Ecclie

Actio mota inter parochianos ville Pros[illegible] actorum ex una, et parochianos Ecclesie in Sar[illegible]soppen ~~[illegible]~~ ~~[illegible]~~ seu V. Capit. Warmien. patronorum dicte Ecclesie conventos ex altera parte ratione singularis comparis in Sarsoppen.

Ad multiplices preces et instantiam parochianorum Ecclesie in Pros[illegible] [illegible] [illegible] ratione [illegible] compareat (margin: ad compar.) quam Prost[illegible] [illegible] tempestate parochiali Ecclesie in Sarsoppen ~~[illegible]~~ comendasse dicitur, [illegible] V. Capitulum Cathedralis Ecclesie Warmien. similiter parochi[illegible] in Ecclesia Sarsoppen, VI. Februarii Anno M.D.LXXXVII coram Rmo domino, domino Episcopo Warmien. [illegible] [illegible] domini V. Capitulum coram [illegible] domino Episcopo per [illegible] (margin: pars convenla) [illegible] [illegible] Februarii comparuerunt. Prost[illegible] contumaciter absentibus, providerunt ad ~~[illegible]~~ [illegible] [illegible], ab instantia et termino [illegible] [illegible] fuit absoluta.

Decretum contumacie

Martinus Cromerus Dei gratia Episcopus Warmien. [illegible] [illegible] universis et singulis quorum interest. [illegible] [illegible] nostri de Prost[illegible] [illegible] [illegible] [illegible] parochialis Ecclesie in Sarsoppen, itemque V. Capit. Warmien. [illegible] Ecclesie patronos, [illegible] ad [illegible] [illegible] [illegible] coram nobis [illegible] [illegible], ad respondendum (margin: Ecclesie [illegible] [illegible]) [illegible] [illegible] compareat, quam [illegible] [illegible] actores, [illegible] Ecclesie in Sarsoppen comendasse [illegible] [illegible] [illegible] parochiali Ecclesie [illegible] [illegible] propria [illegible] [illegible] in prefixo termino neque per se neque per [illegible] [illegible] comparuerunt, sed contumaciter [illegible] [illegible] obedientiae [illegible] et tempore [illegible] actorum [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] actorum [illegible] [illegible] instantia absolvimus, actores vero in expensas (margin: [illegible] [illegible]) hac [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nostrum [illegible] apponi. Datum [illegible] VI. Februarii Anno M.D.LXXXVII.

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xvii Junij dicti anni comparuerunt coram Ill[ustrissi]mo d[omi]no Ep[iscop]o
alias ... convenerunt ... partes supplices et ...
[illegible] [illegible] ... persuasi habere se non posse ... [illegible]
... quod ... non Heilsberge, sed ...
... praecipue ... alias ... Capituli Warmien[sis]
Santoppen ... in absentia ... xxvii
Augusti ... ad
prosequendam actionem ...

Anno D[omi]ni M D LXXXVII XXVII mensis Augusti compa
ruerunt coram Ill[ustrissi]mo d[omi]no Ep[iscop]o ... ex una, et
honestus Jacobus Braun notarius Melsacen[sis] ... Capituli
Warmien[sis] mandatarius ... Santoppen ...
mandatarius ... procuratorem
Protestatur ad ...

Articulato procuratorio ... pro legitimo et sufficienti
[illegible] contumaciam ... comparens ... promovente ... ut ...
... in proximo ... in expensis ...
... ordinarij, condemnati ...
... causa ... ad
quem ...
... quod ... Heilsberge ...
...
Interlocutoria de expensis ...
Item promovente ... differenda ... actionem de expensis
contumaciae ... causa principalis per ...
... differenda.

Anno M D LXXXVII XXVII mensis Augusti comparuerunt
... in arce Heilsbergen[si] coram Ill[ustrissi]mo d[omi]no Ep[iscop]o Warmien[si]
ad ... terminum ... parochiani ...
in prosecutione actores ex una, et honestus Jacobus
Braun notarius Melsacen[sis] ... Capituli Warmien[sis] mandatarius
... parochiae Santoppen ...
[illegible] ex altera partibus. Ubi actores ...
... pars actorum, ...
actores ... tempore ... Santop
pen ... : Item,

presumptionis attingat, ubi nil [redacted] quidem alter non recordar,
cum suffraganeum ipsum mortuum iam fuisse, quod per Joannis Bra-
den, qui dicitur [redacted] auxilium prebuisse ad collocandum in
aere campanam, mulier Kurti fuit. in tertium ipse [redacted]
Joannes Broda iuramento affirmat, patrem suum bis vel ter
vivis intervallis, quod etiam suffraganeo in campana
fuit abiurata iterum post eiusdem mortem, ubi mulier fuit
nil. Postremo neque hoc silentio pretereundum est, quod
ipsi testes reprobatorij in eo quod contraria deponit
non nimia fuit suspecti iuxta notabil. consil. 90 § in qua
plurimum vid. Imperialem. Et si circa preciosam tamen par-
tem testium contrarietates deprehenderunt iudices
ipsius testimonia rejiciunt ut in l. 27 ff de
test. Verum cum Marin iurat quod Sarlosseum
quatuor campanas iuravit fuisse, alter iuramento
confirmat illas tantum tres fuisse. Quando
quidem igitur per hos testes reprobatorios prose-
torum in firmis testimonijs fundata probationes non
modo non refutatur, sed neque verbo tollitur vel
fuerint quam ipsi testes sunt in eo veritatem cla-
rant dicendo, quod de illis rebus, cap-
tis ex arcibus quae Sarlosseum spectant [redacted]
campas sint subiecta esse futura. quando in
istis per cumulatorem exceptionem iterato non
neque in nimia parte sit monita [redacted] in per
repetitionem testium ex quibus dispensatione, ut
supra et verissime fiunt quod egrotanti
vel et iura [redacted] diversis rebus proceres sic
sibi [redacted]. Comma Vero ipse d. Suffraganeus per
commodatione illa aerum campanam Prosilia dominis
per proprietate non potuit privare, cum ipso ex com-
modato causa non tantum proprietas spectaverit, sed
et interdum Prepositi et Sarlossen negotiorum co-
nari ut sumatis Talia Prosilia testimonium [redacted]
[redacted] per carceram restitueretur, quam ulterius
ipsis salvum proprietatis dominium reservantur. Ideo
cum non tantum ex officio nostro est, quod rebus commodatis
dare et non fiunt commodatas prescribens, nisi
transeunt tribus l. a commodato ff § sicut
ff commodat, proinde supra l. v. tibi commoda-
tis

in prescriptione campane suo ex causa domini cui cum quidem non communicat, petit per V. cognitionem permittendus. Et ideo primo Vocorum Thomas [illegible] campana pro premio. Et con- venitis [illegible] ad locationem eius cum illis expensis, que quod actor ex tempore more interesse, igitur bonis [illegible] ipse concedit est actor, condemnare et compellere tametsi super quibus actor actoris petit per [illegible] offerri vel administrare iustitiam pro ipso implorant

salvo iure in [illegible] remedijs [illegible] omnibus ... ergo quod in [illegible] reservandis

