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Author
Butler, Shane

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Cicero's *Capita*[1]

Shane Butler

T his is not an article about the proscribed heads of Cicero and the rest. It concerns instead a curious feature of our oldest copies of his works which has received, hitherto, scant attention. The feature in question does not even have a standard name; it involves the division of the text into small blocks, the beginning of each of which protrudes beyond the normal left edge of the column of writing, usually by a letter or two, sometimes but not always written slightly larger than other letters (what paleographers call a *littera notabilior*). The effect is the same as that which typographers call a "hanging indent," but in the manuscripts, detectable ruling makes it clear that the normative left edge of the writing column is that of all lines subsequent to the first in each block — i.e., instead of saying that these have been indented, it would be more precise to say that the beginning of each first line has been shifted left of the bounding line.

The basic geometry is familiar from manuscripts written *per cola et commata*, a better-known phenomenon, principally for its frequent use for Biblical texts. But the Ciceronian blocks are far longer than these, comprising at least a full sentence and usually several. They roughly correspond, at first glance, to what we call a paragraph, and "paragraphing" might indeed be an appropriate enough name for their use, did this word not invite confusion with the earlier Greek use of the *paragraphos*-sign and with the marking of our own paragraphs by, instead, indenting the first line of each. Since, as we shall see, Latin-speakers would have called such blocks *capita*, I have adopted for the practice the etymologically related (via *capitulum*) English term *capitulation*, for which the *Oxford English Dictionary* gives the (obsolete) meaning of the division of a text into sections.[2] In the following, I shall use

[2] Denis Muzerelle, *Vocabulaire codicologique: Répertoire méthodique des termes français relatifs aux manuscrits* (Paris, 1985), gives, for "subdivision d'un texte en

capitulation to mean, specifically, the division of a text into sections marked as such by the fact that each begins on an new line that protrudes left.[3] Among our oldest Latin manuscript books, this practice is relatively rare outside Cicero, though it is not unparalleled.[4]

Figure 1 reproduces a page from Biblioteca Apostolica Vaticana, Reg. Lat. 2077, a palimpsest in which a fifth-century copy of Cicero's *Verrines*, written in two columns of rustic capitals, lies beneath a seventh-century copy of works by Jerome and others.[5] "New sections begin with a larger letter outside the bounding line," notes E. A. Lowe in his entry in *Codices Latini Antiquiores* (*CLA* I 115), and my own direct inspection of all 101 leaves confirms that the Ciceronian text is capitulated throughout. In the photograph, from f. 81v, one can just make out the beginnings of two *capita*: *Hic nunc* (in the left column) and *Fecerat* (in the right).[6]

By way of further illustration, here is what happens when we incorporate the capitulation that survives in a long, uninterrupted section of the same Vatican man-

différentes parties : livres, chapitres, paragraphes, versets…," the French *capitulation*; the expaned online edition of the same, *vocabulaire.irht.cnrs.fr/vocab.htm*, adds the Spanish *capitulación* and the Italian verb *capitolare*, but suggests instead *sub-division* for English.

[3] Capitulation must be distiguished from what we might call "false capitulation": the offsetting left of a new line that happens to correspond with the beginning of a new sentence (in other words, the next line after a sentence has happened to end at the right edge of the writing column). False *capita* do not represent real textual divisions (beyond the sentence-divisions with which they randomly coincide) but rather break the visual monotony of the writing column, either for aesthetic reasons, or, perhaps, to offer landmarks for readers whose eyes tend to stray. True capitulation accomplishes the same goal, but the false variety does so without wasting space at line-ends before beginning a new *caput*. False capitulation was popular throughout the medieval history of manuscript copying.

[4] I base my assertion of capitulation's relative rarity on my own experience (which includes direct inspection of a large range and number of early Latin manuscripts in the Vatican Library over the years, though largely before I began looking for capitulation) and on a survey of E. A. Lowe, *Codices Latini Antiquiores: A Paleaeographical Guide to Latin Manuscripts Prior to the Ninth Century* (Oxford, 1934-72), where, however, cropped photos and inconsistent attention to the phenomenon prevent any definitive census. Two manu-

scripts of Cyprian, e.g., offer clear instances of capitulation: *CLA* IV ⋆⋆ 458 = Biblioteca Apostolica Vaticana, Vat. Lat. 10959 + Milan, Biblioteca Ambrosiana, D. 519 inf. + Turin, Biblioteca Nazionale, F.IV. 27, containing his *Letters*, and *CLA* III 283 = Brescia, Biblioteca Queriniana, H.VI.11, containing his *Testimonia*; both manuscripts are in uncials and dated by Lowe to the fifth century; on the latter, Lowe observes, "New sections begin with a letter projecting in the margin." To these may be added *CLA* Suppl. 1728 = Marburg, Hessisches Staatsarchiv 1.1, likewise of Cyprian (*De opere et eleemosynis*), object of a thorough study by Richard Rouse and Charles McNelis, "North African Literary Activity: A Cyprian Fragment, the Stichometric Lists and a Donatist Compendium," *Revue d'histoire des textes* 30 (2000): pp. 189-238, who note, "New sections begin with one letter outside the outer vertical rule, and quotations are indented to the inner vertical rule" (p. 192). (I cannot yet suggest a reason why Cyprian, in particular, would stand out alongside Cicero in this convention.) An analogous convention, though for much longer blocks of text (i.e., chapters), can be found, e.g., in manuscripts from Vivarium: Fabio Troncarelli, "I codici di Cassiodoro: Le testimonianze più antiche," in *Scrittura e civiltà* 12 (1988): pp. 47-99, who notes, "Il margine viene usato per le iniziali: esse sono scritte sempre prima della riga verticale che inquadra il testo…" (p. 66).

[5] The dates are Lowe's, *CLA* I 114 and 115.

[6] From *Verrines* II 2.62-3. The *C* of *HIC* has been inserted in small superscript.

uscript into a modern text (with its modern "chapters," in Roman numerals, and sections, in arabic numerals[7]) of the *Verrines* (II 3.137–144):

…totam iniquam eierat.

138 Impudentiam singularem! Hic postulat se Romae absolvi qui in sua provincia iudicarit absolvi se nullo modo posse, qui plus existimet apud lectissimos senatores pecuniam quam apud tres negotiatores metum valere!

Scandilius vero negat sese apud Artemidorum recuperatorem verbum esse facturum, et tamen auget atque onerat te bonis condicionibus, si tu uti velis; si ex provincia Sicilia tota statuas idoneum iudicem aut recuperatorem nullum posse reperiri, postulat abs te ut Romam rem reicias. 139 Hic enim vero tu exclamas hominem improbum, qui postulet ibi de tua existimatione iudicium fieri ubi te invidiosum esse intellegat: negas te Romam reiecturum, negas de conventu recuperatores daturum, cohortem tuam proponis. Scandilius rem se totam relicturum dicit et suo tempore esse rediturum.

Quid tu ibi tum? quid facis? Scandilium cogis — quid? sponsionem acceptam facere? Impudenter tollis expectatum existimationis tuae iudicium: non facis. 140 Quid ergo? Apronio permittis ut quos velit de cohorte sumat recuperatores? Indignum uni potius ex iniquis sumundi quam utrique ex aequis reiciundi fieri potestatem. Neutrum facis eorum. Quid ergo? Estne aliquid quod improbius fieri possit? Est; cogit enim Scandilium quinque illa milia nummum dare atque adnumerare Apronio.

Quid potuit elegantius facere praetor cupidus existimationis bonae, qui ab se omnem suspicionem propulsare, qui se eripere ex infamia cuperet? LXI Adductus erat in sermonem, invidiam, vituperationem; dictitarat homo improbus atque impurus, Apronius, socium esse praetorem; venerat res in iudicium atque discrimen; potestas erat isti homini integro atque innocenti data ut, in Apronium cum animum advertisset, sese gravissima levaret infamia. Quid excogitat poenae, quid animadversionis in Apronium? Cogit Scandilium Apronio ob singularem improbitatem atque audaciam praedicationemque nefariae societatis HS $\overline{V}$ mercedis ac praemii nomine dare.

141 Quid interfuit, homo audacissime, utrum hoc decerneres an id quod Apronius dictitabat tute de te profitere ac dictitares? Quem hominem, si qui pudor in te atque adeo si qui metus fuisset, sine supplicio dimittere non debuisti, hunc abs te sine praemio discedere noluisti?

Omnia simul intellegere potestis, iudices, ex hoc uno crimine Scandiliano: primum, hoc non esse Romae natum de societate decumarum, non ab accusatore fictum, non, — ut solemus interdum in defensionibus dicere, — crimen domesticum ac vernaculum, non ex tempore periculi tui constitutum, sed vetus, agitatum iam et te praetore iactatum, et non ab inimicis Romae compositum sed Romam ex provincia deportatum. 142 Simul illud intellegi potest istius in Apronium studium, Aproni de isto non modo confessio verum etiam commemoratio. Eodem acce-

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[7] On the origins of these, see John Glucker, "Chapter and Verse in Cicero," *Grazer Beiträge* 11 (1984), pp. 103–12. More in Cicero, *Oratio pro P. Quinctio*, ed. M. D. Reeve (Stuttgart, 1992), pp. lx–lxii, with an oblique suggestion that *capita* in the mss. may be more than mere products of *interpretatio* and *coniectura* (p. lx). Cf. Roy E. Watkins, *A History of Paragraph Divisions in Horace'e* Epistles (Iowa City, 1940). See also Claude Saumaise, cited below.

dit quod hoc quoque intellegere potestis, istum statuisse in provincia sua existimationis suae iudicium extra cohortem suam committendum fuisse nemini.

LXII Ecquis est iudex cui non ab initio decumani criminis persuasum sit istum in aratorum bona fortunasque impetum fecisse? Quis hoc non ex eo statim iudicavit, quod ostendi istum decumas nova lege atque adeo nulla lege contra omnium consuetudinem atque instituta vendidisse? [143] Verum ut istos ego iudices tam severos, tam diligentis, tam religiosos non habeam, ecquis est ex iniuriarum magnitudine, improbitate decretorum, iudiciorum iniquitate qui hoc non iam dudum statuerit ac iudicarit? Etiam sane sit aliquis dissolutior in iudicando, legum officii rei publicae sociorum atque amicorum neglegentior: quid? is possitne de istius improbitate dubitare, cum tanta lucra facta, tam iniquas pactiones vi et metu expressas cognoverit, cum tanta praemia civitates vi atque imperio, virgarum ac mortis metu, non modo Apronio atque eius similibus verum etiam Veneriis servis dare coactas? [144] Quodsi quis sociorum incommodis minus commovetur, – si quem aratorum…[8]

This paragraph-like layout scarcely will surprise the reader of modern printed books — unless she or he happens to be a reader of any of several recent scholars who, often under the enormous influence of Paul Sanger's hypothesis of a medieval revolution in how (and even why) one reads, explicitly deny that ancient books had any such conveniences.[9] "Everything blended together," sighs one, in marked sympathy with the daunted ancient reader, who would have faced what another describes as "a relentless march of characters across the lines and down the columns … with no division between words, sentences, or paragraphs, and no punctuation."[10] Were Reg. Lat. 2077 our only example of ancient or late-antique capitulation, it still would provide a curious, if partial, exception to such a view of the ancient book. But as we now shall confirm, its evidence is anything but exceptional among our earliest Ciceronian manuscripts.

Direct evidence for the formal characteristics of copies of Latin literary works before the Middle Ages is lacking for most authors, but Cicero is an important exception. In

[8] The text is that of the *OCT* of W. Peterson, *M. Tulli Ciceronis Orationes* III, 2nd edition (Oxford, 1917).

[9] Paul Saenger, *Space Between Words: The Origins of Silent Reading* (Stanford, 1997), which revises and expands his already influential "Silent Reading: Its Impact on Late Medieval Script and Society," *Viator* 13 (1982): pp. 366–414. Saenger himself, to be clear, sticks closely to the question of word-separation, cautiously noting only that "paragraphing was received into Latin with hesitancy and often confined to certain genres of texts. At the end of antiquity, in both Greek and Latin texts, intratextual space had ceased entirely to serve as a code to separate words and had become instead an occasionally used code for the punctuation of texts. Most late Roman and many Greek texts were copied totally without intratextual space or other signs of intratextual punctuation" (1997: p. 12). He later seems to indicate capitulation even as he dismisses its significance: "At the end of antiquity, the only 'punctuation' sometimes present in formal Roman books was spaces setting off paragraphs" (1997: p. 72).

