offences were generally left to the private sphere of law before the *lex Iulia de adulteriis coercendis* (18 or 17 B.C.),²⁷ the fact that the law punished pederasty militates against criminal procedure. Finally, we must ask why the enemies of Caelius were hard pressed to find *ulla lex* with which to accuse him, and why they settled for a law that left them with nothing to say (*qua dicere non poterant*). That Caelius should prosecute Appius in turn is not surprising, but simple revenge did not require him to accuse Appius under the very same law, especially when he seemed in no more danger of conviction under this law than Caelius himself (*maiores . . . dolorem fama quam postulatio attulerit*). The text of Caelius therefore strongly implies the magisterial immunity from criminal prosecution indicated by the silence of our other sources. In sum, though we cannot establish with certainty that the Scantinian law made pederasty a private crime, we may deny that the text of Caelius is proof of the criminal liability of censors and aediles. On the contrary, both interpretations offered above seem to have merit insofar as they explain the text of Caelius without causing us to abandon the principle that magistrates in office were uniformly immune from criminal prosecution—a principle nowhere attested, yet all but certain.

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24. Varro ap. Gell. 13.13.4. The curule aedile was M. Laevinus, perhaps the consul of 210 or the praetor of 182; cf. *MRR* 1.372.

25. We need not doubt that liability to summons in civil procedure could be regulated by a *lex*; D. 18.6.14(13) states that aediles were liable to trial for *damnum iniuria datum* under the *lex Aquilia*.

26. Caelius was prosecuted by a private citizen, but Appius seems to have been accused by Caelius, so we do not strictly know that censors could be summoned before the praetor by a private citizen. Yet we cannot be certain that *postulavi* excludes the use of an *accusator* by Caelius, as my anonymous referee points out; we do not know that it was common for incumbent magistrates to initiate private lawsuits or criminal prosecutions (other than those in a *iudicium populi*).

27. Cf. T. A. J. McGinn, "Concubinage and the *lex Iulia* on Adultery," *TAPA* 121 (1991): 335–75, esp. 340 and n. 22.

A CURIOUSLY PERSISTENT ERROR: *SATYRICON* 43.4

At Petronius *Satyricon* 43.4, Phileros has picked up the story of the late Chrysanthus. He tells how after an initial setback Chrysanthus' first harvest saved him. Then comes the sentence under discussion: *vendidit vinum, quantum ipse voluit*. This is the reading of the only manuscript containing the *Cena* (H) and all modern editions. The meaning of the Latin could not be clearer: "He sold as much wine as

ever he wanted" (literally "He sold wine, as much as he himself wanted"). That is, Chrysanthus had a spectacularly *large* harvest and so was able to sell *a lot* of wine. However, most modern commentaries and translations take the sentence to mean "He himself sold wine *for* as much as he wished," that is, they either alter *quantum* to *quanti* (gen. of price)¹ or they leave *quantum* but interpret it as a vulgar Latin mistake for a genitive of price (the acc. of price), a solecism on the part of a lower-class character.²

It is impossible to determine precisely how much influence the preceding translations and commentaries have exerted on each subsequent editor, but the result has been an odd tide of uniformity, where a perfectly normal Latin sentence has been translated in a completely abnormal way. Only one editor has looked directly at the Latin and rendered what he saw. So A. Ernout in his 1922 Budé edition printed the MS *quantum* and translated it correctly as "il a vendu son vin tout ce qu'il voulait."³

Three points need to be made. First, there is no reason for the near universal assumption that the passage means that Chrysanthus has had a spectacularly *good* harvest and so was able to sell an *expensive* wine. Already in 1669, Hadrianides, in the first complete edition of Petronius, had rejected Scheffer's unnecessary emendation: "*quantum*, intellegendum de *copia* non de *pretio*." Bücheler (1862) in his apparatus has given the only explicit reason for thinking of price rather than quantity here: "*quantum* *H non improbabilius si uindemiauit scriptum esset*." It seems that he found the expression "he sold as much as he wanted" odd. If it had been "he *harvested* as much as he wanted," Bücheler would have approved the reading. However, this is a distinction without a difference: Chrysanthus had as large a *vintage* as he could wish for, he therefore sold all the *wine* he could wish for, and so got all the *money* he could wish for. Bücheler and others may also have been influenced by the *ipse*, perhaps thinking that the contrast would be stronger if the reference were to price. However, even in the modern economy, none except the most famous of the great and long-established houses (and sometimes not even they, as recent events in Burgundy and Bordeaux have shown) can set their own price, much less an unknown upstart like Chrysanthus. Further, *ipse* is no better construed with *quanti* than *quantum*. I can see no appreciable difference between "He sold wine for as much as *he* wanted" and "He sold as much wine as *he* wanted." In each case the contrast is presumably with others not so fortunate—vintners cannot

