

1 The law of the Twelve Tables (tab. 10.3–4 Bruns) – the **ricinium* and the **lessus*: two primeval women’s garments?

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The supposedly earliest evidence of Roman female garments can be found in a ruling in the Tenth Table of the Twelve Tables (ca. 450 BCE) concerning burial luxury (tab. 10.3–4 Bruns). The passage in question is first quoted about four hundred years later in Cicero’s *De legibus* (On Laws, ca. 52 BCE). The law as preserved by Cicero speaks of a **ricinium*¹ and a **lessus*. These are two dress glosses found only in the Twelve Tables that have already attracted the curiosity of scholars in Antiquity. In Varro’s theory of early Roman female dress, the **ricinium* played a leading role. He thought the word designated a thick proto-*pallium* that women wore in Rome in early times (C 1). Other scholars, including Sextus Aelius (see below), interpreted the word in other ways. They maintained that **ricinium* was either the general term for an archaic coat or a special female coat with purple stripes (D 1). As to the word **lessus*, ancient scholars disagreed completely. They thought that it referred either to a garment worn in mourning or not even a garment at all, but that it denoted a female cry of lament. This leads to our main question: What do the words **lessus* and **ricinium* really mean? Do they have any meaning at all?

But this is not all. There is also a second question. The text of Cicero’s *De legibus* offering the quotation from the Twelve Tables is clearly corrupt. The French scholar Turnebus (1538) extracted from a meaningless reading of the manuscripts of Cicero (*vimcla*) a third garment, a *tunicula* (small tunic). His emendation has been taken up by scholars for centuries without reserve, treating the entire text (including Turnebus’ emendation) as if the word *tunicula* had been written by Cicero himself. However, there are serious doubts as to whether Turnebus was right. In fact, as will be shown, he was not.

In order to come to a correct interpretation of the passage of the Twelve Tables, we therefore have to solve two problems. These are obviously interconnected because we know the respective text of the Tenth Table only through the much later mediation

¹ On the **ricinium*, cf. also C 1 pp. 565–568; D 1.

of Cicero. We therefore have to go back in time slowly. First, we must reconstruct what Cicero wrote in *De legibus* and what *his* version of the text looked like. Then, we must think about whether Cicero's version of the stipulations of the law was correct or whether the copy he used already contained some textual corruptions that impeded his and other ancient scholars' correct understanding of the law. Accordingly, the following analysis will proceed in two steps. It will deal first with the transmission of Cicero's *De legibus*, then with that of the Twelve Tables. The method used will be that of elementary textual criticism. The next pages will therefore make for a 'thorny' reading for the non-specialized reader, but there will be some rewards.

The result will be that Turnebus' emendation *tunica* and the two other purportedly archaic female garments mentioned by Cicero, the **ricinium* and the **lessus*, will all disappear. The three articles of clothing, or rather the three words, will be found to be simple misspellings caused by damages to the text that occurred at different stages of its transmission. However, a new colourful world will emerge that may be just as fascinating. We will find instead another article of clothing: tunics with purple stripes (the first evidence of *clavi* on the garments of the Roman upper class); a social custom of lament: mourners scratching their faces; and finally an archaic coat (**ricinium*) will transform into furniture: a couch (*triclinium*) for the banquet in honour of the dead.

1.1 Introduction

The Twelve Tables are the most important written testimony of the culture and language of early Rome.² The law was dated by the ancient scholars to around the middle of the

² On the Twelve Tables see also J. Radicke, *Drei Triklinien, neun Tuniken mit Purpur-Clavi und zehn Flötenbläser. Zu einer neuen Interpretation einiger Grabluxusbestimmungen der Zwölf Tafeln* (Tab. 10,3–4 Bruns), ZPE 195 (2015) 47–62 and Salböl, Kränze, Myrrhenwein, Kratere. Nochmals zum Grabluxus in den Zwölf Tafeln (Tab. 10,6 Bruns), ZPE 196 (2015) 72–87, where the respective sections of the law have been treated with a slightly different emphasis. The readers are referred to these articles for more comprehensive documentation. On the legal background in general, cf. F. Wieacker, *Römische Rechtsgeschichte. Erster Abschnitt. Einleitung, Quellenkunde, Frühzeit und Republik* (HAW X 3.1.1), Munich 1988, 287–309; M. Kaser/K. Hackl, *Das römische Zivilprozessrecht* (HAW X 3.4), Munich ²1996, 25–148; M. H. Crawford, *Roman Statutes*, London 1996 (BICS Suppl. 64), 555; D. Liebs, in: W. Suerbaum (ed.), *Handbuch der lateinischen Literatur der Antike*, 1. Band. Die Archaische Literatur von den Anfängen bis Sullas Tod. Die vorliterarische Periode und die Zeit von 240 bis 78 v. Chr. (HAW VIII 1), Munich 2002, p. 67–69; on the archaeological and historical background see K. Raafaub (ed.), *Social Struggles in Archaic Rome. New Perspectives on the Conflict of the Orders*, Berkeley 1986; M. Toher, *The Tenth Table and the Conflict of the Orders*, in: Raafaub (1986), 301–326; R. Ross Holloway, *The Archeology of Early Rome and Latium*, London 1994; T. J. Cornell, *The Beginnings of Rome. Italy and Rome from the Bronze Age to the Punic Wars (c. 1000–264 BC)*, London 1995; F. Kolb, *Rom. Die Geschichte der Stadt in der Antike*, Munich 1995 (²2002), 27–139.