Conclusio causae

Auditis illa actoris dispositionibus, veniant prae commentorum [illegible] responso, ex altera pars [illegible] alterius professorum vel utrius ad sententiam est conclusum

Sententia diffinitiva

Martinus Cromerus Dei gratia Episcopus Varmiensis. Nobis [illegible] universis quorum interest, quod nos in causa controversa, inter [illegible] et de professum actorem ex una, necnon V. Capituli Varmiensis, tum procuratorem [illegible] [illegible] mandatarium, nunc [illegible] [illegible] conventorum ex altera parte, concernente campanam quandam ante annos aliquot per ipsum [illegible] [illegible] professum per [illegible] [illegible] ac con- [illegible] [illegible] in [illegible] concessam, et in professoribus [illegible] suis temporibus [illegible] [illegible] [illegible] restauratam, ac per ipsum [illegible] [illegible] nunc ad actorem restituta [illegible], [illegible] campana [illegible] [illegible] [illegible] auditis utriusque partis in [illegible] [illegible] productis allegationibus, examinatis testibus, [illegible] [illegible] [illegible] [illegible] prout iudicium quod [illegible] [illegible] [illegible] pro [illegible] et [illegible] [illegible] testes nos reprobatorios, ac [illegible] [illegible] non ... [illegible] expressis [illegible], campanam illam controversam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], de [illegible] ad [illegible]. A qua nostra sententia [illegible] mandatarius [illegible] principalis [illegible] [illegible] [illegible] [illegible] Apostolicam in sessione [illegible] [illegible] [illegible] [illegible] appellationem appellantium nos [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] pendentes ad [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] appellatorum [illegible] [illegible] [illegible] quorum [illegible]

respondentes — aditto [illegible] proximum bellum quod ipsorum
antecessores, metu imprudentis belli, fortunas suas
quantum humano consilio providere potuissent, ser-
varunt, tres campanas de campanili illius Ecclesiae
ferrat — [illegible] deripuerunt, Kuttenbergam deportarunt atque in
[illegible] in horto parochiali tenere fecerunt. Unam
vero parochiatis Sanlopperen [illegible] superiori magno
bello a Lithuanis ustulatam cum campanis, postea
[illegible] ante proximum bellum restaurata campanis distri-
buta est, communicarunt parochiam Sanlopperen. Et
[illegible] cum parocho Kuttensi qui eo tempore [illegible]
gaverat, fuit ut commendaret Prosteken, ut ipsis unam
nec cordine — campanam de Prosteken Sanlopperen commoda-
ret, ut quam ex tali ex consensu acceptam.
in domo — [illegible] reportaret nimirum tertiam, [illegible] Sanlopperen
refundere tenerentur, ad quam quidem [illegible]
ipse parochus ipsius [illegible] [illegible] contradixe-
[illegible] ut ipsi [illegible] eius campane [illegible]
rent, quod a Prosteken repeteretur. [illegible]
[illegible] cum [illegible] commodata [illegible] [illegible]
ac [illegible] quemadmodum accepit restituere tenerentur,
actores tamen post crebras suas appellationes campa-
nam illam a comparentibus [illegible] [illegible] non [illegible]. Pro
[illegible] petierunt, ex Sanlopperen [illegible]
do [illegible] [illegible], tenori comparentes [illegible]
campanam cum restitutione omnis [illegible] [illegible]
et [illegible] [illegible] [illegible] actoribus [illegible]
[illegible] competentibus [illegible] [illegible] ad id [illegible]

Litis contestatio — dato [illegible]

negativa — [illegible] mandatarius partis comparentis respondit [illegible]
[illegible] [illegible] [illegible] Sanlopperen [illegible] [illegible]
Prosteken [illegible] [illegible] [illegible] obligatos [illegible] ex illa
actoris tenori; [illegible] [illegible] [illegible] actorum [illegible]
[illegible] esse

Interlocutoria

Pronunciat [illegible] [illegible] Prosteken [illegible] [illegible]
ac petitionem [illegible] [illegible], [illegible] ipsos [illegible]
dos, et [illegible] esse [illegible]

"velim te" [illegible]

[redacted] post illa interrogatoria protinus actores nominarunt
sequentes testes. Cum [illegible] praeterea [illegible] aetatis, [illegible]
utrum ad tempus illud superstites possent, in [illegible]
[illegible] testes ad instantiam actorum, ante [illegible]
[illegible] per satellitem [illegible] examinari, quorum dicta statim
[illegible] fuerunt publicata

"ad perpetuam rei memoriam" [illegible]

Nomina testium

Primus — Fabricius Joannes Breda vir grandaevus, rusticus in
villa Polkaim [illegible] [illegible], qui multos annos
[illegible] [illegible] curator fuit parochialis Ecclesiae in Franck[illegible]

Alter — Martinus Painstinger rusticus, qui [redacted] annorum, quamvis
[illegible] [illegible] Joannes [illegible], iam in villa minori
Colonia filio suo [illegible] [illegible], qui [illegible] [redacted]
[illegible] propter aetatem [illegible] [illegible] agrorum exercere
non potuit, [illegible] in villa [redacted] [illegible]
[illegible] [illegible] [illegible] tempore in possessione
[illegible] [illegible] habitavit.

