

Flash Conference | Up and Down: Demolition and (re)Construction in the Roman City

13 September 2020

- 1 **Digest 39.1. Notice of new work.** *De operis novi nuntiatione.* (Trad. Watson 1998)
ULPIAN, Edict, book 52: This edict offers the assurance that if a piece of work, whether or not it is being carried out legally, is restrained by a notice of new work, the prohibition will be relaxed insofar as the person who served the notice has no right to prevent the work being done.
Ulp. Ad ed. libro 52. pr. Hoc edicto promittitur, ut, sive iure sive iniuria opus fieret, per nuntiationem inhiaberetur, deinde remitteretur prohibitio hactenus, quatenus prohibendi ius is qui nuntiasset non haberet.
- 2 **Cicero, Topica 4.22 (Text and Trad. Hubbel, 1949, Loeb Classical Library 386)**
From efficient causes in this way: Anyone has a right to build a wall to touch a party wall at a right angle; and this new wall may be either solid or resting on arches. But a man who has given guarantees against eventual damage in demolishing a party wall will not be bound to make good the loss which is caused by an arch. For the damage was not caused by any fault of the man who demolished the party wall, but by a defect in building the arch which was so constructed that it could not be supported (without the party wall).
Ab efficientibus rebus hoc modo: Omnibus est ius parietem directum ad parietem communem adiungere vel solidum vel fornicatum. Sed qui in pariete communi demoliendo damni infecti promiserit, non debet praestare quod fornix viti fecerit. Non enim eius vitio qui demolitus est damnum factum est, sed eius operis vitio quod ita aedificatum est ut suspendi non posset.
- 3 **Digest 43.10. A public street and if anything is said to have been done in it.** *De via publica et si quid in ea factum esse dicatur.* (Trad. Watson 1998)
Papinian, Care of Cities: The city overseers are to take care of the streets of the city, so that they are kept level, so that houses are not damaged by overflows, and so that there are bridges where they are needed. 1. And they are to take care that private walls and enclosure walls of houses facing the street are not in bad repair, so that the owners should clean and refurbish them as necessary. If they do not clean or refurbish them, they are to fine them until they make them safe. 2. They are to take care that nobody digs holes in the streets, encumbers them, or builds anything on them. In the case of contravention, a slave may be beaten by anyone who detects him, a freeman must be denounced to the overseers, and the overseers are to fine him according to law and make good the damage. 3. Each person is to keep the public street outside his own house in repair and clean out the open gutters and ensure that no vehicle is prevented from access. Occupiers of rented accommodation must carry out these repairs themselves if the owner fails to do so and deduct their expenses from the rent. 4. They must see to it that nothing is left outside workshops, except for a fuller leaving out clothing to dry, or a carpenter putting out wheels; and these are not by doing so to prevent a vehicle from passing. 5. They are not to allow anyone to fight in the streets, or to fling dung, or to throw out any dead animals or skins.
*43.10. Ex Papiniani de cura urbium libro
pr. Curatores urbium curam agant viarum in urbe, ut complanentur et flumina aedificia ne noceant et pontes sint ubi opus est. 1. Item curam agant, parietes privati*

[aliorumve delendum] quaeve alia circa domus viam attingunt vitiosa ne sint, ut domini aedium sic ut oportet eas commudent et reficiant. quod si non commundabunt vel non reficient, multato eos, donec ea firma reddant. 2. Item curam agant, ne quis in viis fodiat neve eas obruat neve quicquam in viis aedificet: sin minus, servus ab eo qui eum deprehendet verberator, liber curatoribus indicator, curatores autem eum multato secundum legem et opus quod factum est deponunto. 3. Vias autem publicas unumquemque iuxta domum suam reficere oportet et canales ex subdiali repurgare et reficere ita, ut vehiculum recte ibi iter facere possit. qui in conducto habitant, si dominus non reficit, ipsi reficiunto et quod impenderint a mercede deducunto. 4. Item curam agant, ne quid ante officinas proiectum sit: praeterquam si fullo vestimenta siccet vel faber rotas foris ponat: ponunto autem hi quoque sic, ut vehiculum iter facere possit. 5. Ne sinunto autem neque pugnari in viis nec stercus proici nec cadavera nec pelles eo conici.

4 **Dig. 43.12. Rivers: To prevent anything from being done in a public river, or on its bank, to hamper navigation.** *De fluminibus. Ne quid in flumine publico ripave eius fiat, quo peius navigetur.* (Trad. Watson 1998)

1 ULPIAN, Edict, book 68: The praetor says: "You are not to do anything in a public river or on its bank, nor put anything into a public river or onto its bank, which makes the landing or passage of a boat worse."

43.12.1 Ulpianus libro 68 ad edictum. pr. Ait praetor: "*Ne quid in flumine publico ripave eius facias neve quid in flumine publico neve in ripa eius immittas, quo statio iterve navigio deterior sit fiat*".