5th century BCE,³ but parts of it, especially the Tenth Table, could be much older. The evidence we have on the history of the law indicates that it was first published by Cn. Flavius (304 BCE). However, our text seems to go back to a book version made by the lawyer Sextus Aelius Catus in about 200 BCE. He edited the Twelve Tables together with a commentary on them in a work called *Tripertita*.⁴ It remains in the dark whether Sextus Aelius still read the law in its original form on stone or bronze or relied on a copy of the text he found in a public or perhaps even private archive. In any case, it is clear that, apart from a few glosses, the language of the law, as we read it now, has been orthographically modernized and is similar to the language of Plautus. To what extent the content of the laws has also been altered and adapted over the centuries can no longer be determined. For example: At some point, two of the Twelve Tables that contained, among other things, a ban on marriage between patricians and plebeians were ruled out in later centuries because their provisions were regarded as unjust. In any case, the edition and commentary of Aelius brought an end to the dynamic phase of the Twelve Tables, creating the final, canonical version. All later authors probably owe their knowledge directly or indirectly to Aelius's work. At least the fact that there are no significant variants to the text suggests that none of them still read the original copy of the law. Regarding the attention the scholars in Classical period usually devoted to the monuments of early Roman history, it may be safely assumed that the original copy of the Twelve Tables had meanwhile been lost and could no longer be consulted at that time. Otherwise it would certainly have left its mark on our texts.

1.2 Cicero's text of tab. 10.3–4 Bruns

The table of interest in this chapter is the tenth, with its provisions concerning the burial cult (10.3–4).⁵ The literary testimony from which the entire modern discussion takes its starting point is a reference found in Cicero's work 'On Laws' (*De legibus*),⁶

³ On the origin of the law in the years 451/450 BCE, see Liv. 3.9–57, Dionys. 10.1–60 (passim); Digest. 1.2.2–6. It is difficult to decide to what extent the historical account is based on factual knowledge, cf. for example Wieacker (n. 2) 289, who accepts the dating and the historical framework.

⁴ Wieacker (n. 2) 290–291, 530–531.

⁵ For the tenth table, see the various contributions by F. Wieacker, *Zwölftafelprobleme*, *Revue internationale des droits de l'antiquité* 3 (1956), 459–491 and *Die XII Tafeln in ihrem Jahrhundert*, in: *Les Origines de la République Romaine*, *Entretien Fondation Hardt* 13 (1967), 293–362; Toher (n. 2) 301–326; E. Baltrusch, *Regimen morum. Die Reglementierung des Privatlebens der Senatoren und Ritter in der römischen Republik und frühen Kaiserzeit*, Munich 1988, 44–47; J. Engels, *Funerum sepulcrorumque magnificentia. Begräbnis- und Grabluxusgesetze in der griechisch-römischen Welt*, Stuttgart 1998 (*Hermes Einzelschriften* 78), 164–170; on the **ricinium*, see e.g. Sebesta (1994) 50; Edmondson/Keith (2008) 13, 27.

⁶ The work was written by Cicero in the years 55–51 BCE. Maybe it was published posthumously.

where Cicero gives some of the Law's stipulations on the funerary luxury. He partly paraphrases the text, partly directly quotes from it:

Cic. de legibus 2.59, 64⁷

iam cetera in XII minuendi sumptus sunt lamentationisque funebris, translata de Solonis fere legibus. ‚hoc plus’ inquit ‚ne facito. rogum ascea ne polito.’ nostis quae sequuntur. discebamus enim pueri XII ut carmen necessarium, quas iam nemo discit. extenuato igitur sumptu tribus riciniis et tunicla purpurea et decem tibicinibus, tollit etiam lamentationem: ‚mulieres genas ne radunto neve lessum funeris ergo habento.’ hoc veteres interpretes Sex. Aelius L. Acilius non satis se intellegere dixerunt, sed suspicari vestimenti aliquod genus funebris, L. Aelius lessum quasi lugubrem eiulationem, ut vox ipsa significat. quod eo magis iudico verum esse, quia lex Solonis id ipsum vetat. (...) quam legem nostri eisdem prope verbis decemviri in decimam tabulam coniecerunt; nam de tribus riciniis et pleraque illa Solonis sunt. De lamentis vero expressa verbis sunt. ‚mulieres genas ne radunto neve lessum funeris ergo habento.’

The other provisions in the Twelve Tables are also about limiting the expenditure and the lamentation at the funeral. They have been taken up for the most part from the Solonian laws. They say: ‘One should not do more than this. One should not use an axe to prepare the funeral pyre.’ You know what follows. When boys, we learned—something that no one does anymore—the Twelve Tables by heart like the ABC. Thus, after limiting the expenditure to three **ricinia* and *tunicla purpurea* and ten flute players, the law also abolishes the lamentation: ‘The women shall not scratch their cheeks nor have a **lessus* for the funeral.’ The old commentators on the law, Sextus Aelius and Lucius Acilius, said they did not quite understand this, but they suspected **lessus* to be some kind of burial garment. Lucius Aelius (sc. Stilo) said *lessum* was a plaintive exclamation, as the word itself indicates. I consider this all the more correct because Solon’s law forbids just this. (...) Our *decemviri* using nearly the same words have included this law in the tenth table. For the three **ricinia* and most of the provisions are taken up from Solon. As regards the lamentations, there is a verbatim translation: ‘the women shall not scratch their cheeks or have a **lessus* because of the burial.’

