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THE DECREE OF THE *PAGUS HERCULANEUS* AND THE ROMANISATION OF 'OSCAN' CAPUA¹

MARK POBJOY

The inscribed decree of the *pagus Herculaneus*, dated to 14th February 94 B.C., is among the most precious documents of the Republican period to survive from the environs of the ancient city of Capua. It is first reported as being located on Jesuit property at Recale, about four kilometres outside the city, and ever since its publication by Mazzocchi in 1727 has been recognised as of great importance for understanding local government in this area.² The text is generally treated as one of the long series of *magistri* inscriptions from the city and its neighbourhood, an unusually rich epigraphic record which makes a great difference to our understanding of Capua's internal history during the late second and early first centuries B.C. This was a period when the city was still under the punitive administrative settlement imposed by Rome after the recapture of the city from Hannibal in 211 B.C. Deprived of her territory, the *ager Campanus*, which became Roman public property, Capua also lacked the 'regular' apparatus of local government, having no senate, magistracies, or popular assemblies, and was one of the Campanian cities governed by prefects sent out annually from

¹ The ideas presented in this article were first aired in a lecture given at the University of Helsinki in September 1994. I should like to express my gratitude to Heikki Solin for inviting me to speak on that occasion, and for his help in many ways since, and also to Olli Salomies, Martti Leiwo, Kalle Korhonen, Uta-Maria Liertz, Ed Bispham and Michael Crawford for their questions, comments, and criticisms at various times. Some of the points developed in what follows have been presented also in papers given in Oxford, at the Centre for the Study of Ancient Documents in May 1997, and at Corpus Christi College in May 1998. I am most grateful to Charles Crowther and to Alison Cooley for their invitations to speak on those occasions.

² A.S. Mazzocchi, *In mutilum Campani amphitheatri titulum aliasque nonnullas Campanas inscriptiones commentarius*, Naples 1727, 147ff.

Rome.³ The *magistri* inscriptions do something to explain how life in Capua carried on in such remarkable circumstances, but quite what this material tells us is a matter of much controversy. I shall be exploring its implications at more length in a forthcoming work on the political history and civic identity of Capua under Roman rule, but this *pagus*-decree deserves separate treatment for the invaluable light it sheds on Rome's organisation of the area. It offers us a snapshot of local decision-making procedures in operation shortly before the outbreak of the Social War. I believe that it has not been properly understood, and that, taken in conjunction with various other epigraphic documents from Italy and beyond, it allows us to see a wholly different picture of local administration in this region from that which prevails in modern accounts.

Besides improving our understanding of Campanian administration at this turbulent time, the information conveyed by this text and its companions has wider implications for how we think about the area and how we characterise the city of Capua itself. The absence of Capua from ancient accounts of the Social War is striking, given the degree to which this part of Italy suffered in the conflict, and one must ask why so important a place does not make a more prominent appearance in our sources. It seems hard to believe that this would have been the case if there had been a serious rebellion in the city, and it is natural to conclude that Capua did not join in the revolt.⁴ If not, why not? Discussions of Capua's attitude during the war reveal a view of the city as having a relatively thin veneer of Roman influence at this time. Gabba, for example, regarded the explanation for her loyalty as being the presence of Roman armies in the city. Dench, in arguing against attempts to explain allegiance to one side or the other in the Social War solely in terms of linguistic affinities, reveals a view of Capua in this period as still being Oscan-speaking. Such views have in common the notion that Capua was not in any profound sense 'Roman' at this time, and they are encouraged by the prevailing tendency to regard the administration revealed by the *magistri* inscriptions as being a local development.⁵ I believe that an

³ See above all M.W. Frederiksen, 'Republican Capua: a social and economic study', *PBSR* 27 (1959), 80ff.

⁴ This is clearly the implication of Cicero, *de lege agraria* 2.80 and 90.

⁵ E. Gabba, 'Ricerche sull'esercito professionale romano da Mario ad Augusto', *Athenaeum* n.s. 29 (1951), 258 (= *Esercito e Società nella tarda repubblica romana*,

analysis of what the text here under consideration reveals about Rome's organisation of this area forces us not only to revise current interpretations of the whole series of *magistri* texts, but also to rethink such characterisations of the city. In the process, we may have further food for thought on why Capua, notoriously rebellious in the Hannibalic War, remained loyal to Rome during the Social War.

I

To begin with, I offer a corrected text of the inscription (see Fig. 1, photo Solin):

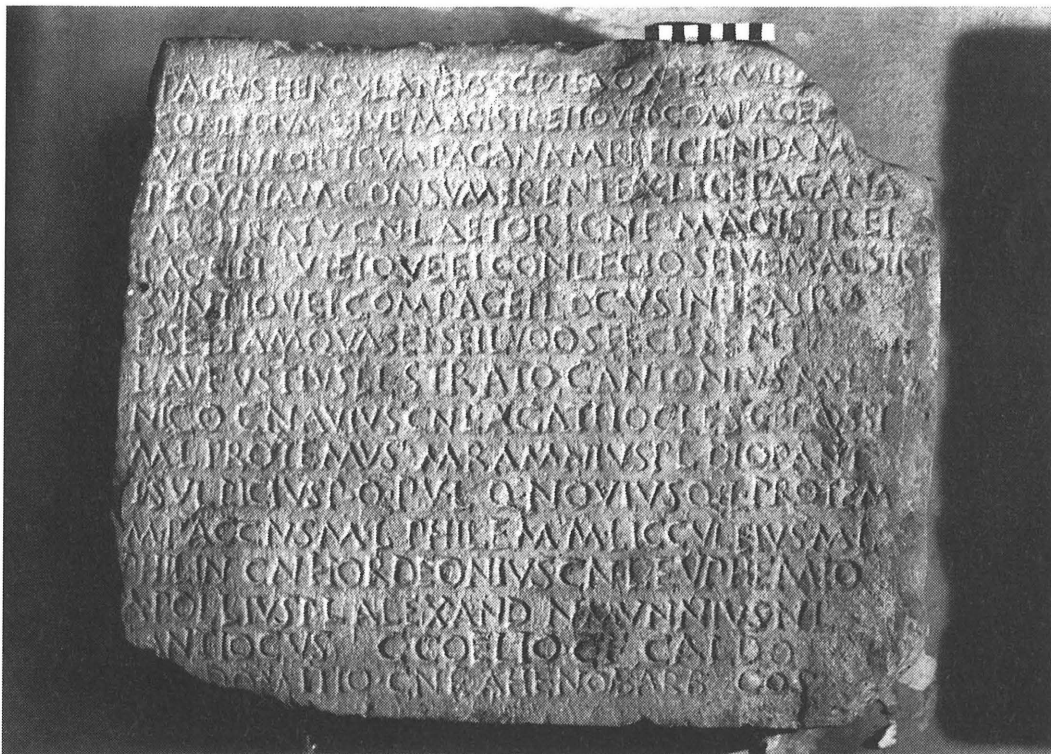


Fig. 1.

