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JURISDICTIONAL LIMITS IN THE LEX IRNITANA AND THE LEX DE GALLIA CISALPINA

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Chapters 84 and 89 of the Lex Irnitana¹ contain information on the jurisdictional limits for local courts and give us some insight into how they worked in practice. The purpose of this article is to explore that aspect of those chapters and then to deploy the information in them to offer a new interpretation of the words "omnei pecunia" in Chapter 22 (l. 28) of the Lex de Gallia Cisalpina.²

I. Res diuidua

The Lex Irnitana can be dated to the reign of Domitian³ and contains a version of the Flavian municipal law for use at Irni. Chapter 84 describes the jurisdiction of the magistrates there. The structure of the provisions is complex and has been most recently analysed in an important article on the text by Dr. Lebek.⁴ Basically the magistrates are to have jurisdiction in respect of any private dispute with a value of up to 1,000 sesterces⁵ ("qua de re... minorisve erit" ll. 1–4).⁶ That opening generality is immediately qualified by a series of definitions and exclusions.

¹ J. González, 'The *Lex Irnitana*: a new Flavian municipal law', JRS 76, 1986, 147 ("González (1986)"); W. D. Lebek, 'La *Lex Lati* di Domiziano (Lex Irnitana): Le strutture giuridiche dei capitoli 84 e 86', ZPE 97, 1993, 159 ("Lebek (1993)"). Abbreviated references will be made to the following works: E. v. Schrutka-Rechtenstamm, 'Ueber den Schlußsatz in *Cap. XXI Legis Rubriae de Gallia Cisalpina*', Sber. der Phil.-Hist. Classe der kaiserlichen Akademie der Wissenschaften (1884) 106, 463 ("Schrutka (1884)"); M. Wlassak, 'Konfessio in Jure und Defensionsweigerung nach der Lex Rubria de Gallia Cisalpina', Sber. der Bayerischen Akademie der Wissenschaften, Phil.-hist. Abt. 1934, Heft 8 ("Wlassak (1934)"); M. Kaser, Das Römische Zivilprozeßrecht (1966) ("Kaser (1966)"); F. J. Bruna, Lex Rubria (1972) ("Bruna (1972)"; W. Simshäuser, Iuridici und Munizipalgerichtsbarkeit in Italien (1973) ("Simshäuser (1973)"); U. Laffi 'La Lex Rubria de Gallia Cisalpina', Athenaeum 74, 1986, 5 ("Laffi (1986)").

² FIRA Vol. 1 (2nd ed., S. Riccobono ed., 1941), 169. For a survey of the literature and for an important discussion of the meaning of "omnei pecunia" see Laffi (1986) 40 et seq.

³ For a discussion of the literature on its date see F. Lamberti, Tabulae Irnitanae (1993), 225 et seq.

⁴ Lebek (1993) 159, 164 et seq. See also A. Rodger, 'The Jurisdiction of Local Magistrates: Chapter 84 of the Lex Irnitana', ZPE 84, 1990, 147.

⁵ Hereafter references to figures will be to sums in sesterces.

⁶ Lebek (1993), 168 would expand the abbreviations in line 1 to read "quibus de rebus" instead of "qua de re" in order to make these words correspond with "de is r[ebus]" in l. 17. Although the point is not critical for the present article, it appears to me that the words "de is rebus" do not refer back to the words in line 1. If they did, then the effect would be to make the legislator say that in all the cases mentioned there would be jurisdiction if both parties agreed. Yet that cannot be what is meant since among the cases mentioned are ordinary cases of a value less than 1,000 and in such cases there is jurisdiction, irrespective of the wishes of the parties. So "de is rebus" is better construed as referring only to the excepted cases with a value of less than 1000. None the less Lebek may well be right to read "quibus de rebus" on the basis that the words "quibus de rebus

The first qualification is grafted on in this way: "quae res sestertiis mille minorisve erit, neque ea res diuidua quo fraus huic legi fieret facta sit fiatve" (ll. 3-4), "provided the matter is worth 1,000 sesterces or less and has not been or is not divided in order to evade this statute"⁷. The effect of this provision is to define the upper pecuniary limit of the magistrates' jurisdiction as 1,000, though in many cases that limit could be exceeded if the parties agreed ("de ceteris quoque omnibus de quibus privatim agetur" ll. 18-19)8. Leaving aside cases where there was such an agreement, if the "res" was not just 1,000 or less, but was greater than 1,000, then it fell outside the scope of the magistrates' jurisdiction and they could not deal with it, except for the purposes of the defendant making vadimonium to appear before the governor ("et omnium . . . postulabitur" ll. 20-23). In addition to the limits in the Lex Irnitana and under the Lex de Gallia Cisalpina, we hear of a limit of 10,000 in the Fragmentum Atestinum (l. 6).9 The different figures presumably reflect the value of money at different times, as well as what was thought appropriate for the magistrates to deal with in a particular community of a particular size and in a particular area. We are not on the other hand particularly well informed as to how such limits worked in practice and, although the matter has not been given much attention so far in the literature, it is on this point that the provision in the Lex Irnitana has proved instructive.

As we saw, not only is the value of the subject-matter to be 1,000 or less, but there is a further qualification "neque¹⁰ ea res dividua quo fraus huic legi fieret facta sit fiatve", i.e. the subject-matter "has not been or is not divided in order to evade this statute" (l. 4). This qualification draws attention to a practical requirement which is fairly obvious when it is mentioned, but which, quite understandably, scholars had failed to spot before the Lex Irnitana was discovered. Where a statute lays down a particular figure as the maximum value of a case which can be brought locally, plaintiffs who wish to avail themselves of the local courts may try to get round that maximum figure by dividing up a claim, which in total exceeds the limit, into two or more claims each of which falls within the limit.

An example can be given. Suppose that there has been a sale of two items each worth 750 for a total price of 1500 and the buyer fails to pay. Suppose further that the upper limit of the local jurisdiction is 1,000. If the seller brings an *actio ex vendito* for the whole price, then the magistrates will not be able to deal with it locally since the sum in dispute is more than 1000. Faced with this unwelcome complication, if the law otherwise permits, ¹¹ the seller may be tempted to divide the subject-matter and sue for 750 in respect of the sale of one item in one action and for 750 in respect of the sale of the second item in another action. Both of these actions would then fall within the jurisdiction of the local court,

 $[\]dots$ privatim intra fines eius municipi agere \dots volent" (ll. 1–3) are reflected in "de ceteris quoque omnibus, de quibus privatim agetur" (ll. 18–19). Cf. Rodger, ZPE 84, 149.

