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**Ser[m]ones de septe[m] viciis criminalib[us]
eoru[m]q[ue] remediis magistri Pauli Wan theosophi et
co[n]cionatoris Patauiensis eximii**

Wann, Paul

[Augsburg], 1517

VD16 W 1186

De mutuo facto co[n]iitati. Sermo. CXXIX

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De mutuo facto cōitaci. Sermo. CXXIX

Mutuum date ni

bil in spances. Lu. vi. In pcedē. ser. pfa audistis de mutuo vsurario q̄tū ad psonas p̄clares. tādē de his q̄ s̄t in aliq̄ so cietate z aliq̄n alit̄ aliteri dar vsurā: z q̄b̄ moīs B̄ fiat. Nūc p̄nt̄ vidēdū erit de mutuo facto ali cui cōitari si rōe r̄tis mutui q̄s possit recipere ali qd̄ vltra sortē. Pro gr̄a Ave. Mutuū date zc. vbi s̄. C. Pro p̄nti ser. sic dec̄ q̄stio. Utz mu/ tuās alicui cōitari z rōe eiusdē mutui aliqd̄ re/ cipiēs vltra sortē p̄mittat vsurā: Et v̄ q̄ nō: qz talia mutua s̄ūt p̄ bono cōitari siue repu. ad qd̄ oīs hō dz conari: z p̄ p̄ns nullū dicere p̄ licite se ex r̄li fore dānificatiū. Un̄ coitas p̄r dis/ ponere z ordiare q̄ q̄ ponit tārā v̄l tārā pecūie q̄ r̄tatē annuati recipiat r̄tū v̄l tantū: dñi mō B̄ fiat p̄ comodo citat̄, z p̄ p̄ns alius recipere p̄ abiq̄ vicio vsure. Ad h̄ dōm q̄ tria s̄ūt genera hoim que frequēat h̄mōi p̄tus: Uiz Coacte/ Ex charitate / Ex cupiditate.

C. Prim gen^o hoim est illoz q̄ mutuat coacte z r̄tes licite recipere p̄nt̄ vltra sortē p̄ infesse dāni z p̄abil̄ lucrī. Et B̄ ex triplici rōe. P̄rio rōe dñi q̄ p̄pellētis: qd̄ sic p̄s. Nā q̄libet coitas cā necā/ ria vel rōnabili inq̄rēte v̄t p̄ p̄sonis suoz sub ditoz inq̄rū bz sup̄ioritate i eos. q̄ m̄lto fori^o pecunijs eoz. Nā lz singlarē collectā applican dā camere fiscali nēo p̄r iponere sine p̄ncipis p̄ missiōe. v̄. L. de tribu. l. j. z li. x. tñ collectā sp̄a le vnaq̄qz coitas p̄ necitate sibi incūbēte p̄r in/ dicere: v̄. l. cōis. z. L. d̄ opi. pub. L. ū q̄ ciues co gi p̄nt̄ ad r̄tia onera soluēda: manifestū ē q̄ r̄tis coactio d̄ rōe mutui m̄ltū aufert. z p̄ p̄ns d̄ rōe vsure. Lū ei de nā ipi^o vsure sic q̄ fiat i mutuo volūtario z n̄ i coacto. seq̄t̄: q̄ r̄le mutui violē/ tū nō sapiat vsure viciū: s̄z mutuatē dispōat ad posse iuste recipere suū infesse. Sic ei coitas licite p̄r suadēte rōe: iusticia z necitate suos ḡuare sic z rōe iusticia z hōcstare dicatē p̄r ēr f̄leuare p̄rri q̄n̄ ē ex p̄e mutuat̄ pura coactio siue ab/ soluta coactio: z ex p̄e cōitatis libal̄ donatio. P̄rio nāqz excusat eos pura coactio: qz qd̄ nō ē licitū i lege/ necitas licitū fac. v̄r d̄z ex d̄ reg. iu. r̄. s̄ ei n̄ p̄nt̄ sibi alit̄ p̄uidere d̄ dāno suo nisi ac cipiēdo qd̄ a coitate volūtarie offert: si p̄nt̄ cre ditoz dānificat̄ ex lōga moza solonis rōe dāni p̄r aliqd̄ recipere vltra sortē. v̄r ex de fidu. c. pue nit. q̄romag^o mutuat̄ coact̄ r̄li coactōe q̄nūqz reddat ei capite: qz si q̄s istoz crimē vsuraz in currere debet: r̄t is q̄ volūtarie mutuat / por^o illd̄ crimē icurrerz: q̄s is q̄ iuit̄ cū nlls vsurari^o ē p̄r nisi mutui dare volēs ad vsurā. Et si obiq̄ est q̄ tal̄ mod^o a coitate ordinar^o hoies inuitat ad peccādū z v̄l ra sortē recipiēdū. Ad h̄ dōm q̄ B̄ vez̄ ēēt q̄n̄ mutuas spe lucrī p̄ncipalr̄ mo ueret: sc̄daria tñ spe moueri p̄r: q̄ spes n̄ fac̄ ho minē vsurariū iuz notata i c. p̄su. ex d̄ vsu. Et.

