

- 4 ULPIANUS libro nono ad Sabinum. Si quis uina uendiderit et intra diem ce-  
rum degustanda dixerit, deinde per uenditorem steterit, quo minus degustarentur, utrum  
praeteritum dumtaxat periculum acoris et mucoris uenditor praestare debet, an uero etiam  
die praeterito (ut, si forte corrupta sint posteaquam dies degustandi praeterit, periculum  
ad uenditorem pertinet), an uero magis emptio sit soluta (quasi sub conditione uenerit, 5  
hoc est si ante diem illum fuissent degustata)? et intererit, quid actum sit: ego autem ar-  
bitror, si hoc in oculo sit, debere dici emptioem manere, periculum autem ad uenditorem  
1 respicere etiam ultra diem degustando praefinitum, quia per ipsum factum est. Si [E. 53, 7, 10  
a uersione unum uenit, custodia tantum praestanda est. ex hoc apparet, si non ita unum 9  
uenit, ut || degustaretur, neque acorem neque mucorem uenditorem praestare debere, sed i. 268  
omne periculum ad emptorem pertinere: difficile autem est, ut quisquam sic emat, ut ne  
degustet. quare si dies degustationi adiectus non erit, quandoque degustare emptor poterit  
et quoad degustauerit periculum acoris et mucoris ad uenditorem pertinere: dies enim  
2 degustationi praestatur meliorem conditionem emptoris facit. Uino autem per auersionem  
uendito finis custodiendae est auerendi tempus. quod ita erit accipiendum, si adiectum tempus 15  
est: ceterum si non sit adiectum, uidentium, ne infinitam custodiam non debeat uenditor.  
est uerus securdum ea quae supra ostendimus, aut interesse, quid de tempore accu-  
sit, aut denunciare ei, ut tollat unum: certe antequam ad uindemiam fuerint dolia neces-  
saria, debet aueri unum. 19
- 5 PAULUS libro quinto ad Sabinum. Si per emptorem steterit, quo minus ad [E. 53, 7, 11] S  
diem unum tolleret, postea, nisi quod dolo malo uenditoris interceptum esset, non debet  
ab eo praestari. si uerbi gratia amphorae centum ex eo uino, quod in cella esset, uenerint,  
si admensum<sup>2</sup> est, donec admetiatur, omne periculum uenditoris est, nisi id per empto-  
rem fiat. 24
- 6 POMPONIUS libro nono ad Sabinum. Si uina emerita exceptis acidis et mucidis et mihi S  
expediat acida quoque accipere, Proculus ait, quamuis id emptoris causa exceptum sit,  
tamen acida et mucida non uenisse: nam quae inuitus emptor accipere non cogetur, in-  
7 quum esse non permitti uenditori<sup>3</sup> uel alii ea uendere.
- 8 PAULUS libro quinto ad Sabinum. Id, quod post emptioem fundo accessit [B. 19, 6, 1] S  
per alluionem uel perit, ad emptoris commodum incommoquamque pertinet: nam et si totus 30  
ager post emptioem flumine occupatus esset, periculum esset emptoris: sic igitur et com-  
1 modum eius esse debet. Quod uenditur, in modum agri cedere debet, nisi si id actum est,  
ne cederet. at quod non uenit, in modum cedendum<sup>4</sup>, si id ipsum actum est, ut cederet,  
ueluti uiae publicae, limites, luci qui fundum tangunt: cum uero neutrum dictum est, ce-  
dere non debet, et ideo nominatim caeteri solet, ut luci, uiae publicae, quae in fundo sunt, 35  
totae in modum cedant.
- 8 IDEM libro trigesimo tertio ad edictum. Necessario sciendum est, quando per- [B. 19, 6, 2] S  
fecta sit emptio: tunc enim scietur, cuius periculum sit: nam perfecta emptio periculum  
ad emptorem respiciet, et si id quod uenerit appareat quid quale quantum sit, sit et pre-  
tium, et pure uenit, perfecta est emptio: quod si sub conditione res uenerit, si quidem 40  
defecerit condicio, nulla est emptio, sicuti nec stipulatio: quod si exstiterit, Proculus et  
F[P(VU)]
- 1 emptoris eius (similiter Cuiacius)? 2 non inae. 3 uel consumere inae. 4 cedendum]  
cedet dumtaxat?
