

Book XI  
Title XXXVI. (XXXV)

In what order each one may be sued.  
(Quo quisque ordine conveniatur.)

11.36.1. Emperor Antoninus to Lucianus.

Although the care of the money of the city may at the same time be entrusted to two, but not in separate portions, each one is responsible to the city for the whole, not for his proportion only. 1. But when restitution is sought, the property of the person who had the management shall first be taken, and if he is unable to make satisfaction, his colleagues are sued. 2. It is not, however, in consonance with reason that you, who are heirs of one of the curators, should bear any loss which arose, after the latter's death, by fraud or fault of his colleagues.

Bas. 54.32.

11.36.2. Emperor Gordian to Valens.

Whenever a duty is enjoined on two persons, not separately but jointly, so that each is, at his peril, responsible for the whole, the hands of the law cannot be laid on the nominator until each one of the two that administered the office, have been sued in the usual manner. 1. But if they were nominated to take charge of separate portions, each of the officials shall first be sued for his separate portion and likewise his sureties; if the loss is not made good by these, then the president will know that the nominator must be sued and if he is not solvent, then, finally, the associate in the duty.

Note.

How thoroughly the state protected itself against loss, is illustrated by this law. If two persons were nominated to an office, each one to manage separate portions, and a default occurred, the order of responsibility was in the following order: The defaulter, his surety, his nominator, his associate. Just as there was corporate liability for taxes on the part of the curials, just so one associate might be liable of the default of another, though he has nothing to do with the acts of the latter. See also C. 11.38.1.

11.36.3. Emperors Carus, Carinus and Numerian to Theodosius.

If you have been elected as duumvirs, so as to be mutually responsible for each other, there is no doubt that each is responsible for the loss caused by the other, although the law in regard to magistracies is that nominators must first be sued, which, you will take care to have done in your case.

11.36.4. Emperors Diocletian and Maximian to Dio.

When you state that you and your colleague, during your magistracy, loaned out public money at interest, and that it could not be restored to the city by anyone, and that you are ready to indemnify the city as to that part which you managed yourself, it is proper, if your acts of administration were separate, that, as to the acts of your colleague the city should first proceed against his successors or the possessors of his property, and if the city is not then fully indemnified, to call upon his nominators, and lastly, if there is

still something due from your colleague, to call upon you on account of your association with him; for the law is, that the nominators, like sureties, are responsible before you.