Florence 1973, 154) : but note the view later expressed in CAH IX², Cambridge 1994, 119, that Capuans had Roman citizenship; E. Dench, *From Barbarians to New Men*, Oxford 1995, 213. For examples of the view of the Capuan *magistri* as representing a local development, see M.W. Frederiksen (cit. n. 3), 91; P.A. Brunt, *The Fall of the Roman Republic*, Oxford 1988, 121; N. Purcell, 'The city of Rome and the *plebs urbana* in the late Republic', CAH IX², 671–2.

- Pagus Herculaneus scivit a(nte) [d(iem)] X Termina[lia]:
 conlegium seive magistrei Iovei Compagei s[unt]
 utei in porticum paganam reficiendam
 pequniam consumerent ex lege pagana
 5 arbitratu Cn.Laetori Cn.f. magistrei
 pagei{ei}, uteique ei conlegio seive magistri
 sunt Iovei Compagei locus in teatro
 esset tamqua(m) sei {sei} lu[d]os fecissent.
 L.Aufustus L.l. Strato, C.Antonius M.l.
 10 Nico, Cn.Avius Cn.l. Agathocles, C.Blossi(us)
 M.l. Protemus, M.Ramnius P.l. Diopant(us),
 T.Sulpicius P.Q.pu(pilli) l., Q.Novius Q.l. Protem(us),
 M.Paccius M.l. Philem(o), M.Licculeius M.l.
 Philin(us), Cn.Hordeonius Cn.l. Euphemio,
 15 A.Pollius P.l. Alexand(er), N.Mummius N.l.
 Antioeus C.Coelio C.f. Caldo,
 [L.]Domitio Cn.f. Ahenobarb(o) co(n)s(ulibus).

A decree of the *pagus* of Hercules (in two parts) is followed by a list of twelve names and a consular date. For the decree, which covers the first eight lines, I offer the following translation:

”The *pagus* of Hercules decreed the following on the tenth day before the Terminalia: that the *collegium* of Jupiter Compages (or *magistri*, if that is what his officials are) should spend money on repairing the portico of the *pagus*, in accordance with the *pagus*-statute and at the discretion of Gnaeus Laetorius, son of Gnaeus, *magister* of the *pagus*; and that that *collegium* of Jupiter Compages (or *magistri*, if that is what his officials are) should have a place in the theatre as though they had put on shows.”⁶

⁶ CIL I² 682 = CIL X 3772 = ILS 6302 = ILLRP 719. In line 2, the reading s[unt] given by Mazzocchi and Waltzing is preferable to the usual reading [sunt] (Mazzocchi (cit. n. 2), 148; J.-P. Waltzing, *Étude historique sur les corporations professionnelles chez les Romains depuis les origines jusqu’à la chute de l’Empire d’Occident*, Louvain 1895–1900, III, 448). In line 8, I prefer the reading *tamqua(m) sei* suggested by Accame and Degrassi to the *tam quasei* of CIL I² 682 or the *tam quasei sei* of Schulten, but either of these alternative readings is possible (S. Accame, ‘La legislazione romana intorno ai col-

After the twelve names which follow, the text closes with a consular date (94 B.C.).

The majority of the associated texts from this area begin with a list of names of *magistri*, and then give an account of their activities, usually construction work and sometimes also the putting on of shows. For example, in one inscription we read 'Heisce magistrei Iovei Optumo | Maxsumo | murum coniungendum | et peilam faciendam et theatrum | terra exaggerandum locavere | eidemque luudos fecere. Ser.Sulpicio Ser.f. Galba co(n)s(ule).'⁷ In another, we have 'Heisce magistreis Cererus murum | et pluteum long(um) p(edes) LXXX alt(um) p(edes) XXI | faciund(um) coiravere eidemq(ue) loid(os) fec(ere) | C.Atilio Q.Servilio co(n)s(ulibus).'⁸ This text from Recale, however, is quite different. It records a decree of a body called the *pagus Herculaneus*, which is giving orders to a *collegium*, or *magistri*, about what to spend money on, and then proceeds to grant them honorary seating in a theatre as though they had spent the money in question on shows.

Before we examine the institutions and administrative structures implied by this document (sections II and III respectively), it is worth noting various features of the inscription and its text. The limestone block on which it is inscribed is rather smaller than is usual for the *magistri* texts in this series, and the lettering too is smaller (c. 2–3 cm high). But it may, like most of those inscriptions, have been incorporated in one of the buildings to which it refers: if so, presumably the *porticus pagana* rather than the theatre.⁹ There are certain mistakes in the engraving (see Fig. 1): twice 'O' is inscribed for 'D', in 'a.[d.] X' (line 1) and in 'lu[d]os' (line 8); 'PAGEIEI' appears for 'PAGEI' in line 6; and 'SEI' is repeated in line 8

legi nel I secolo a.c.', BCA 70, app. 13 (1942), 22; A. Schulten, *De conventibus civium Romanorum*, Berlin 1892, 72).

For the form *Iuppiter Compages*, see Degrassi, ILLRP 719, n. 5; J. Linderski, 'Der Senat und die Vereine', in M.N. Andreev et al. (edd.), *Gesellschaft und Recht im griechisch-römischen Altertum*, I, Berlin 1968, 127, n. 55 (= Roman Questions. Selected Papers, Stuttgart 1995, 198); CIL I², p. 933 (ad 682). *Iovei Compagei* is here dative, as commonly in the Capuan *magistri* inscriptions.