tñ vez̄ q̄ si tal̄ mutuas p̄ coactōz aliq̄ tpe p̄re taref recipere annuati d̄ r̄li mutuo r̄c̄ efficeret vsu rare: s̄z Frideri. de sentis: qz suba/ spes/ z itētio recipiēdi vltra sortē gr̄a mutui facit vsurariū. Secdo excusat eos libal̄ dōatio cōitatis. d̄z ei. j. q. ij. sic ep̄s. qz ei^o obla^o nllaz cl̄pe maclaz igerit q̄ n̄ ex abientē p̄citōe p̄cessit. C. Secdo coacte mutuatēs sc̄pe p̄nt̄ vltra sortē rōe dāni emer/ gēt: qz sc̄a r̄li p̄stariōe coitas p̄stati iā obligata est n̄ h̄ns dilatorz solonis libalr̄ p̄cessaz: z sic sp̄ remāet i moza soluēdi: d̄ q̄ p̄stās dānū parti di nosc̄t. v̄l i exēcutōe mercātie v̄l art̄ m̄c̄baice vel ēr a reddituū v̄l q̄rūlibz rep̄. ep̄rōe. Pone q̄ q̄ q̄s i mercātia vrēs pecūijs suis obligat̄ ē de bit̄ certo tpe soluēd̄ q̄s acq̄stra pecūia soluet̄ dispōuit: s̄z instāf ab aico req̄st̄ mutuet pecu niā suā ad certū tps̄ ex charitate adijctēs abs/ qz fraude: qz si d̄bitoz suo tpe n̄ soluat: r̄c̄ credit̄ coz p̄ suo infesse vltra sortē sc̄p̄iat: r̄c̄ ei illā p̄nā licite sc̄pe p̄r z exigere p̄ suo infesse. v̄r ex d̄ arbi. c. dilecti. z i gl̄. Si igit̄ h̄ lz i d̄co casu vbi n̄ m̄lta violētā p̄z nisi d̄cretio rei vltra ēminū cō stitutiū d̄ dñi volūtate: q̄romag^o licebit̄ cui rō ne infesse sumere vltra sortē: cū sua pecunia d̄ volūtate suā aufert z detiet. C. Tertio coacte mutuatēs sc̄pe p̄nt̄ vltra sortē rōe lucrī cessaz. Ex r̄tēōe nāqz debiti seu mutui vltra tps̄ cō/ cessuz a lucro p̄pedit: qd̄ licite negociādo / vel alio^o lucrati fuissent: exigere lz z recipere p̄nt̄ i r̄/ cōp̄sarōez: nō solū dāni / s̄z ēr cessant̄ lucrī fm̄ discretū iudiciū viri prudēt̄. Et iō ex rōe p̄sili p̄nt̄ i h̄ casu aliqd̄ recipere vltra sortē: cū amissio tal̄ lucrī sic qd̄ dānificatio p̄stitor̄. Illa nāqz pecūia d̄no suo vsur̄ pl^o valuisse qz sc̄p̄az p̄r idustriā q̄ ille vsus fuisset rā ad p̄cauēda dāna q̄ ēr ad cumulāda lucra. Et sic p̄uar^o est n̄ solū rora pecūia: s̄z ēr rora vsu z fructu idustrie exē citāde i illa/ siue p̄ illa. Et sic dñs ea fuissz v̄r tāqz capitali suo. nec i h̄ casu bz rōne mutui: s̄z capital̄ saltē interpretatiue seu ablatiue. hinc ēr coitas sibi tenet̄ tāqz de capitali: sc̄r̄t̄ ēr si illa pecūia vsus fuisset infra ēminū p̄cessionis. S̄z di. q̄s. P̄ōe casū q̄ p̄er^o coact̄ tradiderit cōitaci c. flo. receperit̄ annuati ex statuto eiusdē coitatis lex q̄usqz ipam sortē recipiat. Interi ve niat iōānes z emar ius illd̄ p̄cipiēdo talē sūmā sub forma iā d̄ca: v̄r tal̄ d̄c^o sic vsurari^o? Et v̄r q̄ nō: qz nō cōm̄it̄ vsura nisi inf̄ vsurariē. P̄b̄tes: s̄z inf̄ pe. z iō. v̄r ēr simplex d̄c^o emptio nis. nec ēr inf̄ iōā. z cōitacē v̄r ēr d̄c^o mutui: qz mutui nō p̄ficiat̄ nisi q̄n̄ de meo fir tuū. B̄ addit̄ eo q̄ tandē meū mibi reddat: s̄z h̄ nō fit inf̄ iō. z citatē: qz p̄tus inf̄ iōā. z pe. fieri p̄r d̄ iure: ēr i q̄p̄ante cōitate. Ad h̄ dōm est: q̄ tal̄ d̄c^o dupl̄r p̄siderari p̄r: q̄ distinctio ēr bi: ex de vsu. in c. cō suluit. i. r̄f. z i glo. Primo^o p̄siderari p̄r ex for ma p̄tus: z tūc iste p̄tus q̄ fit inf̄ pe. z iōā. tñ nō est vsurari^o. Alio mō p̄siderat̄ ex inc̄t̄ōe p̄ b̄ctis: z tūc ille p̄tus vsurari^o est v̄r obiqz. s̄. cā inf̄ iōāne z p̄erū/ q̄z etiā inf̄ iōāne ēr cōmuni/