[10] Jocelyn Penny Small, *Wax Tablets of the Mind* (New York, 1997), p. 12. Harry Y. Gamble, *Books and Readers in the Early Church: A History of Early Christian Texts* (New Haven, 1995), p. 203. Cf. William A. Johnson, *Bookrolls and Scribes in Oxyrhynchus* (Toronto, 2004).

the first place, there are the Ciceronian palimpsests, uncovered in the nineteenth century by the keen eyes — and caustic chemicals — of scholars like Mai and Peyron. When these are added to the surviving papyri, accumulated mostly from the late nineteenth century on, they form a body of material that must be the envy of scholars who work on the oldest manuscripts of other classical authors — only scholars of Vergil are as fortunate. Strangely, however, these Ciceronian manuscripts have been subjected to little synthetic study since the work of Karl Halm, which predated the discovery of most of the papyri.[11] An initial effort was made by Richard Seider in a 1979 study which has the merit of collecting photographs of many of the fragments; the accompanying discussion, however, is far from exhaustive.[12] Study specifically of formal similarities among these manuscripts has perhaps been discouraged by the fragmentary nature of the material and other limits on legibility, but the difficulties are not insurmountable.

Let us begin with the palimpsests, five of which are known:

> Milano, Bibl. Ambrosiana, S.P. 11.66 (previously R. 57 sup.)
> Torino, Bibl. Nazionale, A. II. 2★ (destroyed by fire in 1904)
> Vatican, BAV, Reg. Lat. 2077
> Vatican, BAV, Palat. Lat. 24
> Vatican, BAV, Vat. Lat. 5757

These incorporate reused folia from eight late-antique codices, which are listed below according to the number assigned to each in *Codices Latini Antiquiores*, followed by the date suggested by Lowe:

CLA	I 35	(Vatican, Vat. Lat. 5757)	saec. IV-V
	I 76	(Vatican, Palat. Lat. 24)	saec. V
	I 77	(Vatican, Palat. Lat. 24)	saec. V
	I 115	(Vatican, Reg. Lat. 2077)	saec. V
	III 363	(Milano, Ambros. S. P. 11.66)	saec. V
	IV 442	(Torino, a.II.2★)	saec. V
	IV 443	(Torino, a.II.2★)	saec. V-VI
	IV 445	(Torino, a.II.2★)	saec. V-VI

Collectively, these eight codices contain twenty-six copies of seventeen different Ciceronian texts:

[11] Karl Halm, *Zur Handschriftenkunde der ciceronischen Schriften, Programm des Königlichen Maximilians-Gymnasiums* (Munich, 1850). This twenty-four page pamphlet, however, is little more than a list of important Ciceronian manuscripts, a pity since Halm must have known the material well.

[12] Richard Seider, "Beiträge zur Geschichte und Paläographie der antiken Cicerohandschriften," *Bibliothek und Wissenschaft* 13 (1979): pp. 101-49. This article absolutely supersedes Seider's more limited treatment in *Paläographie der lateinischen Papyri*. Seider oddly omits the substantially surviving papyrus codex (P. Barc. 137) in his list of Ciceronian papyri in *Paläographie*, despite his inclusion of the tiny Duke fragment (P. Robinson 201) taken from it.

Pro Quinctio, Pro Sex. Roscio Amerino, Pro Tullio, In Verrem, Pro Fonteio, Pro Caecina, De imperio Cn. Pompei, Pro A. Cluentio Habito, Pro Rabirio perduellionis reo, In Catilinam, Pro Flacco, Pro Caelio, In Pisonem, Pro Scauro, Pro Milone, Epistulae ad familiares, De re publica

Remarkably, *all are capitulated*.[13] To these may probably be added the evidence of the first quire of Biblioteca Apostolica Vaticana, Arch. S. Pietro H 25, containing the *In Pisonem*, which, though of Carolingian date, has been held to be a semi-diplomatic transcription of a late-antique exemplar in uncial script; it too is capitulated.

Because of their fragmentary state, the papyri require more specific discussion:

◆ P. Iand. V. 90, the famous Giessen papyrus of a few lines of the *In Verrem*, generally is thought to be a school exercise datable, perhaps, within a century of Cicero's death.[14] It does not appear to have been set out in offset *capita* but employs instead the abbreviation *K = kaput* to mark a *caput*-division.[15]

◆ Firenze, Biblioteca Laurenziana, PSI 20 is a tiny fragment in half-uncials from a fifth- or sixth-century papyrus codex containing the *In Verrem*. It comes from the center of the writing column, but *verso* l. 3 ends, at a sentence-end, well in advance of the right margin, and my calculations reveal that the text in the following line must have exceeded the mean line length, a factor doubtless to be explained by its elongation left to mark the new *caput*.

[13] I base this assertion on the following: Palat. Lat. 24 and Vat. Lat. 2077, direct inspection; Vat. Lat. 5757, full facsimile, published as *M. Tulli Ciceronis De re publica libri e codice rescripto Vaticano Latino 5757 phototypice expressi* (Vatican, 1934; earlier published Milan, 1907); Ambros. S.P.11.66, transcriptions by A. Peyron, *M. Tulli Ciceronis Orationum Pro Scauro, Pro Tullio, et in Clodium fragmenta inedita…* (Stuttgart, 1824), and note by Lowe at *CLA* III 363, "New sections begin with a larger letter projecting to the l. of the column"; Torino, A.II.2★, photographs and diplomatic transcriptions in C. Cipolla, *Codici bobbiesi della Biblioteca nazionale universitaria di Torino* (Milano, 1907), pp. 36-45, diplomatic transcriptions in Peyron, op. cit., pp. 221-222, and note by Lowe at *CLA* IV 442, "New sections begin with a larger letter projecting into the left margin." For *CLA* IV 442 of the Torino palimpsest, photographs or transcriptions do not exist for all of the orations therein contained, but since those for which these do exist are capitulated, I have assumed that the codex was capitulated throughout. (All of the Torino palimpsests were destroyed by fire in 1904.) The exiguous *ad Fam.* fragment (*CLA* IV 443) has a *caput* at the letter-beginning it preserved.

[14] The principal bibliography on the papyrus is as follows: Josef Sprey, *Papyri Iandanae V: Literarische Stucke und Verwandtes* (Leipzig, 1931), pp. 210-12, plus Nachtrag, with plate. Richard Seider, *Paläographie der lateinischen Papyri*, vol. II:1 (Stuttgart, 1978), pp. 31-33. Idem, "Beiträge zur Geschichte und Paläographie der antiken Cicerohandschriften," *Bibliothek und Wissenschaft* 13 (1979): pp. 101-49, with a description of the Giessen fragment on pp. 113-14. E. Otha Wingo, *Latin Punctuation in the Classical Age* (The Hague, 1972), pp. 50-4. M. B. Parkes, *Pause and Effect: An Introduction to the History of Punctuation in the West* (Berkeley, 1993). Guglielmo Ballaira, *Esempi di scrittura latina dell'età romana*, vol. 1: *Dal III-II secolo a.C. al I secolo d.C.* (Torino, 1993), pp. 83-99. This last contains (pp. 93-9) an exhaustive annotated bibliography on the papyrus, including information on the various conclusions reached regarding its date. I raise some doubts about the authenticity of the Giessen papyrus in *Litterae Manent: Ciceronian Oratory and the Written Word* (Ph.D. Dissertation, Columbia University, 2000), pp. 284-93.

[15] On the general use in antiquity of the abbreviation *K = kaput*, see my *Litterae Manent*, pp. 224-29, 238-42. The earliest grammarian to provide the expansion is Velius Longus (Keil VI, p. 53); cf. Terentius Scaurus (Keil VI, p. 14) and Terentius Maurus (Keil VI, p. 349).

◆ Manchester, John Rylands University Library, P. Ryl. 477 preserves most of a bifolium from a fifth-century papyrus codex of the *In Verrem* (the text is that of the *Divinatio in Caecilium*). It is capitulated throughout, with the added feature of a *littera notabilior* to begin each caput.[16]

◆ P. Berol. 13229 A+B consists of two folia of a very small fifth-century parchment codex of the *Pro Plancio* — "perhaps a pocket copy," suggests Lowe — written in a "somewhat exotic, dainty uncial of an early type."[17] Despite the pressures produced by miniaturization, the text is capitulated.

I omit as extraneous to the present discussion two bilingual papyri arranged, phrase by phrase, in two columns, one Latin, one Greek.[18] The two remaining manuscripts seem not to have been capitulated:

◆ P. Oxy. 1097 + P. Oxy. 1251 + P. Köln 2554 + P. Köln 3292. The scattered fragments of a fifth-century papyrus codex containing *De imperio Cn. Pompei, In Verrem,* and *Pro Caelio* seem not to be capitulated, though it is not always easy to be sure, as "there is considerable variation in the length of the lines, which are irregular not only at the ends but to some extent also at the beginnings."[19] Space constraints may explain the absence of capitulation as well as the use of small, cramped writing, presumably in order to take maximum advantage of the papyrus: "A great deal can be got into a page of this size, with small writing and closely packed lines; and a further economy of space was attained by the abbreviation or contraction of certain common words."[20]

◆ The same concerns may behind the absence of capitulation in our final example, P. Barc. 137, a fifth-century copy of the *In Catilinam* written in a small, cramped half-uncial, whose forms Lowe found reminiscent of the "quarter-uncial" often used as a glossing script.[21] Some textual divisions (*capita*?), however, have been marked by punctuation in the text and margins, including one instance of a *paragraphos*.[22]

[16] "At the end of sentences, where the pause in sense is considerable, the writer leaves a gap of some four or five letters; a new section (according to his system) always begins on a new line with an enlarged initial letter projecting into the margin," C. H. Roberts, *Catalogue of the Greek and Latin Papyri in the John Rylands Library Manchester* III, p. 72.

[17] *CLA* VIII 1043. Full discussion in Seymour de Ricci, "Un fragment en onciale du "Pro Plancio" de Cicéron," *Mélanges M. Émile Chatelain* (1910), pp. 442-7.

[18] P. Vindob G. 30885a+e and P. Ryl. 61.

[19] Bernard P. Greenfell and Arthur S. Hunt, *The Oxyrhynchus Papyri*, Part X (London, 1914) p. 143, on P. Oxy. 1251. A *caput* may be indicated by offsetting at line 30 of P. Oxy. 1097 recto.

[20] A. S. Hunt, *The Oxyrhynchus Papyri*, Part VII (London, 1911), p. 153, on P. Oxy. 1097.

[21] *CLA* XI 1650. A tiny fragment of the codex is at Duke University, P. Robinson, Inv. 201.

[22] Facsimile and careful discussion in R. Roca-Puig, *Ciceró. Catilinàries (I & II in Cat.): Papyri Barcinonenses* (Barcelona, 1977). *Paragraphos* on p. 33. Other divisions: by blank space on p. 39, by high point on p. 22, by two dots (:) on pp. 6, 9, 31.

With the exception of the Giessen papyrus, all of the fragments we have been considering come from codices and have been variously dated to late antiquity (to the fourth, fifth, and sixth centuries). Our analysis of this large and varied body of material leads us to the following general conclusion: capitulation was universal in codex-copies of Cicero in late antiquity except in occasional cases where conservation of space was an urgent need. In other words, late-antique readers ordinarily read capitulated Ciceros. And since they read Cicero a great deal (surely more than any other pagan prose author), this fact already represents a significant revision of our picture of late-antique books.

But what about earlier readers? Direct evidence can take us no further in the Ciceronian tradition (the Geissen papyrus would confirm *capita*, but not capitulation), but other papyrological and epigraphic material will reveal that capitulation had been in use for other Latin texts for centuries. We turn now to a long but necessary excursus through that comparative material, after which we shall return to the capitulation of Cicero.