Cicero adduces several prohibitions from the Tenth Table. First, he gives a verbatim quotation of a stipulation concerning the funeral pyre. It is not to be hewn or smoothed with an axe. Carpentry is therefore forbidden. Then Cicero interrupts his direct quotation and uses a paraphrase. Perhaps the text of the law contained too many details that seemed cumbersome and superfluous to him. After the funeral pyre, one may expect

⁷ *riciniis* codd.: *reciniis* <*relictis*> Schöll; *uimcla* B (*uincla* rell.); *tunicula* post Turnebum (1552) Vahlen (1871) et edd.: *VIII cla<vis>* Radicke (*clavis* iam Lambinus); *purpure* vel -e codd.: *purpure<a>* C. F. W. Müller (1889) (<*rica*> *purpurea* iam F. Ursinus); *purpure<is>* Radicke; *genas* B^xAP: *cenas* B¹ESHL. See also FG^rHist 228 (Demetrios of Phaleron) F 9; Demetrios of Phaleron F 135 Wehrli; Ruschenbusch (1966/2014) F 72a-b.

regulations on the *lectus*, the decoration of the corpse and the funeral procession, to have been omitted. Cicero then summarizes the result as follows: *extenuato igitur sumptu tribus riciniis et t̃uimcla purpure† et decem tibicinibus* (Thus, after limiting the expenditure to three **ricinia* and t̃uimcla purpure† and ten flute players). The damages of the text cause several difficulties at this point: First, the best manuscript of Cicero (B), written around the middle of the 9th century, has the meaningless row of characters VIMCLA. All other manuscripts, representing another hyparchetype, instead have the reading VINCLA. This disagreement over M and N could be the correction of an intelligent scribe since it produces a supposedly comprehensible text (see below). Second, the E of the following *purpure* is written with a cedilla (ç), which could refer to an abbreviation in the archetype.

Since the problem of the *uimcla* or *uincla* is complex and its solution very important for understanding the Twelve Tables, Roman funerary customs, and early Roman culture in general, it seems best to first discuss the various suggestions made by other scholars and point out their difficulties before developing a new (in part already very old) hypothesis.

1.2.1 *tunicla purpurea* (or *purpurae*)?

Turnebus (1552) changed the expression *uincla purpure* to *tunicula purpurea* (and not as recorded in later editions, *purpurae*);⁸ Fulvius Ursinus (1583) actually shortened the *uincla* and suggested *rica purpurea*.⁹ The following editors did not follow either proposal but instead wrote *vinculis purpurae*, a change already found in some younger manuscripts, until Vahlen (1871 [1883]), as he himself says in the apparatus of his edition, brought Turnebus's *tunicula* back to honour, putting *tunicula purpurae* into the text. Müller, the next editor, went even further by taking up the entire suggestion of Turnebus (*tunicula purpurea*) and writing *tunicla* in the syncopated form.¹⁰ This is the text that has been printed in the last editions of *De legibus* (Ziegler [1979]; Powell [2006]), thus acquiring a quasi-canonical status in research.¹¹

⁸ In his notes (p. 123), Turnebus commented: “*puto legendum et tunicula purpurea*.” He did not propose the genitive *purpurae*, as one would expect reading Vahlen's (1883) apparatus criticus (“*Turnebi coniecturam ... nunc probavit Muellerus cum ceteris sed ut tunicla purpurea mallet; et haec est sane postea vulgaris dicendi ratio*”), but the adjective *purpurea*. The apparatus of Powell (2006) should be corrected accordingly.

⁹ According to Davisius/Moser/Creuzer (1824) in their *De legibus et senatus consultis liber*. Neither Powell (S. lix n. 3) nor I was able to find a Cicero edition of Orsini. He wrote a commentary called *In omnia Ciceronis notae* (1581), where nevertheless nothing is to be found about his emendation either.

¹⁰ Powell's critical apparatus is misleading in its brevity. It only mentions Orsini's emendation *purpurea*, but not his conjecture *rica*.

¹¹ See, for example, G. Colonna, *Un aspetto oscuro del Lazio antico. Le tombe del VI-V secolo a.C.*, *Parola del Passato* 32 (1977), 159; Engels (n. 5) 165; J. H. Blok, *Solon's Funerary Laws. Questions of*

The emendation TUNICULA may first seem paleographically attractive. However, putting aside the fact that the character M (the spelling found in the important codex B) is to be rejected, this solution is still far from easy because it requires several assumptions. First, one T must have been lost. Then a wrong word division occurred. And finally the sequence of the characters was mixed up, UNI thus becoming UIN. As to the content, the singular of the *tunicula* is somewhat out of line with the plurals of the other items. It is also missing a quantity. But there are also other, stronger reasons to doubt the existence of a *tunicula purpurea*.

(1) What did the law want to say when using this expression? The diminutive form *tunicula* denotes a small *tunica*. There is no reason why the law should have mentioned such a garment.¹² On the contrary, it is highly improbable that it prescribed that a deceased and most importantly a wealthy Roman—the law in general concerns the wealthy upper class—should be buried with bare legs in a short *tunica*. One need only consider Roman burial customs in later centuries. A similar impasse is reached if we attribute the *tunicula* to Cicero. Why should he, who generally quotes the law precisely and without any recognizable criticism, have belittled the *tunica*? (2) Other ancient scholars dealing with the same passage of the law do not seem to have had the word *tunicula* in their text (D 1).¹³ For they associate the purple directly with the preceding word **ricinium*. That they should not have mentioned the *tunicula* is very surprising considering the importance this passage had for ancient grammarians explaining early Roman dress. The silence of all our sources thus seems to indicate that the word *tunicula* was not expressly used in the law. For these reasons the conjecture of Turnebus should be dismissed.