"[illegible] praeterea [illegible]"

Dicta testium

Primus testis Martinus Painstinger fatetur, se post [illegible]
[illegible] in [illegible] [illegible] [illegible]. [redacted] Joannes [illegible]
[illegible] non recordari, [illegible] audivisse, quod [illegible] [illegible]
[illegible] [illegible] Praeposito [illegible], [illegible] continuo
[illegible], medio tempore [illegible] illam, [illegible] [illegible], [illegible]
[illegible] [illegible] ad d. Praepositum, [redacted] [illegible] [illegible] [illegible]
[illegible] campana [illegible] [illegible] Presbyteri; Cum vero in [illegible]
[illegible] [illegible] [illegible] [illegible] pecuniam ad ea [illegible]
quam pecuniam ipsi [illegible] [illegible], ea conditione ut [illegible]
Ecclesia [illegible] [illegible], ipsi campana [illegible]
[illegible]

"[illegible]"

Porro dicit, parente [illegible] in [illegible] qui [illegible]
[illegible] [illegible] fuit iam mortuus est, ~~[illegible] [illegible]~~
~~[illegible] campana illa [illegible] [illegible]~~ [illegible], [illegible] [illegible]
Joannis Breda alterius testis, [illegible] [illegible] [illegible]
~~[illegible] [illegible]~~ [illegible] [illegible] ad [redacted] colloca[illegible]
[illegible] campana illa [illegible]

Addit se non recordari, quod Praepositus illam campanam
[illegible] Presbyteri [illegible] [illegible] [illegible], se [redacted] [illegible]
[illegible] quod [illegible] [illegible] confirmat.

Alter testis Joannes Breda de Polkaim aetatis suae ut ait
annorum [redacted] LXXXVII, [redacted] propter infirmitatem in [illegible] [illegible]

verum, terribilis integer ita testatus est ut sequitur.

Primo recordari se, quod tu puer, pre. xiii aut xiiii annorum tu
apud Suf- alter, cum pr(esbyter) suo Molitore in Kurlitz in domo parochiali in-
fraganeum gressu, [illegible] ita, duos [illegible] de Sandoffsten [illegible]
vivum et quadriga quam [illegible] ad [illegible] [illegible]
in Sandoffsten abduxisset; [illegible] ipsi [illegible]
[illegible] in suo [illegible] et premia ad [illegible]
qui ante [illegible] in [illegible] de [illegible]
[illegible] [illegible], [illegible] Veri premia [illegible]
illis [illegible] in [illegible] [illegible]. [illegible] ad [illegible]
se nec vidisse

Et vidisse se illo tempore quaspiam [illegible] in parochia
quam d. suffraganeus [illegible] in [illegible] [illegible], [illegible]
[illegible] [illegible]: [illegible] aut Sandoffsten [illegible]
[illegible] [illegible], [illegible] Vitro [illegible] [illegible] ad
[illegible] in [illegible] tollenda

Addit porro, [illegible] tertio aut secundo anno post [illegible]
in Villa Kurlitz [illegible] [illegible], [illegible] in illa
migratione, [illegible] [illegible] se [illegible] illis [illegible]
se nihil [illegible] preter [illegible] et de [illegible] confirmare [illegible]

Interrogatus postea Utrum ipse Martinus alter testis natus
[illegible], aut in ipso proximus [illegible] fuerit. Respon-
dit, [illegible] [illegible] [illegible], et illo tempore [illegible]
apud d. Suffraganeum [illegible], post [illegible] aut [illegible]
longissime fuerit. [illegible] [illegible] in ipso [illegible]
[illegible] aut [illegible] [illegible] [illegible], [illegible]
in ipso [illegible], et [illegible] [illegible] iuramento confirmavit

Post factam publicationem [illegible] mandatarius V. [illegible]
copiam testimoniorum [illegible] ad [illegible] contra [illegible]
testes [illegible] [illegible] [illegible], [illegible] [illegible] xviii
xix decembris Septembris ad ea [illegible] [illegible] ad [illegible]
Et [illegible] [illegible] testes [illegible] mandato [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] a [illegible]
[illegible] de [illegible] [illegible] [illegible] examinari, [illegible]
Veritas [illegible] posset.

XVIII Septembris comparuerunt ambae partes. Ubi [illegible]
[illegible] [illegible] exceptiones in scriptis exhibuerunt, [illegible]
[illegible] et duo illi testes, [illegible] [illegible] [illegible]
comparuerunt

Exceptiones contra [illegible] memoratos testes et eorum dicta

Item [illegible] Rev.mo dno. dno. gratiosissimo [illegible] V. Capitulo Ecclesiae Warmiensis. Ut pateat Parochialis Ecclesiae in Heilsberg non nimia quam potuit, quod in causa [illegible] vertente inter Proconsulem et Consules [illegible], dicti testes sunt examinati coram V. Capitulo, aut ipsorum mandato non vero testium dicta, aut articuli de quibus examinari debuerunt, fuerint exhibita, ut ab ipsis ex praescripto iuris interrogatoria ad investigandam veritatem [illegible] procedendi formam potuissent; quoniam vero [illegible] conniventia facit [illegible] V. in hoc casu Capitulum plano tantum procedere instituisse id vero simpliciter tantum, contra huiusmodi testium dicta respondere non esse videtur; ita tamen ut hoc quod in [illegible] eorum examinatione actum est non amplius valere neque plus ponderis habere [illegible] quam ut de iure valere et subsistere [illegible]. Quoniam vero illorum duorum testium dicta scripta sunt mandata, necessarium existimat V. Capitulum exceptiones [illegible] contra testes ipsos, et potissimum contra eorum dicta, in scriptis proponere.

Quantum itaque ad primum testem attinet, qui est homo [illegible] et Vagabundus seu mendicus [illegible] nullius habitus, [illegible] praesumimus quod facillime [illegible] emolumenti causa [illegible] id experimentis compertum est, ad testificandum persuaderi [illegible] potuit, tamen V. Capitulum ex sola illa causa testimonium eius non oppugnaret, nisi ipsummet pugnantibus et contrariis sermonibus ipsum suspectum et [illegible] redderet.

Nam in primo articulo asserit, se post magnum bellum [illegible] natum fuisse atque [illegible] iam [illegible] Praeposito in Heilsberg in servitium traditum [illegible] atque eo omnia illa vidisse quae circa controversiam hanc campanae acciderunt. Inter alia autem testatur, ipsum Praepositum [illegible] suppeditasse [illegible] ipsis pecunia ad [illegible] Vicia [illegible] in demissione de campanis ante bellum [illegible] pecunia.