⁷ M. Crawford in González (1986), 195.

⁸ See Rodger, ZPE 84, 149.

⁹ FIRA Vol. 1, 176. See the discussion in Simshäuser (1973), 186 et seq.

¹⁰ neue, *aes* – which Lamberti, Tabulae Irnitanae, 348 prints. But "neque", which other scholars print, is plainly necessary. Cf. e.g. Lebek (1993), 168.

¹¹ See Part VII for some discussion of the point.

though the second might be defeated by an *exceptio litis dividuae* if raised within the period of office of the same magistrates.¹² If not checked, a device of this kind would effectively undermine the system of limits on the jurisdiction of local courts by reference to value.

The Lex Irnitana aims to head off such tricks by providing that not only must the subject-matter be 1,000 or less, but also it must not have been, or be, divided in order to get round the statutory limit. Although the mechanics of the system are not spelled out, the language of the provision – defining the two possibilities that the subject-matter either will have been or will be divided to defeat the limit – gives us a clue. The point could arise basically in one of two ways.

First, I may sue you for 750 out of a debt of 1500 and obtain judgment. When that limited action is brought, you may not realise that I have done this in order to defeat the local limit. But when, say, the following year, I raise another action for the balance, you may then spot what my plan was all along. Of course, it is likely that nothing can be done to undo the judgment in the first action, but in the second action you will raise the matter, claiming that I had divided up the subject-matter in order to get round the jurisdictional limit and argue that the second action should therefore not be heard locally. That is the kind of situation which is contemplated by "dividua . . . facta sit". Alternatively, the defendant may spot the point when the first action is raised for only part of a claim. In that situation he is not saying that the subject-matter has already been split to avoid the limit on jurisdiction, but that it is being split by the bringing of this first action dealing with only part of the claim. The defendant will accordingly argue that this first action should not be heard locally but should be dealt with by the governor's court. That situation is covered by "dividua . . . fiatue".

But the rest of the mechanics of the system are not mentioned specifically in the statute and we must piece them together from other provisions in the statute and from other sources on procedure.

II. Deciding Whether a Case can be Heard Locally

The use of "diuidua" immediately makes one think of the *exceptio litis dividuae* which is mentioned by Gaius.¹³ Even when there were no pecuniary limits, plaintiffs could not split up a claim and bring two actions within the period of office of the same magistrate. If a plaintiff did this, then the defendant could plead an *exceptio litis dividuae*. The purpose was to make the plaintiff put off his action, but if he persisted and the *exceptio* was proved, then the plaintiff lost his action and could not bring a fresh one.¹⁴

It may be that the point about dividing the subject-matter to avoid the jurisdictional limit in the Lex Irnitana was also raised by way of *exceptio*. If, when the defendant raised the matter, the plaintiff accepted that the *res* either had been or was being divided to get round

¹² Gaius, Inst. 4, 56 and 122.

¹³ Gaius, Inst. 4, 56 and 122. See D. Daube, '*Exceptio litis dividuae* in D.12.1.13.1' (1959), in Collected Studies in Roman Law (D. Cohen, D. Simon eds, 1991), 915; Kaser (1966), 247 et seq.

¹⁴ Gaius, Inst. 4, 123.

the limit, then he would in effect be accepting that the subject-matter of the action exceeded the limits of the jurisdiction of the local courts. In that situation, if the plaintiff wished to continue with the limited action, then presumably the magistrate would treat the case in the same way as he would treat any other case in which the sum involved exceeded the limit: he would require the defendant to make vadimonium to appear before the governor. But beyond suggesting that the matter may have been raised by *exceptio* the texts on the *exceptio litis dividuae* do not give us any very reliable pointer to how the courts would have handled it. This will become clearer if we suppose that the plaintiff disputed the defendant's claim that he had deliberately divided the subject-matter to get round the statute. When and how was this question resolved?

If we treat this question as a matter of abstract principle, then it would seem that any dispute would have to be resolved at the beginning of any proceedings precisely because it concerned the jurisdiction of the magistrates: if indeed the subject-matter had been divided to bring it within the local jurisdictional limits, then in fact the magistrates would have no jurisdiction to grant an action. That approach based on principle is indeed confirmed by what we find in Chapter 89 which deals with the kinds of cases which are to be dealt with by a *iudex* or arbiter on the one hand and by reciperatores on the other. The magistrate is to grant a judge in respect of a matter which is worth 1000 or less and which is not or has not been divided to get round the law (Il. 16-20). In other words the magistrate can grant an action only if the subject-matter is not being or has not been divided to defeat the statute. There could be no question, for instance, of the magistrate granting an action which included an exceptio and so leaving it to the judge to decide whether the subject-matter had been divided to defeat the statute. This means that, before the magistrate grants an action, there must already have been a conclusive determination that the subject-matter is not being or has not been divided in order to defeat the statute. Any procedure to determine the point must therefore have taken place before the magistrate reaches the stage of granting an action.

It seems likely that the matter would have been determined by means of a praeiudicium. Subject-matter which is worth 1000 or less only because it has been divided is really just a more complex example of subject-matter which is worth more than 1000. Similarly a dispute as to whether the subject-matter has been divided to defeat the limit is not all that different from a dispute as to whether the subject-matter is worth more than 1000. Disputes as to whether the subject-matter was worth more than the jurisdictional limit could well have arisen quite frequently in an action for an incertum – say, in an action for loss based on the lex Aquilia. If the defendant thought that the plaintiff would not press on with the case if it had to be fought in a more distant court, he might well find it worthwhile to argue that the plaintiff was deliberately undervaluing his claim in order to bring the action locally. If such a question arose, then the point would have to be resolved so that the magistrate would know what he could properly do in the case.

¹⁵ Cf. Chapter 84, Il. 20–23.

Although under the system operating in Rome the praetor would decide many preliminary matters himself in a fairly summary fashion, ¹⁶ in this particular situation there is reason to think that the point would have been decided in a praeiudicium, ¹⁷ because in Paul's Sentences 5.9.1 we are expressly told of the existence of a praeiudicium "quo quaeritur, an ea res de qua agitur maior sit centum sestertiis". Its role in the system of procedure at Rome, where monetary limits on jurisdiction would not usually apply, is far from clear, ¹⁸ but for our purposes it is sufficient to notice that a praeiudicium of precisely the required kind was known in the Roman legal system and therefore could have been used to decide whether the subject-matter in a case before the magistrates was worth over 1000. If that is correct, then equally a praeiudicium could have been devised "quo quaeritur, an ea res de qua agitur diuidua sit quo legi [Irnitanae] fraus fieret" – or indeed the issue could perhaps even have been disposed of in a praeiudicium as to whether the subject-matter of the action was worth more than 1000.