1.2.2 *vincula purpurea*?

The editors before Vahlen put *vinculis* or *vinclis* in the text. As to paleography, this solution has the advantage that the sequence of letters UINCL can be preserved. Nevertheless, the M (preserved in B, the most reliable manuscript) must also be discarded and the ablative ending A in *vincla* has to be replaced by the plural IS. In the textual transmission of *De legibus*, however, this type of error in endings is found only rarely when all manuscripts stand together. Far more often, individual syllables and words are missing or letters are interchanged. Moreover, in contrast to the other items of the enumeration, a quantity is still missing.

But what would the law mean by *vincula purpurea*? In Classical Latin, *vinculum* often denotes a ‘bond’ or a ‘chain’, but the word can also be used more generally for

Authenticity and Function, in: J. H. Blok, A. P. M. H. Lardinois (eds.), *Solon of Athens. New Historical and Philological Approaches*, Leiden 2006, 214; *ThesCRA VI* (2011) 117 (Harich-Schwarzbauer).

¹² Against Crawford (n. 2) 706: “a little purple tunic.”

¹³ Cf. pp. 592–593.

everything tied around an object and fastening it. Unfortunately, we do not know more about burial customs in early Rome than the Twelve Tables and the depictions in tombs tell us. We are better informed about later times, but in all our sources purple straps never occur. Thus, we can only guess what their function was. The text of the law suggests that they were used during the funeral procession or the burial, if at all. Since purple is a sign of honour, it seems best to associate the *vincula pupurea* with the corpse or the deathbed. Wyttenbach (1824) therefore explained the passage as follows: “*lex concedit, ut mortuus involvatur tribus riciniis, obligetur fasciis purpureis, et decem tibicines adsint pompae funebri.*”¹⁴ According to Wyttenbach, the *vincula* thus served to decorate the bier and to fasten the deceased to it. However, this explanation is hardly satisfactory. Why should the law have drawn attention to such trifles? Why should ‘transport bands’ be so important for the burial that they were made of purple? Other small items are also mentioned in the Twelve Tables, like crowns and drinking vessels. Yet all these are true articles of luxury and, in contrast to *vincula*, are also attested in other sources. Thus, the textual emendation *vinculis* creating unparalleled purple straps is not very satisfactory.

1.2.3 VIII *clavis purpureis*

In the following, a new hypothesis is put forward, based on a solution of Lambinus (1565/66).¹⁵ It is most plausible that the text should be emended to *VIII cla<vis> purpure<is>* (tunics with purple stripes). This creates a clear list of items as well as their prescribed maximum: *III ricinia et VIII lavi purpurei et X tibicines*. Syllables or whole words are often omitted in the manuscripts of Cicero's *De legibus*. We would thus start from a common type of error. Looking for what to add to VIMCLA, the sequence of letters offered by B, the word *clavus* (stripe) comes to mind, which in connection with the following purple would fit in particularly well. The *clavus purpureus* is the purple insigne of the *tunica* well known to us through archaeological and literary evidence as part of the Roman aristocratic costume in historical times. In the text of Cicero, the ablative *cla<vis>* should thus be restored. The corresponding addition would then be the adjective *purpure<is>*, the *ē* of the manuscripts pointing to an abbreviation of the ending. A similar solution was obviously already considered by Lambinus and also by Turnebus, but was completely ignored by the later editors.¹⁶ If the emendation *cla<vis>* should be correct, then the sequence VIM is still to be explained. The other

¹⁴ “The law permits that the deceased is wrapped in three *ricinia* and is bound by three purple straps, and that ten flute players accompany the funeral procession.” See Davisius/Moser/Creuzer (1824) 343.

¹⁵ I came to the solution independently, before finding out that Lambinus had preceded me.

¹⁶ Davisius/Moser/Creuzer (1824) p. 343 remark on the lemma *tribus riciniis et vinclis purpureae*: “Turnebus autem reponit *et clavis purpureae*; nec multum abit Lambinus, cuius editio prae se fert *et clavis purpureis*. Sic et Alb. Rubenius de re Vest. I,7, nisi quod interdum mavult *cum clavis purpureae*.”

two stipulations of the law show us where to look for a solution. Both, the obscure **ricinia* and the flute players are qualified by a quantity, and one would expect that in the case of *clavi purpurei* a number had been added as well. Regarding the remaining letters, the number nine (VIII)¹⁷ seems to be the easiest solution. The last bars would have been corrupted to an M. From the paleographical point of view, this emendation is relatively simple and removes all difficulties that stand in the way of the other two proposals.

Moreover, a second testimony concerning the same passage of the Twelve Tables supports the emendation to *clavi purpurei*. It is the entry in the dictionary of Festus (Verrius) that deals with the gloss **ricinium*.¹⁸ There, the purple stripe is mentioned as a part of the **ricinium*. This shows that the law spoke of *clavi purpurei* at this point and that, as in Cicero's version, no other word like *tunica* stood between the words **riciniis* and *clavis purpureis*. Otherwise, Festus (or rather his source) would not have connected the *clavi purpurei* with the obscure **ricinia*.