In altero autem articulo asserit, recordari se, quod [illegible] Praepositus iam campana ex Proconsule [illegible] trans

Margin notes:

„excipiendo

ex dicto [illegible] tantum

„ [illegible] in aliis [illegible] [illegible] [illegible]

„ dicit

„ de iure

et bigas [illegible] possesse [illegible] quae ipse dicebat annos natus existimari per [illegible]

probis sunt — liberi: quae duo testimonia sibi contraria [illegible]
inde colligitur, totum ipsius testimonium falsum esse in illius
rebus esse. Cum enim ipse post bellum magnum in lucem
fuerit natus, et campana illa uti asserunt aliquot
annos ante bellum de campanili fuerit demissa, nulla
Sdo — ratione recordari potest, campanam illam [illegible] posito
fuisse ex Praefectura Kuilensi translatam. Si enim
verum est quod campana ex Kuilensi Praefectura fuerit
[illegible] Kuilensium deportata, ad offerendum pervenit ante
aut in bello [illegible] fuisse verosimile est. Cum autem ipse
post bellum fuerit natus, falsum omnino esse oportet
recordari se illam campanam ex Praefectura fuisse
Kuilensi translatam.

Post bellum autem, uti annis duodecim, aut amplius, campana
non fuit deportata, nec campanas ex Praefectura Ku-
ilensi [illegible] testis [illegible] sic [illegible]
[illegible] in pictura [illegible] Vero
requiritur, si de illa campanarum translatione aliquid
Videsse — [illegible] est, id ante bellum fuisse falsum [illegible]
[illegible] testis [illegible] non potest, qui post bellum
fuit natus.

Cum autem iura tradant, ut si testes in parte aliqua
testimonii sibi non constent, sed sibi contrarii, ut quod
[illegible] testimonium tanquam falsitatis [illegible]
[illegible] proinde neque huius testis fides in caeteris [illegible]
ipsius assertionibus fidem et firmitatem aliquam ha-
bere possint.

Proinde et in altero articulo testimonium eius est falsum, quod
primum — asserit, [illegible] in Kuilensi [illegible] fuisse
ut ipso — ad tollendam campanam controversam [illegible], cum tamen
falsum — [illegible] alterius testis Joannis [illegible] pater [illegible]
[illegible] fuerit, qui anno [illegible] post [illegible] in [illegible]
migravit, neque postea Kuilam rediit.

Item et illa causa — Testimonio plus minusve fides adhibetur, quanto
plus minusve est, ratione et cum experientia con-
gruit. Tam vero horum testium dicta cum repugnant
[illegible] falsa [illegible] quae in dignitate po-
siti sunt, quales hic fuit [illegible] et campa-
na [illegible] ad [illegible] illa [illegible]
[illegible] regula [illegible]
[illegible] illo tempore [illegible]

7

mum fuerunt, neglectuum suorum cautionem de tali con-
tractu, ex quibus hic tractaret: quemadmodum
neque hoc ratione est consentaneum Praesulem hic [illegible]
|| aperte et tam late posita. fortunas suas praesenti causa [illegible] in Villa [illegible]
[illegible], quam Residentiam aut Heilsbergae alienam
ab [illegible] transferre voluisse

Longe minus vero veritati consentaneum aut [illegible] talis
est [illegible] suffraganeum [illegible] gratis [illegible]
[illegible] fuerant praemia [illegible] ad [illegible]
|| post [illegible] [illegible], [illegible] ad illud opus non parum [illegible]. [illegible]
[illegible], quod ille suffraganeus [illegible] praemia
abundarit, tamen neque id [illegible] est, [illegible]
[illegible] marcas [illegible] [illegible] tamen
[illegible] absque [illegible] cautionem [illegible] quae
[illegible] [illegible] ille [illegible] [illegible] dare non
potuerit. Et [illegible] quod nemo [illegible]
[illegible] calamo, praesumendum non est, illum suf-
fraganeum [illegible] tantis praemiis, quantum ad
[illegible] comparandi [illegible], [illegible] ex [illegible]
[illegible], [illegible] constat, in [illegible]
alienam professurum voluisse.

|| de qua [illegible] Cum id ... alter [illegible] testis, [illegible] ipsa [illegible] dispendendo velut [illegible]
[illegible] comparanda [illegible] Ecclesia Praesule [illegible]
[illegible]: [illegible] Suffraganeum, secundo [illegible]
non [illegible] Residentiam sit comodata: [illegible] aut [illegible]
[illegible] facta: [illegible] probabile non sit Suffraganeum illum neque con-
scientiae suae neque Praesidentibus [illegible]
[illegible] voluisse, aut [illegible] tam [illegible]
se [illegible] futuris temporibus nec [illegible] nec [illegible] de illo
apparere posset; Minus autem credendum est praesumendum
de ipso Suffraganeo illum [illegible] comodandas et ultro
utroque [illegible] volendas comparari illas [illegible]
[illegible] ignaro [illegible] [illegible] potestatis [illegible]
patere: aut [illegible] aliquid [illegible]
[illegible] in [illegible] castri Heilsbergensis [illegible] mandata
|| [illegible] [illegible] [illegible] [illegible] praeditas, [illegible]
[illegible] comparare [illegible] [illegible]
tractari et ultro abrogari transferri.

|| [illegible] Idem [illegible] [illegible] et [illegible] [illegible] velle
[illegible] [illegible] [illegible] [illegible] [illegible]

seu veterem cum Sarlosphen mandare fecitque eius, ut cam-
panam praefatam pulsarent, in experientia comprobatum
non sed veteranum sed ad parochum mandatum campanas
solere pulsari, id non [illegible] semita veterum [illegible]
tos; Quomodocumque autem testimonium id est [illegible] ita
non constantem est veritati

(comprobatur) Praeterea et hoc quoque de cantu Moravorum testimonium com-
in experientia, ~~[illegible] contrarium est~~ quod ~~[illegible]~~
[illegible] non se suffraganeum tanta autoritate viri
constans [illegible] [illegible] consideratis quaedam [illegible]
audiri potuerint, quod in quibus [illegible] [illegible] et [illegible]
(V) quibus ~~[illegible]~~ [illegible] [illegible] testimonijs [illegible]
in fide [illegible], qui non experientiae nec veritati [illegible]
consentanea, omnis confide [illegible] [illegible] de cantu