Capita in early Roman legal texts

The earliest surviving example of the use of *caput* to designate a section of a longer text is found in Cicero's rhetorical treatise *De inventione*, composed, he later tells us, while he was still a *puer* and *adulescentulus*, some time in the 80s B.C.[23] This *terminus ante quem* is no more useful than the countless debuts of other words in the Ciceronian corpus, as they reflect the accidents of textual survival rather than any knowable linguistic chronology. However, it does tell us that from his boyhood Cicero knew the precise usage of *caput* he employs here, to designate a section of a legal text, what in English would be called a "clause":

> Deinde oportet recitare leges cum exceptionibus scriptas et maxime videre, ecquae in ea ipsa lege, qua de agatur, sit exceptio aliquo in capite aut apud eundem legis scriptorem, quo magis probetur eum fuisse excepturum, si quid excipiendum putaret.[24]

The *De inventione*, which Cicero later suggests he compiled directly out of his notebooks (*ex commentariolis nostris*[25]), is profoundly marked by the Greek character of his rhetorical training, and various efforts have been made to sort out its sources, including attempts to find behind the *De inventione* and the contemporary, anonymous *Rhetorica ad Herennium* a common source in the form of a Greek rhetorical handbook. But Cicero's use of *caput* belongs to an entirely Roman technical vocabulary: κεφαλή is never used with this sense in Greek, and the parallel use of the substantive κεφάλαιον in the later Roman period is simply a translation into Greek of the Latin *caput* or *capitulum*.

[23] *De or.* 1.5.
[24] *Inv. rhet.* 2.131.
[25] *De or.* 1.5.

The example is taken from Cicero's lengthy passage on the proper handling of a *controversia in scripto*. The importance Cicero gives to this subject (the corresponding section in the *Rhetorica ad Herennium*[26] is briefer) may reflect his own early interest in the role of writing in the law, but the passage is not therefore unreliable as evidence for the diffusion of such cases in Roman law courts. It is striking that Cicero can suggest that the following argument works because it is an accepted *locus communis*: *nihil eos qui iudicent nisi id quod scriptum spectare oportet*.[27] Cicero's examples, though hypothetical, make it clear that such cases often involved close readings of minute portions of legal texts; their division into sections must have made this practice easier.

But why were these sections called *capita*? The *Thesaurus Linguae Latinae* suggests two possible origins of the designation. The second is by extension of *caput*'s well-attested use (in this case, paralleled in Greek) to indicate the main thrust of an argument or text. The first suggestion, by contrast, makes *caput* a formal description of the inscribed law itself:

> quod in legibus graviores particulae nova linea praeter ceteras spatio complurium litterarum ex ordine provecta scribebatur.[28]

B. Maurenbrecher, who signs the entry, connects the epigraphic convention he has in mind to the use of *caput* to designate the extreme end of a man-made object, considered either horizontally or vertically, as in the protruding end of a beam used for architectural support, or the end of a battering ram, or the head of a nail, or the capital of a column, or the two ends of a ruler or bolt of cloth, suggesting, therefore, that *caput*, in its legal use, designated the protruding "head" (presumably the beginning) of a section, set off by a few letters from the main block of the text by a convention of legal *mise-en-page*.[29]

The "page" of the law for the relevant period is known to us only through the precious survival of a number of bronze legal tablets, most in fragmentary form.[30] Of the early character of these tablets, W.V. Harris notes the following:

> Some laws may perhaps have been inscribed earlier on perishable material such as wood, but it seems unlikely to be an accident that whereas we have no text from before the third quarter of the second century, there exist copies of about a dozen laws (many not from Rome itself) dating from between that period and 49. These texts were definitely not meant for popular consumption. They are written in a legalese rendered all

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[26] *Rhetorica ad Herennium* 2.13-14.

[27] *Inv. rhet.* 2.125. On the general question of the importance of documentary evidence in Roman trials of Cicero's day, see my *The Hand of Cicero* (London and New York, 2002).

[28] *Thesaurus Linguae Latinae* (*TLL*) IV B 3, coll. 424–25.

[29] *TLL* III A 5, col. 412.

[30] In the following, I shall discuss these on the basis of their publication in M. H. Crawford, *Roman Statutes* (London, 1996), henceforth cited as *RS.*

the more opaque by the use of technical abbreviations. In any case the masses certainly could not read. But although we clearly are not dealing with the democratization of the legal system, a certain widening of legal and hence political and social power was in operation, just as it had been with the publication of laws in Greece. It seems likely that an innovation in publication practice occurred in the 130s or slightly earlier, closely connected with the limited liberalization which during the 130s gave rise to a series of ballot laws.[31]

But though "legalese" and limited literacy combined to restrict the reading public of these tablets to a small fraction of passers-by, there is evidence of intervention in the formal structure of the texts to improve their readability for those who had both the need and the ability to read and use them. The earliest tablet contains the *Lex repetundarum*, to be dated to the Gracchan period, perhaps to 123/122.[32] The text is divided into numerous sections, each preceded by a rubric (a title that summarizes the section's contents) set off from the end of the preceding section by the space of five or so characters. M. H. Crawford makes this comment on the practice:

> We are in a much better position than Mommsen to appreciate the unique and original nature of the Lex repetundarum. *No other inscribed statute, until we come to the municipal statutes of the Flavian age, has rubrics.* What is more, it is unlikely that the *rogatio*, as read to the assembly, had rubrics, which would have interrupted the grammatical sequence. In other words, we are not dealing with a text which is simply that of a *rogatio* converted to that of a *lex* … but with a specially edited text for a so far unique form of publication.[33]

It is not clear why Crawford should be sure that the use of rubrics is "original" in the *Lex repetundarum*, as earlier inscribed laws that do not survive may have employed the same device. But if Harris is right in finding in the Gracchan period the origins of the imperative to publish a law, then the *Lex repetundarum* cannot have been preceded by many — if any — rubricated legal inscriptions.[34]

The use of rubrics had already been discontinued by the time the reverse of the *Lex repetundarum* inscription was used to inscribe the *Lex agraria* of 111 B.C.[35] But the latter does mark sectional divisions with "a *vacat* with interpuncts to indicate a new clause," though "it does not do so consistently," and, in more than one case, "there appears to be a fairly major break in sense without a *vacat*."[36] The divisions are

[31] William V. Harris, *Ancient Literacy* (Cambridge, Mass., 1989), pp. 166-67. Cf. M. Crawford, "The Laws of the Romans: Knowledge and Diffusion," in *Estudios sobre la Tabula Siarensis*, edd. Julian Gonzalez and Javier Arce (Madrid, 1988), p. 134.

[32] *RS* 1, with exhaustive bibliography; *Corpus Inscriptionum Latinarum* (*CIL*) I² 583; *Inscriptiones Latinae Liberae Rei Publicae* (*ILLRP*), *Imagines* 384a–f. On the date, see *RS* p. 51ff.

[33] *RS* p. 49.

[34] Though *rubrica* is the later technical term for such titles, its use here by Crawford and by me may be anachronistic, and care should be taken not to assume that "rubrics" first appeared in red, and therefore in written or painted form.

[35] *RS* 2; *CIL* I² 585; *ILLRP Imagines* 385a–f.

[36] *RS* pp. 113, 159.

much less tentative in the *Lex Latina Tabulae Bantinae*,[37] from "the last decades of the second century B.C."[38] Each new section begins on a new line; the left third or so of the inscription is missing, so it is impossible to know the relationship between the beginning of each section and the left margin, though Crawford envisions "outspacing" in his reconstruction.[39]

The earliest certain example of the offsetting of the beginnings of *capita* in a Roman law occurs, curiously, in a Greek translation made by a Latin speaker: the Cnidos copy of the *Lex de provinciis praetoriis* (the so-called "Piracy Law"), dated to 101 B.C.[40] Each new section begins on a new line and a character or so to the left of the normal edge of the margin. By contrast, the exactly contemporary Delphic copy of the same law — another Greek translation by a Latin speaker — employs "a *vacat* or space bar or an interpunct" to divide sections.[41] Two different Romans sent to the provinces chose two different strategies current in their day for laying out an inscribed law, but that chosen by the Roman in Cnidos was destined to prevail, and we may thus use the evidence of the *Lex de provinciis praetoriis* to date the adoption of the offset new line as the preferred format for marking *capita* in Roman legal inscriptions to the years around 100 B.C.[42]

By 87 this same format was sufficiently well known to be adopted in Spain for a bronze inscription recording not a law but a sale of land.[43] The earliest proper law written in Latin that survives in this format is the *Lex Cornelia de XX quaestoribus*,[44] put up in Rome in the Temple of Saturn in 81 B.C. It may be taken to represent the form of a legal inscription familiar to the young Cicero. Coincidentally, the first section of the law regards payment of the *scribae*; these were more than just "scribes,"[45] but it is certainly possible that they had something to do with the formal regularization of Roman legal texts.

The earliest surviving explicit reference by a law to one of its own sections is in the *Lex Antonia de Termessensibus*,[46] dated to 68 B.C. The second-to-last section refers to *ea quae in hoc capite scripta sunt*;[47] *hoc caput* is clearly the section in which these words appear. The reference thus confirms that sections of a legal text written in the offset

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[37] *RS* 7, *CIL* I² 582; *ILLRP Imagines* 383.

[38] *RS* pp. 195-99. The dating is controversial.

[39] At line 7, *RS* p. 200.

[40] *RS* 12; on the translator, see p. 234. Image in Mark Hassall, Michael Crawford, and Joyce Reynolds, "Rome and the Eastern Provinces at the End of the Second Century B.C.," *JRS* 64 (1974), Plate 12.

[41] *RS* p. 233. The only published photograph in which the form of what Crawford calls a "space bar" is clear is in G. Coulin, *Fouilles de Delphes* III, 4 (Paris, 1930), pl. VII bis.

[42] In this highly simplified picture, I leave aside the question of whether these "two Romans" were translators, scribes, stone-carvers, governors, or something else — not to mention other possible complexities.

[43] The *Tabula Contrebiensis*; photo in Javier Arce, Serena Ensoli, Eugenio La Rocca, *Hispania Romana: Da Terra di Conquista a Provincia dell'Impero* (Milano, 1997), p. 392.

[44] *RS* 14; *CIL* I² 587; *ILLRP Imagines* 387.

[45] On *scribae*, see Badian, "The *scribae*," *Klio* 71 (1989): pp. 582-603.

[46] *RS* 19; *CIL* I² 589; image in *ILLRP Imagines* 388.

[47] Lines 29-30.

format were known as *capita*. If the "projecting end" hypothesis for the use of *caput* is correct, then it can only be the offset format itself that gave rise to the metaphor, which would indeed have been an apt one. The term would therefore have arisen in the period of the adoption of the offset format, around 100 B.C.

Alternatively, if the origins of the use of *caput* to designate a section of the law lie simply in its meaning as "the main point of an argument," then the sections of earlier laws, like the *Lex repetundarum*, may too have been known as *capita*, pushing the origins of the usage back at least to the Gracchan period. But even in this case, *caput* must quickly have come to designate not a "point" of the law in any general sense, but rather a specific element of the law's written architecture. And by Cicero's day, the predictability of that architecture meant that a *caput* was what began on a new line, slightly offset, just as for the reader of the present text, a paragraph is that which begins on a new line, slightly indented. That the division of a text into *capita* was not left to the judgement of the reader or embedded in its grammatical structure is more significant than it might at first seem: this seems to be the first assistance of its kind offered to a Latin reader, otherwise confronted with a generally "neutral" — i.e., undivided and unpunctuated — text.[48]

The Roman practice of dividing lengthy legal texts into *capita* doubtless was modeled on analogous practices by the Greeks. Greek legal inscriptions from as early as the fifth century B.C. show a variety of techniques for dividing and numbering the clauses of a new law or decree.[49] Unfortunately, despite extensive publication of Greek inscriptions, study of these techniques is rendered difficult by the tendency of modern editors to "translate" formal epigraphic characteristics into modern (or, on occasion, ancient Roman) systems of textual organization. Usually, only in the case of a photograph or, naturally, the inscription itself can the scholar be sure of the precise technique used. I have been unable to locate an example of a capitulated Greek inscription earlier than the Roman period,[50] but a final determination of whether the Romans first introduced capitulation to epigraphic texts should await more exhaustive research. Some Greek papyri, however, do employ offsetting to mark sectional divisions in documentary texts,[51] with papy-

[48] M. B. Parkes, *Pause and Effect: An Introduction to the History of Punctuation in the West* (Berkeley, 1993) pp. 10ff; "neutral text," p. 11.