⁷ ILLRP 708 (108 B.C.).

⁸ CIL I² 677 = X 3779 = ILS 3340 = ILLRP 714 (106 B.C.).

⁹ On the original locations of the *magistri* inscriptions, see the observations of A. De Franciscis, 'Templum Dianae Tifatinae', ASTL 1 (1956), 321.

(although this may be deliberate: see n. 6). Mommsen entertained the idea that these errors may have resulted from the engraver's lack of familiarity with Latin,¹⁰ but they need indicate no more than that his concentration was poor.

The calendar date of the decree, the tenth day before the Terminalia, is of particular interest. The festival of the Terminalia was used as a convenient peg for dating when it was not clear whether there would be an intercalation in the year, since it occurred just before the point at which the intercalary month of twenty-two or twenty-three days would be inserted. Were it not used, there would be different possible labels for the day in question (either 'the sixteenth day before the Kalends of March' or 'the eleventh' (or 'twelfth') 'day before the Kalends of the intercalary month', depending on whether or not there was going to be intercalation, and, if so, when it began).¹¹ The circumvention of such confusion was desirable at any time, but especially in a legal document such as this.

The twelve individuals whose names follow the decree are all freedmen, and, with one exception, each of the names concludes with a Greek cognomen, the exception being perhaps the result of another engraver's error.¹² The striking regularity with which cognomina appear here has different possible explanations. On two other *magistri* inscriptions from the area we have lists of freedmen all of whom are given cognomina, and we might conclude that it had by this time become the standard practice here for the inscribed names of freedmen to include cognomina, which would have been natural if it was the case that each freedman was now legally obliged to have a cognomen.¹³ But it is also possible that the use of cognomina here is

¹⁰ Ad CIL X 3772. He was followed in this by Waltzing (cit. n. 6), 448.

¹¹ See A.E. Samuel, *Greek and Roman Chronology*, Munich 1972, 160–4.

¹² T.Sulpicius P.Q.pu(pilli) l. in line 12 is the only individual in the list without a cognomen. If this is not an error on the part of the engraver, then it could be that this man's being a freedman of three Sulpicii (one of whom had not yet reached the age of maturity) was felt to identify him sufficiently without need of a cognomen. For the resolution pu(pilli), see O. Salomies, *Die römischen Vornamen*, Helsinki 1987, 62–5.

¹³ CIL I² 683 = ILS 5734 = ILLRP 720 and CIL I² 688 = X 3785 = ILS 3064 = ILLRP 723a. On the cognomina of freeborn individuals in the Capuan *magistri* lists, see H. Solin, 'Sul consolidarsi del cognome nell'età repubblicana al di fuori della classe

related to the nature of the document, which, being a legal text, needed to be exact about the identities of the individuals to whom it referred. In that case, this would represent another respect in which the decree gives a strong impression of attention to the finer points of legal detail.

II

It is important to clarify the nature of the various bodies (*collegium*, *magistri*, and *pagus*) which we encounter in this text. One point to establish as clearly as possible is the relationship between the *magistri* and the *collegium* to which it refers. I believe that a misapprehension about this relationship has been responsible for encouraging a mistaken view about the nature of all the boards of *magistri* which appear in this series of texts. The phrase *collegium seive magistræ Iovæ Compagæ s[unt]* (line 2, cf. lines 6–7) has been taken as meaning 'the *collegium* of Jupiter Compages or its *magistri* (if the *collegium* has *magistri*)', thus treating the *magistri* as being representatives of a much larger *collegium*. Hence it was one of Flambard's 'proofs' of the view (held by Hatzfeld, Heurgon and Accame) that all the Capuan boards of *magistri* were representatives of wider associations.¹⁴ But the notion that this decree supports such a view is based on a mistaken reading of the Latin text. It seems to me that the formulation is merely the result of a quest for legalistic precision, and means 'the *collegium* of Jupiter Compages (or *magistri*, if that is what his officials are)'. The officials of Jupiter Compages may be called a 'collegium' or may be called 'magistri', and our text is allowing for both possibilities, but it is not indicating that *magistri* form a body of a kind radically different from a *collegium*.

This identification of *collegium* and *magistri* was made by Mommsen, and accepted by Schulten, Waltzing, and Boak, and has more recently been

senatoria e dei liberti', in *Epigrafia, Actes du Colloque en mémoire de Attilio Degrassi*, Rome 1991, 153ff., esp. 181–3.

¹⁴ J.-M. Flambard, 'Les collèges et les élites locales à l'époque républicaine d'après l'exemple de Capoue', in *Les "bourgeoisies" municipales italiennes aux IIe et Ier siècles av. J.-C.*, Naples and Paris 1983, 75ff., esp. 76–7; J. Hatzfeld, 'Les Italiens résidant à Délos mentionnés dans les inscriptions de l'île', *BCH* 36 (1912), 184ff.; J. Heurgon, 'Les *magistri* des collèges et le relèvement de Capoue de 111 à 71 avant J.-C.', *MEFRA* 56 (1939), 5ff., esp. 12–13; Accame (cit. n. 6), 17ff., esp. 22 with n. 75.

supported against the alternative view by Frederiksen, Linderski, and Guadagno.¹⁵ I accept Mommsen's view, which distinguishes the *magistri* mentioned here from those who appear as leading officials of various kinds of *collegia*. There is in fact an example of such representative *magistri* from Capua herself: one of the inscriptions in the series, unfortunately now lost, refers to *magistreis conlegi mercatorum*.¹⁶ But the *magistri* mentioned in the decree of the *pagus Herculaneus* will not be of that type. As Boak and Frederiksen saw, if a distinction were being made in the decree between a *collegium* and its representatives, an unacceptable consequence would follow: the *pagus* would be allowing that honorary seating in the theatre might be reserved for a large *collegium* of indeterminate size.¹⁷ Furthermore, when we look at the other texts in the Capuan series, as Frederiksen noted, the appearance of different 'professional' cognomina within the same group of *magistri* puts paid to the notion of these groups as the representatives of professional corporations.¹⁸ I would suggest that it is necessary to make a firm distinction between 'representative' *magistri* on the one hand, and those that appear in this decree and in the majority of texts in the Capuan series on the other.¹⁹ As for the nature of the latter, I see no reason to doubt that Mommsen was right to identify them with the institution of *magistri ad fana templa delubra* which is referred to in the charter from the Caesarian colony of Urso in southern Spain.²⁰ The *magistri* (or *collegium*) mentioned in the decree would thus seem best understood as sanctuary officials to

