

- 45 Idem libro quarto regularum. Labeo libro posteriorum scribit, si uestimenta interpola quis pro nouis emerit, Trebatius placere ita emptori praestandum quod interest, si ignorans interpola emerit. quam sententiam et Pomponius probat, in qua et Iulianus est, qui ait, si quidem ignorabat uenditor, ipsius rei nomine tenet, si sciebat, etiam damni quod ex eo contingit: quemadmodum si uas¹ aurichalcum pro auro uendisset ignorans, tenetur, 5 ut auro quod uendidit praestet.
- 46 Idem libro singulari de delatoribus. Non licet ex officio, quod administrat [E. 19, 1, 45] S quis, emere quid uel per se uel per aliam personam: alioquin non tantum rem amittit, sed et in quadruplum conuenitur secundum constitutionem Seueri et Antonini: et hoc ad procuratorem quoque Caesaris pertinet. sed hoc ita se habet, nisi specialiter quibusdam hoc 10 concessum est.
- 47 ULPIANUS libro uicesimo nono ad Sabinum. Si aquae ductus debeatur prae. [E. 19, 1, 47] S* dno, et ius aquae transit ad emptorem, etiamsi nihil dictum sit, sicut et ipsae fistulae, per 14 quas aqua ducitur.
- 48 PAULUS libro quinto ad Sabinum. licet extra aedes sint: S*
- 49 ULPIANUS libro uicesimo nono ad Sabinum. et quamquam ius aquae non sequatur, S*² quod amissum est, attamen fistulae et canales dum sibi sequuntur², quasi pars aedium ad emptorem perueniunt. et ita Pomponius libro decimo putat.
- 50 Idem libro undecimo ad edictum. Labeo scribit, si mihi bibliothecam ita [E. 19, 1, 50] E uendideris, si decuriones Campani locum mihi uendidissent, in quo eam ponerem, et per 20 me stet, quo minus id a Campanis impetrem, non esse dubitandum, quin praescriptis uerbis agi possit. ego etiam ex uendito agi posse puto quasi impleta condicione, cum per emptorem stet, quo minus impleatur.
- 51 PAULUS libro uicesimo primo ad edictum. Litora, quae fundo uendito con- [E. 19, 1, 51] E iuncta sunt, in modum non computantur, quia nullus sunt, sed iure gentium omnibus uocant: nec uiae publicae aut loca religiosa uel sacra. itaque ut proficiant uenditori, caueri solet, ut uiae, item litora et loca publica in modum cedant.
- 52 Idem libro quinquesimo quarto ad edictum. Senatus con- [SC. Toisanum. B. 19, 1, 52] E suit, ne quis domum uillamue dirueret, quo plus sibi adquireretur neue quis negotiandi causa eorum quid emeret uenderetue: poena in eum, qui aduersus senatus consultum fecisset, constituta est, ut duplum eius quanti emisset in aerarium inferre cogere, in eum uero, qui uendisset, ut irrita fieret uenditio³. plane si mihi pretium solueris, cum tu duplum aerario debeas, repetes a me: quod a mea parte irrita facta est uenditio. nec solum huic senatus consulto locus erit, si quis suam uillam uel domum, sed et si alienam uendiderit. 34 de fideiussore diximus, plenius acceptum est, qualibet ratione si uenditori de pretio nihil || interest, utrum solum sit pretium an eo nomine fideiussor datus sit. quod autem f. 260 satisfactum est, ueluti expromissore aut pignore dato, ⁴proinde sit, ac si pretium solutum esset.