But what is hidden behind the expression *clavi purpurei*? They must refer to a material object. It is not possible to associate them with the preceding **ricinia*, since both are equally items of the quantified enumeration. The solution seems to lie in a usage of language known to us from later times. Vertical stripes in purple, often simply called *clavi*, were usually part of the *tunica* of knights and senators. As is well known, during the imperial period the *tunica laticlavica* (tunic with broad purple stripes) is called by a common metonymy the *latus clavus*.¹⁹ If we assume a similar metonymy (*clavus* = *tunica cum clavo*) in the law, we arrive at nine tunics with purple *clavi*, defined by the law as the allowed maximum of such garments. The assumption that a tunic with purple vertical stripes could be simply called *clavus* seems to me easily possible, since the *latus clavus* (broad stripe) and the *angustus clavus* (narrow stripe) were distinguished only from Augustan times onwards. Another interpretation of the text connecting nine broad purple stripes with a single garment is ruled out anyway because such a garment did not exist. If the emendation VIII *clavis purpureis* is correct, the Twelve Tables said that at an elite burial at most nine of these tunics could be used.

It is now necessary to determine more precisely what function these *tunicae* had within the frame of the funeral. It is very likely that they were burial gifts burnt with

And p. 344 on the lemma *et clavis purpureis*: “haec visa mihi est et antiquissima, et optima scriptura, ut et Turnebo. LAMB.”

¹⁷ In our Latin sources, the number nine is more commonly expressed in this form rather than the modern prescriptive IX.

¹⁸ Festus p. 342.20–25 L. The difficult transmission is discussed in detail in D 1 p. 592.

¹⁹ Cf. Georges s.v. *clavus*: Hor. sat. 1.5.36: *praetextam et latum clavum prunaeque vatillum*; 2.7.10: *vixit inaequalis, clavum ut mutaret in horas*; Sueton. Caes. 45.3: *usum enim lato clavo adamussim striato* (E. Schulze: *usque ad manus fimbriato* codd.); 80.2: *Galli bracas deposuerunt, latum clavum sumpserunt*. In OLD s.v. 4, the metonymic use of *clavus* is not mentioned, but some of the references adduced there can be interpreted in this way.

the dead, since the regular guests at the funeral banquet (see below) naturally wore their own clothes. The festive tunics were probably intended for the afterlife. As their number shows, they were hardly intended as change clothes for the deceased himself. Rather, one should think of his guests in the hereafter. The dead man was to be allowed to equip them decently at a future banquet. For this purpose, tunics with purple *clavi* were given to him. The garment clearly indicates what kind of guests were expected to this dinner party. By its very nature, the *tunica* with purple stripes is the social emblem that characterized the political elite (i.e. the knighthood) in Rome. Since the Twelve Tables were concerned with the maximum of luxury, it therefore pertained to a dead man from the top of society. He should be able to dress his ancestors at the banquet with dignity, since they also belonged to the elite and had worn such *tunicae* in their lives. In the end, the luxurious burial gift aimed at the glorification of the *gens*. We are thus faced with a funeral in the circle of nobility, which is well conceivable in the context of Roman sepulchral culture.

1.3 Towards a text of tab. 10.3–4 – two purported dress glosses and their meaning

The difficulties offered by the text of the Twelve Tables go far beyond the manuscripts of Cicero and their corruption. Even the earliest commentators on the law in Antiquity were obviously unsure regarding the meaning of some words and therefore offered different interpretations. They thus established a tradition of thought that has continued to this day without going beyond the ancient hypotheses. And even worse is the fact that some of the guesses of ancient grammarians are treated in our times as if they were real facts. This is the case with the two glosses **lessus* and **ricinium*, which are among the hardest problems the Twelve Tables have to offer. The difficulty of the glosses is mainly due to the fact that their meaning can neither be satisfactorily explained by adducing parallels—both words are attested only once in primary sources—nor can they be explained by an etymological derivation.

1.3.1 **lessum* < *os laesum*

In the case of the word **lessus*, Cicero's explanations clearly show us—and that is why the term is treated first here—what trouble the ancient scholars had in trying to explain it and what methods they used to find a solution. The oldest commentator on the Twelve Tables, the jurist Sextus Aelius Catus (early 2nd century BCE) said very frankly that he did not quite understand the meaning of the text. With due and explicit caution, he put forward the hypothesis (*susplicari*) that the **lessus* could have been a kind of mourning garment. We are still at a very early point of the exegesis of the Twelve Tables. It is very likely that it was the *Tripartita* of Sextus Aelius which made the Law of the

Twelve Tables accessible to a reading public in book form for the first time. The much younger grammarian Lucius Aelius (sc. Stilo, 2nd half of 2nd century BCE), who was also Varro's teacher, explained the meaning of the word **lessus* differently. In contrast to the cautious jurist Aelius, the grammarian Aelius Stilo was endowed with greater self-confidence. He maintained that the word **lessus* denoted a lamentation.²⁰ It seems a bit odd that the law should have used the expression **lessum habere* for this rather than the usual words *canere* (sing) or *lamentari*. Nevertheless, Cicero thought that Stilo's guess was correct because Solon's law offered a similar stipulation.²¹ Cicero's reasoning is likewise not based on any factual knowledge, but—to say it tongue in cheek—he saved us from having to cope with still another archaic garment, the **lessus*, because the modern Latin dictionaries and historians usually follow him and declare the **lessus* with more or less confidence to be a lamentation.²²

However, the word formation and the context seem to suggest that the ancient scholars could already have been wrong in their explanations.²³ An unbiased look at the transmitted *les(s)um* recommends associating it with the word *laedere* (to violate). The word *les(s)um* is then to be understood either as an obsolete noun corresponding to the later term *laesio* (violation) or as a participle perfect passive (*laesum*) of *laedere*. The latter solution would point to the loss of a noun such as *os* (face) or the corruption of the ending (*laesas*). If this is right, the law simply said: *Mulieres genas ne radunto*

20 Stilo F 13 Funaioli. The work in which Aelius Stilo made this statement is not certain. There is no evidence that he wrote a commentary on the Twelve Tables, even though he explained numerous words from them, see W. Strzelecki, *De legibus XII Tabularum apud Festum servatis*, *Eos* 56 (1966), 108–114. Dyck (2004) 405 in his commentary on Cicero also links the **lessus* with a lamentation.