If then the mechanism for deciding these issues was a praeiudicium, we may still ask who had jurisdiction in the matter of the praeiudicium: was it a matter for the local court or for the governor? Both Chapter 84 (Il. 5–6) and Chapter 89 (Il. 18–19) specifically exclude from the jurisdiction of the local courts any action in which there will be a praeiudicium on a matter worth more than 1000. This would suggest – perhaps not conclusively – that a praeiudicium as to whether the subject-matter of the action was worth more than 1000 or as to whether it had been divided to defeat the statute could not be heard locally, except by the agreement of the parties, since in either event it could be said that, if the defendant were correct in his contention, then in the praeiudicium the magistrate would have been dealing with a matter relating to subject-matter worth more than 1000. On that basis the praeiudicium would have had to be dealt with by the governor and presumably therefore the magistrate would have required the plaintiff to make vadimonium to appear for the praeiudicium before the governor. If indeed the governor did have to decide such issues, then that in itself would seem to be a good reason why they should have been dealt with in a praeiudicium rather than simply in the context of the original action.

If the result of the praeiudicium was a decision that the subject-matter was worth less than 1000 or that it had not been divided to get round the statute, then the case would presumably continue in front of the local court and the magistrate would proceed with the normal *in iure* stage. If, on the other hand the decision went the other way, then the case could not be handled by the local court. The plaintiff might then abandon the proceedings and raise a fresh action for the whole sum in the governor's court. But that would involve starting all over again with the business of summoning the defendant. The plaintiff might therefore prefer to press on with the more limited action which he had started. In that event any further proceedings in the action would have to be taken in the governor's court.

¹⁶ Kaser (1966), 179.

¹⁷ On praeiudicia generally see Kaser (1966), 184 et seq.

¹⁸ O. Lenel, Das Edictum Perpetuum, (3rd ed., 1927), 525 et seq.; K. Hackl, Praeiudicium im klassischen römischen Recht (1976), 283 et seq. See also the discussion in Part XI below.

Two points may be made in concluding this section. First, since the limit on the local courts' jurisdiction was 1000, and since judges could be appointed by them only where the case fell within the local limit (Chapter 89, ll. 16–20), it follows that in such cases the judge should not be able to condemn the defendant to pay more than 1000. It may be that this limit was enforced by inserting a *taxatio* in the formula to prevent the judge from condemning the defendant in a sum which exceeded the local limit. Finally, while it is worth noting that in Chapter 84 (l. 4) the verbs describing the division occur in the order "facta sit fiatue" whereas in Chapter 89 (ll. 19–20) they occur in the reverse order "fiat, factaue sit", the difference does not appear to be legally significant.

We now turn to see whether the provisions of the Lex Irnitana which we have just discussed can help in interpreting the jurisdictional provisions in the Lex de Gallia Cisalpina.

III. Jurisdictional Limits in the Lex de Gallia Cisalpina

The Lex de Gallia Cisalpina dates from the first century B.C., in particular from after the grant of citizenship to Gallia Cisalpina in 49 B.C.²⁰ The fragment which we have does not contain the section of the original which must have dealt with the limits of the jurisdiction of the local courts, but – while this has been disputed²¹ – references in both Chapter 21 (ll. 4 and 18–19) and Chapter 22 (l. 27) make it clear that, except where the parties agreed, the upper limit was 15,000 sesterces, although not all types of case falling within that limit could be dealt with locally (ll. 27–28). Chapter 21 deals with the *actio certae creditae pecuniae* for a debt in Roman coinage, while Chapter 22 deals with other actions. The provisions of the two chapters are complex and differ from one another, but broadly speaking they are concerned with what is to happen when the defendant in the action admits or fails properly to defend the claim made against him by the plaintiff.²²

In Chapter 21 (II. 2–4) the relevant defendant in the action is described as follows: "a quoquomq(ue) pecunia certa credita, signata forma p(ublica) p(opulei) R(omanei) . . . petetur, quae res non pluris HS XV erit . . ." In Chapter 22 (II. 25–28) on the other hand the description of the defendant is: "a quo quid praeter pecuniam certam creditam, signatam forma p(ublica) p(opulei) R(omanei) . . . petetur, quodve quom eo agetur, quae res non pluris HS XV erit, et sei ea res erit, de qua re omnei pecunia ibei ius deicei iudiciave darei ex h. l. o(portebit) . . ." It will be noticed that the words "omnei pecunia" occur only in the description of the defendant in the actio certae creditae pecuniae in Chapter 21. That point is discussed further below in Parts VIII to X, but for the moment it is sufficient to notice that the words "omnei pecunia" have puzzled scholars ever since the bronze was seriously studied.

¹⁹ C. Appleton, Le Fragment d'Este (1900) (not seen), as reported and approved by B. Kübler, ZSS 22, 1901, 200, 203–204 (Book Review); Kaser (1966), 128 n. 46.

²⁰ On the date see Laffi (1986), 10 et seq.

²¹ E.g. by Simshäuser (1973), 194 with references to the literature.

²² This is a deliberately simplified statement of a matter of great complexity which has been endlessly discussed in the literature. See the survey in Bruna (1972), Chapter 5.

IV. The omnei pecunia Problem

Happily it is not necessary to examine the various theories which have been advanced to explain the meaning of "omnei pecunia". Professor Laffi has recently given a sufficient summary of these theories and, for the reasons which he gives, they run up against insurmountable difficulties. Therefore this article will not contain any systematic refutation of those theories. Laffi's own article has cleared much of the ground. He rightly emphasizes that the words "et si . . . o(portebit)" (Il. 27–28) add a further qualification to the type of action which is envisaged in Chapter 22: not only must the subject-matter be not more than 15,000, but in addition it must be one "de qua re omnei pecunia ibei ius deicei iudiciaue darei ex h. l. o(portebit)" (I. 28). The qualifications are cumulative. It follows that they must be consistent, i.e. it must be possible for the subject-matter of the actions over which the local courts are to have jurisdiction to meet both criteria.