(Moravorum testimonijs) Moravi [illegible] non [illegible] testibus quoque fides esse ac
~~[illegible] [illegible] [illegible]~~ [illegible] et [illegible]
[illegible] [illegible] [illegible] comparata, et ad hoc usque tempus
quaestio posse [illegible] [illegible] [illegible] hoc tanto [illegible] quod
praefatum a [illegible] Moravi cantum [illegible] testimonijs [illegible]
al [illegible] [illegible] praetermitti aut [illegible] [illegible] de [illegible]
(debet) alijs campanis [illegible] extraneos et ignotos [illegible] [illegible]
[illegible] posse quam aut ipsos praefatam aut [illegible] villae, neque
[illegible] antecessores eorum, parochiales [illegible] [illegible] [illegible]
filias et propinquos suos sed [illegible] in [illegible] con-
[illegible] et [illegible] [illegible] [illegible], maiores [illegible]
[illegible] [illegible] [illegible]; neque vero ipse suffraganeus
nomine [illegible] [illegible] [illegible] [illegible] [illegible]
(testes) [illegible] [illegible] villae et parochiarum [illegible] [illegible]
in [illegible] illa campana quae [illegible] [illegible], si
[illegible] [illegible] illi, nec [illegible] [illegible]

Ut [illegible] [illegible] experiatur [illegible] [illegible] [illegible] [illegible]
[illegible] melior et [illegible] et [illegible] [illegible] [illegible]
[illegible] et [illegible] [illegible] [illegible] et [illegible] [illegible]
(locus au[illegible] notatis) [illegible] ex [illegible] ac [illegible] [illegible] [illegible]
[illegible] et persuasione [illegible], posse omni [illegible]
[illegible] [illegible] [illegible] mandato et [illegible], ad [illegible]
dos nominatos testes in [illegible] [illegible], [illegible] [illegible]
ad praefatum [illegible] [illegible] testimonium de hoc campana
[illegible] et legitime examinari et [illegible] [illegible]
(Quibus) quorum testibus confidimus [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] ipsa [illegible] reprobaremus. [illegible] [illegible]
[illegible], non modo suffraganeum [illegible] [illegible] [illegible]
[illegible] in hac [illegible] [illegible] sed et huius [illegible] [illegible]
in [illegible], [illegible] [illegible] illi campana in [illegible]

8

primum ... sublata ex humanis in excessu ... hic testis in pro
3° ... ex ... ut ea ... causa quis testimonium
tam quam de suffraganeo, ... deportationis campanae
a Vestro ... Cum neque ... campana aliqua
ablata in ... ex ... a ... demonstrari. ...
... Quinto ... cum ... testibus ... quam illi ... quae
probabiliter ... campanas ... Cantoffen ... in
... magnum ... in [illegible] ... nullo loco ...
... alteras aut ... ad ...
... adversarii post ... in parte aut
... unde aut pri- ... ad illud ...
ores ... in ... aut ...
contribuisse. ac postremo idem ... ex inscriptione ...
fieri

Ad haec itaque circumstantias quae ad comprobandam ...
... Cantoffen in ... possessionem illius campanae
... ut ad ... et ... actionis
... demonstrandam ...
... Capitulum ... ad ...
... in ... dicam ...
... et ... protestatur, ... in suo actionis
... Protestantes ... simpliciter
... ignorante ... in ...
... a parocho Cantoffen per ... ex ...
... fuerit, ... eo tempore ...
...

Postremo ... V. Capitulum ... ex superabundanti ...
... manifeste et perspicue
... quia ex Protestantium parte ... sunt dubia et
... ex altera aut [illegible] ... probationibus con-
... Cantoffen parochianos ...
... et ... in ...
... possessionem campanae illius confirmari. Protestan-
... contra ... perpetuum ... videtur ... Quod
... ipsum ... ... et
... probationis ...
...
... ... et
...

... aut ... adversus ... exceptione ...
... potest, ... et ... exceptionis et
terminum ad ...

Interloquutoria

Ad utriusque partis advocatorum [illegible] instantiam, in commune in
exceptione sua ad testes [illegible] reprobatorios producendos recipi
alios et examinari petunt, advocatis item terminum [illegible]
tant ad respondendum predictae exceptioni, Reverendissimus Dominus
Episcopus eorum petitis [illegible] pronunciavit, promisitque et [illegible]
ad testes decrevit die viii Octobris ad eam rem
assignavit. Praeterea decrevit, ut et dicti producti testes [illegible] [extra]
denuo examinentur in actis non factis, et [illegible] circum-
stantiis [illegible] interrogati.

Anno MDLXXXVI, die viii Octobris mandatarius V.
Capituli sequentes supplicationes et nova testium positionesque
de quibus testes interrogari [illegible] [exhibuit]

Supplica

Reverendissime in Christo pater, domine gratiosissime. In hodierno termino
proximo nobis comparuerunt [illegible] coram [illegible] P. V.
[et] ad producendum testes reprobatorios ad infirmandum
et [illegible] praefatorum testimonia [illegible] [contra]
comparuit mandatarius [illegible] V. Capituli [illegible] [illegible]
[illegible] et [illegible] [illegible] P. V. [illegible] ex [illegible]
[illegible] exceptione contra testes [illegible] [illegible]
praefatum [illegible] et [illegible] infirmo fundamento, [illegible]
de [illegible] [illegible] testimoniis [illegible]. Ut tamen [illegible]
[illegible] clarius [illegible], [illegible] mandatarius [illegible]
[illegible] [illegible] testesque producit, quos petit [illegible] ex-
aminari; [illegible] [illegible] [illegible] contra in-
terrogatoria [illegible] [illegible]. Principio vero protesta-
tur, quod in [illegible] testimoniis [illegible] ad superfluas non [illegible]
astringere probationes, sed in [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] praxis comprobata reperiatur, ut in
[illegible] [illegible] [illegible] [illegible]. [illegible] in [illegible]
[illegible], de quibus exactae probationes et documenta ex
[illegible] [illegible] testimoniis [illegible] ac [illegible] [illegible]
probatio per praesumptionem, ut de [illegible], si [illegible] [illegible]
[illegible] [illegible], quibus res illa cognita fuit, [illegible]
et [illegible] et in hac causa, quando [illegible] et [illegible]
[illegible] [illegible] [illegible] materia priores posterioresque [illegible]
[illegible] [illegible] et comparate [illegible]. Secundo [illegible] petit man-
datarius, ut [illegible] P. V. [illegible] [illegible] [illegible] [illegible] [illegible]
credibile sit, [illegible] praefatum [illegible] [illegible] et [illegible]
[illegible] [illegible] suffraganeum [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible], et [illegible] [illegible], [illegible] tamen et [illegible] [illegible]
[illegible] [illegible] Viennam [illegible] [illegible]. [illegible] de [illegible] [illegible]

