

*RHETORICA AD HERENNIVM 1.2: QVOAD EIVS,
QVOD EIVS OR QVOAD?**

ABSTRACT

Rhet. Her. 1.2 *quoad eius fieri poterit* contains the surprising reading *quoad eius*. Earlier scholarship has debated the authenticity of this reading and its relationship to *quod eius*. A survey of the sources shows that *quod eius* appears in a number of inscriptions as well as in the transmitted text of nine passages within surviving Latin literature. So that phrase must be authentic; it appears to have arisen as a limiting formula in the language of the law. In two other passages, *quoad eius* appears in inferior manuscripts that lack authority, while the reading transmitted by authoritative textual sources is *quod eius*. Rhet. Her. 1.2 is the only passage in which *quoad eius* is the transmitted reading. This phrase is also linguistically problematic. Hence it is very likely to be corrupt. It probably arose as a conflation of *quod eius* with *quoad*, both of which are attested in similar contexts. On balance, it seems more likely that the original reading in this passage was *quoad*.

Keywords: Latin literature; textual criticism; editing; Latin syntax; legal Latin; *Rhetorica ad Herennium*

A passage near the start of the *Rhetorica ad Herennium* may well cause the reader to stumble (1.2):¹

oratoris officium est de iis rebus posse dicere, quae res ad usum ciuilem moribus et legibus constitutae sunt, cum adsensione auditorum, quoad eius fieri poterit.

It is the task of the orator to speak about public matters and the law, obtaining the agreement of the audience as far as possible. The last seven words of this passage were translated by Harry Caplan in his Loeb edition as ‘and to secure as far as possible the agreement of his hearers’, and by Gualtiero Calboli in his recent edition with commentary as ‘e parlare riscuotendo, per quanto sarà possibile, l’approvazione degli ascoltatori’.² According to Sext. Emp. *Math.* 2.62 (pages 96,29–97,1 Mau), this definition goes back to the second-century B.C.E. teacher of rhetoric Hermagoras of Temnos: Ἐρμαγόρας τελείου ῥήτορος ἔργον εἶναι ἔλεγε τὸ τεθὲν πολιτικὸν ζήτημα διατίθεσθαι κατὰ

* This article was written within the research group LITTERA at the Universitat de Barcelona (reference: 2021-SGR-00074). The author gratefully acknowledges a Ramón y Cajal Grant (RYC2018-024411-I) from the Ministerio de Universidades, and funding for the research project “Escrito para los dioses. Escritura y ritualidad en la Península Ibérica antigua” (PID2019-105650GB-I00) from the Ministerio de Ciencia e Innovación of Spain.

¹ I follow the recent edition with commentary by G. Calboli (ed.), *Cornifici seu Incerti Auctoris Rhetorica ad Herennium*, 3 vols. (Berlin and New York, 2020). *quoad eius* stands in the text in C.L. Kayser (ed.), *Cornifici Rhetoricorum ad C. Herennium libri IIII* (Leipzig, 1854) and in all later editions that I have seen.

² Calboli (n. 1), 1.387; H. Caplan (ed.), [*Cicero*]: *Rhetorica ad Herennium* (Cambridge, MA and London, 1954), 5.

τὸ ἐνδεχόμενον πειστικῶς. None of these versions has any place for *eius*, which fits poorly into the syntax. How can this genitive be attached not to a noun or pronoun but to the prepositional phrase *quoad*?

However, the standard dictionaries treat *quoad eius* as a proper Latin phrase. The *OLD* (s.v. 3a) notes that *quoad* can mean ‘To the degree that, as far as, as much as’ and mentions its use with a partitive genitive, giving the present passage as the only example; it adds the comment that ‘cod[ices] s[ome]t[ime]s vary between this and *quod*’. Lewis and Short (s.v. *quoad* B2) translate ‘So far as, as much as’ and note the usage with *eius* in the phrase *quoad eius facere possum* to mean ‘as far’ or ‘as well as I can’. They refer to parallels at Cic. *Att.* 11.12.4 (noting the variant *quod eius*), *Fam.* 3.2.2, *Inu. rhet.* 2.20 and Livy 39.45.7. But if one consults recent critical editions of all passages save *Rhet. Her.* 1.2, one finds that all of them read *quod eius*!