1. Beginning with the earliest commentary on the *Cena* by J. Scheffer (1665), followed by F. Bücheler (1862; W. Heraeus, 1963⁸), L. Friedländer (1891; 1906²), G. A. Caesareo (1887), Ryan (1905), W. Heraeus (1909), M. Heseltine (1913), W. B. Sedgwick (1925), C. Hoffmann (1937), E. H. Warmington (1969), T. Cutt (1970). Details of cited editions may be found in S. Gaselee, "The Bibliography of Petronius," *Transactions of the Bibliographical Society* 10 (1910): 141–233 and G. L. Schmeling and J. H. Stuckey, *A Bibliography of Petronius* (Leiden, 1977). My thanks to the Editor and referees of *CP* for several suggestions.

2. First by Nicolaus Heinsius (1620–81) cited by Burman (1709; 1743²). Revised (without reference to Heinsius) by E. Löfstedt, *Spätlateinische Studien* (Upsala, 1908), pp. 79–82; also idem, *Syntactica*, vol. 1 (Lund, 1928), p. 212 (= 1956², 1:271); idem, *Vermischte Studien zur lateinischen Sprachkunde und Syntax* (Lund, 1936), p. 173. Followed by E. T. Sage (1929), A. Maiuri (1945), E. Marmorale (1947; citing Löfstedt), Sedgwick (1950²), H. Schmeck (1954; citing Löfstedt), Müller (Munich, 1961; 1965²; 1983³), E. Castorina (1970), M. S. Smith (1975); subsequent to Schmeling-Stuckey, *Bibliography*: F. Serra, *Petronius: "Satyricon"* (Pisa, 1984).

3. *Pétrone. "Satyricon"* (Paris, 1950²).

in fact control amount either—and the emphasis is that the seller is in control. The price per bottle still never enters into the calculation.

Burman tried to find a middle ground: “Utrumque potest locum habere, ut *quantum* copiam vini, *quantum* pretium, quo vendidit, notet,” and proposed “*quantum*, & *quantum* voluit,” citing Ps.-Quintilian *Decl.* 12.21 *vendidit quantum et quantum voluit* (p. 255.19, Håkanson). This, however, is unnecessary.⁴ The citation shows that *vendidit quantum voluit* is by itself straightforward Latin where *quantum* simply means “as much as.”

Second, the common interpretation of the text’s *quantum* is unprovable. For something to be labelled as a solecism it must either violate the normal rules of accident or syntax (“Between you and I”); or else, though grammatically correct, it must violate the normal laws of semantics or the expected meaning (“He flaunted convention”). The example from Petronius does neither. It is perfectly grammatical (*quantum* is the direct object of *vendidit*), and it makes perfectly good sense (“He sold as much as he wanted”). If Petronius intended this to characterize Phileros’ speech as lower-class, he chose a poor example.

Third, it is not at all clear that the accusative of price existed even in vulgar speech in the time of Petronius. Following Löfstedt, many list this passage as the earliest example of the accusative of price.⁵ Their examples, in chronological order, are:⁶

Petronius (d. A.D. 66) 43.4.

Lucifer, b. of Cagliari (d. 370–71), *de S. Athanasio* 2.29 (*plus*).

Ausonius (d. ca. 395), *Ep.* 90.4 (101 Green, 94 Prete) (*quantum*).

Cassian (ca. 360–435), *Institutes* 4.27.2C (*plus*).

Nestor (d. ca. 451) 6.5.1 (*quod*).

Salvian (ca. 400–480), *Ad ecclesiam* 1.56 (*quantum* MSS: *quantum* Halm), but at 1.59 *quantum* in the same meaning. Hofmann and Szantyr (loc. cit.) rightly list as “unsicher.” Examples with *nihil*: 3.92, 4.2; but note 4.27: *tu salvatorem perpauci et te salvator nihil*, where the *perpauci* is still in the genitive of indefinite value.