The critical words are "omnei pecunia". It has been argued that somehow they open up an area in which the local magistrates enjoy unlimited jurisdiction. Despite the awesomely distinguished pedigree of that theory, 25 it is plainly unacceptable: not only is it impossible to extract that meaning from the Latin, but that approach would introduce an area of uncertainty as to the scope of the magistrates' jurisdiction which would have made the whole system unworkable in practice. Laffi rightly rejects it.²⁶ He sums up his own interpretation of the phrase by saying that, whereas Chapter 21 applies only to an action for a sum certain in Roman coinage, Chapter 22 applies to a dispute which "non solum numeratam pecuniam complectitur, verum omnem omnino pecuniam"²⁷. It appears that in Laffi's view the draftsman of the statute is using *pecunia* in a broad sense and that his intention in referring to "omnis pecunia" is to make it clear that the actions in Chapter 22 can concern any other matters besides claims for sums owed in Roman coinage. It is, of course, correct that in certain legal contexts the term "pecunia" can be interpreted broadly,²⁸ but there is nothing in the present context to suggest that it is intended to be treated in that way here. Moreover, while Laffi is also right in saying that Chapter 22 covers any kind of relevant action except an actio certae creditae pecuniae, that fact emerges sufficiently from the opening words of Chapter 22 for there to be no need to reiterate or reinforce it at this point.

In fact, however, the sense at least of the correct translation of "omnei pecunia" is not difficult to determine and has been put forward previously. For example, basically the correct translation ("the whole sum") was given by Hardy²⁹ as long ago as 1912. The ablative

²³ Laffi (1986), 40–42.

²⁴ Laffi (1986), 41.

²⁵ Simshäuser (1973), 194 with refs.

²⁶ Laffi (1986), 41.

²⁷ Laffi (1986), 43.

²⁸ Some of the texts are discussed in Laffi (1986), 42–43.

²⁹ E. G. Hardy, Roman Laws and Charters (1912), 131. Hardy none the less thought that the provision indicated that in certain cases the local magistrates had unlimited jurisdiction: op. cit., 117.

case is an ablative of respect³⁰ and the words mean "in respect of the whole sum" or perhaps "in respect of the whole value".³¹ On that basis the relevant qualifications of the subject-matter of the actions envisaged in Chapter 22 ("quae res . . . o(portebit)" ll. 27–28) should be translated literally somewhat as follows: "which matter shall be not more than 15,000 sesterces, and if it shall be a matter about which matter in respect of the whole sum [in respect of the whole value] it is or shall be appropriate according to this statute for there to be jurisdiction there and for trial procedures to be granted".

Finding words to translate "omnei pecunia" is perhaps not the real problem. More problematical is understanding what the legislator is saying when he uses those words. If translated in the way which has just been suggested, the provision lays down two cumulative qualifications for an action under Chapter 22. First, the value of the subject-matter of the action must be not more than 15,000. Secondly, the action must concern a matter in relation to which, "in respect of the whole sum", the local courts may properly exercise jurisdiction. This second qualification in turn contains within it more than one element.

The first element envisaged in the provision is that only certain kinds of action can properly be brought before the local magistrates.³² This is not surprising since we know from elsewhere that it was common to exclude certain kinds of action from the local courts, e.g. where issues of status were involved³³ or where condemnation in the action might involve *infamia*.³⁴ Because the relevant portion of the present Lex has not been preserved, we cannot tell which kinds of action were excluded by it. None the less this provision indicates that in a lost chapter the Lex restricted the kinds of cases which could be brought. In other words, in such a case, even if the sum involved fell within the pecuniary limit, no action could be brought locally since the subject-matter was not one "de qua re . . . ibei ius deicei iudiciaue darei ex h. l. o(portebit)" (l. 28).

The restriction has a second element. Even if the subject-matter fell within the range allowed to the local magistrates and even if the sum sued for was not more than 15,000, the action would still not be allowed in the local court unless "in respect of the whole sum" it was one with which the local court could properly deal. It is in interpreting this second element that the provisions of the Lex Irnitana provide the necessary help.

V. Different Angles of Approach

As we have seen, in both Chapters 21 and 22 of the Lex de Gallia Cisalpina the draftsman defines the subject-matter as one which "shall be not more than 15,000 sesterces" (Chapter 21, Il. 3–4; Chapter 22, I. 27). By contrast in the basic provision in Chapter 84 of

³⁰ TLL Vol. X, 1 s.v. pecunia, col. 938, line 55; Leumann–Hofmann–Szantyr, Lateinische Syntax und Stilistik (corrected reprint, 1972), p. 134.

³¹ TLL Vol. X 1, Col. 938, lines 45 et seq.

³² For the relevant meaning of "oportebit", see the discussion in D. Daube, Forms of Roman Legislation (1956), 8 et seq.

³³ Lex Irnitana, Chapter 84, Il. 5–6, Il. 16–17 and Il. 19–20.

³⁴ E.g., Isidorus, etymologiae 15.2.10; Fragmentum Atestinum, Il. 1–4; Lex Irnitana, Chapter 84, Il. 9–16.

the Lex Irnitana the draftsman says that the subject-matter must be one "which shall be 1,000 sesterces or less" (Il. 3-4). To judge from these provisions therefore, the draftsmen of the two statutes define the limits from slightly different angles, the one (in the Lex de Gallia Cisalpina) by defining a sum which must not be exceeded, the other (in the Lex Irnitana) by giving a sum up to which the local courts have jurisdiction. Admittedly the two provisions are not entirely parallel. Whereas Chapter 84 of the Lex Irnitana actually prescribes the limits of the local magistrates' jurisdiction, chapters 21 and 22 of the Lex de Gallia Cisalpina are merely referring second-hand to jurisdictional limits which were laid down elsewhere in the statute. It is therefore conceivable that the equivalent jurisdictional chapter in the Gallic statute adopted the same form as is found in Chapter 84 of the Lex Irnitana and that chapters 21 and 22 are merely a shorthand reference to that jurisdictional provision. But that does not seem very likely and in any event, even if the provisions on jurisdiction were drafted differently in the two statutes, the practical effects of the two formulations would be much the same. None the less the fact that the draftsmen of the two provisions appear to have adopted slightly different angles of approach requires to be borne in mind when we use the terms of the Lex Irnitana to explain those of the Gallic statute.