¹⁵ Mommsen, CIL X, p.367; Schulten (cit. n. 6), 73; Waltzing (cit. n. 6), 448; A.E. Boak, 'The Magistri of Campania and Delos', CP 11 (1916), 30; Frederiksen (cit. n. 3), 88; Linderski (cit. n. 6), 109 with n. 56 (= Selected Papers, 180); G. Guadagno, 'Pagi e Vici della Campania', in A.Calbi et al. (edd.), L'Epigrafia del Villaggio, Faenza 1993, 420 with n. 41.

¹⁶ CIL I² 672 = X 3773 = ILS 7274 = ILLRP 705.

¹⁷ Boak (cit. n. 15), 30; Frederiksen (cit. n. 3), 87. Heurgon (cit. n. 14), 13, n. 2, saw the problem, but did not draw the correct conclusion.

¹⁸ Frederiksen (cit. n. 3), 87–8.

¹⁹ See Linderski (cit. n. 6), 108 (= Selected Papers, 179). The distinction is made again with pleasing concision in his entry on *magistri* in the new edition of the Oxford Classical Dictionary (S. Hornblower and A. Spawforth (edd.), Oxford 1996).

²⁰ See below, n. 36.

whom fell certain responsibilities in connexion with the cult of Jupiter Compages.

If the identification of *magistri* and *collegium* is correct, we must ask why the draftsman was so careful to allow for the possibility that the officials of Jupiter Compages might be termed 'magistri' rather than a 'collegium'. If these two sorts of group are essentially the same, what difference between them would explain the need for this careful wording? It is not easy to say, but one possibility is that *magistri* are appointed to serve for a single year, while members of a *collegium* hold office for a longer term.²¹ Alternatively, the manner of appointment might be different in the two cases. In fact, we need not attribute the draftsman's care to any particularly striking distinction between the two. It may simply be that there were certain rules or conventions applying to one which did not apply to the other, and hence in a legal document a distinction of terminology would be necessary. We should thus have yet another example of care taken over legal niceties. Simply for the sake of convenience, 'magistri' alone will be used in what follows.

Who are the twelve *liberti* named in this inscription? There are really two possibilities. Either they constitute the membership of the *pagus Herculanus* which has passed the decree, or they are themselves the *magistri* of Jupiter Compages. I think it far more likely that they are the *magistri* of Jupiter Compages, who are being given instructions by the (unnamed) individuals who constitute the *pagus*. If they were the members of the *pagus* of Hercules, it would be curious that this group of freedmen was making a resolution which involved giving instructions to a freeborn *magister pagi*. It is far more plausible to see this individual as being senior to the twelve freedmen who are named, and as having responsibility for supervising their expenditure of money.²²

²¹ That the Capuan *magistri* served for a single year seems probable: as Boak pointed out (cit. n. 15, 31 with n. 9), we possess completely different lists of *magistri* of Ceres from 106 and 104 B.C. Note, however, that one set is libertine, the other freeborn: might those two types have existed concurrently?

²² Boak (cit. n. 15), 29, suggests that the *magistri* themselves set up this inscription 'as a warrant for their action', but the decree will rather have been set up by the body that passed it, the *pagus Herculanus*.

As for what the *pagus* of Hercules actually is, I find it hard to accept the standard interpretation offered in modern accounts that this is a 'central' unit which effectively represents the city of Capua itself. Various assertions have been made to this effect, following the example of Schulten. Observing that the *pagus* of Hercules has the authority to confirm honorary theatre-seating, he considered that this *pagus* must be a division of territory which embraced the city of Capua itself: 'theatrum Capuae quia ad pagum Hercul. pertinet, intellegitur Capuam in pagi H. finibus fuisse.'²³ Frederiksen, followed by Solin, claimed that 'the Pagus Herculanus was, if not the only *pagus* of the area, then in some sense a special or central one'.²⁴ Galsterer, influenced by Frederiksen, claimed that the *pagus Herculanus* actually replaced Capua.²⁵ I think that there is good reason to doubt this prevailing view. There are, it is true, examples of *pagi* which were administratively connected with *municipia* or *coloniae*, and Rome herself even had districts called 'pagi', so there would be nothing extraordinary in there being a close administrative connexion between the *pagus Herculanus* and Capua.²⁶ But I do not think that the text actually provides evidence of such a connexion.

The one thing which seems at first sight to favour the interpretation of the *pagus* as a central authority is the second of the two parts of the decree, where the *pagus* confirms that the *magistri* are to have honorary seating as though they had put on shows. The question is quite simple: how can this *pagus* have the power of decision over who has honorary seating at the theatre unless it plays the role of a central authority for the area? Would there not be quite intolerable scope for confusion and conflict if several *pagi* all had equal rights to make such a decision? Reflection on the implications of the decree suggests that this is not so difficult a problem. For if honorary seating is a regular reward for the putting on of shows, then it is presumably a privilege that is usually enjoyed by *magistri* only at those shows which

²³ Cit. n. 6, 73. He was, however, sure that this was not the only *pagus* of the *ager Campanus* (*pace* Linderski, cit. n. 6, 128, n. 63 (= Roman Questions, 199)).

²⁴ Frederiksen (cit. n. 3), 90; H. Solin, 'Roman Capua', in H. Solin and M. Kajava (edd.), *Roman Eastern Policy and Other Studies in Roman History*, Helsinki 1990, 155.

²⁵ H. Galsterer, *Herrschaft und Verwaltung im republikanischen Italien*, Munich 1976, 28.