Nota B Damnuū emergēs

Lucrum cessans

Triplex gen^o hoiz mutuan tu n. Dñi cō pellēs



De mutuo facto cōitati.

tasz lz diuersimode: qđ sic declarat. nā pmo cū mēre p̄bit inf iōanē r perz. scđario qđ p̄bit cū mēre inf iōanē r cōitate: cū igit iōanēs p̄bit cū petro i mēre irēdit r p̄p̄ea p̄bit: vt iter locū p̄tri: vt. s. fiat creditor cōitarz ad b vt recipiat vlt̄ era forē: s; rāc incētio ē vsuraria. Nāz p̄ncipal̄ ei incētio ē: vt acq̄rat locū s; creditorz incētioz s. p̄tri: qđ ad b qđ p̄pro. i. iōanēs sit creditor cōitaris loco v̄ditorz. Et iō lz iō. nō p̄bit vsurarie cū petro q̄rū ad formā p̄bēdit: nō p̄mittit vsurā rā p̄p̄t maclatā intencōez. Nā qđqd agūt hoies itērio iudicat oēs. Scđario silt mediāre p̄eru scō cū pmo p̄bit scđo vsurarie cū cōitate: nō qđd exp̄licite s; ip̄licite cū incētioz r affectu. Et it̄ inf eos r eal̄ p̄er mutui: lz idirecte sub vclamie p̄p̄ois: qz mediāte illo p̄eru p̄p̄ois acq̄rit acroz acroz ex p̄pro sup cōitate. vt isti. d. em. r ven. s. p̄ciuz. qđ cōitas obligat illi r sit debitorz illi: sic nā erat d̄bitoz p̄mi. Rō qđ cur p̄m̄ creditor ex cūsat ab vsura r nō scđo ē: qz p̄m̄ ad mutuatū coactō est: mō sic dicitū ē: qđ nō licitū i lege: neci rāo licitū fac. Scđo qđ volūtariū b̄ fac cū spe r incētioz r̄cipiēdi vlt̄a forē. Uñ si scđo em̄p̄oz silt a cōitate cogere: sic p̄m̄ r̄c̄t̄ excusar̄ ab vsura si p̄ncipalr i eo nō ēē p̄sens vlt̄a forē ali qđ r̄cipiēdi rōe mutui: sic ei in scđo vt i p̄mo ex cūsar̄et coactio: r rēa incētio qđ nō cōitio p̄iungit̄ coactio: qz si cogi placere: illicitū fieret: eo qđ co actio in volūtariū trāst̄er. ¶ Scđm̄ qđ gen̄ hoim̄ mutuat p̄ncipalr ex charitate libe sua of ferēs cōitari sine spe vel itētioz aliqd vlt̄a forē r̄cipiēdi. P̄o qđ scidū qđ qđā veri reip. amaro res iueniri p̄nt lz rari: qđ vidētes iminentē neci tarē vlt̄ euidēre vtilitatē cōitarz: ex charitate sal tē p̄ncipalr sp̄ore mouēt̄ sua mutuat cōitari. Et r̄les licite r̄cipe p̄nt qđ eis a cōitate sp̄ore offer̄ qz nō min̄ p̄miari meret volūtaria charitas q̄s coacta necitas: eo qđ nō mior rō eē possit: r dānt̄ emergēt̄ r lucri cessant̄ i volūtaria charitate q̄s i coacta necitate: nisi crederet̄ illas pecūias in actio illicite: expēdēdas: qz r̄c̄t̄ p̄iceps fieret oim̄ maloz in se q̄ntū: nec licite r̄cipe possit̄ aliqua remuneratōez. ¶ Tertū autē gen̄ hoim̄ cōitari mutuat ex cupiditate ad r̄cipiēdi aliqd vlt̄a forē. Et r̄les vsurarij iudicādi s̄t peiores vtiqz q̄s si dūcarat p̄sone p̄uare fenerarēt̄: quia maḡ peccare v̄t qđ fenerat cōitari cui p̄ obligat q̄s qđ fenerat singlari p̄sone: dicēte Augu. charitas cōia p̄p̄is r nō p̄p̄a cōibz anp̄oit. Nīc q̄ri p̄t v̄tz sp̄ore ponēs pecūia suā ad mutuat ipi cōitari vel ēē p̄sone singlari ex itētioz cupi/ dicit̄ sp̄ vsurā p̄m̄ietat vlt̄a forē aliqd r̄cipiē do: p̄ferr̄ cū mutuat r̄cipiēs libe p̄aliqd dona re d̄ suo sibi mutuat dāti: r trāst̄erre d̄nū qđ bz i re sua i ip̄m mutuat: ac p̄ p̄ns mutuas rē illā tāqz suā recipere p̄r: nō obstare qđ sit vlt̄a forē: Ad b d̄dm̄ qđ q̄ntūqz cōitas aliq̄ vlt̄ singlari p̄sone p̄aliqd libe d̄ suo dare p̄ pecūia sibi mu tuo data r i aliū trāst̄erret̄ r al̄ p̄ libe recipere dū mō nō sit p̄ lege iuste p̄ncipalr. s. ip̄ dei. Si ē pz in bis qđ mutuatōez ex mera charitate recipere