Two grammars of classical Latin also enter the fray. Hofmann–Szantyr regard both *quod eius* and *quoad eius* as genuine phrases, present in early and colloquial Latin, which we cannot tell apart because of the vagaries of the transmission.³ According to Kühner–Stegmann on the other hand, *quoad eius* was used in the phrases *quoad eius facere possum* and *quoad eius fieri potest*, but it has been corrupted almost everywhere to *quod eius*.⁴ This implies that in other kinds of phrases *quod eius* is (or may be) authentic.

Both grammars refer to the scholarly debate of the late nineteenth and early twentieth centuries.⁵ A key contribution was a detailed discussion by Heinrich Jordan, who reached rather different conclusions from what has been presented so far.⁶ Jordan’s principal interest was not textual criticism but the history of the Latin language. He studied how the pronoun *quod* came to be used gradually as a conjunction, and paid close attention to the construction *quod eius*. In the language of Roman law, this phrase often introduced limiting clauses. The origins of the construction are clarified by passages where the antecedent to *eius* is repeated after it in the genitive, as in the *Lex agraria* of 111 B.C.E. at *CIL* I² 585.25 (Crawford, *Roman Statutes* no. 2.24) [*ager locus quei sup]ra scribeptus est, quod eius agrei locei post <h(anc)> l(egem) r(ogatam) publicum populei Romanei erit and with the spelling variant quot in the Lex Coloniae Genetiuae Iuliae siue Vrsonensis of 47–44 B.C.E. at par. LXXII (Crawford, Roman Statutes no. 25 tablet b col. I.30–5) quotcumque pecuniae stipis nomine in aedis sacras datum inlatum erit, quot eius pecuniae eis sacris superfuerit, quae sacra ... facta <fuer>i<nt>, ne quis facito ... quo minus in ea aede consumatur. Jordan also quotes variants in which *eius* lacks a specific antecedent: thus in the same *Lex Coloniae Genetiuae* at par. LXXVII (Crawford, *Roman Statutes* no. 25 tablet b col. II.29–33) si qu<a>s uias fossas cloacas Iuir aedil(is)ue publice facere ... munire intra eos fines, qui colon(iae) Iul(iae) erunt, uolet, quot eius sine iniuria priuatorum fiet, it is facere liceto. As for the literary attestations of *quod eius* and *quoad eius*, Jordan states*

³ J.B. Hofmann and A. Szantyr, *Lateinische Syntax und Stilistik* (Munich, 1972²), 57 ‘*quod* (= *quoad* ...) *eius* ist altlat. und umgangssprachlich’; 655 ‘auf das Schwanken der Überlieferung ist hier kein Verlaß’.

⁴ R. Kühner and C. Stegmann, *Ausführliche Grammatik der lateinischen Sprache, Zweiter Teil: Satzlehre*, 2 vols. (Hannover, 1912²), 1.435.

⁵ In the twentieth century, see E. Ströbel, *Tulliana: Sprachliche und textkritische Bemerkungen zu Ciceros Jugendwerk De inventione* (Progr. Munich, 1908), 47 and also C. Kappler, *Ueber die unter dem Namen der Cornelia überlieferten Brieffragmente*, Part 2 (Progr. Weiden, 1906), 34, which I have been unable to consult.

⁶ H. Jordan, *Kritische Beiträge zur Geschichte der lateinischen Sprache* (Berlin, 1879), 336–44.

that the latter is not supported by strong manuscript evidence; at *Rhet. Her.* 1.2 and *Cic. Inu. rhet.* 2.20 (which are the only attestations that he discusses) it must be a corruption of *quoad eius*.

In sum, the scholarly debate about this complex problem has not come to a close. I will summarize the three hypotheses that have been put forward, adding a fourth position for the sake of logical symmetry:

1. Both *quoad eius* and *quod eius* are authentic Latin phrases. (This position is taken explicitly by Hofmann–Szantyr, and it is implied by the standard dictionaries.)
2. *quoad eius facere possum* / *quoad eius fieri potest* is authentic, but it has been corrupted almost everywhere to *quod eius*. (This is the position of Kühner–Stegmann, who do not call into doubt the authenticity of *quod eius* in other constructions.)
3. *quoad eius* is authentic; *quod eius* is a corrupt form that derives from *quoad eius*. (This has not been proposed so far by anyone, as far as I am aware.)
4. *quod eius* is authentic; *quoad eius* is a corrupt form that derives from *quod eius*. (This is the view of Jordan.)