[49] For the fifth century, see, for example, *IG*³ I, 307, and *Recueil des Inscriptions Juridiques Grecques* XI, fasc. 2, pp. 180ff. — the second example includes dashes to divide sections, followed by letters on their sides to number them. The earliest Greek texts for which sectional divisions have been claimed are the Linear B tablets of Crete, in which Arthur J. Evans, *Scripta Minoa: The Written Documents of Minoan Crete* I (Oxford, 1909), p. 40, sees

"the espacement into distinct paragraphs." But Evans wrote before Linear B's decipherment; these "paragraphs" are not subsequently mentioned.

[50] The only possible exception I have yet encountered is *CIG* III 5773, a curse tablet from the Brutii. But its date is uncertain; its beginning is reconstructed; and its two "*capita*" repeat virtually the same formula and therefore are not divisions of a continuous text. It is also edited in Augustus Audollent, *Defixionum Tabellae…* (Paris, 1904), p. 283.

[51] See, for example, Guglielmo Cavallo et al., edd., *Scrivere libri e documenti nel mondo*

rologists occasionally describing the technique as *ekthesis*, though the ancient term properly refers to a different practice.[52] Given, at least, the documentary precedent, it seems reasonably likely that the Romans borrowed the practice of offsetting new sections of a text from Greek models.

It is impossible to say whether the Romans employed capitulation in their own papyri and waxed tablets alongside its earliest use in legal inscriptions, since none of the former survive for the relevant period. But on the whole, especially given that the overwhelming majority of early textual references to *capita* as "sections" are to laws, it seems more likely than not that, in Rome, captitulation first became standard in legal inscriptions, which offered influential models from which the practice spread to other types of texts. To the surviving artifacts of those other capitulated texts we now turn.

Capita in Roman papyri

Whatever its precise origins, the *caput* was a readily understandable graphic technique, and it is not surprising to find it used in a variety of documentary contexts by the time the papyrological record becomes more abundant. The earliest surviving Latin papyrus to employ capitulation is P. Vindob. L 135 (*ChLA*[53] XLV 1340), a receipt from Alexandria precisely dated to A.D. 27. The text contains two sections, the main text and the closing formula, each of which begins with an offset line. A slightly later papyrus, Firenze, Biblioteca Laurenziana, PSI XI 1183 (*ChLA* XXV 785), A.D. 45-54, contains a declaration of the property of a Roman citizen. The text is in duplicate: one copy in careful rustic capitals divides sections by beginning them on a new line; the second copy, in cursive, uses offsetting in addition to a new line.[54] The use of the two techniques side-by-side in the mid-first century A.D. might suggest that the decisive adoption of offset *capita* in papyrus documents came well after they were the rule in legal inscriptions and thus argue that *capita* were, in fact, originally an epigraphic innovation. But an equally likely explanation can be found in the Egyptian provenance of the papyrus: Greek scribal practice may have persisted here long after *capita* were adopted in Rome. If this sec-

antico (Firenze, 1998), tav. LXXXIV (*PSI* VI 631), LXXXV (*PSI* VI 616), XCVI (*PSI* XIII 1310). I am indebted to Roger Bagnall for these references. William A. Johnson, *Bookrolls and Scribes in Oxyrhynchus* (Toronto, 2004), p. 19, notes "the use of *paragraphus* and *ekthesis* to mark a new fable" in P. Oxy. 1249, from a second- or third-century A.D. copy of Babrius. Regarding this last, both the date and the possible Roman origins of Babrius prevent us from finding here evidence of a Greek precedent for the capitulation of literary prose.

[52] The word is borrowed from the *scholia* on Aristophanes where, together with its complement *eisthesis*, it designates the insetting of shorter lines of lyric verse.

[53] Albert Bruckner and Robert Marichal, edd., *Chartae Latinae Antiquiores: Facsimile Edition of the Latin Charters* (Olten 1954-).

[54] The best known documents preserved in duplicate are military diplomata; an authoritative copy remained sealed, while a visible copy was available for use until challenged.

ond explanation is correct, then it is interesting to note that the text is "more Roman" in its cursive form, which the editors of the papyrus have identified as the sealed *scriptura interior*.

Another first-century Latin papyrus, PSI XIII 1307 (*ChLA* XXV 789), contains the *acta diurna* of a Roman legion, divided into *capita*. P. Oxy. 1022 (British Library Pap. 2049; *ChLA* III 215, with image) contains the text of a letter dated 103 from the prefect of Egypt to the prefect of a cohort in the form of an "authentic copy certified by the *cornicularius* of the cohort"[55]; its documentary character may have prompted the use of *capita*. A contemporary, more personal letter, though still from a military context, appears in a wooden tablet from Vindolanda (*Tab. Vindol.* II 248)[56] in which the salutation, main text, and closing formula form separate *capita*. Also from Vindolanda Level 8 (A.D. 95-105) is the longest text found there (*Tab. Vindol.* II 190), a series of accounts divided into *capita*. An excellent example of the use of *capita* is a famous papyrus containing the deed of the sale of a boy slave, British Library Pap. 229 (*ChLA* III 200, with image), dated A.D. 166.

Another second-century papyrus, P. Hamb. 311 (*ChLA* XI 496), contains a "formulary" for *testamenta per aes et libram* divided into *capita*; we doubtless can assume that the wills themselves, which usually were written on wax tablets, would have used the same division. Direct evidence for the common use of *capita* on wax tablets is to be had in the hundreds of tablets unearthed at Pompeii and Herculaneum, the earliest of which with a secure date is a receipt written in A.D. 15.[57]

One remarkable papyrus is of singular interest for the present study. P. Berol. 8507 (*ChLA* X 418, with images) preserves a substantial fragment of an oration by the emperor Claudius, copied out apparently not long after the speech was given. The text preserves three *caput*-divisions and is thus the earliest surviving non-documentary papyrus to employ capitulation. It provides conclusive evidence for the use of capitulation in the written form of a proper oration a century or so from Cicero's own lifetime.

[55] *ChLA* III 215.
[56] References to the Vindolanda tablets are by the numbers used in Alan K. Bowman and J. David Thomas, *The Vindolanda Writing Tablets: Tabulae Vindolandenses II* (London, 1994). The same numbers are used by what is now the tablets' definitive edition, *Vindolanda Tablets Online*, *vindolanda.csad.ox.ac.uk/*, which includes high-resolution images.
[57] The eruption of Vesuvius preserved at Pompeii a collection of 153 receipts (the so-called Archive of L. Caecilius Iucundus) ranging in date from A.D. 15 to 62. They are edited, with facsimiles and some photographs, in *CIL* IV, Suppl. 1 (1898), where the entire archive is given the inscription number 3340, and each individual tablet is assigned a Roman numeral. The earliest of these

(3340, I), in the name of L. Caecilius Felix and dated, by consular date, to A.D. 15, employs *capita*. *Capita* are used *passim* in the subsequent tablets, all in the name of L. Caecilius Iucundus, presumably the son or heir of Felix. Another archive from Pompeii contains the wax tablets of the Sulpicii, many of which have consular dates, ranging from A.D. 26 to 61. Their recent publication with photographs confirms frequent use of capitulation here as well: Giuseppe Camodeca, *Tabulae Pompeianae Sulpiciorum: Edizione critica dell'archivio puteolano dei Sulpicii* (Rome, 1999). Scattered and inconsistent publication (mostly in the journal *La Parola del Passato*) of the hundreds of tablets, often fragmentary, found at Herculaneum reveals capitulation here as well; affected texts include receipts, promissory notes, and *testationes* of various sorts.

Further use of *capita* in inscriptions

Returning to the epigraphic record, we find that the use of capitulation accompanied the explosion of lengthy inscriptions for essentially propagandistic purposes in the Augustan period. Thus the inscription set up in Rome to record the events of the *Ludi Saeculares* of 17 B.C. is divided into *capita*.[58] Also capitulated are the so-called *Decreta Pisana* erected in A.D. 2 and A.D. 4, nominally in honor of, respectively, Lucius and Gaius Caesar, but equally concerned with the person of Augustus himself.[59] As epigraphic documents of the construction of imperial ideology, their importance is considered secondary only to that of the *Res Gestae Divi Augusti*. This "Queen of Inscriptions," in Mommsen's phrase, was set up after the emperor's death at the entrance to his mausoleum in Rome. Other copies were erected throughout the empire; surviving fragments in both Latin and Greek are laid out in *capita*, as presumably was the inscription on the mausoleum. The text "was written by Augustus himself before 2 B.C. and probably revised from time to time between 2 B.C. and 14 A.D."[60] According to Suetonius, Augustus left the text along with two other sealed *volumina* (one containing instructions for his funeral) and the two *codices* of his will in the safekeeping of the Vestal Virgins, who turned all over to the senate for reading upon his death.[61] There is no reason not to suppose that the handwritten original of the *Res Gestae* (which Suetonius refers to as an *index rerum a se gestarum*) provided the *caput*-divisions used in the inscriptions.[62]

Before returning at last to the manuscripts of Cicero, let us consider a genre that crossed not only handwritten/epigraphic but also oral/written divisions. The earliest recorded instance of a *laudatio funebris*, a eulogy of the deceased, mentioned by later Roman writers was given at the dawn of the Roman Republic.[63] The earliest *laudatio* that a later writer specifically claims was written down was given by Q. Caecilius Metellus in praise of his father in 221 B.C. The elder Pliny, who cites the speech, presumably read it himself; whether or not it was genuine is another question. Other known *laudationes* are collected by F. Vollmer and, more recently, by W. Kierdorf.[64] Perhaps the most striking feature of a *laudatio* was that it could be delivered orally, usually at the deceased's funeral, inscribed on a funerary monument, cir-

[58] Image in E. Diehl, *Inscriptiones Latinae* (Bonn, 1912), Plate 9.

[59] On them see Alida Rosina Marotta D'Agata, *Decreta Pisana (CIL, XI, 1420-21)* (Pisa, 1980), with images.

[60] David M. Robinson, "The Deeds of Augustus as Recorded on the Monumentum Antiochenum," *AJPh* XLVII (1926), p. 1. Cf. T. Mommsen, *Res Gestae Divi Augusti ex monumentis Ancyrano et Apolloniensi* (Berlin, 1883), pp. 1-2, with images.

[61] Suet., *Aug.* 101. Cf. Dio 56,33, who adds a fourth

volume, and Tac. *Ann.* 1, 11. Both Suetonius and Dio give full lists of contents.

[62] For more on the use of (numbered) *kapita* and *loci* as finding aids in later inscriptions, see Paul Lehmann, *Erforschung des Mittelalters: ausgewählte Abhandlungen und Aufsätze*, vol. 3 (Stuttgart, 1960), p. 5.

[63] That of L. Iunius Brutus by P. Valerius Publicola in 509 B.C. See Kierdorf, cit. infra, p. 137 for ancient references

[64] F. Vollmer, *Laudationum Funebrium Romanorum histo-*

culated in handwritten form — or a combination of these. Significantly, oral delivery of the *laudatio* — in origin surely the only form the *laudatio* took — eventually became optional. At the same time, falsified *laudationes* in praise of famous ancestors eagerly were brought forth by status-conscious Roman families.[65]

The two earliest surviving inscribed *laudationes* are both of Augustan date.[66] It seems reasonable to suppose that inscribed *laudationes* did not appear much earlier: The *laudatio* was much fuller and rhetorical than the epitaph, which was expressed efficiently in earlier periods (exceptions like the Scipiones only prove the rule); the increasing length and ostentation of inscriptions in the early Empire probably enabled the crossover. Both of these Augustan-era *laudationes* — the *laudatio Murdiae* and the so-called *laudatio Turiae* — are capitulated. E. Badian claims that the second, the longest surviving private Roman inscription, was "almost certainly not actually delivered,"[67] though there is no real way to be sure of this.