- F[P(VU)]
- 1 uas *del.* 2 dum tibi relinquuntur? 3 Cum s. c., quod factum est Hosidio Geta et L. Usgellio cos. auctore dno Claudio cautum esset, ne quis domum uillamue dirueret qu[o plus] sibi adquireret [ut diruendo plus adquireret quam quanti emisset SC. Hostidianum *ipsam*] neue quis negotiandi causa eorum quid emeret uenderetue, poenaque in emptorem qui aduersus id s. c. fecisset constituta esset [haec ut] qui quid emisset duplum eius quanti emisset in aerarium inferre cogere, et eius qui uendisset irrita feret uenditio. SC. Uolustanum a. p. C. 56 (Ordel. 3125) 4 ut *ins.* (*Had.*)
- 1 interpolata *f*? 2 3 interpolata *f*? | emerit *P* 4 teneris si *P* 5 contigit *P* | aurichalcum] aurichalcum *F*, aurichalchicra *F* | itaque *a* *e* *F* 27 modum] modo *F* 29 adquiretur] *f* *P* *U*, adquiretur *F* 30 emerit *U*, aurichalchi *U* | uendidisset *F* 1 8 amittat *P* 9 ad] *f* *P* *U*, an *F* 10 habent *P* 11 concessum] consensus *F*. oi *π*ρ^ωτ^ος *ἐ*πιτ^ρα^μμ^εν^ο *B* 15 ²aedes *F* 2 17 quod am. est *om.* *P* 1 | canales] canes *P* 20 ponere *P* 25 nullus *P* 26 ²uel *sa-*

- 45 MARCIAN, *Rules, book 4*: In a book of his *Posthumaous Works*, Labeo writes that if a person should sell secondhand garments as being new, Trebatius was of opinion that the purchaser should have his damages made good, if he unwittingly bought second-hand articles. This view is also endorsed by Pomponius and by Julian who further says that the vendor is liable for the difference in value, if he innocently sold secondhand clothes, but that if he were aware of the fact, he is liable for all resultant loss to the purchaser. Similarly, if a person should unwittingly sell as gold a vessel of gold alloy, he will be liable for the gold which he purported to sell.
- 46 MARCIAN, *Informers, sole book*: No one is allowed, in respect of the office which he exercises, to buy anything, either directly or through an intermediary: should he do so, he not only loses the thing but is liable to a fourfold penalty, as was ruled by Severus and Caracalla. This applies also to the emperor's own procurator. But the rule holds good only in respect of those who have not been granted the power to make such purchase.
- 47 ULPIAN, *Sabinus, book 29*: Where the right to draw water pertains to land and the right passes to the purchaser, then, although nothing be said on the point, so do the pipes through which the water is drawn.
- 48 PAUL, *Sabinus, book 5*: even though they be outside the premises;
- 49 ULPIAN, *Sabinus, book 29*: and even if the right of water, having been lost, should not pass, the pipes and canals on the land do, coming to the purchaser as part of the premises; and so wrote Pomponius in his tenth book.
- 50 ULPIAN, *Edict, book 11*: Put the case that you sell me a library, if the Capua council sell me a site on which to house it and, through my own fault, I do not seek a site from the council; Labeo says that without question, an *actio praescriptis uerbis* will lie against me. Personally, I think that the action on sale will lie, the condition being treated as satisfied, since it is the purchaser's fault that, in fact, it is not.
- 51 PAUL, *Edict, book 21*: Shores which adjoin the land sold are not included in its area because they belong to no one, being open to all under the law of nations, so also with public roads and sacred or religious places. Hence, for the vendor's protection, a proviso should be made for the inclusion of shores and public places in the overall area.
- 52 PAUL, *Edict, book 51*: The senate ordained that no one should destroy a dwelling or a country house, in order to make a profit thereby, nor buy or sell one for the purpose of such traffic; should anyone contravene the *senatus consultum*, the penalty provided is that the purchaser must pay double the price to the state treasury and that, for the vendor, the sale is void. Of course, if you have paid me the price, you can recover it from me, when you have to pay double to the treasury, since, from my point of view, the sale has been nullified. This *senatus consultum* applies not only when a man sells his own house, in town or country, but also when it is the house of another.
- 53 GAIVS, *Provincial Edict, book 28*: For the thing to become the purchaser's property, it matters not whether the price has been paid or a verbal guarantor been accepted in respect of it. Verbal guarantor is to be interpreted liberally so that, however the vendor be secured in respect of the price, whether by personal or by real security, it is as though the price had been paid.