²⁶ See for example the *pagus* inscription from Rome cited below (n. 42).

they themselves have put on.²⁷ An occasional decree from a *pagus* outside the city effectively authorising a group of twelve *magistri* to have honorary seating at a set of *ludi* that another group of *magistri* have put on need not have been thought a serious source of potential difficulty. But it seems to me that in any case the question has arisen because of too restrictive a view about the presence of theatres in this part of Campania. Why should we assume that the only theatre that can be at issue is the principal (or even the only) theatre of the city of Capua? I think that Mazzocchi, writing more than two and a half centuries ago, was right to suggest that the theatre to which the inscription refers is actually the theatre of the *pagus*.²⁸ After all, our inscription attests that the *pagus* of Hercules has a portico. Why not a small theatre as well?²⁹

Thus it seems fair to suggest that there are no compelling reasons for seeing the city of Capua as falling within the administrative competence of the *pagus Herculanus*. I believe that Mommsen was right to see this *pagus* as a rather humbler organisation, a district of the *ager Campanus*, which had one or more officers entitled 'magister pagi'.³⁰ As Mommsen suggested,

²⁷ This seems to me more likely than that a special area was reserved throughout the year for the (many dozens?) of *magistri* who put on shows.

²⁸ Mazzocchi (cit. n. 2), 149; 153. Long afterwards, Boak (apparently independently) made the same suggestion (cit. n. 15, 30).

²⁹ We need not be thinking of a great structure such as the theatre that had already been built at Pompeii, but should allow for a smaller construction (perhaps of wood, although a more permanent building is by no means out of the question). Furthermore, there are examples of porticoes in close proximity (or direct relation) to theatres: note Inscr. It. IV 1.19 from Tibur, which refers to the construction of a *porticum pone scaenam*. Mazzocchi considered that the *porticus pagana* was actually in the theatre of the *pagus Herculanus* (cit. n. 2, 149).

Whatever the truth of these matters, it is important to realise that this *pagus*-decree cannot be used, as it often has been, as a *terminus ante quem* for dating those *magistri* inscriptions which refer to the construction of parts of a theatre (as, for example, by Frederiksen (cit. n. 3), 88–9, 90–1, and inscriptions 14–16 on 128).

³⁰ CIL X, p. 367. Guadagno too challenges the notion that this *pagus* was in some sense central (cit. n. 15, 421 with n. 45), but there is no reason to follow him in assigning it to the territory of Calatia rather than Capua (421 with n. 46). Frederiksen was clearly right to go back on his earlier view (shared by others) that the local *pagi* reflected pre-Roman structures ('Changes in the Patterns of Settlement', in P. Zanker (ed.), *Hellenismus in*

there were probably several such *pagi* in the area.³¹ The *pagus* had its own buildings, and enjoyed authority over one or more groups of sanctuary officials, to the extent that it could direct their spending of certain money toward necessary repair work, under the supervision of the (or a) *magister pagi*. It could also permit them to maintain the position of honour that they would have occupied in a local theatre had they spent that money on the provision of shows. As for the question of what administrative body or bodies did have authority in the city of Capua itself, that must be left open in the present study.

III

What can we say of the administrative structures which this text reveals at work? Some importance clearly attaches to understanding the term *lex pagana* and determining the nature of the document to which it refers, since the *magistri* are to spend money *ex lege pagana*. It might initially be tempting to draw parallels with the *lex parieti faciundo* from the colony of Puteoli, dating to 105 B.C., a text which gives detailed regulations for the construction of a wall in the town.³² But the Puteolan *lex* is a document of a different type from that which seems to be at issue here, much more a 'contract' than a 'statute' or 'law'. The references in our decree to the spending of money, the provision of shows, and honorary seating in the theatre suggest strongly that we are in the realm of the sort of regulations that we find in Roman colonial and municipal charters, and in documents that refer to such charters, and it is to these that we must turn for illumination.

Mittelitalien, Göttingen 1976, 350–1). For the view that 'Recale', the name of the place from which the inscription is said to come, derives from 'Herculaneus', see Mommsen, CIL X, p. 367.

³¹ CIL X, p. 367. He believed that there was also a *pagus* of Diana Tifatina, but there is no direct evidence of this. It is hard to say what significance we should attach to the epithet 'Compages' of the divinity whose officials are being given orders by the *pagus Herculaneus*. For the suggestion that it indicates a sanctuary common to several *pagi*, see Degrassi's comment in ILLRP 719, n. 5 and CIL I², p. 933 (ad 682).

³² CIL I² 698 (cf. p. 839) = X 1781 (cf. p. 1009) = ILS 5317 = ILLRP 518. So M. Humbert, *Municipium et civitas sine suffragio*, Rome 1978, 388–9.

From early in the history of Pompeii as a Roman colony comes an inscription recording work done on the Stabian baths by two magistrates of the town, C.Uulius and P.Aninius.³³ The contract-work that they saw to and approved, namely the construction of a *laconicum* and *destrictarium* and the repair of porticoes and a palaestra, was done *ex d.d. ex ea pecunia quod eos e lege in ludos aut in monumento consumere oportuit*, 'in accordance with a decree of the decurions from that money which they were obliged by statute to spend on shows or on a monument'. The *lex* in question is presumably the *lex coloniae*, the charter of the colony, which will have stipulated appropriate conduct over a wide range of local affairs. The Pompeian charter is lost, but we do possess a few chapters of the charter from the municipality of Tarentum which contain what seem to be closely corresponding rules pertaining to the affairs of that community. When someone is found guilty of having unlawfully unroofed or demolished a public building belonging to the *municipium* of Tarentum, the magistrate who exacts the consequent fine (equal to the value of the building) is to pay half of it into the public treasury, while the other half he is to spend *in l[u]deis, quos | publice in eo magistratu facie[t]*, or if he wishes he is to be permitted to spend it *ad monumentum suum in publico*.³⁴ Thus the public benefit of the people of Tarentum is to accrue from the collection of these fines, in the form either of shows or of a construction of some sort.