What sources support either phrase? Here follows a brief survey, grouped according to the forms that are attested in each passage.⁷ Since any hypothetical reconstruction must be based on the evidence of the sources, textual conjectures are not taken into consideration at this stage. This leads to the omission of two of the three parallels adduced for *quoad eius* by Lewis and Short—namely, *Cic. Att.* 11.12.4, *Fam.* 3.2.2 and *Livy* 39.45.7—as there appears to be no manuscript evidence for the reading *quoad eius* in these passages.

For the sake of brevity, I focus on those parallels in which *eius* is not accompanied by a noun; adding those passages in which it is accompanied by a noun would increase the number of attestations of *quod eius*. Of course, I do not include passages in which *eius* does not depend on *quod*, such as *CIL* XI 600.13 *ob merita quod eius mortem dolui*.

- i. *quod eius* (occasionally written as *quot eius* in the *Lex Coloniae Genetivae Iuliae*) transmitted unambiguously: 35x in all.

Attested 26x in epigraphic sources: in the *Lex repetundarum*, possibly of 123–122 B.C.E., *CIL* I² 583 (Crawford, *Roman Statutes* no. 1), at 67; in the *Lex agraria* of 111 B.C.E., *CIL* I² 585 (Crawford, *Roman Statutes* no. 2), at 5 (*ter*), 33, 38, 64, 65, 66, 67, 75 and 80; in the *Lex Municipii Tarentini* of c.80 B.C.E., *CIL* I² 590 (Crawford, *Roman Statutes* no. 15), at col. I.41; in the *Lex Antonia de Termessibus*, possibly of 68 B.C.E., *CIL* I² 589 (Crawford, *Roman Statutes* no. 19), at col. I.32 and col. II.25; in the *Lex Coloniae Genetivae Iuliae siue Vrsonensis* of 47–44 B.C.E. at paragraphs 13 (*L'Année Épigraphique* 2006, no. 645), 70 (Crawford, *Roman Statutes* no. 25 tablet b col. I.9), 71 (tablet b col. I.22), 72 (tablet b col. I.31), 77 (tablet b col. II.32), 80 (tablet b col. III.12), 102 *bis* (tablet c col. IV.30 and 32) and 128 (tablet e col. II.13); in the edict of Emperor Augustus

⁷ I have searched for parallels in two databases: M. Claus, A. Kolb, W.A. Slaby, B. Woitas, *Epigraphik-Datenbank Claus/Slaby*, <http://manfredclaus.de>, and in the *PHI Latin Texts* of the Packard Humanities Institute, <http://latin.packhum.org>, both consulted on 21 April 2023. For the literary texts, I have used the most recent critical editions available, alongside earlier ones where possible.

found at Venafro (*CIL* X 4842.26); in the *Lex Flauia Malacitana* of 81–96 C.E. at 27 (*CIL* II 1963 col. II.16–17).

Attested 9x in literary sources: Cato, *Agr.* 32.1 and 33.1; Cic. *Fam.* 3.2.2 and 5.8.5; *Att.* 11.12.4; Q. Cicero (?), *Comment. pet.* 43; Livy 39.45.7 and 42.8.7; Apul. *De deo Soc.* 1.1.

- ii. *quoad eius* transmitted unambiguously (but see below): attested 1x in literary sources only, at *Rhet. Her.* 1.2.
- iii. *quod eius* and *quoad eius* transmitted in parallel, with both forms present in the manuscripts (but see below): attested 2x in literary sources only, at Cic. *Inu. rhet.* 2.20 and Q. Cicero (?), *Comment. pet.* 36.

quod eius is attested over twenty times in seven different laws and edicts, which have reached us on inscriptions in Spain and Italy; and it is attested nine times in literary texts and private letters by five different authors. It is unlikely in the extreme that all these attestations, especially those in the inscriptions, should be the results of textual corruption. This support for *quod eius* in our sources is matched by the convincing linguistic explanation of the phrase that has been put forward by Jordan, as we have seen. In short, *quod eius* is a well-documented and understandable Latin phrase. We must rule out hypothesis 3 above.