p̄nt aliqd vlt̄a forē ex liba donatōe: qz p̄ hoc d̄nō nullū mādātū edidit. Vex̄m̄ aliqñ libe de suo aliqd dare nō p̄nt p̄ pecūia sibi mutuo data sic qđ mutuas illd licite recipere possit. Et b̄ p̄ p̄ceptū supiorz iuste p̄ncipalr r̄cipiētis. Luc. vj. Mutuū da. ni. inde spe. Et ex de vsu. in c. p̄sultit. Et b̄ ēē p̄ exm̄ ondī p̄. Nā fm̄ Bona. in. iij. dist. xj. Et fm̄ Alex. de ales. r Scotū. Cōfessor maifestare nō p̄r p̄ctm̄ p̄ p̄fessionē illi maifestatū: ēē de licētia p̄st̄er: eo qđ p̄fessor ob ligat̄ est nō em̄ ex iure penitētiē: s; ex iure eccl̄i astico r diuio: sup qđ talis penitēs disp̄sare nō p̄r. ex de pe. r re. ois. Et de pe. di. vj. c. Saēdos Sic est ēē in p̄posito n̄o. nō em̄ ligat̄ vsurariū aut q̄libet aliū ad nō recipiēdi aliqd vlt̄a forē ex mutuo dato ex solo iure cōitarz vlt̄ singlari p̄sone: s; ex p̄cepto diuo: qđ mutuu r̄cipiēs disp̄sare nō p̄r. Et iō licz ip̄e q̄rū in se ē licite dare p̄ mutuatū: nō p̄r sic libe dare qđ mutuanz p̄ pecūia mutuatā licite recipere possit aliqd vlt̄a forē: qz d̄nō i b̄bis p̄dicit̄ post p̄siliū addi dit mādātū. Lū ei d̄t. mutuu dare i gerit p̄siliū lz q̄nqz ēē sit p̄ceptū. vj. s. ser. qv. Et f g b i. s; cū addit̄: nil in sp̄antes: p̄dit p̄ceptū negatiuū qđ obligat sp̄ r ad sp̄. Et sic in b̄ casu sola corrupta incētio causat vsure viciū. Nec p̄ excusari p̄ b̄ qđ vult indēnis fuari: qz si casus occurrit qđ p̄siliū mutui i p̄ceptū p̄nt: tūc tenet̄ ēē cū p̄po d̄st̄ p̄edio mutuarē p̄rio: sinat̄ r̄tūc si vlt̄ indēnis fuari nō mutuet: qz p̄nt ad b̄ nō obligat: qz si mutuat libe mutuet nil r̄cipiēs vlt̄a forē iust̄ p̄ceptū c̄bi: alioqñ qđqd ex tali mutuo recipere obligat restituere si p̄r. Et si nō p̄r: mortāl̄ p̄ccat si non p̄ponit satisfaccere cū p̄sit. qđ intelligit̄ qđ eē v̄tz qñ sp̄ore mutuat cū incētioz p̄ncipalr remuneratōis: lz nlla p̄actio de b̄ p̄cteri: int̄ uenit. vt