21 See also Cic. Tusc. 2.55: *ingemescere non numquam viro concessum est, idque raro, eiulatus ne mulieri quidem. et hic nimirum est lessus* (Muretus : *fletus* codd.), *quem duodecim tabulae in funeribus adhiberi vetuerunt*. [To men it was sometimes permitted to moan, but only rarely, loud wailing was permitted not even to women. And this is without doubt the *lessus* which the Twelve Tables forbade to use in funerals.]

22 Georges: “das Trauer- oder Totengeheul, die Totenklage”; OLD [dub.] (app.): “funeral lamentation”; ThLL “i.q. lamentatio funebris”; Marquardt/Mau (1886) 352 n. 4: “Der alte Ausdruck für diese Klage war *lessum facere alicui*”; Toher (n. 2) 303: “a funeral lamentation (*lessum*).” The references adduced by Toher in n. 9 (Plin. NH 11.157 and Serv. ad Verg. Aen. 12.606) do not refer to wailing, but to ritual self-mutilation. Baltrusch (n. 5) 45 n. 38: “An dieser Stelle ist die Bedeutung von *lessus* zweifelhaft, wie schon zur Zeit Ciceros sein Ursprung nicht mehr gegenwärtig war. Man darf aber wohl davon ausgehen, dass es sich nicht dabei um ein *vestimenti aliquod genus funebris*, sondern um *lugubris eiulatio* handelt.” Engels (n. 5) 166: “Gleichfalls sollten sie keinen *lessus*, einen schrillen Klageruf, ausstoßen. Damit sollte die *nimia lamentatio*, eine allzu expressive und sozial anstößige Form der Totenklage in der Öffentlichkeit (und der Einsatz professioneller Klageweiber?) eingeschränkt werden”; Crawford (n. 2) 707: “hold a wake”; Dyck (2004) 404–405 in his commentary: “*lessus* was obscure even to the ancients but was probably a keening or wailing ... Powell, perhaps rightly, conjectures *leiium* for *lessum* on the basis of Sex. Aelius’ etymology and Cicero’s comment on its transparency.”

23 Historically, the provisions of Solonian law were certainly not the model for the Twelve Table Law. It is therefore methodologically advisable to separate the interpretation of the Solonian law from that of the Twelve Tables and to record the differences.

neve <os> laesum funeris ergo habento or genas ne radunto neve laesas funeris ergo habento (women shall not scratch their cheeks nor have their face hurt because of a funeral). The prohibition surrounding the opaque *lessus* would thus be less severe than Cicero thought it to be, not forbidding human lamentation in general, but only its excesses. Women in mourning should not also scratch their cheeks. The confusion only arose because the meaning of a normal word was obscured by textual corruption.

1.3.2 **ricinium < triclinium*

Something similar could have happened to the gloss **ricinium*. The ancient grammarians knew nothing about this word either, but that did not stop them from confidently forming theories. For example, Cicero uses the word in *De legibus* as if its meaning was self-evident. Varro too leaves no doubt that he knew exactly what it meant.²⁴ It is only the entry in Festus (Verrius) on the **recinium* [!] that shows us that the word was an obscure gloss and that its meaning was discussed by ancient scholars. Varro's views on the **ricinium*—he thought it to be a proto-*pallium* of the Roman woman—and other grammarians' attempts to explain it are dealt with in detail in other chapters of this book (C 1; D 1). At this point, we will only think about how the first commentators on the Twelve Tables arrived at their explanations and what the gloss **ricinium* might actually mean.

Looking at Cicero's comments on the gloss **lessus*, we find that the *lex Solonis* played a major part in the interpretation of the obscure passages of the Twelve Tables.²⁵ We may therefore assume that the same was true in case of the **ricinium*. Provisions of Solon's laws that at first glance appear very similar indeed have been handed down to us by Plutarch, who in turn probably owed his information indirectly to Aristotle or some other attidographer. The ancient Roman commentators of the Twelve Tables and Cicero will have obtained their knowledge from similar sources:

Plutarch Solon 21,5²⁶

ἐπέστησε δὲ (sc. ὁ Σόλων) καὶ ταῖς ἐξόδοις τῶν γυναικῶν καὶ τοῖς πένθεσι καὶ τοῖς ἑορταῖς νόμον ἀπείργοντα τὸ ἄτακτον καὶ ἀκόλαστον, ἐξίέναι μὲν ἱματίων τριῶν

²⁴ See C 1 pp. 565–568.

²⁵ On Solon's law and his restrictions of funeral luxury, see E. Ruschenbusch, Solon. Das Gesetzeswerk – Fragmente. Übersetzung und Kommentar, Wiesbaden ²2010 (1966); Blok (n. 11) 197–247; on the connection of the Twelve Tables with Solon's laws in general, see P. Siewert, Die angebliche Übernahme solonischer Gesetze in die Zwölftafeln, Chiron 8 (1978), 331–334, who thinks that Cicero first started to explain the Twelve Tables in this way. However, Aelius' explanation of the **ricinium* and Stilo's explanation of the **lessus* in the sense of the Solonian *χωκύνειν* suggest that Cicero already had predecessors. For an overview of the various hypotheses, see Wieacker (n. 2) 301 n. 80.