[Margin notes, left: "examinati" (beside l. 8); "exhibuit" (beside l. 12); "nobis V. Capituli"; "promisit [illegible]"; "cessisse"; "tradit"; "quo [illegible]"; "in veritate"; "constitutae"; "et [illegible] [illegible]"; "9"]

audiatur, quod ille ad instantiam procuratoris fisci ecclesiastici ei
auditi acta duorum verum principaliter obiicit rogat, productos
testes super exhibitis positionibus, ut iuris est examinari, ab
ipsis eos atque ad causa[m] bene et veritate necessarias in eius
,,VI partes exquiri, accedendo ex iis, quod tam super quinque
contra Prositum [redacted] nuper reconciliatore producti fuerint illam
ii. Vi controversam [redacted] ex origine sine omnes digerentur, et
ceteri veritatis petentibus suspectum et notissime, ut rei perire
testes deponere, tunc ultra praemia, qui ex correctis,
eorum ultromeliis ad sacra tanta peterant exire, et [redacted]
confirmatore [redacted] suspectabilis veritatis corrogavi, [redacted]
super facie et aliis [redacted] diversis et singulis
praefati ut notissimo, quos ipse mediatoris fit et fit V.
,,indiget aliqua ... et cogitis. eorum atque illorum considerationem commit[tit] salvo iure ex
Nova testium reprobatoriorum festis et ...
Laurentius Guilleti de Traitorne. Joannes Linder
blue Guillelmus in Knitten, Joannes Barsthau cuius
oppidi Bischtorm [redacted] Stephanus Ligneus de Torminer
Nominatos testes. Prositum nihil habere nisi quod contra
eis ex ipsis
Positiones seu articuli
Primo. In primis testes actorum causa fuerunt sive de contra
versa campana, ea asserunt, quod illa ipse in [redacted] termino
fuerit Praepositi. seu ut alter teste est appellat suffra-
ganeum in Knitten mediatoris V. capit pro Guilleti ex
Knitten et Laurentius Guilleti de Traitornes Vires
fidedignos, qui non ut vere vagabundi et mendici, fere
... ut illis [redacted] propter villa
Knitten nati sunt et educati, probare intendit quod
suffraganeus ille, illis annis post bellum quibus ex illo
testes [redacted] assertione suspecti esse possunt, in [redacted]
... non fuit, neque post illa [redacted] villas atque [redacted]
[redacted] suffraganeus aut Praepositus ... [redacted] fuit.
Secundo, certo recordari hos duos testes, quod ipse Joan-
nes Freda testis alterius partis [redacted] defunctis in
,,asserit suffraganeo illo, Knittium venerit
,,Vires Tertio, ... [redacted] testes ad corroborandum testimonium suum
asserunt, primum huius modum Guilleti in Knitten advocatum
fuisse Cartosson, ad tollendam campanam ex turri, non
velarius per hunc Guilleti planum facere intendit eo ipso
[redacted] quo iis testes Knitten primum venit defuncto eam
fuisse suffraganeum neque post illud quemquam suffraganeum
ibi fuisse.

Quarto, in Villa campana altera Kirchen [redacted] adverte, ut in pi-
cina domorsa [redacted] utrique rursus scilicet fuisse murata esse
ut aut Scultetus sic intrat, aut si ante in facto est, proviil
sibi ex parte sua audivit.

Quinto, quod reperis parochiale Talae in Santoppen, intra annos
LXX, neque minus neque plus preterritos quatuor campanas
fuerint.

Sexto quod de illis quatuor, duas antiquiores in ipsa Villa San-
toppen in horto quodam ex aere novo fuerint conflatae, quod
que illis temporis consuetudine, personas aliquas pro
compatribus fuerint invitatae, item quod etiam aliqui ex
operis ad illud opus pecuniam contribuerint.

Septimo, quod etiam posteriores duas campanae eodem in eadem Villa
facto in loco fuerint fusas, ut ex Sredano ipsi hi iam aliata.

Octavo, quod neque in Villa Santoppen neque in Vicinis pagis unquam
audivit aut observatum fuerit fuisse unquam campanam aliquam
Kirchen in Santoppen deportatam, quod certe posteriores ita vicinos
vel dicti articuli aut audisse aut scire potuissent, quam horis re-
tracti et ignoti.

Nono, quod neque ipsi Prossiten, neque novo aedificatores, unquam de
illa campana vel aeque Santoppen vel aliis locis nostro
fuerint mentionem, neque ante inquisierint quam ab his [redacted]
[redacted] asserte testibus fuerint inquisiti.

Decimo, quod tam Talae quam campanile in Villa Prossiten [redacted]
iam ante bellum proximum destructa fuerit et collapsa, neque
illa ibi fuerit campana et tamen contra ipsorum testimo-
nia forent campanas illas ante tempus in bello fuisse demis-
sos, et in Santoppen translatas.

Examen testium
reprobatorii

ad ex lo. tentis Commissarii D. B... et Prossilen examinati. Testes autem [redacted] ad petitionem V. Capituli in termino praefixo
per D. Cancellarium et D. Burggrabium, similiter et Prossilen-
sibus testes, post diligentem admonitionem de gravi falsitate et
poena periurii [redacted] praestiterunt iuramentum de dicenda
Veritate, nihilque vero occultando, de quibus interrogati fuissent.

Dicta testium reprobatoriorum

I. Laurentius Scultetus de Trautenau aetatis suae anno circiter
LXXX, ad primum articulum fatetur D. Suffraganeum
in Kirchen [redacted] anno circiter XX post bellum ipso de-
functum, contra scientias suas afferit, quod natus sit in
Villa Koberdi atque Ecclesiae Kirchen parochianum fuisse.