Historia Apollonii (5th–6th cent.) 8 (rec. A; 14.2 Riese), with *quantum* (*quantum* rec. B);

33: *singulos aureos populo patebit*; for abl. of exact price: (*ad*) Velser.

As the list makes clear, the status of the accusative of price is shaky even as late as the sixth century. More importantly, there is something in the neighborhood of a three-hundred year gap between the supposed example in Petronius and the first

4. W. S. Watt, “Notes on Petronius,” *C&M* 37 (1986): 174, modifies Burman’s suggestion to *quantum et quantum* as “palaeographically preferable”; however, as Burman notes, the phrase “proverbii speciem prae se fert,” and haplography of the first element is also not uncommon.

5. So M. Leumann and J. B. Hoffmann, *Lateinische Grammatik* (Munich, 1928), p. 401 (§28, Zus. d.), citing Löfstedt (second edition by A. Szantyr [Munich, 1977], p. 74 [§57 Zus. d.]); D. Norberg, *Syntaktische Forschungen auf dem Gebiete des Spätlateins und des frühen Mittellateins* (Uppsala, 1943), p. 105; H. L. W. Nelson, *Petronius en zijn ‘vulgaire’ Latijn* (Diss. Utrecht; Alphen aan den Rijn, 1947), pp. 144–45; A. Dell’Era, *Problemi di lingua e stile in Petronio* (Rome, 1970), p. 45; B. Boyce, *The Language of the Freedmen in Petronius’ “Cena Trimalchionis,”* *Mnemosyne Supplementum* 117 (Leiden, 1991), p. 65 (citing Nelson).

6. Cited by Löfstedt, Hofmann, and Szantyr in Tert. *De Testimonio animae* (198–205 A.D.) 6.1 (62.8): *illa [anima] certe est (quam tanti) facis, quantum illa te fecit*, where the meaning is clearly “she has made you so important” not “of so much value”; so rightly C. Tibiletti, *La testimonianza dell’anima. Tertulliano* (Florence, 1984), p. 63. Of uncertain date are the Latin version of the *Didascalia Apostolorum* 78.14 and *Colloquium Monacense* 8 (CGL 3.650).

sound examples in *Lucifer* and *Ausonius*. Thus Wilhelm Süss cites Löfstedt but adds: “Sed nolo nimium huic exemplo tribuere,”⁷ and Max Niedermann refers to it as a “vereinzeltes früheres, freilich nicht eindeutig sicheres Beispiel.”⁸ Phileros’ speech does reflect “vulgar Latin” and it is not unheard of for features found in lower strata not to surface in the standard written language until much latter. Three hundred years, however, is a significant gap. The accusative was indeed used in vulgar Latin to express price, but not until centuries after the *Satyricon* was written.

Furthermore, it is clear that Löfstedt was simply incorrect. This passage is his (and all others’) only example for a supposed accusative of price in Petronius. Far from disappearing, however, the ablative of exact price and the genitive of general price are flourishing in the speech of the freedmen. Löfstedt said that he would eliminate phrases such as *pili facere* and allow only genuine “Geldwert.” This, however, is an artificial and improper distinction. These phrases are as much examples of genitive of price as any other.⁹ So for expressions of exact “Geldwert” with the standard verbs of rating and buying we find the following examples of the ablative of exact price spoken by the lower-class characters of the *Cena*:

- 44.11: *asse panem quem emissas*. –Ganymedes
 57.4: *numquid pater fetum emit lamna* [= *lamina*]. –Hermeros
 65.11: *quinquaginta enim millibus aestimant mortuum*. –Habinnas
 68.8: *illum emi trecentis denariis*. –Habinnas

And for *vendo*, the word under discussion:

- 52.3: *nulla pecunia vendo*. –Trimalchio

For the genitive of general price:

- 42.4: *minoris quam muscae sumus . . . non pluris sumus quam bullae*. –Seleucus
 44.13: *habemus aedilem (non) trium caunarium*: “We have an aedile not worth three figs.” –Ganymedes
 44.17: *nemo Iovem pili facit*. –Ganymedes
 57.10: *cuius pluris erat unguis quam tu totus es*. –Hermeros
 58.14: *nemo dupondii evadit*: “no one turns out worth two cents.” –Hermeros

And finally with a neuter pronominal and a verb of buying or rating, so exactly parallel to what is being claimed for *quantum vendidit*:

- 62.6: *nullius patrimonium tanti facio*. –Niceros

7. *De eo quem dicunt inesse Trimalchionis cenae sermone vulgari*, Acta et Commentationes Universitatis Tartuensis 9 (Dorpat, 1926), p. 33 and cf. p. 66.