VI. Chapter 22 in the Light of the Lex Irnitana

As we saw in Part I, in the statute for Irni the legislator says that the subject-matter must be 1,000 or less and must not have been or be divided to get round the statute. In Chapter 22 of the Gallic law on the other hand the legislator says that the subject-matter must be not more than 15,000 and must be one "about which matter in respect of the whole sum it is or shall be appropriate" for there to be jurisdiction or for *iudicia* to be granted. With the assistance of the new knowledge provided by the Lex Irnitana the words "in respect of the whole sum" can now be seen to be referring to the same point as the words in Chapters 84 and 89 which say that the subject-matter must not have been or be divided. The Gallic Law says that the subject-matter must be one about which, in respect of the whole sum, there is jurisdiction; the Lex Irnitana says that the subject-matter must not have been divided in order to get round the statute. Although they differ in scope, the two provisions are making a similar point from slightly different angles, just as we noted that they stated the basic jurisdictional limits from slightly different angles. Despite the different approaches each of the provisions is designed to ensure essentially the same result, viz. that there is jurisdiction only where the whole subject-matter of the dispute falls within the jurisdictional limit of the respective local magistrates. Indeed some kind of rule to this effect would have been necessary if that limit was to be effective.

We cannot, of course, tell whether in the missing jurisdictional chapter of the Lex de Gallia Cisalpina the point was made in the same way as in Chapter 22 or whether there too, as in the Lex Irnitana, the legislator prescribed that the subject-matter should not have been or be divided. On balance, however, I should incline to the former view since it seems more likely that the cross-reference in Chapter 22 would have reflected the language used in the jurisdictional chapter.

It is also impossible to tell whether, in the jurisdictional chapter of the Lex de Gallia Cisalpina, the matter was dealt with more fully. There is certainly no necessary reason to suppose that the formulation would have been as elaborate as the one which we find in the Lex Irnitana. After all more than a century separates the two provisions and the provision in the Lex Irnitana might well reflect developments in thinking about the point during that period. The later formulation homes in on the real objection to an action which relates to part of a larger subject-matter, viz. that this larger subject-matter has been divided up with the sole aim of getting round the statutory limit on the jurisdiction of the local courts. The earlier provision in the Gallic statute on the other hand is less sharply focused and might well have tended to exclude any action where its subject-matter could be said to be part of a larger whole, the value of which would exceed the local limit. What is clear is that the jurists debated questions about the correct way to apply pecuniary limits on jurisdiction.

VII. D.2.1.11

As was noted above, for the most part jurisdictional limits would not apply in ordinary Roman litigation. That explains why we do not find much reference to them in the Digest. The point would be much more important in litigations outside Rome precisely because of the existence of fixed limits on the jurisdiction of the various local courts. It is therefore not surprising perhaps that it is in an extract from Gaius' commentary on the provincial edict that we find what may be an echo of the language of "omnei pecunia" in the Gallic statute.³⁵

In D.2.1.11.2, dealing with the jurisdiction of municipal magistrates, Gaius discusses the position in an *actio communis* where several parties are involved, each with a different claim.³⁶ How do you fix the value for purposes of jurisdiction?

Gaius 1 *ad edictum provinciale*. si una actio communis sit plurium personarum, veluti familiae erciscundae, communi dividundo, finium regundorum, utrum singulae partes spectandae sunt circa iurisdictionem eius qui cognoscit, quod Ofilio et Proculo placet, quia unusquisque de parte sua litigat: an potius tota res, quia et tota res in iudicium venit et vel uni adiudicari potest, quod Cassio et Pegaso placet: et sane eorum sententia probabilis est.

³⁵ Alibrandi long ago pointed to the importance of the Lex de Gallia Cisalpina for an understanding of texts from the early books of the edictal commentaries: 'Dell'uso dei monumenti epigrafici per l'interpretazione delle leggi romane' (1858), in I. Alibrandi, Opere giuridiche e storiche Vol. 1 (1896), 23, esp. 35 et seq.

³⁶ Lenel, Das Edictum Perpetuum, 55 suggests that D.2.1.11 comes from Gaius' commentary on the edict *de vadimonio Romam faciendo* – possible, of course, but not entirely plausible when its position in the Digest title is examined. There are other contexts in which issues relating to jurisdiction could have arisen. For another possible view see F. von Velsen, 'Das edictum provinciale des Gaius', ZSS 21, 1900, 73, 93 n. 10. The matter cannot be fully discussed here. Beseler would delete the part from *circa* to *cognoscit* as an unnecessary clarification – presumably on the basis that the context itself in the commentary would make the point sufficiently clearly: G. Beseler, Beiträge zur Kritik der römischen Rechtsquellen, Heft. 3 (1913), 44 (in a study of *circa* used figuratively). For present purposes there is no need to decide one way or the other.

Gaius is dealing with the kind of litigation in which by its very nature the matter of division arose. For instance, the actio communi dividundo was used where co-owners of, say, an estate, no longer wished to remain bound together in that way and wanted instead to realise their own shares, but could not agree on the appropriate division. In the end the judge would decide and the estate would be divided up according to his decision. Suppose, for instance, that a 15,000 limit applies to a particular jurisdiction and there is an estate worth 20,000 with four people claiming to be co-owners. Suppose again, for the sake of simplicity, that each of them claims a quarter, 5,000. For the purposes of deciding on jurisdiction, should you look at the individual shares which are being claimed, or should you look at the value of the estate as a whole? If you look at each of the claims in isolation, then you will decide that the case concerns a subject-matter of 5,000 and falls inside the 15,000 limit. If on the other hand you consider that the real subject-matter is the whole estate worth 20,000, then the case will fall outside the limits of the local jurisdiction. The point was disputed. Gaius tells us that Ofilius and Proculus favoured looking at the individual claims, since each litigant was litigating about his own individual share. Cassius and Pegasus took the opposite view, saying that you should consider the whole estate since the whole thing could be allotted to one of the parties.

For present purposes Gaius' language should be noticed. He contrasts the view that you should consider the "singulae partes" with the view that you should consider the "tota res" and the decision is in favour of the second view, because the *iudicium* concerns the "tota res" which could after all be allotted by the judge to just one of the parties. In much the same way in the Lex de Gallia Cisalpina the question of jurisdiction in Chapter 22 is decided by looking at the subject-matter and asking whether in respect of the whole sum ("omnei pecunia") it is one in respect of which there is jurisdiction.

This particular discussion of *actiones communes* is simply part of what was obviously a much more elaborate treatment of the point by Gaius, of which text 11 is all that is preserved. Even from those meagre remains we can see that there was considerable scope for discussion. For instance in the principium from a discussion of the jurisdiction of municipal magistrates³⁷ Gaius mentions the situation where there are several actions involving the same plaintiff and defendant. The claim in each is within the jurisdictional limit, but the total of the various claims exceeds the limit. We are told that they can all be brought before the same court. Put in that way the point seems obvious, but the fact that Gaius refers to the views of Sabinus, Cassius and Proculus and to a rescript of Antoninus shows that it was not. There must have been other jurists who took a different view.