The regulations in the charter of Pompeii will have been of a similar kind, with the local senate, which authorised the expenditure by Uulius and Aninius, clearly being allowed to specify on occasion that such money as is to be spent on shows or a monument is to be directed toward work on a particular building of public utility.³⁵ Given that the decree of our *pagus* from the *ager Campanus* seems to be concerned with directing expenditure that would otherwise have gone on shows toward work on a communal building, it is reasonable to suggest that at this more local level in the environs of Capua there were in place regulations parallel to those which a little later on governed proceedings at Pompeii. The parallel is not one we

³³ CIL I² 1635 = X 829 = ILS 5706 = ILLRP 648. Degrassi suggests that it belongs to the Sullan period.

³⁴ *Roman Statutes*, ed. M.H. Crawford (London, 1996), no. 15, lines 32–8.

³⁵ From a later period in Pompeii's history, we may compare the *pro ludis* inscriptions from the amphitheatre (CIL X 853–857).

should press too closely: there are hardly going to be many respects in which the *magistri* of Jupiter Compages had functions similar to those of the *duoviri* of Pompeii. But both groups are officials apparently bound by rules concerning roughly similar types of expenditure, and both are subject at least on occasion to the decrees of a council concerning how that expenditure is to be directed. Furthermore, it is interesting that both in the Pompeian case, and in the case of the *pagus*-decree, the intervention of the relevant council ensures that the money in question is to be spent on repair work.

Further illumination on our inscription comes from the charter of the Caesarian colony of Urso in Spain.³⁶ Two of its sections in particular concern us here. Chapter cxxviii stipulates that whoever shall be *duovir*, *aedile*, or *prefect* of the colony is to see to the appointment in his year of office of *mag(istri) ad fana templa delubra*, in whatever way the *decurions* shall have thought fit. Furthermore, he is to see that the *magistri* look after the provision of *ludos circenses*, *sacr[i]ficia*, *puluinariaque*, according to the decision and decree of the *decurions*.³⁷ It is easy to see why Mommsen suggested that the *magistri* of the Capuan inscriptions are the equivalent of these *magistri* at Urso, given their attachment to particular divinities and their provision of shows, and I concur with those who have supported his view (above, section II).³⁸ It is highly likely too that the late Republican *magistri* and *magistrae* who appear at Minturnae will have been similarly regulated by statutes pertaining to that community, a Roman colony since 295 B.C., although the precise content of those statutes is not deducible from the surviving inscriptions.³⁹

The other relevant section of the Urso charter consists of chapters cxxv–cxxvii, where there are detailed regulations about who is to be permitted a position of honour for watching shows. The first of these three chapters institutes a penalty of 5,000 sesterces for infringing the rules about

³⁶ *Roman Statutes*, no. 25 (for a discussion of its date, see pp. 395ff.).

³⁷ For the giving of shows we may compare chapter lxxi, where *aediles* are obliged to spend both their own money and public funds on shows.

³⁸ It happens that the *magistri* at Urso are obliged to give *ludi circenses* rather than the *ludi scaenici* which seem to be at issue in the decree of the *pagus Herculaneus*, but the exact form of the obligation to give *ludi* is not of any importance for the argument.

³⁹ Note, however, that one of the texts (CIL I² 687 = ILLRP 727) records that the individuals in question gave *lu[dos] scaen[icos]*. See also below, n. 55.

who may sit in the space reserved for the decurions to watch shows (it is not specified that these *ludi* are *scaenici* or *circenses*, and it may be that both are meant). Several categories of distinguished people are listed as eligible, and there is provision for the decurions to decide who else may enjoy the privilege.⁴⁰ The second chapter gives the decurions of the colony authority to decide on who is to sit where at stage shows, and institutes a similar penalty for any infringements of the rules so decided. The third chapter gives rules about who may watch stage shows from the *orchestra* of the theatre, with a list of approved categories of people, including those who are permitted by decree of the decurions, in accordance with the charter, to sit in the place reserved for decurions.

The role granted to the decurions in deciding about honorary seating allows a certain flexibility in the assignment of seats, but the charter essentially ensures that there are strict limitations on who will enjoy a position of honour while watching shows in the colony of Urso. It is unlikely that the regulations of the *lex pagana* which governed the affairs of the *pagus Herculaneus* were vastly different in tone. Our *pagus*-decree, in declaring that a privileged place in the theatre is to go to the *magistri* of Jupiter Compages *as though they had put on shows*, apparently reveals that for such *magistri* there was regularly to be a position of honour in the theatre for putting on performances. It also makes it clear that the *pagus* can under certain circumstances grant such a position for *magistri* even when they do not put on shows. But it seems clear that these are special privileges bestowed in return for the provision of shows or a comparable service, which a person holding the office of *magister* would not otherwise enjoy.

Thus I would suggest that the *lex pagana* to which our text refers contained regulations similar in kind to those which appear to have been in force at Pompeii, Tarentum, Urso and in numerous other colonies and municipalities.⁴¹ It may have applied to a number of *pagi*, or may have been restricted to the affairs of the *pagus Herculaneus*. It is of course impossible to reconstruct in detail even the regulations pertinent to the case here under

⁴⁰ We may compare chapter lxvi, which gives pontiffs and augurs the right to watch *ludi* and gladiatorial combats from the place reserved for decurions.

⁴¹ Our comparative documentary evidence from Pompeii, Tarentum, and Urso does postdate the decree of the *pagus Herculaneus*, but such an origin for the rules under which the *pagus* operated is likely nevertheless.

consideration, let alone the range of matters over which the *lex* will have prescribed appropriate conduct. But we can see some of its provisions in outline. From the *pagus*-decree alone it is clear that there was an obligation for *magistri* to spend money in certain ways; that these *magistri* are to receive honorary seating in the theatre for giving shows; and that the *pagus* itself has the authority to direct the spending of these *magistri* to a particular project. And other documentary evidence makes it highly likely that the *lex pagana* will also have specified such things as the manner of appointment of the *magistri* in the first place.⁴²

As for the source of the money which the *magistri* are obliged to spend, it is important to note that this is not specified in the decree. Five *magistri*-inscriptions do indicate the source of the funds used for the activities which they report: there are references both to the funds of divinities and to the personal funds of officials.⁴³ It could be that the money which the *lex pagana* obliged *magistri* to spend on games was their own (a *summa honoraria* or its equivalent), but it could also have come from temple funds, from fines, or have come from a combination of these sources.⁴⁴ At all events, confident assertions about the source of this money are out of place. Nor are there any indications from this text about what funds the *pagus* itself may have had.