What purpose did capitulation in *laudationes* serve? In the texts we have considered thus far — whether legal, documentary, or annalistic — each *caput* represented a logically cohesive component part of a larger whole. Division into *capita* facilitated reference to a text of which, for a given question, only one *caput* might be relevant. Though their reference utility might seem somewhat less obvious than those of other texts we have considered, the *capita* of the *Decreta Pisana* and the *Res Gestae* can be explained in terms of, respectively, the legal and annalistic characters of the texts for which they provide written structure. But the *capita* of the *laudationes* can serve no reference purpose.[68] They instead must represent rhetorical or thematic divisions of some sort, triggered by shifts in sound or sense. The latter takes us close to our own use of paragraphs, but since we probably are supposed to imagine that a written *laudatio* represents a speech actually given in honor of the deceased — whether or not this was really the case — it is tempting to suppose that capitulation is somehow related to the rhythms and pauses of oral delivery. Naturally, sound and sense are not mutually exclusive considerations; on the contrary, the orator must

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ria et Reliquiarum Editio (Leipzig, 1891), pp. 480ff. Wilhelm Kierdorf, *Laudatio Funebris: Interpretationen und Untersuchungen zur Entwicklung der römischen Leichenrede* (Meisenheim, 1980), pp. 137ff.

[65] Vollmer, op. cit., pp. 466ff.

[66] *Laudatio Murdiae*: *CIL* VI 10230; ILS 8394; Vollmer, op. cit., pp. 484-91; Kierdorf, op. cit., 145-6. *Laudatio Turiae*: *CIL* VI 1527, 31670, 37053; *ILS* 8393; Keirdorf, op. cit., 139-45; Vollmer, op. cit., pp. 491-95 (commentary only); Marcel Durry, ed., *Éloge funèbre d'une matrone romaine (éloge dit de Turia)* (Paris, 1950); Erik Wistrand, *The So-Called* Laudatio Turiae: *Introduction, Text, Translation, Commentary = Studia Graeca et Latina Gothoburgensia* 34 (Lund, 1976); Nicholas Horsfall,

"Some Problems in the 'Laudatio Turiae,'" *BICS* 30 (1983): pp. 85-98, with images of all the fragments.

[67] In his signed entry for *laudatio funebris* in the *OCD*, 3rd ed. Cf. Horsfall, "Some Problems…," p. 89.

[68] They must likewise be distinguished from the numbered, titled "chapters" (*capita* or *capitula*) of Pliny the Elder or Aulus Gellius, both with corresponding tables of contents, where the explicit aim is to facilitate reference. Michael Reeve has brought to my attention the remarkably exhaustive (and opinionated!) investigation of *indices* and *capita* (and the like) in the "Prolegomena in Solinum" of Claude Saumaise (Claudius Salmasius), *Plinianae exercitationes in Caji Julii Solini Polyhistoria* (Utrecht, 1639).

make them complementary (as, properly speaking, must a competent modern writer). One way or another, however, it is suggestive that our earliest surviving examples of capitulation not for reference (to which we shall return for deeper analysis below) come from "speeches" that were primarily or even exclusively destined for dissemination as written texts. We shall return to this entire question in a bit, but for now, let us simply note that capitulation seems to serve no purpose that can be exclusive to an epigraphic format (except, perhaps, to make an imposing inscription easier to read, but then we would expect all long inscriptions to be capitulated), and we probably, therefore, should imagine its use in at least some of the *laudationes* that circulated in handwritten form (i.e., in books or booklets).

In addition to the sometimes false suggestion of oral delivery, there were several ways in which a *laudatio* could deceive. In the *Brutus*, Cicero numbers unspecified *laudationes* among the earliest surviving *monumenta* of Latin oratory but cannot resist an excursus on their unreliability as historical documents:

> …non nullae mortuorum laudationes forte delectant. et hercules eae quidem exstant: ipsae enim familiae sua quasi ornamenta ac monumenta servabant et ad usum, si quis eiusdem generis occidisset, et ad memoriam laudum domesticarum et ad inlustrandam nobilitatem suam. quamquam his laudationibus historia rerum nostrarum est facta mendiosior. multa enim scripta sunt in eis quae facta non sunt: falsi triumphi, plures consulatus… [etc.][69]

Cicero could be equally scornful of the accuracy of *laudationes* given in his own day:

> cum equidem contionem lego de "tanto viro," de "clarissimo civi," ferre non queo. etsi ista iam ad risum.[70]

Cicero does not seem bothered, however, by the potential deceptiveness of delivering a *laudatio* composed by a speech-writer. Thus in the *De oratore*, Cicero tells us that C. Laelius wrote a *laudatio* for P. Cornelius Scipio Aemilianus (who died in 125 B.C.), to be delivered by the latter's nephew; copies of the speech (or perhaps another from the same funeral) remained in circulation for some time.[71] Cicero himself, in 54, wrote a *laudatio* for a father who had lost his son:

[69] *Brut.* 61-2.

[70] The remark to Atticus (*Att.* XIV, 11, 1) comes in the aftermath of the most famous *laudatio* of all: that of Julius Caesar by Mark Antony. But it need not be a direct reference to Antony's speech, nor indeed to that of anyone in particular, as the sense is generic, though surely Caesar is the *tantus vir* in question. On the question of Antony's speech and its publication, see Kierdorf, op. cit., pp. 150-8, with earlier bibliography.

Cicero's only explicit reference to it is in the *Philippicae*, and here he refers specifically to the orally delivered rabble-rousing eulogy: *tua illa pulchra laudatio, tua miseratio, tua cohoratio; tu, tu, inquam, illas faces incendisti…* (ii 91).

[71] *Est in manibus laudatio*, exclaims Cato in the dialogue named after him, *quam cum legimus, quem philosophum non contemnibus?* (iv, 12). It seems unlikely that Cicero means to suggest that the oration was extant in

Serrani, Domiti fili, funus perluctuosum fuit a.d. VIII Kal. Dec. laudavit pater scripto meo.[72]

The son who precedes his father in death was always a poignant theme for the Romans, and Cicero may have kept a particular model in mind: the *laudatio* given by Q. Fabius Maximus for his dead son a century and a half earlier, and apparently still extant.[73] Of singular interest is Cicero's *laudatio* of Porcia, the wife of Brutus, probably composed a while after her death and hence not for her funeral. Cicero sent it and, later, a corrected version to Atticus for copying and distribution (at least to Domitius and Brutus); meanwhile, M. Varro and an otherwise unknown Ollius already were circulating their own *laudationes Porciae*.[74] Cicero's *laudatio* was not a script for public reading by himself or anyone else and so joins the ranks of his other "speeches" promulgated only in written form, like the bulk of the *Verrines*, the "corrected" *In Milonem*, and the Second *Philippic*.

A few decades separate the *laudatio Porciae* from the *laudatio Turiae*.[75] Though both *laudationes* conjure the context of a funeral "speech," neither is likely to have been delivered aloud. The *laudatio Turiae* survives in epigraphic form, but its two tall columns of writing perhaps reflect the *mise-en-page* of the handwritten book-roll. It seems reasonable to imagine that the *laudatio Turiae* provides us a picture of what Cicero's *laudatio Porciae* looked like and that the latter, therefore, was set out in *capita*.

Origins of the capitulation of Cicero's works

We return, at last, to the Ciceronian manuscripts to ask of them our most difficult question yet: how and when did the capitulation of Cicero's *oeuvre* take place? Broadly speaking, there are two possible explanations: either capitulation of Cicero was a universal late-antique scribal practice (i.e., each new scribe generated *capita* as part of the work of copying Cicero, perhaps under the influence of a learned reader who had marked the exemplar with appropriate divisions), or capitulation was, by late antiquity, part of the the text's tradition (i.e., scribes copied the *caput*-divisions they found in already-capitulated exemplars). The first possibility is inherently unlikely, as it would have given all of the copyists of surviving Ciceronian manuscripts a largely unparalleled scribal authority to

Cato's day but not in his own. For the meaning of *in manibus*, see J. G. F. Powell's note on this passage in his edition of the text, *Cato Maior de Senectute* (Cambridge, 1988), p. 128.

[72] *Q fr.* 3.6.5.

[73] *Mur.* 75. Cf. *Scholia Bobiensia ad Mil.* 16, ed. Stangl, p. 118; *De Oratore* 2.341; and A. S. Wilkins' discussion of both in his edition of the latter, vol. 2, 2nd ed. (Oxford, 1890), p. 173 n. 3.

[74] *Att.* 13.37.3; 13.48.2.

[75] On the (apparently unresolvable) uncertainties about the date of the *laudatio Turiae*, see Horsfall, "Some Problems…," pp. 93ff.

intervene in the text (and to waste papyrus or parchment with the blank spaces capitulation inevitably produces, though this would not have been a serious factor in, at least, the *de luxe* palimpsests); if, alternatively, these interventions were under the guidance of a learned reader (perhaps the commissioner of the copy), we might hope to have found at least one such marked exemplar among our surviving manuscripts. Furthermore, we would marvel at the overwhelming success, in papyrus and in parchment, of a late-antique impulse to generate capitulated Ciceros.

But additional evidence enables us to discount this possibility even further. Milan, Biblioteca Ambrosiana, S. P. 11.66 and Torino, Biblioteca Nazionale, a.II.2★ (destroyed by fire in 1904, but known through a diplomatic transcription by A. Peyron) provide the only instances in which two of our late-antique manuscripts overlap for the same parts of the same Ciceronian texts (brief sections of the *Pro Scauro* and the *Pro Tullio*). Their capitulation of the shared passages is nearly identical (details may be found in Appendix 2), with the occasional omission of a division in one of the manuscripts easily attributable to scribal error, especially since the manuscripts frequently diverge in their readings, suggesting a somewhat distant archetype, which in turn suggests that the capitulation has traveled through several generations of copying. Nor is it possible to identify any unambiguous syntactical, rhetorical, or rhythmical criteria which could have generated, independently and reliably, capitulation at the very same points in the text.[76] In other words, capitulation in this tradition has been reproduced, again and again, from exemplar to copy, and there is no good reason not to suppose the same for the capitulation of other texts in other manuscripts.

On the basis of all of these considerations, it seems clear that the capitulation of Cicero's texts became, at some point, fixed as part of their tradition. But when? Three possibilities are considered below.

First Possibility: Ancient Readers

Since the multiple columns of the Ciceronian palimpsests have been taken to suggest that they are not distant from ancestors in rolls (where columns are a more natural convention), we may cautiously assume that the capitulation of Cicero was at least underway before around 300 A.D., when "the book in codex form massively supplanted the book-roll."[77] One possibility is that capitulation was introduced gradually and separately, by individual readers or "editors," only to become, over time, standard. Evidence for

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[76] Almost all their *capita* do end in favored *clausulae*, but the same also appear within *capita*, and the two manuscripts share a division that does not follow *clausula*, at *Nam cum* in *Pro Tullio* 8.

[77] "In the decades around 300 A.D.": William V. Harris, "Why Did the Codex Supplant the Book-Roll?" in *Renaissance Society and Culture: Essays in Honor of Eugene F. Rice, Jr.*, edd. John Monfasani and Ronald G. Musto (New York, 1991), p. 71. Bernard Bischoff, *Latin Paleography:*

something like this in the second century may perhaps be found in a brief note in which Fronto promises to send a friend copies of unspecified works of Cicero:

> Ciceronianos [sc. libros] emendatos et distinctos habebis, adnotatos a me leges ipse; in volgus enim eos exire quare nolim, scribam diligentius.[78]

Distinguere, however, refers not to capitulation but rather to the well–attested ancient practice of *distinctio* — the addition of high, medial, and low *punctus* to a text to mark pauses, the low point being the strongest, reserved for indicating the completion of a *sententia* or period.[79] Might such *libri distincti* (not these, assuming Fronto's request that they not be shared was respected, but others like them, marked by authoritative teachers) have generated capitulated offspring? This would be surprising, since capitulation is a technique both different from and clumsier than *distinctio*: even if a low *punctus* could be translated into capitulation, the master's work of marking finer pauses would be lost. Likewise, the writer of the Giessen fragment, a century or so earlier, marks a caput but also provides other punctuation to help his students (as the editors who have called it a school–exercise assume) to deliver these lines from the *Verrines* correctly. It is interesting to note in this regard that, though fragment's punctuation could, in theory, have been added *after* the text was copied (the normal sequence of events for *distinctio*, though usually the punctuator would not be identical with the scribe), its spacious *K* to mark a new *caput* is necessarily part of the initial laying out of the text: the teacher either divides as he writes or marks the *caput* because he finds it already in his exemplar.[80]

Antiquity and the Middle Ages (Cambridge, 1990), p. 27, calls the use of multiple columns in late-antique codices "a legacy of the papyrus age." Cf. E. A. Lowe, "Some Facts about our Oldest Latin Manuscripts," in *Paleographical Papers*, p. 201: "Since a copy normally tends to reproduce its exemplar, it is clear that the nearer we approach the period when the roll was being replaced by the codex the more frequent would be the manuscripts written in more than one column."