Presumably, the difficulty which troubled the jurists did not concern the situation where I had, say, an action against you for failing to pay the price under a contract of sale of some cattle and an action against you on the lex Aquilia for injury to my slave. Rather, the difficult situation would be where it was perfectly legitimate for the plaintiff to raise separate actions, but their subject-matter was somehow linked. For instance, suppose that you negligently ram my ship. The ship (worth 800) sinks, my slaves (also worth 800) are drowned

³⁷ See previous note. For possible interpolations see Index Interpolationum and Supplementum (1929).

and the cargo of wheat (similarly worth 800) is lost. I would have a direct action against you on chapter 3 of the lex Aquilia for the loss of the ship, an indirect action against you based on chapter 1 for the loss of my slaves and an indirect action against you based on chapter 3 for the loss of my wheat.³⁸ The individual claims in each of these actions would be within a local limit of 1,000. But let us suppose that, as in the Lex de Gallia Cisalpina, the matter was to be tested by asking whether the subject-matter "in respect of the whole sum" was one in which the local courts should have jurisdiction. Then some jurists might well have taken the view that, since each of the actions really arose out of the same delict, they should be looked at as a whole and that on that basis the subject-matter of the dispute between the parties was really worth 2,400 (the total of the three sums to be claimed in the separate actions) and therefore no part of it should be dealt with locally. The view which prevailed, however, was that the matter should be tested by reference to the value of the claim in each of the actions considered in isolation. On that basis each of the actions could be brought locally.

That general approach might also suggest that, in the absence of any more explicit legislative provision to the contrary, some jurists at least might have held that there was no objection to a plaintiff dividing up his claim and suing in separate actions even if he did this simply in order to keep within the local jurisdictional limits. The more carefully worked out formula in the Lex Irnitana would have been designed to ensure that this could not be done.

Another area of the law in which such questions arose was in relation to the extraordinary procedure which was used for the enforcement of *fideicommissa*: cases involving higher values were dealt with by the consuls, whereas special praetors would handle the rest.³⁹ While we do not know where the line was drawn, D.2.1.19.1, Ulpian 6 *fideicommissorum* shows that in that context too questions arose as to how the value was to be determined for the purposes of deciding on jurisdiction. Ulpian says that you have regard to what is claimed rather than to what is owed. Although Bruna dismisses this as "obvious",⁴⁰ the provisions on dividing up claims are enough to show that the view preserved in that text would not in fact be obviously correct in all circumstances – which is presumably why Ulpian was discussing the matter in the context of *fideicommissa* procedure.

VIII. No Equivalent Words in Chapter 21

The argument in Part VI was designed to show that under Chapter 22 of the Lex de Gallia Cisalpina the local courts had jurisdiction where the whole subject-matter of the dispute was no greater than 15,000 and that, if a plaintiff contrived to bring only part of a dispute before the court in order to avoid that limit, then the local court could not deal with that part of the dispute either, but would require to have it sent to Rome.

³⁸ Cf. A. Rodger, 'Labeo, Proculus and the Ones that Got Away', LQR 88, 1972, 402.

³⁹ See D. Johnston, The Roman Law of Trusts (1988), 222.

⁴⁰ Bruna (1972), 168.

Although it has been argued in Part VI that there is a basic similarity between the approach in the Lex de Gallia Cisalpina and the approach in Chapters 84 and 89 of the Lex Irnitana, the scope of the provisions is not exactly the same. More precisely perhaps, the similarity is between Chapter 22 of the Gallic law and Chapters 84 and 89 of the Lex Irnitana. Chapter 21 of the Gallic Law is different, precisely because, as was mentioned in Part III, there is no equivalent of the phrase "omnei pecunia" in Chapter 21.41 In other words, whereas the prohibition in the Lex Irnitana against dividing applies to all cases – which must therefore include *actiones certae creditae pecuniae* – the corresponding reference in the Lex de Gallia Cisalpina to "omnei pecunia", which ensures that the total value of the dispute must be looked at, is not found in Chapter 21 dealing with *actiones certae creditae pecuniae*, but only in Chapter 22 dealing with all other actions. The difference is noteworthy and certainly none of the existing attempts to explain "omnei pecunia" accounts satisfactorily for it.

In tackling this matter, we should notice first of all that, if it is correct to interpret the *omnei pecunia* provision in Chapter 22 as somehow corresponding to the provisions against dividing the subject-matter of an action in Chapters 84 and 89 of the Lex Irnitana, then there can be no decisive theoretical reason why such a provision could never apply to an *actio certae creditae pecuniae*. On the contrary it could. Three short points make this plain.

First, there is a general point. If I lend you 20,000, then I am normally entitled to divide the sum up and sue you for 10,000 in one action and hold the rest over to recover in another action. The only qualification is that I must wait until the period of office of the next magistrate before doing so. If I try to bring the second action during the same magistracy I shall be met with the exceptio litis dividuae.⁴² Indeed the fact that dividing up disputes in this way was normally quite permissible would be among the reasons for including the specific provision in Chapter 22 to deal with the situation where the total subject-matter of a dispute might be spread among several actions. Secondly, by the time of the Lex Irnitana, more than a century after the Lex de Gallia Cisalpina, the requirement that the subject-matter should not have been divided did indeed apply to actiones certae creditae pecuniae. The relevant words in both Chapters 84 (Il. 4–6) and 89 (Il. 16–18) would apply to such actions. Lastly, even under the Lex de Gallia Cisalpina itself certain actiones certae creditae pecuniae would be caught by the *omnei pecunia* provision, viz. those that fell within Chapter 22 by reason of not falling within Chapter 21. That would be the case, for instance, where I had made a loan in some local coinage. My action to recover it would still be an actio certae creditae pecuniae but, because it was not for a sum in stamped Roman coin, it would fall outside the scope of Chapter 21 and so fall under Chapter 22 where the omnei pecunia provision would apply to it.

The explanation for the absence of "omnei pecunia" from Chapter 21 is therefore not that claims for a *certa pecunia credita* could never be taken in stages nor indeed that they could

⁴¹ I am particularly grateful to Professor David Johnston for his comments emphasizing this point.

⁴² See the start of Part II above.

never be taken in stages in order to get round jurisdictional limits. It is worth examining two possible explanations.

The first proceeds on the assumption that the omission of words equivalent to "omnei pecunia" from Chapter 21 was not deliberate.

