

Book VIII.
Title VII.¹

Concerning production of a testament.
(De tabulis exhibendis.)

Dig. 43.5.

8.7.1. Emperors Valerian and Gallien to Germanus.

If sons under the age of puberty and under paternal power (were appointed as heirs in a testament), and you were appointed as substitute heirs (in case they died before reaching puberty), and the inheritance became yours upon their death, you have the right to the use of the interdict relating to the production of the testator's testament. Promulgated April 25 (260).

Note.

For production of documents generally, see C. 2.1; C. 4.21.22; C. 3.42, the latter dealing with the ordinary action to produce and exhibit, from which the interdict procedure in Justinian's time did not differ greatly, if at all. A testament was considered a public document after the testator's death (D. 29.3.2 pr), and was required to be produced and exhibited to one who claimed an interest in having that done, when the latter took an oath that he did not ask it for vexatious reasons. C. 6.32.3; D. 43.5.1.1. The right to have production included the right to make a copy. D. 43.5.3.8. If defendant admitted possession, the praetor or judge peremptorily ordered and enforced production, otherwise there was a trial. D. 29.3.2.8; D. 43.5.1.1. The production was required to be made in the presence of the magistrate and the witnesses of the will, who, too, could be coerced to appear. D. 43.5.3.9. If the defendant fraudulently put it out of his power to produce and exhibit, he was liable in damages. D. 43.5.3.6. If he was prejudiced by production, the testament was deposited in a temple or other place, till such prejudice was eliminated. D. 43.5.5.

¹ [Blume] Rev. 11/20/31.