[78] *Ep. ad Amicos* II, 2 = Van den Hout (ed. Leipzig, 1988) 187.10-12.

[79] Parkes, op. cit., pp. 11ff and 303-4. A clear and concise discussion not only of *distinguere* but also of the other two activities mentioned by Fronto — *emendare* and *adnotare* — can be found in Robert A. Kaster's edition of Suetonius, *De Grammaticis et Rhetoribus* (Oxford, 1995), pp. 260-3. None of these interventions suggests the production of a new copy of the works involved, but rather the punctuation, correction, and marginal annotation of an existing book.

[80] Stray *K*'s have contaminated all parts of the medieval tradition of Cicero's works; instances of these are collected in *Litterae Manent*, pp. 181-99. It does not seem probable that these are the remnants of the intitial marking of *capita* in a text, since this requires imagining, for each affected text, a moment in which an exemplar was marked throughout with *K*'s in order to generate a capitulated copy, with, in each case, an incompetent scribe sporadically misunderstanding the otherwise extremely rare letter *K* as part of the text. It seems far more likely that the *K*'s are instead occasional marks of correction to indicate where the offsetting of a *caput* has been lost in a capitulated tradition and which only later were misunderstood and interpolated. The medieval *K*'s seem traceable to seven lost archetypes and may help us to unite four of these as a single book containing multiple texts (ibid., pp. 199-224). On similar *K*'s in a manuscript of Ambrose (and elsewhere), see Michaela Zelzer, "Mittelalterliche 'Editionstätigkeit': Ein Schlüssel zur Überlieferung lateinischer patristischer Texte," in Adolf

In the end, however, what argues most persuasively against the theory of piece-meal introduction is that capitulation represents the application of a single structuring technique (though others were available) to the entire Ciceronian tradition with, as inspection of the actual *capita* reveals, relative uniformity of frequency and form. It is difficult to imagine how acts of individual editorial initiative could have been guided by such consensus, especially since capitulation, while not entirely unique to Cicero, was not a general feature of ancient books.

Second Possibility: An Authoritative "Edition"

What we need instead is something that left a decisive mark on the entire Ciceronian tradition. Could the capitulation have been introduced in some extremely influential edition of Cicero's *opera*, the authority of which pushed all uncapitulated competitors from the field? This suggestion would probably seem ludicrous were it not for the fact that we know something, albeit tantalizingly little, about an "edition" of precisely such stature: the *libri Tironiani* eagerly consulted by Aulus Gellius and one Statilius Maximus. J. E. G. Zetzel devastatingly demonstrates that both were duped by corrupt copies somehow authenticated by the name of Cicero's trusted secretary; Gellius, indeed, fell for one with archaic forms probably put there precisely to fool a gullible second-century scholar with antiquarian tastes like his own.[81] But Zetzel does not quite lay to rest the question of whether there ever really had been a distinctly Tironian tradition of Cicero's works.[82] Surely Tiro is the only single person other than Cicero himself who was in a position to capitulate Cicero's works early and authoritatively enough to leave his mark on their tradition for all posterity. Might, indeed, capitulation have been precisely what identified a *liber Tironianus* as such? These, over time, would become more or less corrupt; Gellius would simply have fallen victim to a particularly dubious one.[83]

A slender but suggestive piece of evidence, however, points away from the Tironian hypothesis. In an extant letter, Cicero anxiously asks his friend and some-times "publisher" Atticus to make some specific corrections to the text of the *De re*

Primmer, Kurt Smolak, and Dorothea Weber, edd., *Textsorten und Textkritik* (Vienna, 2002): pp. 243-56 (pp. 246-8).

[81] J. E. G. Zetzel, "Emendavi ad Tironem: Some Notes on Scholarship in the Second Century A.D.," pp. 225-43; idem, "Statilius Maximus and Ciceronian Studies in the Antonine Age," BICS 21 (1974): pp. 107-22.

[82] Francesco Lo Monaco, "Lineamenti per una storia delle raccolte antiche di orazioni ciceroniane," *Aevum Antiquum* 3 (1990): pp. 169-85, defends the role of Tiro in the publication of Cicero's works and accuses Zetzel

of "un eccesso di criticismo" (p. 171). See also Oronzo Pecere, "La 'subscriptio' di Statilio Massimo e la tradizione delle 'Agrarie' di Cicerone," *Italia medioevale e umanistica* XXV (1982): pp. 73-123; and Nicholas Horsfall, "Autograph MSS. of Virgil: A Note," *Vergilius* 41 (1995): p. 58, with still more bibliography.

[83] It is worth noting that Gellius' actual phrase, *Tironiana cura exaratus*, generally taken to refer to the fidelity of its text (perhaps, he thinks, copied by Tiro himself), might instead, via *exarare* (to write out, line by line, as if by plowing), point toward formal features.

publica, which the latter's *équipe* of scribes were copying for wider distribution. The famous Vatican palimpsest that is our sole witness for most of the text, however, does not show the corrections, suggesting that the Vatican text descends from a copy that had left Atticus' hands before the letter arrived (or, at least, from one corrected *after* copying, in a way that left the original version visible). We would like to assume that Cicero made the changes in his own copy (or copies) and that Atticus, eventually, assuming the letter actually reached its destination, would have corrected any copies still in his own possession, including the one he eventually would keep for himself. Barring some unrecoverable mishap (which, of course, cannot be excluded), it is hard to see why (or even how) Tiro would later have based a capitulated "edition" on the erroneous first version of the text.

Since we have mentioned Atticus, let us pause just to note that he himself and/or his scribes cannot be the source of the universal capitulation of Cicero's works, since he began performing this function in Cicero's literary career well after the publication of several of the texts which survive in capitulated form, including the *Verrines*.

Third Possibility: Cicero

There is, of course, a much simpler solution than any advanced thus far. Properly speaking, it cannot be proven outright, but it is, in the end, the only hypothesis that easily accounts for all the facts: the capitulation was there all along — i.e., it is Cicero's own and was copied from the get-go. We know that Cicero consulted capitulated legal texts, that surviving, contemporary *laudationes* were capitulated, that the earliest Latin oratorical papyri, from just a century later, show capitulation. Nothing prevents us from supposing that Cicero employed the same device and, thus, that the capitulation is there (everywhere) simply because he put it there. Indeed, without a good reason to attribute the capitulation's presence to anyone else, we are obliged, as textual critics, to regard it as an integral part of the text we are called upon to reconstruct.

The Ciceronian caput: Some initial thoughts

The possible Ciceronian origins of the surviving *caput*-divisions make them objects of tremendous interest. But what, after all, does Ciceronian capitulation actually do? Earlier we tentatively suggested that capitulation traced basic structures of sound and sense, not unlike our own paragraphs. Can we say more?

For the beginnings of an answer, it may actually be helpful to consider the reasons for the neglect which the surviving capitulation has endured. There is, first of all, the daunting recent view of the ancient book which we considered briefly at the beginning of this article. Even more pernicious, over time, have been disciplinary

divisions that have tended to leave some of the crucial material in the lurch. One thinks, in this regard, especially of the parchment palimpsests, not the usual purview of papyrologists but neither of most medievally oriented paleographers: Lowe (who separately noted the presence of capitulation in several of the palimpsests but never attempted any synthetic explanation) is the rare exception that proves the rule. But the most important (and illuminating) reason for the oversight surely has been the view, as old as the Renaissance, of the work of philology as that of rescuing a classical *logos* from the encumbrances and corruptions of its medieval flesh, the former being the "text," seen as a sequence of letters and words, and the latter necessarily including everything else, including, as fate would have it, capitulation.

Paradoxically, Cicero's own works are partly responsible for this narrow view of the classical text, for no other author has more assiduously been associated with the idea that proper Latin prose is so grammatically, syntactically, rhythmically and rhetorically structured as to be intrinsically, "internally" self-sufficient: it needs nothing else. Indeed, Cicero himself, in the *De oratore* (3.173), reports that the great orators of the past frowned upon pauses that came either whenever the orator ran out of breath or as the result of "scribal marks" (*librariorum notae*) in the text of a speech; pauses, they believed, should instead be the natural products of the "rhythm" (*modus*) of *verba* and *sententiae*. This is, first of all, important evidence for the marking of pauses (at least in preparation for delivery) in oratorical texts by at least some of Cicero's predecessors and, we assume, contemporaries. But what does it ultimately tell us about Cicero himself? Strictly speaking, it does not offer any literal contradiction of Cicero's use of *capita*, which are not exactly *notae*; he is, furthermore, describing an ideal, one he technically attributes to the rigid masters of the past. All the same, the complaint, reported with approval, does seem slightly at odds, in spirit if not in letter, with Cicero's own resort to capitulation. We may even feel a bit like Petrarch, who, when he encountered, in the newly rediscoved *Letters to Atticus*, the actual practices of the man Cicero, was forced to revise his view of the oratorical and philosophical idealist. In other words, Ciceronian capitulation confronts us with the possibility that he did not himself think that words alone were enough.

But for whom? The ideal orator, we have just been told, should not need *notae* to read his own speeches — or even, presumably, well-written speeches of others. If we assume that Cicero would not have expected him to need capitulation either, then we may begin to suspect that capitulation is a crutch for the less-than-ideal reader. The practice would thus belong to Cicero's clear desire, throughout his career, to reach more than just a technical audience of fellow masters of the art. Assessing the nature and relative size of this less-than-ideal readership is, however, difficult, since it is clear that the average (indeed, illiterate) Roman was better equipped than we are quickly to recognize, e.g., favored *clausulae*. But a far greater problem is this: capitulation is a scarcely adequate tool for guiding the reading (and real or merely mut-

tered or imagined oral delivery) of an inexpert reader, since it marks only a selection of breaks without any way to gradate their importance. As a marker of *modus*, in other words, capitulation would seem either to be redundant (for the expert) or inadequate (for the inexpert).

We have tacitly been assuming that capitulation is punctuation, i.e., that its significance depends on the precise spots at which it interrupts the text, indicating breaks we have regarded as pauses. But a slightly different view would start instead with the blocks of text produced by capitulation, i.e., with the *capita* themselves as units. This respects capitulation's apparent origins in legal texts, where the question is hardly one of rhythm but, rather, of sections of a larger text. But what exactly does the sectioning of a text not meant for reference accomplish?

We could, perhaps, ask the same of some of the syntactical, rhetorical, and rhythmical devices that structure a Ciceronian text from "within." The late-antique grammarian Pompeius, undertaking the difficult task of defining some of those internal devices — namely, the *colon*, the *comma*, and especially the *periodos* — offers this remarkable explanation:

> ergo periodus est integra oratio, integrum caput; partes autem ipsius capitis appellantur cola et commata.