IX. Defect in Drafting Chapter 21?

Even the stoutest defenders of the Lex de Gallia Cisalpina would not suggest that it is a model of consistency. ⁴³ It is at least possible that it contains provisions which were originally found in other statutes and in different revisions. ⁴⁴ It is therefore worth remembering that the problem of how to apply a jurisdictional limit to a number of related actions is not perhaps the kind of thing which a legislator would have spotted in advance on the first occasion when such a limit was framed. Rather, the problems involved would tend to emerge from experience of the operation of this kind of legislation, as plaintiffs and their lawyers exercised their ingenuity to try to have cases heard locally. So, when similar legislation came to be drafted subsequently, in the light of that experience the legislator would insert a provision to try to deal with the matter. But if the problem had happened to come to notice for the first time in the context of an action other than an *actio certae creditae pecuniae*, then the legislator might simply have amended the provisions which dealt with these other claims, while overlooking the need to make a similar insertion in the provisions which dealt with *actiones certae creditae pecuniae*. On that basis the difference between Chapters 21 and 22 on this matter would not be intentional.

The overall standard of drafting of the statute is not so high that one can reject such an explanation out of hand. None the less it is perhaps hard to accept that a legislator would see the need to insert a provision to deal with the problems arising with a whole variety of actions but would at the same time overlook the need to have a corresponding provision in the chapter covering actions for the payment of a particular sum of money – perhaps the very context in which the point would present itself most obviously. Moreover, even if the point was not spotted when the amendment to Chapter 22 was first made, the need for a corresponding amendment to Chapter 21 would be seen pretty quickly. We should therefore need to make the assumption – which is possible, of course – that the Lex de Gallia Cisalpina was framed after the need to deal with splitting in Chapter 22 had been identified, but before the need to amend Chapter 21 also had been noticed.

In the light of these possible difficulties with this approach it is worthwhile to consider the matter further.

⁴³ Cf. two articles by M. W. Frederiksen, 'The Lex Rubria: reconsiderations', JRS 54, 1964, 129 and 'The Republican Municipal Laws: Errors and Drafts', JRS 55, 1965, 183, esp. 192 et seq., both with references.

⁴⁴ Cf. e.g. Wlassak (1934), 9–10, 27; Frederiksen, JRS 55, 192 et seq.

X. The Scope of Chapter 21

The second possible, and indeed more likely, explanation for the absence of words such as "omnei pecunia" from Chapter 21 is that the legislator has deliberately defined the range of Chapter 21 so precisely that it did not include – and he therefore did not need to add any words in order to exclude – cases where the sum in issue was part of a larger whole.

This explanation for the absence of the relevant qualification from Chapter 21 proceeds on the basis that the legislator is there contemplating only one kind of action: an entirely straightforward type of case involving a sum of not more than 15,000 arising out of a particular transaction. For example, a creditor has lent a particular sum of not more than 15,000 and now seeks repayment of the sum which he lent. There is indeed nothing new in the suggestion that this and nothing more was the type of case which fell within Chapter 21. On the contrary, in the literature it is simply assumed that this is the kind of situation to which that chapter applies.⁴⁵

The language used in lines 2–21 of Chapter 21 points to it having a narrow focus. The legislator speaks of the defendant from whom "pecunia certa credita" (l. 2) is sought, which matter ("quae res", l. 3) is not more than 15,000, and who then admits that he ought to give or to pay that sum of money ("eam pecuniam", l. 4). This indicates that the sum which was "credita" and which is being claimed in the action is not more than 15,000. Further on in the Chapter, when dealing with the magistrates' powers to order *ductio* of the defendant (ll. 14–21), the text says that the *ductio* is to be for such a sum "quanta ea pecunia erit de qua tum inter eos ambigetur, dum taxat HS XV" (ll. 18–19) – again stressing that the sum in dispute between the parties is not more than 15,000. Throughout lines 2–21 therefore the wording indicates that at this point the legislator is concerned solely with an action arising out of a particular transaction involving a particular sum of money, and that particular sum of money had been not more than 15,000. That wording as it stands is sufficient to indicate that the provisions are not intended to apply to the different kind of situation where the loan, say, involved a larger sum of 20,000, but the creditor limited his claim in the action to 15,000.

A legislative intention to confine the procedure in lines 2–21 of Chapter 21 to straightforward *actiones certae creditae pecuniae* involving sums of 15,000 or less fits in with the approach adopted in that procedure which provides an especially tough régime for dealing with defendants.⁴⁶ In particular, it is not only if they admit that they ought to give or to pay the sum claimed, but also if they fail in some way to defend the action properly, that they are treated as if they had been condemned by a judge in an action granted by the magistrate (ll. 4–14). This very summary procedure, which is not found elsewhere and which is substantially different from the procedure envisaged in Chapter 22,⁴⁷ could really be justified only for cases where the position was clear and straightforward.

⁴⁵ E.g. Schrutka (1884), 471; Wlassak (1934), 25.

⁴⁶ Schrutka (1884), 473–474; Wlassak (1934), 24–25; Laffi (1986), 31 et seq.

⁴⁷ See for instance Bruna (1972), 193 et seq. with references.

It is, for example, presumably because the position needs to be clear that the sum which the debtor received and which is the subject of the dispute must have been in stamped Roman coinage (l. 2; cf. Chapter 22, l. 25). This would avoid disputes as to whether the coins handed over were actually worth what was claimed and this in turn would mean that the magistrate could properly proceed on the basis that the sum claimed was actually due from the defendant. Issues of valuation of the claim would not arise, as they would in many of the cases which were covered by Chapter 22.

For these reasons under the provisions in Chapter 21 the debtor could be treated, rather drastically, as if he had been condemned by a *iudex* to pay the sum claimed (ll. 9–14). If the defendant did not pay, then – again exceptionally – since he fell to be treated as a judgment debtor the local magistrate was given the power to order him to be given over to the custody of his creditor until the sum was paid (ll. 14–19). The whole scheme is designed to put great pressure on debtors – pressure of a kind which is not found in Chapter 22 – and it omits certain of the usual steps. If indeed the procedure was suitable for handling uncomplicated cases, then it would be entirely consistent with this approach for the legislator to concentrate in this part on the kinds of cases which fell strictly within the category of *actiones certae creditae pecuniae* for a particular sum of 15,000 or less arising out of a particular transaction. As we saw, the draftsman's language was apt to limit the provision to such cases. Accordingly he did not need to add any further words to make sure that other cases were excluded.