⁴² Apart from the Urso charter, it is worth noting the following text from the *mons Caelius* in Rome which refers to the manner of appointment of *magistri* by a *pagus*: (CIL I² 984 = VI 30888 = ILS 6081 = ILLRP 701): [---] | *mag(istri) He[rc(ulis)] | suffragio pag(i) prim[i creati] | ludos feceru[nt]*.

⁴³ CIL I² 680 = X 3781 = ILS 5561 = ILLRP 717: *de stipe Dian(ai)*; the same formula is found in the mosaic inscription in the floor of the temple of Diana Tifatina, for which see now PBSR 65 (1997), 59ff.; CIL I² 683 = ILS 5734 = ILLRP 720: [*Heisce*] *mag(istrei) lacum Iovei de stipe et de sua pequn(ia) | [faciu]nd(um) coeraver(unt)*; CIL I² 686 = X 3783 = ILS 6303 = ILLRP 722: *Heisc(e) magistr(ei) ex pagei scitu in servom Iunonis Gaurae [co]ntule(runt)*; CIL I² 687 = ILLRP 723: some of the work involved is described as done *de sua pecunia*.

⁴⁴ If the *magistri* were obliged to spend money on shows *or* a monument, it is conceivable that where they spend money on both, this indicates their donation of extra money of their own, beyond what was required by the *lex pagana*. We should also contemplate the possibility that part of the attraction of spending money on construction work as well as shows was the opportunity it afforded for advertising the provision of those shows, which would not otherwise receive permanent epigraphic commemoration.

There will clearly have been a certain amount of regular activity by the *magistri* which did not require a *pagus*-decree or equivalent authorisation, and I would suggest that the majority of the *magistri*-inscriptions from Capua and the *ager Campanus* are records of such activity. There is no reason to think that in the case of the inscriptions recording building work, whether or not accompanied by the giving of *ludi*, a *pagus* or other such authority had made any specific decision pertaining to this work.⁴⁵ But there survives one local inscription recording activity which was done in accordance with a *pagus*-decree.⁴⁶ After a list of twelve names, we read *heisc(e) magistr(eis) ex pagei scitu in servom Iunonis Gaurae [co]ntu-le(runt)*. The text is then dated by the consuls of 71 B.C. This purchase of a slave for Juno Gaura looks as though it is a rather unusual kind of expenditure, which may explain why there is a *pagus*-decree in the background.⁴⁷ Our text from Recale is an example of just such a decree.

Thus it seems that either one or two stages of documentation lie behind the *magistri*-inscriptions proper. Behind all these texts is a statute containing various regulations for the conduct of local affairs, the (or a) *lex pagana* (or perhaps in some cases an urban equivalent thereof). In discharging the duties it prescribed, local boards of *magistri* put up many inscriptions, demonstrating publicly, as Mommsen suggested, their fulfilment of their obligations.⁴⁸ But the *lex* (or *leges*) also permitted *pagi* to direct the spending of *magistri* on certain occasions, and the decisions of a *pagus* to do

⁴⁵ Seven of the Capuan *magistri* inscriptions record the giving of *ludi* as well as construction work: see Guadagno (cit. n. 15), 420, n. 42 (for two of the seven inscriptions we possess two copies of the text, although the reference to *ludi* survives in only one of these duplicate texts). Note that one text previously thought to contain a reference to *ludi* has been misread: in CIL I² 687 (= ILLRP 723), line 8 should read *eidemqu[e]* and not *eidem lu[ds]*.

⁴⁶ CIL I² 686 = X 3783 = ILS 6303 = ILLRP 722. It comes from San Prisco (a little to the north-east of ancient Capua). Mommsen considered that the *pagus* in question might be the *pagus Herculanus* (CIL X, p. 367).

⁴⁷ With this activity conducted *ex pagei scitu* we may compare a text from Pescosansonesco (in what had been Paelignian or Vestinian territory), which reads *mag(istri) Mart(i) fornice(m) | et parietes caementicios | ex pagi decr(eto) faciundum | coer(arunt) probaruntque* (CIL I² 1801 = ILS 5575 = ILLRP 635).

⁴⁸ CIL X, p. 367.

this constituted another stage of documentation. Our *pagus*-decree is a public record of an occasion when the members of the *pagus Herculaneus* made such a decision, and the *magistri*-inscription concerning Juno Gaura's slave is an example of a record of business conducted in fulfilment of another such decree. Thus our evidence of public documentation in this area, far from being the result of a euergetic initiative, as it is sometimes portrayed, is rather a reflection of the tight structure of local authority. Many of the details of how this system worked are unclear, and likely to remain so. What is clear from the preceding analysis is that in this extremely sensitive area of southern Italy, the local administrative bodies organised under Roman authority show a remarkably fine attention to detail in regulating the conduct of affairs, and in publicising what they have done.

IV

There are clearly several details in this intriguing text which may remain controversial, but I believe that even without a resolution of all the problems it raises, there emerges an important conclusion which has a direct bearing on how we think about the Roman organisation of Capua and her surroundings in this period. In various respects, we might say that the decree of the *pagus Herculaneus* reveals a clear focus on the city of Rome. The appearance in this text of features of Roman colonial and municipal charters is remarkable, and gives a strong impression that the bodies which we are witnessing at work here formed part of the administration that Roman authorities gave to the area. It is true that the mechanism by which it was introduced is not clear, and various possibilities must be allowed for. These rules may have been drawn up by one of the early *praefecti* for the area, but we cannot exclude the involvement of other officials, either at Rome or locally.⁴⁹ At all events, the inspiration for the regulations drawn up for this area would seem to be the kind of regulations drawn up for Roman colonies

⁴⁹ We cannot date them precisely, although it might be thought unlikely that rules about honorary seating in a Campanian theatre in such a context will have predated the introduction of formal regulations about seating to Rome herself in 194 B.C. (Livy 34.54.3–8). Yet any time thereafter is possible. Cf. M.H. Crawford, 'Arranging Seating', *Athenaeum* 81.2 (1993), 617.

and municipalities, which themselves owed a certain amount to legislation passed at Rome. However exactly they were introduced here, the resulting system under which *magistri* spent money on buildings and the giving of *ludi*, and set up inscriptions reporting what they had done, is clearly not the spontaneous local development which has often been imagined,⁵⁰ but rather an imposed administration which required local officials to fulfil certain obligations.

