

Much of this is highly speculative, and indeed a further note of warning must be sounded. Although it is extremely tempting to say that the Cascellius of the *iudicium* and the jurist Cascellius are one and the same,¹ this need not be so. They could be different. In which case all that can be said is that the action is earlier than 44 B.C. One reason which might weigh in favour of such a negative conclusion is that the *iudicium Cascellianum* looks like a very important part of the machinery of the interdicts *utrubi* and *uti possidetis*. Both of these interdicts are old, probably going back to the early second or even to the third century B.C. One must therefore wonder whether this action would not have emerged before the first century B.C. It could, of course, be a replacement for or a refinement of some previously existing remedy. Professor Kaser says that before the *iudicium Cascellianum* developed, the remedy would simply be self-help.² It is perhaps almost a question of taste whether one sees that as acceptable in the legal system as late as the first century B.C.³

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PROPERTIUS 1. 16. 1-2

Quae fueram magnis olim patefacta triumphis,
ianua Tarpeiae nota pudicitiae . . .

LINE 2 has puzzled editors: 'The significance of the name is beyond knowledge' (Shackleton-Bailey);⁴ 'Hic versus inter difficillimos Properti est' (Enk).⁵ It should mean, 'a door known to the chastity of Tarpeia', i.e. 'known to Tarpeia when she was still chaste', i.e. 'known to Tarpeia as a girl'; and I suggest it means just that.

Propertius is saying that the door has not only an illustrious history (*magnis . . . patefacta triumphis*), but a long one, coeval with the city itself (Tarpeius, father of Tarpeia, was commander of the Capitol under Romulus), and he establishes its antiquity, not by a general assertion, but by this precise, if unexpected, reference to the childhood innocence of the legendary traitress.

The notoriety of her guilty love makes the association of ideas paradoxical, but the paradox is in Propertius' manner.

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¹ The name is not common: see L. R. Taylor, *The Voting Districts of the Roman Republic*, 202.

² *Das römische Zivilprozessrecht*, 327 n. 16.

³ I am grateful to Mrs. Griffin and Pro-

fessor Daube for their comments on a draft of this article.

⁴ *Propertiana* (Cambridge, 1956), 46.

⁵ *Sex. Propertii Elegiarum, Liber I, pars altera* (Luguduni Batavorum, 1946), 136.