By contrast, in Chapter 22 the class of case is defined in a rather open-ended way as relating to "quid praeter pecuniam certam creditam signatam forma p(ublica) p(opulei) R(omanei)" (l. 25). Therefore, even when the qualification is added that the matter will be not more than 15,000, it was obviously felt that, unless specific words were added, this formulation was potentially wide enough to give jurisdiction in actions which dealt with part of a larger dispute involving a sum of more than 15,000. Nor is it difficult to see why this view was taken. After all, an action with a subject-matter worth 10,000, which is part of a larger dispute, is very arguably an action for "anything besides a *pecunia certa credita* coined with the public stamp of the Roman people", which is "not more than 15,000 sesterces".

XI. A Missing Passage?

It is possible that *actiones certae creditae pecuniae* which had been deliberately framed to avoid the jurisdictional limit of 15,000 were mentioned elsewhere in the Lex de Gallia Cisalpina. The concluding portion of Chapter 21 (ll. 21–24) is a well-known source of difficulty,⁴⁸ since it plainly relates to cases where the defendant has been ordered to make vadimonium or to give a security to appear before the court in Rome, but has failed to do so. Such cases have not previously been mentioned in the text of Chapter 21 which has

⁴⁸ Schrutka (1884) remains perhaps the best discussion. See also Wlassak (1934), 73 et seq. Bruna (1972), 163 et seq. does not consider where the primary provision on vadimonium was to be found.

come down to us. Yet the use of "ita" in two places (Il. 22 and 23) seems to imply not only that there had been a previous reference to the giving of vadimonium or a surety for appearance in Rome, but that this reference had occurred shortly before the concluding portion of Chapter 21 rather than at some much earlier point in the statute. ⁴⁹ If indeed it is correct to interpret "ita" in this way, then for some reason, as Rudorff argued, ⁵⁰ the portion of text containing that material was omitted from the version of the text which was engraved on the bronze which has come down to us. One ⁵¹ obvious reason for having a provision which mentioned vadimonium for proceedings in Rome in this particular context would be to cater for the situation where an *actio certae creditae pecuniae* was brought for a sum which exceeded the limit on the jurisdiction of the local courts. So that case may have been covered in the missing passage. Since an *actio certae creditae pecuniae* for part of a larger sum which would exceed the jurisdictional limit could, in certain circumstances at least, be regarded as simply another – albeit more sophisticated – example of an *actio certae creditae pecuniae* in which the sum exceeds that limit, it could well have been covered in the context of the same provision.

On that hypothesis no words equivalent to *omnei pecunia* occur in lines 3–4 of Chapter 21 because the matter was originally dealt with in a different way elsewhere. This would indeed be what we should expect if, as is argued above, the procedure set down in Chapter 21, except for lines 21–24, was never intended to apply to a case where the sum claimed was merely part of a larger sum in dispute between the parties.

Of course there is nothing further in the text of the Lex de Gallia Cisalpina which gives us any guidance on the procedure which would have been applied. But if a praeiudicium would have been a possible procedure under the Lex Irnitana, then presumably it would have been equally possible under the Gallic statute also. In the case of the Lex de Gallia Cisalpina, however, the indication is that matters which could not be dealt with locally would be handled by the peregrine praetor at Rome.⁵² That official might therefore have dealt with any praeiudicium as to whether an action involved subject-matter of over 15000. A decision of this kind might therefore have been a possible context for the type of praeiudicium mentioned in Paul's Sentences 5.9.1.⁵³ The assumption again would be that, if it were decided in the praeiudicium that, when looked at as a whole, the subject-matter of the action fell within the local limit, the action could proceed before the local court, whereas if, when viewed in that way, it really fell outside the limit, the case would have to be heard in Rome and for that purpose the defendant could be required to make vadimonium.

⁴⁹ Wlassak (1934), 74.

⁵⁰ In G. F. Puchta, Cursus der Institutionen (10th ed., P. Krüger ed., 1893) Vol. 1, § 90 at 228.

⁵¹ Schrutka (1884), 469 et seq. points out that any other reasons would have to relate to the personal status of the defendant.

⁵² Cf. Chapter 22, Il. 45–52.

⁵³ Lenel, Das Edictum Perpetuum, 525 et seq. See the discussion above in Part II.

XII. Summary

The main conclusions of this investigation can be summarised briefly.

First, Chapters 84 and 89 of the Lex Irnitana exclude from local jurisdiction cases where either part of the subject-matter has been dealt with in a previous action, or where only part of the subject-matter is being dealt with in the present action and it is intended to deal with the rest in a subsequent action, if the plaintiff's purpose in dividing up the subject-matter is to circumvent the statutory limit on the jurisdiction of the local court (Part I). If the matter was disputed, then, like other questions as to whether an action fell within the local limit, it was decided in a praeiudicium which took place before the magistrate had to decide whether to grant an action. If it was held that the subject-matter had not been divided and that it fell within the local limit, then the action would proceed before the local court. If the decision went against the plaintiff, then he could either abandon the action and start again in the appropriate court of higher jurisdiction, or else he could take the benefit of having successfully summoned the defendant into court and require him to make vadimonium to appear in the appropriate higher court where the action could be heard (Part II).

Secondly, the words "omnei pecunia" in line 28 of Chapter 22 of the Lex de Gallia Cisalpina are to be translated "in respect of the whole sum" or "in respect of the whole value" (Part IV). They too are designed to impose a test for deciding whether a particular action can be brought locally even though it is concerned with part only of a larger subject-matter. They confine the jurisdiction of the local courts to matters which "in respect of the whole sum" are not worth more than 15,000 (Part V).

Thirdly, no similar words are found in Chapter 21 (Part VIII) and, while it is possible that this is not deliberate (Part IX), the most likely explanation for the absence of similar words there is that by its very terms Chapter 21 was limited to actions where the plaintiff's whole entitlement was to a sum of not more than 15,000 in Roman coinage (Part X). Any reference to cases where the sum sought in an *actio certae creditae pecuniae* was part of a larger subject-matter would have occurred in some other part of the statute, perhaps where provision was made for handling claims which exceeded the statutory limit (Part XI).

Finally, however that may be, in all cases under the Lex de Gallia Cisalpina the upper limit of the jurisdiction of the local courts was 15,000. Accordingly, while the application of the limit to particular cases would doubtless have given rise to disputes (Part VII), the local courts certainly did not have any kind of a wider jurisdiction to deal with matters worth more than 15,000.⁵⁴

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⁵⁴ This article arose out of a request by Professor Michael Crawford in May 1994 that I should look at some material on the Lex de Gallia Cisalpina in connexion with the work being done by the group of scholars who are preparing a new edition of the Roman statutes. I am very grateful to Professor David Johnston for comments on an early draft.