> Thus a period is a complete expression, a complete *caput*, whereas the parts of that *caput* are called *cola* and *commata*.[84]

No other ancient writer uses *caput* as a synonym for *periodos*, nor does Pompeius continue to do so. We should thus see this as a temporary conflation designed to suggest to a student-reader more or less what a period is, a question to which, at a more technical level, ancient writers offer a wide variety of largely inconsistent and even contradictory answers. In this regard, it seems relevant that Pompeius has just been drawing all of his examples from Cicero (specifically, the *Catilinarians* and the *Verrines*); pointing to a text that he and his readers would have known in capitulated form, he explains a period as a "complete *caput*." His specification that the expression in question is "complete" is probably a hedge (as is the addition of *integra oratio*); i.e., not all *capita* are periods. And indeed, this is abundantly clear from the surviving capitulation (where many *capita* are not periods and many periods do not trigger capitulation), nor could it have been otherwise, since Ciceronian prose is not composed entirely of periods. But many *capita* are in fact coterminous with periods; Pompeius thus makes a schoolroom point in an admirably expeditious way. We might even take him one reductive, didactic step further and say that Ciceronian capitulation offers a picture of, gives the "look and feel" of the periodic structure it roughly mimics but does not entirely map.

Once again, however, we have   **84** Keil V, p. 133.

been stymied in our effort to make capitulation reliably mark something already present in the text, for the structures of which it is too inconsistent to be called a substitute (i.e., capable of communicating those structures to a reader otherwise unable to recognize them) but, at the same time, too redundant to be called a supplement (i.e., the marking of additional structure for which the normal, internal indicators were somehow insufficient). Might we suppose instead that the *capita* do not mark anything in particular and that Cicero simply wrote in *capita* as a matter of course, perhaps as a result of his legal training? *Capita* might thus simply be the product of segmental composition and have no real meaning. We might even suppose that a capitulated text was more easily memorized: Quintilian, for example, advocates the technique of memorizing *per partes*; a capitulated oration could be learned *caput* by *caput*.[85] But if capitulation served only such purposes, why should the orator bother to reproduce it in published books of his speeches? Indeed, even taking into account scribal conservatism, the preservation of capitulation by centuries of copyists (without significant exception in the extant witnesses) is hard to explain unless we assume that they continued to be regarded as significant or in some other way useful.

In fact, our analysis has drawn us to a simple but extraordinarily important conclusion: the capitulation of a written text cannot finally be attributed to any *other* instantiation of that text — i.e., to the text as composed or memorized or as orally delivered (before or after writing, by the author or by some other reader). In other words, capitulation *belongs to the written text*, and it is therefore as a *written* practice that we must, first and foremost, try to understand it. What capitulation does to the written text is, at the simplest level, abundantly clear: capitulation literally "shapes" the text, deforming the otherwise monotonous column of writing. But *why* it should be desirable to do so is a far more complicated question. It has been suggested that the Greek paragraph-mark offered a readily visible signpost for reciters who looked up from, and back down to, a text during reading.[86] This cannot really account for capitulation, since, outside the classroom, Cicero's works were largely the objects of private reading, and whether or not the ancients tended to read aloud, nothing invites us to suppose that they regularly looked away from texts they were reading alone. Perhaps, however, we can say more generally that capitulation structures the space and thus the experience (an admittedly vague term) of reading. How it does so may ultimately be a question for cognitive psychologists, but we may cautiously compare our own use of paragraphs, which likewise "belong" to writing. We would

[85] Quintilian, *Inst. Or.* XI, 2, 26-7, who, however, specifically introduces the technique as one "simpler" than that advocated by Cicero and others. Quintilian does not impose a definite length for each individual *pars* (*nec utique certum imperaverim modum…*).

[86] William A. Johnson, "The Function of the Paragraphus in Greek Literary Prose Texts," *ZPE* 100 (1994): pp. 65-8.

not say, except by a rather forced metaphor, that we either think or speak in paragraphs, and yet, in our written texts, we would surely feel lost without them. This is not only because they structure the text itself

(by grouping related images, ideas, arguments); it is also because they structure the work of reading — i.e., we read "a paragraph at a time."

If *capita* can be seen to do the same, then they can indeed be analogized to the period, which is designed precisely to provoke a pause that is not so much anticipatory as it is reflective, while the listener rehearses what this sentence's long embrace has contained. But listening and reading are not the same activity: the reader is almost always distinguished from the listener (even the attentive ancient listener with a well-trained memory) by an enhanced opportunity for careful reflection over just what has already been "said," i.e., written. An ancient Ciceronian reader who moved through the text one *caput* at a time was constantly being invited to reflect, even to regress, over blocks of text that were immune from the limits and instabilities of either an orator's breath or a listener's (or the reader's own) memory, blocks which, as has already been mentioned, are often far longer than a single period. In other words, capitulation is not merely native to the written text: it is in some basic way symptomatic of just what distinguishes a written text from, e.g., a spoken oration.

More detailed consideration of how capitulation shaped the reading of Cicero in antiquity will be easier once we allow capitulation to shape our own editions of his works. (The Appendix is intended as a step toward that end.) But by way of brief conclusion, let us review three basic points of departure for future work. First, the fact that capitulation was used at all in ancient books joins other reasons for revising any view of those books as places where "[e]verything blended together."[87] Second, the fact that capitulation was applied to and maintained in the works of the acknowledged master of Latin rhetoric reveals in Roman readers a basic and widespread (if not necessarily always conscious) understanding that written texts — even rhetorical texts — belong to a realm whose rules and rhythms are different from those of speech, precisely because reading is different from listening. Finally, the possibility that it was Cicero himself who divided his texts into *capita* offers further evidence that the man we tend to remember as Rome's greatest *speaker* might more appropriately be celebrated for his masterful manipulation of the complexities — and possiblities — of the written word.

Shane BUTLER
(University of California, Los Angeles)

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[87] Small, op. cit., p. 12.

Fig. 1. Biblioteca Apostolica Vaticana, Reg. Lat. 2077, f. 81v.

APPENDIX 1
The Surviving Capitulation of Cicero's Verrines

To facilitate comparison with modern conventions, I use below the text and rich punctuation of L. H. G. Greenwood's Loeb. Italics indicate capitulation likely to be corrupt.

P. Ryl. 477

The following is based on the diplomatic transcription of C. H. Roberts, *Catalogue of the Greek and Latin Papyri in the John Rylands Library Manchester* (III, 477).

TEXT		PREVIOUS *CAPUT* ENDS:	NEW *CAPUT* BEGINS:
Div.	33	non reperiebat.	Atque ego
	35	demonstrare possint.	Ac vide
	37	non possum.	De te, Caecili
	44	certandumque sit.	Cuius ego
	45	fieri arbitretur.	Te vero
	46	periculum facesseris.	Quid cum

[Torino, Biblioteca Nazionale, a.II.2*]

Part of a single folio. It was destroyed in the library's great fire in 1904, but it may still studied through a photograph and diplomatic transcription published by C. Cipolla, *Codici bobbiesi della Biblioteca nazionale universitaria di Torino* (Milano, 1907).[88]

TEXT		PREVIOUS *CAPUT* ENDS:	NEW *CAPUT* BEGINS:
II 1	44	*eius modi fuit,*	*non ut*
		pervadere videretur.	In Achaia
		incredibile videretur)	*magistratum Sicyonium*
	45	semivivum reliquit.	Iam quae
		demonstrandum separatus.	Athenis audistis

PSI 20

The fragment comes from the middle of the writing column, but the photo and transcription published by Seider (*Paläographie der lateinishen Papyri* II:1, 45) reveal that *verso*, line 3 ends well in advance of the right margin. I have experimented with possible arrangements of the following lines of text and have determined that line 4 must have exceeded the average line length by several letters at least, a deviation surely to be explained by capitulation.

[88] pp. 37–9 and tav. II.

TEXT		PREVIOUS *CAPUT* ENDS:	NEW *CAPUT* BEGINS:
II 1	63	imposuit, pervenire.	Oppidum est

Vatican, BAV, Reg. Lat. 2077

This famous palimpsest comprises 101 folia containing parts of books i – iv of the second *actio*. The text is written in rustic capitals, dated by Lowe (CLA I 115) to the fifth century, who also suggests an Italian origin for the manuscript. The following is based on my inspection of the entire manuscript (the individual folia are now kept in separate cardboard folders) in the summer of 1998. I checked most folia under ultraviolet light, as legibility varies down to near zero, in part a result of reagents applied by Angelo Mai at the beginning of the nineteenth century which have turned dark with age.

TEXT		PREVIOUS *CAPUT* ENDS:	NEW *CAPUT* BEGINS:
II 1	106	humanum interponeret.	Tutores pecuniam
		appellati pernegaverunt.	Iste ad
		scriptum videretur?	Cupiditati hominum
	107	*isto modo?*	*quis umquam*[89]
		constitui oporteret	Voconia lex
	108	non vocentur:	Cornelia testamentaria
	109	quam lege.	Si finem
	110	fuit regredietur?	Ac si
	111	secundis heredibus.	Itaque cum
	112	rescinderes mortuorum.	Tu ipse
		provinciali repudiabas.	Atque ego
		filiarum commovemini.	Quid enim
	113	commodum condonares?	Quibuscum vivi
		fortunasque poterit?	"Nec petitionem
	114	iudicio reservasset?	Posteaquam ius
	120	homines uterentur.	Nam, quaeso
		referta Chelidonis;	a qua
		Sacerdotem exsecrabantur	qui verrem[90]
	122	esse versatum.	In plebem
	123	tempore potestatem.	Superbia vero
		non reprehendo;	etenim erat
	125	iniquitasque declarat.	Verum ut
	126	iniuria afficeret.	Homo Ligurem

[89] Confusion clearly has been produced by the repetition both of *fecit fecerit* and of *quis umquam*.

[90] The division splits the sentence in two, but perhaps it is not a corruption, as the pause is highly effective.

	127	dicere audistis.	Quid est
		hoc non fit?	An id quod
		esse oportere.	An vero
	128	sunt et proferentur.	Dixit Cn. Fannius
		TESTIMONIUM CN. FANNII.	Nolite Cn. Fannio
		istum convenire.	Dixit Q. Tadius
	137	dominata est.	Venit ad
		venisse arbitramini?	qui numquam
	138	turba referta.	Simul ac
		confici posse.	Vereor ne
	143	PUPILLI IUNII	Dic, dic
		L. MARCIO	*M. PEPERNA*[91]
	145	esse clamarent.	Etenim quid
	146	aedilitatem petivissem.	At ut
	151	NOMINA HARBONII.	Hic etiam
		producerem, clamitavit.	Quid erat
	152	vestitum videret.	Itaque tibi
	153	homines ferebant.	Neque erant
		restinguenda est.	Habemus enim
II 2	2	iudicium veniret.	Quo mihi
		habere possim.	Atque antequam
	33	non licebat.	Edictum enim
		nemo dubitat	*quin, cum*[92]
	35	gesserit cognoscite.	Heraclius est[93]
		iniuria, pauperrimus.	Huic hereditas
	42	iri intellegebant.	Itaque dum
	43	itaque condemnant.	Quae, malum
	62	esse videatur?	Hic nunc
	63	non potuerat.	Fecerat
	64	commemoraret.	Ex illo
	65	non potuisssem.	Verum quod
	67	sese daturum.	Quae istius
		provincia mansit.	Hoc infecto
	68	essent potestatem?	Iam vero
		excellere videbuntur.	Sopater quidam
		est liberatus.	Huic eidem
	84	atque hospitum.	Quae posteaquam

[91] *V* has an indent, then RECITA EDICTVM QUI DE L MARCIO, then begins a new *caput* with M PEPERNA, presumably in error.

[92] An apparent error. The text of *V* is very troubled here.