What about the sources that transmit *quoad eius*? Group iii above comprises two passages where this form stands in some manuscripts, while other sources read *quod eius*. In both cases, the sources that read *quoad eius* carry little weight; the authoritative textual witnesses of both passages read *quod eius*. At Cic. *Inu. rhet.* 2.20 *quo(a)d (eius) fieri possit*, the authoritative manuscripts and the lemmata in the commentary of Marius Victorinus read *quod eius*, while *quoad eius* and *quoad* are found in some of the more recent manuscripts known as the *integri*; the reading *quoad eius* was added by the second hand to the codex Sangallensis 820 and *quoad* was added by the third hand to Parisinus lat. 7774a.⁸ At *Comment. pet.* 36 *quo(a)d eius fieri poterit*, the authoritative manuscripts read *quod eius*, while *quoad eius* is attested in the *codices recentiores*.⁹ In sum, the transmitted reading in both passages is *quod eius*. The variant *quoad eius* may well have entered the manuscript tradition of these two passages from *Rhet. Her.* 1.2, a passage containing a key definition at the start of a work that was read fairly often during the Middle Ages.

Hence, *Rhet. Her.* 1.2 is the only passage where the authoritative textual witnesses support the reading *quoad eius*. This phrase is not only unparalleled but also awkward: it has already been noted how unusual it is for the genitive *eius* to be attached to the prepositional phrase *quoad*, to which it does not add anything, since *quoad* already means ‘so far as’ in and of itself. Contrast *quod eius*, where the genitive depends on *quod* and the meaning is clear: ‘that [part] of it which’, ‘to the extent that’.

Since *quoad eius* lacks linguistic credibility, it is very likely to be corrupt even here. It is likely to have arisen as a conflation of the phrases *quoad* and *quod eius*, both of which are attested at the start of similar clauses in Latin texts of this period. Here *quod eius* has been restored by Jordan, while *quoad* finds a precedent in a manuscript:

⁸ Thus E. Stroebel (ed.), *M. Tulli Ciceronis ... Rhetorici libri duo qui uocantur De inuentione* (Leipzig, 1915), 84.

⁹ Thus H. Sjögren (ed.), ‘Q. Tulli Ciceronis Commentariolum Petitionis’, in *M. Tulli Ciceronis scripta quae manserunt omnia*, vol. 11 (Leipzig, 1914), 81–98, at 92. The more recent editions of W.S. Watt (Oxford, 1958) and D.R. Shackleton Bailey (Stuttgart, 1988) do not even mention the reading *quoad eius*.

Karl Ludwig Kayser's 'Emmeranus 2', which is identified by Ruth Taylor as Munich, Bayerische Staatsbibliothek, Clm 14601 (formerly Regensburg, St Emmeram, F 104).¹⁰

Which of these two forms is more likely to be original? It is not easy to decide, given that both are attested in this kind of context. At *Rhet. Her.* 1.2, the transmitted text is *quoad eius fieri poterit*. The same phrase is attested with *quod eius* at *Comment. pet.* 36, while *quod eius fieri possit* is read at Cic. *Inu. rhet.* 2.20 and *Fam.* 5.8.5. On the other hand, *quoad fieri potest* is used by Cic. *Timaetus* 50 and *quoad fieri poterit* at *Att.* 8.2.2. The *Rhetorica ad Herennium* yields some less close parallels for *quoad* (4.34 *quoad possem*, 4.48 *quoad potestis*), but none for *quod eius*. That constitutes one argument in favour of reading *quoad*. Another argument can be drawn from the context: at the start of a clause that makes a general limitation rather than dividing up a specific entity, *quoad* is more apt than *quod eius*, especially in an author with a pedantic eye for precision. On the other hand, it is perhaps easier to explain *quoad eius* as a result of corruption from *quod eius* than to derive it from *quoad*; but the introduction of *eius* under the influence of the phrase *quod eius* is not unthinkable. On balance, I prefer *quoad fieri possit*, as it follows more closely the *usus scribendi* of the author.

Universitat de Barcelona

DÁNIEL KISS

kiss@ub.edu

doi:10.1017/S0009838824000326

¹⁰ Kayser (n. 1), ad loc.; R. Taylor, 'Codices integri and the transmission of the *Ad Herennium* in Late Antiquity', *RHT* 23 (1993), 113–42, at 115 n. 12. As of 21 April 2023, digital images of Clm 14601 were available online: <https://www.digitale-sammlungen.de/en/view/bsb00065182?page=,1>; see fol. 76v. Taylor (this note), 120 quotes the view of Bernhard Bischoff that this manuscript stems from the middle of the eleventh century and shows signs of Italian influence.