²⁶ Ruschenbusch leg. Solonis F 72 c with reference to FGrHist 328 (Philochoros of Athens) F 65 n. 4; Blok (n. 11) 205–206.

μη πλέον ἔχουσιν κελεύσας μηδὲ βρωτὸν ἢ ποτὸν πλείονος ἢ ὀβολοῦ φερομένην
μηδὲ κάνητα πηχυαίου μείζονα μηδὲ νύκτωρ πορεύεσθαι πλὴν ἀμάξης κομιζομένην
λύχνου προφαίνοντος. ἀμυχὰς δὲ κοπτομένων καὶ τὸ θρηνεῖν πεποιημένα καὶ τὸ
κωκύειν ἄλλον ἐν ταφαῖς ἑτέρων ἀφεῖλεν. ἐναγίζειν δὲ βοῦν οὐκ εἶασεν οὐδὲ συν-
τιθέναι πλέον ἱματίων τριῶν οὐδ' ἐπ' ἀλλότρια μνήματα βαδίζειν χωρὶς ἐκκομιδῆς.

However, he (sc. Solon) issued a law concerning the going out of women, their mourning and their feasting, intended to restrict disorder and licentiousness. He decreed that a woman should not go out taking with her more than three *himatia*, carrying food or drink that was worth more than one obol, and carrying a basket more than one cubit in size. A woman was not to travel at night except in a carriage and by lamplight. He forbade mourning women to scratch their cheeks, and to sing poetic funeral songs, and to lament at the burial of other people. He did not permit sacrificing a cow, contributing more than three *himatia*, and going to other people's graves when not burying them.

The present section offers some pieces of the *lex Solonis*. In the first part, the law is characterized as a moral law, thought to generally restrict the freedom of movement of women. Some prohibitions are listed that made public meetings for women more difficult. They were only allowed to bring little food or drink, a small basket, and three *himatia* (*pallia*). Then some restrictions concerning travelling at night are added. In contrast, the second part of the section shifts the focus to the funeral. The law forbids scratching one's cheeks, lamenting professionally, slaughtering a cow, bringing along more than three *himatia*, and going to other people's graves unless it is for a funeral. The repetition of some items suggests that Plutarch combined at least two sources that interpreted the *lex Solonis* from different angles.²⁷ Amongst the repeated stipulations, we find the maximum of three *himatia*. As to its form, a *himation* is, to put it in the words of Aelius Sextus, a *vestimentum quadratum* (square garment) that could be used either as a coat or as a blanket.²⁸ Maybe the law permitted women two blankets in addition to their coat or even three blankets. In any case, it seems clear that Solon wanted to prevent large parties at the tombs and therefore limited the food and the number of blankets the guests could sit on.

Solon's own words cannot be extracted anymore from the text with ultimate certainty. However, the reasons why Roman scholars were attracted to comparing his law with the Twelve Tables are obvious. First, both laws said that women should not scratch their cheeks in grief. For the grammarian interpreters, the parallel suggested also linking other provisions of both laws, especially the ones placed near the stipulation on self-mutilation. The sameness of number led scholars to identify the *tria ricinia* of the

²⁷ Ruschenbusch (see above); Blok (n. 11) 215–216.

²⁸ Varro assumed that in early times the *toga* could also be used in both functions, cf. C 2 p. 580.

Tables with Solon's three *himatia*.²⁹ The prohibition of **lessus*, they concluded, then had to correspond to the Solon's prohibition of wail. The earlier commentators of the law of the Twelve Tables were more cautious than their successors. From Varro onwards, when the scholarly discussion became increasingly independent of the text of the law itself, the *himatia*/**ricinia* were regarded as a thick female coat, a conclusion bordering close to nonsense when looking back at the supposedly similar stipulation of the *lex Solonis*.³⁰ That a woman should have been allowed to wear 'only' three thick cloaks by the Twelve Tables is a completely nonsensical restriction. What woman would be dressed in more than one?

However, there is some reason for believing that neither the hypothesis of the earlier legal commentators that the **ricinium* is any kind of *vestimentum quadratum* is correct.³¹ To start with, the **ricinium* is a gloss whose etymology defies any reasonable explanation.³² The word cannot be meaningfully associated with any other word, either Greek or Latin. As for the **lessus*, we might therefore look for another solution that leaves the beaten paths of ancient and modern research. In particular the tenth table of the Twelve Table Law contains numerous provisions concerning objects of everyday life. This suggests that the word **ricinium*, like the purple *tunicae* mentioned later in the law, might denote something very normal that was in regular use at a funeral of the upper class in Rome. One object often mentioned or depicted in connection with the funeral is the *triclinium*.

Against this background, the three incomprehensible **ricinia* of the Twelve Tables may in fact have been three very comprehensible *triclinia*. The reason for the incomprehensibility of **ricinium* would then be similar to that of the **lessus*. The text of the Twelve Table Law contained a misspelling at this point that even the grammarians in Antiquity did not recognize. The corruption was very minor indeed, if we keep in mind that the original text of the law was written in capital letters without word division (IIITRICLINIA). In the end, everything boils down to a few bars of letters having disappeared over the centuries preceding the ancient grammarians. A similar mistake—an initial T being lost—may have occurred in case of Plautine gloss **rica* which could have

²⁹ Cf. e.g. Wieacker (n. 2) 301: "Bei der Beschränkung ins Grab mitgegebener Frauengewänder auf gerade drei sind sie [the similarities with Solon's law] so zwingend, daß die unmittelbare Entlehnung in die Augen springt."