Yet it is not the content of the regulations alone that is significant in evaluating the implications of the decree. The use of Latin rather than Oscan in this text is in itself worthy of note. The issue of the significance of language-use in any particular community is an extremely complex one, and no far-reaching conclusions about the society or politics of Capua and her surroundings at this time could be drawn simply from the presence in the area of a certain number of Latin inscriptions.⁵¹ It is perfectly possible that in various aspects of her life Capua was 'Oscan-speaking', as Dench suggests.⁵² But when we note that this Latin text is not only an official document of the local administration, but is also dated to a Roman religious festival, and furthermore concludes with a Roman consular date, the degree to which Rome, her language, and her religion can be seen to have permeated local affairs is striking. This combination of factors, when considered together with the content of the regulations revealed by the decree, is impressive in suggesting that Rome is both the source of this administrative system and its ultimate political focus.⁵³

This local administration can thus clearly be seen to bear a far stronger imprint of Roman organisation than was previously thought. The degree of

⁵⁰ Above, n. 5.

⁵¹ For the complexity of the issue in respect of the choice of language for Neapolitan inscriptions, see M. Leiwo, *Neapolitana*, Helsinki 1994, 8ff.; 49ff.

⁵² Above, n. 5.

⁵³ There is an interesting contrast with the *magistri* and *magistrae* inscriptions from Minturnae, where, besides a single Roman consular date of 65 B.C. (CIL I² 2683 = ILLRP 735), there are three occasions when the duoviri of Minturnae are used as a means of dating one of these inscriptions: CIL I² 2685, 2702, 2706 = ILLRP 737, 742, 745 (in the middle case only do the names of the duoviri survive – P.Hirrius M.f. and P.Stahius P.f.). Such a means was not available in the case of Capua and her surroundings, since the city lacked magistrates whose names might be so used.

effort put into making these arrangements for the *ager Campanus* may in part be explained by the enormous agricultural and strategic importance of the land. The resulting administrative structures represent an important aspect of the Romanisation of this area, a complex process to which there are naturally many other aspects. Our text is relevant for other questions pertinent to the study of this process. For one thing, we must ask what the names of the former slaves whom it lists can tell us about local society. For another, it bears on the issue of whether or not the freeborn inhabitants of Capua and the surrounding territory had the rights of Roman citizens at this time. The freeborn *magister pagi* who appears in the text, and the freeborn *magistri* named in the other texts from the area, certainly look to all intents and purposes as though they are full Roman citizens, although unfortunately the matter cannot be decided as simply as that. These are difficult questions which require taking into consideration all of the relevant epigraphic and literary evidence, and they must therefore be examined in detail elsewhere. But the principal conclusion here reached about the character of the local administration applies regardless of what answers we give to these other questions.

The nature of the administrative regulations which applied in this area is instructive about the degree of control exercised by the authorities. The obligation to give *ludi* is not just a requirement to provide public entertainment but is also a means of ensuring that certain religious observances take place, since these *ludi* would clearly have a strong religious dimension. And it is unlikely that this was the only such obligation imposed upon these officials. We recall that in the Urso charter the *magistri* were obliged to arrange not just *ludi circenses* but also *sacrificia* and *pulvinaria*. All of this brings to mind Polybius' penetrating remarks about the Romans' promotion of religious belief as a means of maintaining control over the populace as a whole.⁵⁴ The observances which *magistri* were obliged to keep may be seen as representing the concrete form of Roman authorities' efforts to encourage such beliefs at a local level, and thus as a means of helping to maintain social order. But this is just one among many functions of these local regulations. Another can be seen in the reward of honorary seating for the *magistri* for putting on their obligatory shows. This was a means whereby

⁵⁴ Polybius 6.56.

former slaves, and their freeborn counterparts, could be given not just a role in local society but also some form of public honour.⁵⁵

The date of our inscription, less than four years before the outbreak of the Social War, is particularly interesting. Capua will have been an important base for Roman forces during the conflict, which raged strongly in Campania.⁵⁶ Does that alone explain Capua's failure to join in the opposition to Rome? This text of course does not provide direct insight into the political sentiments of the inhabitants of the city and the surrounding territory, but it does provide remarkable evidence of the administrative system which regulated their lives, and this must be taken into account. The question is complicated by the issue of whether or not freeborn inhabitants of Capua had full Roman citizen rights. It may be that they did have these rights, and, if so, it is improbable that they will have felt the choice between Rome and her opponents to be a difficult one, being themselves Roman. But even if they did not have the full rights of citizenship, the local circumstances revealed by the decree of the *pagus Herculaneus*, which show far more than a thin veneer of Roman influence, are highly suggestive about the strength of Roman authority in the *ager Campanus*. This is not for a moment to suggest that in this part of Campania there was no strong feeling against Roman rule. But we might argue that so tight was Rome's control over this important area, which had long been deprived of the central direction of a senate, popular assemblies, and magistracies, so careful and detailed was her administration even at the most local level, that concerted political action against Rome was rendered very difficult indeed, if not impossible. It may simply be that such political resentment as there was among the freeborn populace had no opportunity for effective expression.

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⁵⁵ It may also have applied to slaves who acted as *magistri* or *ministri*: most of those who are recorded as putting on *ludi scaenici* at Minturnae were slaves (above, n. 39). In that case, such honour might be seen as an encouragement to remain obedient, as an alternative to outright hostility to the system. Slave revolts broke out at both Minturnae and Capua in the late second century B.C. (Orosius 5.9.4; Diodorus 36.2 and 2a), perhaps indicating the inefficacy of such measures in the case of slaves, or perhaps giving a reason for their introduction.

⁵⁶ Above, n. 4.