II. Quod apud Joannem Breda proximis his annis operi-
carius, neque antea ullam cum ipso habuisse familiaritatem.
ideoque neque utrum vivo vel defuncto in Suffraga-
neo Kirchen venerit.

10

Ad iij et iiij articulum nihil se scire respondit

Ad v. neque hoc scire, quod campanae fuerint ad Ecclesiam Pres-
byterii, se tamen semel tantum in illa villa fuisse

Ad vi. vii. viii [redacted] et x articulum eadem nihil se scire.

Alter testis

Ioannes Lindeblat Sculletus ex Kempten annos habens plus minus LXXI ad primum articulum asserit se post bellum proximum fuisse mortuum quando aut quoto anno, non [redacted] scire exprimere aut temporis ex [redacted] inscriptione lapidis sepulchralis cognosci posse.

Ad ii. Testis illum novisse, et adhuc admodum puer esse [fuisse] [redacted] aut
parentem [redacted] Ioannem Breda [redacted] noluerit. qui in duobus filiis
nadhuc eo ipso patre Ioanne Breda [redacted] illo esse, puer [redacted]
[redacted] se altero cum filio iam adolescente, ex Moguntia
videlicet [redacted] ut [redacted] fama fuit, propter commissum homicidium profugerat, in metropolim [illegible] se vero [illegible] ex ipsa memoria, aliter non recordari, quod dum Suffraganeum illo tempore ~~[illegible]~~ in [illegible] nec temporibus [illegible]

Ad iii. Asserere se, quod pater suus ad tollendum in [illegible] campanam illam auxilium praebuisse

Ad iiii. De dimensis in pristinum campanis, se neque ex parentibus suis, neque ex propriis aliis audivisse

tunc De v. vi. viii. et ix articulo nihil exploratum se cognitum se habere, proinde neque testificari quicquam posse

Ad x. neque id scire, quod praeter campanam illam habeant in [illegible]

Tertius testis Ioannes Barschau civis oppidi Kitzheim, aetatis suae anno LXX

Ad i. respondit nihil se prorsus scire

Ad ii. de morte d. Suffraganei nihil sibi notum esse, neque eum se unquam novisse

Ad iii iiii et v. articulum nihil se scire

Ad vi et vii asserit, verum esse, quod [illegible] quatuor campanas fundi fecerint, id quod sit ex grandaevis senibus audisse; utrum aut ante, an post proximum bellum factum sit, id se ignorare. Item et hoc audisse, campanas illas in locis diversis, duas scilicet in horto hospitalis, et alteras duas in area villae fuisse fusas, ad utrumque opus homines multum aeris contribuisse

Ad VIII, IX, et X articulum aliud quod respondeat non habe-
re, nisi quod nunquam audiverit Sanlosseri a Prosbiteris cam-
pana illa habere.

Quartus testis Stephanus [illegible] de [illegible]
annos circiter LXVIII natus

Ad I articulum respondet, se nescire, quando mortuus sit dictus
Sufraganeus, neque eum se novisse.

Ad II, III, IIII, V, VI, VII, VIII, IX et X articulum nihil amplius testis
hic se scire confirmat, quam quod ex senioribus suis audierit,
[redacted] fuisse duas campanas in Villa Sanlossen,
unam ante portam rustici cognominato [illegible] et alteram
ante Eggert, modo rustici portam, ideoque falsum fuisse ante
proximum bellum, quo vero anno nescire. Nunquam autem au-
disse a quoque Prosbiterorum campana Sanlossen commendasse.

Sequuntur testium Prosbiterorum protectoriorum secundo
examinatorum

Primus testis Martinus [illegible] [illegible] senex asserit quod
[illegible] [illegible] post bellum magnum se [illegible] in [illegible], cuiusque
[illegible] [illegible] [illegible] non exacte sciat, hoc vero sibi [illegible] con-
stare quod tu [redacted] anno [illegible] [illegible] corpo-
ris robore ad [illegible] agere posset. Praeposito [illegible]
in [illegible] se [illegible], eius anno [illegible] [illegible]
quod I. Pre- medio [illegible] [illegible] [illegible], [illegible] duos [illegible] ex Sanlossen
posit et [illegible] [illegible] ob [illegible] [illegible] [illegible]: [illegible] campa-
de Pros- nam [illegible] [illegible] [illegible] bello magno a [illegible] in
tem [illegible] [illegible] ablatae. [illegible] [illegible] [illegible] [illegible]
[redacted] [illegible] illa campana in [illegible] de [illegible] prox-
ime bello [illegible] [illegible] esse, [illegible] asserit [illegible]
quod ad [illegible] [illegible] quā [illegible] [illegible] in [illegible] [illegible] [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Prosbiterorum
[illegible] [illegible] [illegible] campanam [illegible] [illegible]
falsum [illegible] hoc [illegible] [illegible] annis ante bellum prox-
imum.

Porro dicit [illegible] campanam [illegible] [redacted] [illegible]
[illegible] [illegible] in [illegible] [illegible] [illegible] [illegible]
et Pres- [illegible] [illegible], in [illegible] [illegible] [illegible]
alterius testis
[illegible] [illegible] Addit [illegible], se recordari, quod [illegible] [illegible] [illegible]
da [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et de
[illegible] in [illegible] [illegible]: quod [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible]

Alter testis Joannes [illegible] de [illegible] annos habens
circiter LXXXVII. asserit, se memoria tenere, cum
quod