³⁰ The ambiguity of the ancient explanation of the word **ricinium* is mirrored in modern research. Burial gifts: Marquardt/Mau (1886) 575: "ein viereckiges Tuch, das schon in den zwölf Tafeln erwähnt wird und dort einen Teppich bezeichnet, mit dem man den Scheiterhaufen schmückt"; Wieacker (1967) (n. 5) 347; Baltrusch (n. 5) 46; D. Flach, *Die Gesetze der frühen römischen Republik, Text und Kommentar*, Darmstadt 1994, 193–194; Crawford (n. 2) 706. Female dress worn in the funeral procession: Toher (n. 2) 302; Engels (n. 5) 165.

³¹ Quoted by Festus, see above and D 1 p. 592.

³² For an overview of the various explanations, see Potthoff (1992) 163–167. The modern discussion is complicated by the fact that the word **ricinium* is often mixed up with the likewise obscure glosses **rica* and **riculum*, cf. D 4 p. 622.

developed out of a *trica*.³³ There are also other glosses in the Twelve Tables that can be explained by textual corruption.³⁴

The word *triclinium* denotes, in the sense required here, a couch for three persons.³⁵ Such *triclinia* could have served either as equipment at a funeral banquet or as grave goods and were thus carried in the funeral procession. The law does not specify their function, but only lists them like other items that could be used during a funeral. Such matter-of-fact thinking is also found in many other parts of the Twelve Tables. It contributes much to their very succinct manner of expression that makes such a strong impression on modern readers. We may therefore assume that the three *triclinia* were both the maximum of grave goods and the maximum of banquet beds at the funeral feast.³⁶ The fact that the law did not deem it necessary to distinguish between burial gifts and objects in use can also be understood if we look, for example, at the banquet scenes depicted on the walls of Etruscan tombs. There is a controversy among archaeologists as to whether these scenes are meant to show banquets of the living or banquets of the dead. Some scenes clearly relate to the hereafter and others to this world. However, an ancient person looking at the paintings may not have put the question in such a binary way, believing life and death to be a continuum. Thus, the celebration in this world merged into a celebration in the other world, the funeral being exactly the point where both worlds meet. The deceased, the dead ancestors, and the living family all took part in the funeral celebration, an idea that has been preserved impressively in the Roman *pompa funebris*.

Why a maximum of three *triclinia* were allowed at a funeral can be easily explained if we consider the number of *triclinia* used at a normal Roman dinner party (*convivium*). It consisted of exactly three such couches. The legislator, it may thus be concluded, probably did not want to deny a regular symposium to the living or the dead. Keeping in mind that nine persons usually took part in a symposium, we also arrive at the number of the nine *tunicae* with purple stripes mentioned shortly afterwards in the law.³⁷ If we interpret it as referring to a burial gift, we thus find the complete equipment for a dinner party in the afterlife. A visual parallel for such a banquet dating to the same time as the Twelve Tables is provided by a painting in the *Tomba del letto funebre* in Tarquinia that shows, in addition to three empty *triclinia*, seven participants (four men, three women)

³³ See A 4 pp. 72–74; D 4.

³⁴ Radicke (n. 2) 58.

³⁵ On the word and its different meanings, see Radicke (n. 2) 57.

³⁶ On the banquet in Etruscan-Roman burial culture, see most recently K. M. D. Dunbabin, *The Roman Banquet. Images of Conviviality*, Cambridge 2003, 127–129; F. Prayon, *Die Etrusker. Jenseitsvorstellungen und Ahnenkult*, Mainz 2006, 44; S. Braune, *Convivium funebre. Gestaltung und Funktion römischer Grabtriklinien als Räume für sepulkrale Grabfeiern*, Hildesheim 2008, 148–157; *ThesCRA VI* (2011) 192–194 (Knosala); 212–213 (Jaeggi).

³⁷ Marquardt/Mau (1886) 300–305; Dunabin (n. 36) 41–43; K. Vössing, *Mensa Regia. Das Bankett beim hellenistischen König und beim römischen Kaiser*, Munich 2004, 564–565.

and some flute players.³⁸ The words of the Twelve Tables could therefore be taken as to refer to the ‘ideal’ Roman guest table, consisting of three *triclinia*.³⁹ They certainly do not indicate that in early times Roman women wore a proto-*pallium* called **ricinium*. This garment has to be regarded as a fantasy of overzealous antique scholars. Sadly, we must reject their magic trick of transforming a couch into clothing. However, this rejection opens up a clearer view into the lived world of Roman pre-history: a familial gathering where the worlds of the living and the dead coalesce for a short while.

³⁸ S. Steingräber, *Etruskische Wandmalerei*, Stuttgart 1985, 327–328 no. 82; M. Moltesen/C. Weber-Lehmann, *Catalogue of the Copies of Etruscan Tomb Paintings in the Ny Carlsberg Glyptotek*, Copenhagen 1991, 61–64 no. 22–25; C. Weber-Lehmann, in: B. Andreae et alii (eds.), *Die Etrusker. Ausstellung Hamburg, Munich 2004*, 144–147.

³⁹ See, however, Vössing (n. 37) 565.