8. “Zwei textkritisch-sprachliche Probleme,” *Mnemosyne* 11 (1943): 122. Niedermann proposes the “Lex Julia Municipalis” (*CIL* 1² 593.48 = Dessau 6085), of 45 B.C., as a possible earlier attestation. Niedermann argues that the acc. in the one instance shows that the scribe had the “vulgar” acc. pretii in mind. However, this is clearly merely an inscriptional error as shown by the ablative in the same construction at 37; see Szantyr, loc. cit. In particular the scribe, who of course did not fully pronounce final -m’s, tends to add them sporadically (e.g., 20, 26: *in urbem* when the case is necessarily abl.).

9. See Szantyr, loc. cit.; B. L. Gildersleeve and G. Lodge, *Gildersleeve’s Latin Grammar* (London, 1895), p. 243 (§379). For the colloquial use, cf. Cat. 5.4, 42.13, etc.

Nor are there any examples of an accusative of price known to me from Pompeii,¹⁰ whereas there are several examples of the ablative of exact price.¹¹ I have found no good example of the genitive of price; however, one can point to *CIL* 4 1173 (add. p. 204 = *CE* 946): “bis [t]anti peria(t), quisquis amare vota(t).” Väänänen explained this as reflecting a “confusion vulgaire de *tanti* génétif de prix et *tanto* ablatif de différence (due peut-être au fait que le parler populaire employait l’accusatif pour l’un comme pour l’autre).”¹² However, this is unlikely as the same line repeated elsewhere (*CIL* 4 4091 = *CE* 945): “bis tanto periat quisquis amare vetat” shows the ablative of difference in common use. Further, Väänänen can supply no examples of either accusative of price nor accusative used for ablative of difference. Far then from showing that the genitive of price is dead in popular speech the phrase *bis tanti* shows quite the opposite, that the genitive of price seems to be flourishing and even encroaching on other idioms.¹³

Such is the power of the dead hand of the commentary. A suggestion first put forward in 1665 has been copied from book to book. It has caused subsequent generations to misread the sentence before them. It has caused them to ignore the facts that no other example of the accusative of price could be found for three hundred years and that the ablative and genitive of price were in use by other vulgar characters in the *Satyricon*. The persistent error over this little phrase serves as a reminder to read the text before the commentary.

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10. Nor are any listed in the indices to *CIL* 4, nor in V. Väänänen, *Le Latin vulgaire des inscriptions pompéiennes* (Berlin, 1966³), pp. 115–17. The abbreviations of numerals and monies naturally limits the possible evidence.

11. E.g., *CIL* 4 2193 *bene fuitit denario*; 1679 *assibus hic bibitur*; cf. 5372 *sum tua a ae(ris) a II*, with *a* plus abl.; and in the affairs of M. Jucundus, e.g., *CIL* 4, Suppl. 1, *Tabulae Ceratae* CLV.6 *sesteris*. Again the formulae used in the tablets limits the possible evidence.

12. *Latin vulgaire*, p. 118.

13. That is, the speaker knows that one says *tanti* for “as much” in the phrase *non facit tanti* “it’s not worth as much” and uses it in place of *bis tanto* to mean “twice as much.” Väänänen’s explanation requires that a speaker first mistake an ablative of difference for an accusative of price and then make a hyperurbanism by writing a genitive of price.

TACITUS *HISTORIES* 2.83–84: CONTENT AND POSITIONING

Into the second half of *Histories* 2 Tacitus incorporates a string of chapters recounting the Flavian rebellion against Vitellius. These fall into two groups: eleven cover Vespasian’s uprising proper (74–84), two more the defection of the Balkan legions at the instigation of Antonius Primus and Cornelius Fuscus (85–86). The chapters to be discussed here, rounding out the narrative of Vespasian’s activities, are neither of them as straightforward as they appear, and in neither is there an obvious answer to the question why Tacitus reports what he does in the manner and in the sequence he does. Hence, commentators have sometimes missed the interplay between his various statements, and one scholar even argues that the chapters should be reversed, having been misplaced in the manuscripts. As a careful scrutiny