apud D. Suf-
fraganeum

[illegible] xiiii annorum circiter in pro[prio] suo molitore
Küntter in domum parochialem venisse, indicasse illi duos
ex Dankoppen in quadrigis qui campanam ad Ecclesiam
Protestantium pertinentem a D. Suffraganeo in Dankop-
pen exportasse, idque factum circiter ante bellum
proximum: prebuisse illum ex D. Suffraganei [illegible]
[illegible] in suo [illegible], et [illegible] ad [illegible]
campanam quod in [illegible] de campanis ante
bellum [illegible] [illegible] [illegible] ex illis
in [illegible] [illegible]: atque haec omnia [illegible]
[illegible] ad formam
Secundo [illegible] de illo [illegible] campanas in pa-
rochia [illegible] D. Suffraganeus in [illegible] post
[illegible] de [illegible] illas Protestantium [illegible]
Dankoppen. Verò de illis nec maxima nec minima
[illegible] [illegible] in [illegible]
Addit etiam [illegible] molitore [illegible] Küntter
[illegible] ante bellum proximum, quo D. Suffraganeus ca-
panam illam [illegible], ante [illegible] etiam bellum proxi-
mum [illegible] [illegible], aliquot [illegible] annis post
bellum [illegible] Suffraganeo Küntter [illegible]
Tertio asserit, quod altero aut tertio anno post [illegible]
Küntter [illegible] migrasse in [illegible]
aut migrationis [illegible] [illegible] Vtrum de
illis campanis [illegible]: quod [illegible]
pro certo affirmare non posse.
Quarto dicit, quod a [illegible] habitante in Villa
[illegible] ante hebdomadas plus minus [illegible]
[illegible]: quod in [illegible]
[illegible], cognomento [illegible]
ab illo [illegible] haec verba, [illegible]
campanam Protestantium
Quinto [illegible] interrogatus Vtrum ipsi [illegible] alteri
[illegible] in ipso loquentes esse re-
[illegible] [illegible] [illegible] apud
Suffraganeum [illegible], post [illegible] quod
[illegible] [illegible] [illegible] [illegible] loquenti. [illegible]
[illegible] [illegible] confirmavit.
[illegible] Protestantium [illegible]

VI[illegible]

bisque respondendi petierunt, quod concessum est utrisque
partibus XXX Octobris praefinitum. Si aut interea partes
causa de [illegible] campana lagiosa inter se conveni-
re transigere possent, Alias d. Dominus ratum id esse
habiturum.

Duplica Prostetten

XXX Octobris Anno M.D.LXXVI. actores exceptionum
duplica in scriptis obtulerunt

// omnino Nunc in libro dno dno gravissimo. Licet praesens proces-
situm hanc causam, quae productione testimoniorum clara et
expedita reddita est, longius protrahentem eo usque [illegible]
ipsorum mandatarium d. Capit. non multum [illegible]
re conferetur, sed etiam contra testium dicta exceptio-
ne frivola et infirma produxerit, ac tamen ad termi-
nandas lites, bodierno die [illegible] ad respon-
dendum partem contra exceptiones partium contra te-
stium reprobatoriam dicta sit praefinitus, proinde acto-
res [illegible] coram Illmo P. V. ut in foro competenti
adversarios convictos, observando tamen vía iuris bono
ipso et remedio, imprimis libero se ad plures proba-
tiones et deductiones [illegible] extra controversias statui omni-
// Sarlospen no astringendo, supplicando protestantur, et breviter di-
cunt. Quod in consultoriis procurator in exceptione
sua dicta testium esse in primis quidem refutavit, in-
de necessario sequitur, actores intentionem suam ex
testimoniis fuisse probatam. Regulariter enim
testes probant. ut l. salla praesumptione nititur
4. 9 et c. ult. in prin. l. 3 in prin. ff de testib. l. [illegible]
21 § si testes ff. eo. Quod enim breviter affertur ac si testis
ipse, ex ipsius testimonij suis verbis, post bellum natus sit, ac
proinde recordari non possit, quid ante bellum campanis
illis actum sit; contra vero dicit testis, quod post bellum
magnum et ante rusticanum bellum natus sit, campanas
etiam illas non post magnum sed post rusticanum illud
bellum [illegible] ad Sarlospen fuisse advectas, atque ideo
non recordari quid [illegible] ante magnum sed quid ante et
post bellum rusticanum fuerit actum, quando campanas illas
primo Sarlospen fuerunt convectae, ita ut ipsis egre-
gie ceterorum amphibologia tantis posset deprehendi.

12

Cum ita adducatur, suffraganeum ipsum, minus sibi usurpaturum fuisse potestatem alienandi campanas absque expresso contractu et consensu superioris domini, monumentis non potest, quod apud antecessores nostros ubi omnia bona fide acta fuerunt, nunquam superflua cautione et prescriptione ab eo usus est, adeo ut nunc fit, [redacted] confirmaverunt scripta

gestate. [redacted] Etsi non negatur, etiam sic patres [redacted] con-

[illegible] alter [illegible] potuisse, nunc [illegible] compositionibus

quandoque et [redacted] maiora monumenta, [illegible]. Pro-

inde proprietas et dominium non tantum [redacted] instrumentis

emptoris ex scripturis, sed et quibuscunque aliis legitimis

probationibus demonstratur l. 4. C. de probat. l. 10.

,, eodem [redacted] rei vind. sed etiam per famam concordantem et testes ut

in l. 3 § ult. ff. de test. Deinde vero, quod D. Captu

[redacted] Santoppen procurator quaerit, quorum alias partium

vero campanas tu quatuor fuisse asseratur, causa

nostra non continent; at nunc ipse rationem de iis per-

,, testes demonstrare. ut. Satis enim est Magnifico D. videtis, quod Santoppen

,, prostitit eum de illis in commodato [redacted] accepisse. Si vero

[redacted] de pluribus sit contra ipsos, sibi quaecunque alios ipsi-

dem iuris remedijs quaerunt poterunt, investigare [illegible]

tamen ipsis futurum est inde dominis nos mendicare.

Simili modo et id parum Prostitori interest, quod ille

articulis [redacted] in quo venit testis asserit, ipsosmet Santop-

pen [illegible] Zale vitulum campanam illam [illegible]

Prostitoris campanam appellasse, ubi ad fanum tamen

dixerunt [illegible] et [illegible] campanam Prostitoris

[illegible] respectus redditur, quod parochi et non [illegible]

[illegible] mandare solent campanarum [illegible], cum in villis

[illegible] sed ut multi rerum rusticarum [illegible] qui

sed tres aut quatuor campanas [illegible] non potest

opere praestare. Neque vero comment [illegible] Santoppen

testium [illegible] reprobatoriorum [illegible], quibus intendit

ad causam suae firmamentum trahere postmodum, quando

de [redacted] de pluribus articulis, ipsi testes negare [illegible]

[illegible] quidquid arbitrio videtur nullo

modo affirmare possunt. [redacted] Illa, sed inter eos illos

[illegible] quatuor aut quinque [illegible] sit, qui tamen et ipse

[redacted] non satis [illegible] fidem videtur. atque ita ut [illegible]

testatorem sive vacillans non audiendus sit, et

[illegible] l. 2 et. ff. de testib. qui [redacted] causam illam