[93] This and the next division appear on bifolium 49v/59, which is virtually unreadable and consequent–

85	ferendas arbitrabatur.	Interea iste	
	seque adiuvaret.	Sthenius vero	
86	Romani tollerentur.	Etenim ut	
	restituenda curavit.	Himera deleta	
87	oppido collocabantur.	Erant signa	
101	ratione posset.	Nam si	
	dici videretur.	Tollit ex	
102	umquam expediet.	Primum, ipse	
	nomen reciperetur.	Deinde Romae	
114	omnia concupisses?	Denique multa	
115	esse arbitrantur.	Hoc de	
121	iura valuisse;	quicumque senator	
124	numerus esset.	Quae cum	
126	omnes repudiavit.	Syracusis lex	
138	posset administrari;	nam locupletissimi	
	censum repudiaret;	id quod	
143	rebus imponere.	Etenim si	
153	ac voluntate?	Et huius[94]	
154	coactam esse.	Venio nunc	
155	ab invitis?	Hic tibi	
156	non dicere?	Confitendum est	
167	esse oportere.	An hoc	
168	attingere audeat?	Potes igitur?	
169	non potero?	Nisi forte	
189	mendosus esset.	Atque haec	
	esse posset.	Itaque illum	
190	obsignata sunt.	Si Carpinatius	
	non cognoveris.	Atque adeo	
191	videre possint.	Videtis VERRUCIUM?	
	esse fateare.	Laudantur oratores	
II 3	1	Omnes qui	
	suscipere conentur.	Legem enim	
	23	sumiltudoque coniuxit.	Verris mores
	25	et repudiata.	Primum edictum
		fecisse damnabere.	Per deos
	26	EDICTUM DE PROFESSIONE.	Negat me
	27	essent contraria?	Utrum est
		sit, possidere?	Quid?

ly unused by editors, but these two *capita* can be made out.

94 *V* begins the *caput* EEIUS, *contra* the reading in Lopez.

28	recuperatorio persequantur?	Verum esto
29	perfugium aratorum!	Atque ut
	postulatum sit.	Nemo erat
40	omnes vendidisti?	Si palam
	oportebat vendidisse?	Pluris decumas
41	auctoritatem reliquisti.	Tibi fortasse
42	omnino dederunt?	Vide inter
	auferri putetur;	tu cum
43	fuit neglegenda?	Cum rem
	relinquendasque curasti.	Successit tibi
44	institutis uteretur?	Ille vero
45	EPISTULA L. METELLI.	Hae litterae
46	conqueri mallent.	Quas litteras
	exagitati reliquerant.	Non mehercules
47	versatum est.	Quos ego
	dominum videretur.	Herbitensis ager
	multitudinem quaereremus;	Aetnensis vero
53	quaeso, cognoscite.	Nympho est
55	iure tollit.	Xenonis Menaeni
56	iste imperavit.	Polemarchus est
	mille promisit.	Eubulidas est
57	quantum cogeretur.	Sostratus et
58	Apronii tulit.	Genera iam
	regnum proponite.	Contempsit Siculos
60	sum, pervenire?	qui C. Matrinium
61	depectus est.	Nam quid
66	insolentia consecuta.	Privatim hoc
67	breviter cognoscite.	Agyrinensis est
	summorumque aratorum.	Eius agri
	civitatem occurrere.	Sunt omnes
69	pactionesque accedere.	Quaerebant quae
	voluntate decidere.	Summittebat iste
	necem caedetur."	Hic illi
70	molestaque discederent.	Hac lege
	tradere liceret;	multas enim
75	publicis pesequuntur.	Etenim deinceps
	conservare debuisti.	Primo anno
	modium XVIII.	Atque hoc
76	iniuriis profugissent.	Anno secundo
	frumentum pervenerit?	Anno tertio

77	fuisse cognoscite.	Aescrionis Syracusani
	caput scribebantur.	Hic Aescrio
	posse arbitrabantur.	Supra adiecit
78	referri VIID.	Hordei decumas
	urbana Chelidonis.	Veniunt Herbitam
	vadimonium Syracusas.	Eo posteaquam
83	publicas commutavit?	Ex horum
84	decumarum revertar.	Qui cum
	cogebat dari.	A. Valentius
	HS $\overline{\text{XXX}}$.	Per deos
85	hanc pecuniam?	Sed quid?
	quaestui fuit?	Quam tu
	mediterraneis exigebantur?	Itaque qui
86	imposito redemerunt.	Quid vero?
	frumenti exararant?	Ad quos
	vectigalia accedunt?	Anno secundo
130	tuam pertineret.	Quid?
	redimere conetur.	Grave crimen
138	iniquam eierat.	Impudentiam singularem!
	metum valere!	Scandilius vero
139	esse rediturum.	Quid tu
140	adnumerare Apronio.	Quid potuit
141	nomine dare.	Quid interfuit
	discedere noluisti?	Omnia simul
142	fuisse nemini.	Ecquis est
152	voluerit emere.	Tenetur igitur
153	potest impetrare.	Non reprehendo
	vehementissime indicarit.	Primum enim
154	improbitate iudicaretur.	Venio nunc
	decumanum peroraro.	Haec epistula
	R· EPISTULA[M] TIMARCHIDIS[95]	Verris accensus
	lictorum, viatorum.	"Fac diligentiam
	existimationem attinet."	Commendat Apronio
	atque auctoritate.	"Habes virtutem
155	probatis sit?	"Habes sumptum
	caede, concide."	Videte quam
	nequitiae accommodata?	"Volo, mi frater

[95] I give the reading of *V*, as editors emend heavily here. From here through 157, Cicero is reading line-by-line, with interjected commentary, the letter of Timarchides, a situation that has produced an uncommon density of *caput*-divisions.

	improbitate, audacia.	"In cohorte
	sponte pervenerat?	"Quod cuique
156	vincere solent."	Verre quidem
	ipso Metello.	"Scis Metellum
	fugitivo Timarchide.	"Si Volteium
157	condemnari volunt.	"Obtuderunt eius
	si di volent.	"Quod istuc
169	probiusque fecisti.	Non mehercules
170	quaeso, cognoscite.	Siciliae civitates
171	atque auferat.	Non mihi
172	non possit?	Improbas frumentum
173	frumentum vendidisse.	Quae est
175	RATIONES HALAESINORUM.	Cui pecuniam
176	tuam convertisse?	O consuetudo
183	partitio fiat?	"Ordo est
186	dicenda venerunt.	Quibus ex
191	non fecerint.	Quaero nunc
195	nomine concesserat.	Hoc vero
200	petendum fuisse.	Sositheus est
202	praeda praetoris.	Deinde cur
203	pecuniae differat.	Verum istam
207	fecisse existementur.	Lugent omnes
208	periculo liberabuntur.	Placent vobis
209	improbitatem coercere.	Tametsi quae
213	potes defendere?	An me
214	audaciam defendis?	At idem
	grata est.	Sacerdos, ut
222	improbitatis futuram.	Quam ob rem
223	magnitudine consequatur.	At enim
224	possit recusare?	Atque utinam
225	religiose defendere.	Atque isto
II 4	5	significare possent.	Erant aenea
	esse dicebant.	Messanam ut
6	quam civitati.	C. Claudus
	ad reportandum.	Nuper homines
7	villas auferebant.	Haec omnia
	suae noluit.	Pro deum
	attingere auderet:	Verres quod

96 *At* begins the page, and its *A* is larger than the usual *littera notabilior* for a *caput*-beginning.

	posset auferre?	At non[96]
8	meretricis heredem.	Sed quid
	videtur, emisse.	Primum, si
9	provincia coemisse.	Videte maiorum
11	cur emeris.	Quid igitur
	non fuisse.	"Quid, si
12	religione deducere.	Ita iussisti
13	quam rogare."	Dicet aliquis
15	atque abstulisse.	Quid mihi
16	voluerit vendidisse.	Homo domi
17	et tradita.	Quid sedes
	senatorem praefuisse.	Idem ad
18	simulacra restitue.	Quae quia
	peteret ut	*Heius afficeretur*[97]
II 5	71	quam relicti;	propter hanc
72	fuisse arguebat.	Itaque alii
	securi feriebantur.	Quorum ego
80	possent esse.	Nam aestate
	non fuit:	tabernacula, quem
81	remoto loco.	Hic dies
	Timarchides adhibebatur;	mulieres autem
82	Cleomeni Syracusani.	Hanc vir
	multis devinciebatur.	Illo autem
	rem singularem;	naves quibus
	atque imperare.	Hoc eo
	beneficioque absesset,	ipse autem
83	aemulum removisset.	Accipit naves
	tribuni tui?	Si civis
	nomen attingunt.	O di immortales!
84	sublatus est?	Ecquod in
94	*ex Timarchide,*	*sagum sumit*[98]
	Cleomenes flagitabatur;	neque quicquam
95	dignissimus existimetur.	Confirmant ipsi
	pars, complent.	Unam illam[99]
96	esse visuros.	Ac primo
	penetrare coeperunt.	Cum in

[97] Clearly an error. The line above the new *caput* is full; probably the scribe mistook *Heius* for *eius* and then added the *H* upon realizing the mistake, producing the appearance of a new *caput*.

[98] *Sagum* begins with a *littera notablior* but is only slightly offset, and a division here is awkward: presumably the apparent *caput*-division is the result of an error.
[99] *V* begins NAM.

97	sinum portus.	Hic te
	urbis accessit,	quo neque
98	pervagatae sunt,	quo Atheniensium
	urbis relinqueret?	Insulam totam
99	possent cognoscere.	Siculosne milites
104	minus exinanitam?	Pereat Cleomenes
105	*vituperationemque incons-*	*tantiae suscipiam*[100]
	esse patiar."	Agit gratias
106	obstare possit."	Haec posteaquam
	faceret rogare.	Tum iste
107	esset amissa.	Cum haec
	erat insusurrare.	Tum vero
108	et emissarium.	Veniunt Syracusas
	fuerat, implorant.	Pater aderat
114	reiectus est;	sed de
116	scelere vincat.	Phalacrum[101]
117	Timarchidi numerasse.	Levia sunt
	iudicium arbitratur.	Includuntur in
119	lictori dabatur.	O magnum
	cogebantur parentes.	Atque ipsi
120	funera locabantur?	Quibus omnibus
121	commune arbitraretur?	Feriuntur securi.
	posse sanare.	Etenim quamquam
122	causam reservavit.	Adest Phylarchus
123	doloris afficit?	Ego enim
124	scelere privavit.	En quod
126	sanguinem deprecaretur.	Quo confugient
127	esse videatis?	Sed haec
	suppeditandi facultas.	Itaque res
128	fuit, sustulisti.	Dexo hic
	aliquod reportare.	Hic tam
129	condemnatum videret.	Si per
130	vestram requirebat.	Itaque ad
135	nefas fuisse.	Quapropter, si
136	non refutabis.	Hic tu

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[100] Clearly an error, produced probably by the scribe's reversion to the formal conventions of a papyrus–roll: *tantiae* begins the right column. [101] *V* Falacrum.

APPENDIX 2
The Surviving Capitulation of Cicero's Pro Scauro and *Pro Tullio* in Passages Shared by the Milan and Turin Palimpsests

Milan, Biblioteca Ambrosiana, S. P. 11.66
[Torino, Biblioteca Nazionale, a.II.2★]

The Milan manuscript (A) has darkened, often beyond legibility, as a result of regents applied by Angelo Mai at the beginning of the nineteenth century. The Turin man-uscript (T) was destoroyed in the library's 1904 fire. Both are reported here on the basis of the diplomatic transcription (with capitulation) of A. Peyron, *M. Tulli Ciceronis Orationum Pro Scauro, Pro Tullio, et in Clodium fragmenta inedita…* (Stuttgart, 1824).

TEXT	PREVIOUS *CAPUT* ENDS:	NEW *CAPUT* BEGINS:	
Pro Scauro			
19	confligendum considerabo	Sin unus	A (T[102])
20	impudentiam confutare	Non agam	AT
21	impetu prosternenda	Est enim	AT
22	partem pertimescam	Dicam enim	T
23	crimen accedam	Quod est	A
24	esse faciendum	Deleta enim	AT
	Siciliae detulerunt	At qui homines	AT
32	reditum arbitrabatur	Ego tantum	T
	asperum possit esse	Quid enim	AT
33	numquam attulerunt	Succesori	AT
	valde pervagata	Neque vero	AT
34	competitorem fore putasset	Qui sive	AT
35	aut infamia perculisset	Ego id	AT
	ceteros sentiam	At enim	AT
36	potuisse sanari	Quamquam in	AT
Pro Tullio			
8	est in quadruplum	Cum omnes	T
	constitutum est	Nam cum	AT
9	armis defenderent	Et cum	AT
10	quam admonere	Ut homines	AT

[102] T does not show an offset *caput*, but a blank space of four letters has been left in the text.

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