- 1 libro xxiiii P 2 decustanda F 3 de-  
beat P 4 die praeterito rito F<sup>2</sup>, die \*\* pro  
praeteritum P<sup>2</sup> | diem P<sup>2</sup> 6 illum diem PV | eme-  
7 in hoculo F(em. f) 9 aduersione P VU  
10 neque acorem P<sup>2</sup> | pra e stare  
12 quandoque F, quandoque f 13 quo-  
ad gustauerit P<sup>2</sup> V<sup>2</sup>, quo de ad gustauerit U  
15 custodiendae P<sup>2</sup> | abehendi F(em. f), abue-  
hendi P, aduehendi V 16 adiectum] PU, ad  
edictum F 19 abehi F, adbehi, f, aduegi P<sup>2</sup>,
- 4 ULPIANUS, *Sabinus*, book 28: If someone sells wine and specifies a date by which it is to be tasted and then prevents the tasting from being made, does he bear the risk of the wine's becoming sour or musty only for the period past or also after the specified date (so that, if the wine should chance to go off after the period for tasting has expired, the risk lies with the vendor); or is it the case that the sale is off (as having, in effect, been made subject to the condition, "that is, if the wine shall have been tasted before that date"? The issue will depend upon the parties' intention. For myself, I think that if that intention cannot be determined, it must be said that the sale holds good but that the risk remains with the vendor even after the period for tasting has expired, because he is at fault. 1. If a quantity of wine be sold for a lump sum, the vendor is liable only for its safekeeping. It will be apparent from this that if the wine be not sold with a provision for tasting, the vendor has no liability for acidity or mustiness and that all risk is on the purchaser. At the same time, it is hard to believe that anyone would buy wine without a proviso that it is to be tasted. Hence, if a period for tasting be fixed, the purchaser may taste when he can and, until he does taste, the risk of sourness and mustiness is on the vendor; for a specified period for tasting redounds to the purchaser's advantage. 2. When wine has been sold at a lump sum, the period of the duty of safekeeping ends with the removal of the wine. This, however, is to be taken in the sense that a period has been specified for the removal; if it has not, one has to consider whether the vendor's liability for safekeeping is of indefinite duration. The more correct view would appear to be that in accordance with what has been already said, either the issue is regulated by the parties' intention in the matter of time or the vendor proclaims to the purchaser that he should remove the wine; but certainly the wine should be removed before the vessels are required for the new vintage. 5 PAULUS, *Sabinus*, book 5: If it be the purchaser's fault that the wine is not removed by the appointed time, the vendor is, thereafter, no longer responsible for it, unless there be any bad faith on his part. Suppose, say, that there be sold a hundred jars of that wine in that cellar, once it has been measured out; then, until such measuring, the risk is on the vendor, unless the purchaser be at fault. 6 POMPONIUS, *Sabinus*, book 9: If I buy wine, excluding that which is sour or musty, and it be to my advantage to accept even sour wine, Proculus says that even though the clause was for the purchaser's benefit, sour or musty wine still is not sold; for it would be unfair not to allow the vendor to sell to someone else what the purchaser is not obliged to accept. 7 PAULUS, *Sabinus*, book 5: What accedes to land, after its sale, by alluvion, as also that which is lost, goes to the benefit or the detriment of the purchaser. Even if the whole field be inundated by a river after the sale, the risk is on the purchaser: he is, therefore, entitled to any benefit which may accrue. 1. What is sold should fall within the extent of the land unless it be the parties' intention that it should not. But what is not the object of sale should be comprised, only if there be agreement to that effect, as in respect of public roads, boundaries, and groves which adjoin the land. But when nothing is said either way, it should not be comprised. It is, in consequence, customary to provide that groves and public roads, lying within the land, are comprised in its extent. 8 PAULUS, *Edicti*, book 33: It is essential to know when a sale is perfect because we then know who bears the risk in the thing; for once the sale is perfect, risk is on the purchaser. And if the thing sold be identified, what it is, its nature, and quantity, the price be fixed, and the sale be subject to no condition, the sale is perfect. But if it be conditional and the condition not yet satisfied, there is no sale, any more than there would be a stipulation. If, though, the condition has been realized, Proculus and