in dicto c. p̄sultit. Et b̄ siue corrupta incētio fuerit mutuu ancedēs siue subseqns: vel ēē p̄ns. ¶ Ad cuius euidētiā scidū: qđ int̄ctio cupiditatz in mutuo p̄st̄ado est cū sola spe lucri: vel dū p̄ncipalr aliqz p̄t lucz mutuu p̄st̄at lz p̄actū nō int̄ueniat: ita qđ spes lucri ē cā p̄ncipalis mutui. Et tal̄ iudicat vsurariū in diu cro c. p̄su. Uñ p̄iculosior est hec vsura q̄s illa qđ fit cū exp̄ssis p̄actōibz: eo qđ i foro causaz mini me p̄r rep̄ta: mlt̄ q̄s cecat̄ auaricia v̄t p̄r aḡst̄: nimir̄ cū vt d̄t Alex. de ales. s; leges hu manas sola volūtas vsurariū nō faciat: qz lex cohbz manū nō aim. fm̄ qđ legē diuinā qđ cor hiber aim sola volūtas fac vsurariū. Que vo/ lūtas r itētio cupiditatz tripl̄t in p̄eru p̄rigere p̄r: aliqñ em̄ r̄les incētio cupiditatz est ancedēs s. anqz mutuu dat vel qñ dat: qđ p̄r̄e directe est i mādātū d̄nicū. si nō postea p̄ostitū mutua/ ret r incētioz rectificaret fm̄ regulā charitatz: tūc q̄ris data licite recipere possit: alioqñ qđ tal̄ itētio p̄sequēs vel p̄comitās ē: qz licz mutuas p̄r̄e nllm̄ itēdebar lucz: nō si recipiēs mutuu aliqd dar in recōp̄sationē mutui: r̄ creditor p̄ p̄ct̄ eandē causam libent̄ acceptat: tūc bz corru ptam intencōez cōcomitancē: et cōm̄itancē

D
mutuas
ex chari/
tate.

E
mutuas
ex cupidi/
tate.
Questio.

Ratio.

**Intētio
cupidita/
tis p̄plex.**

**Ex
de
ex vsu**

**B
vsurari/
tal̄ r̄ct̄**

vsura aliqñ deniqz tal' iteio subseqns e: qñ sez... de ephyna ex vsura

Exempla de ephyna ex vsura

De restitucõe vsuraz. Ser. CXXX.

Mutuũ da. nihil in spares. Lu. vi. In pcedenti ser. au disti d' his q' mutuũt cõitari z vltra...

vsureme tal' restõ

tuz qd ddit mutuũti. Un' d' i direct. iur' q' vsu rari' metat' iducẽd' e i foro pñiali ve fstituar: p c. vsuluit. e' d' vsu. Et s' dicit: q' lz i foro iudicia...

B

L Nota q' quis est stac' pñi apũ

D

erio idira plex.