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The Marriage of Roman Citizens
and Non-Citizens: Law and Practice

David A. Cherry

A thesis submitted to
the School of Graduate Studies and Research
of the University of Ottawa
in partial fulfillment of the requirements for
the degree of Doctor of Philosophy

Ottawa, Ontario
Canada

September, 1985

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Abstract

My subject is the marriage of Roman citizens and non-citizens from the Social War (90/89 B.C.) to the Constitutio Antoniniana of A.D. 212. The first half of the thesis is largely an exposition of the Roman law of mixed marriage (i.e. of citizens and non-citizens). The bulk of the evidence is in the Institutiones of Gaius and the Tituli Ulpiani.

At the heart of the law of mixed marriage was the lex Minicia, which was passed sometime before the Social War, and which denied the citizenship to children born of the union of a Roman citizen and a non-citizen for which the partners did not possess conubium (the right of intermarriage). By allowing the Roman authorities to regulate more closely the spread of Roman status, it served to make the citizenship a more effective instrument of policy, i.e. a means of rewarding loyal and meritorious subjects.

Modern opinion has it that Roman citizens regularly formed unions of mixed status despite the legal disabilities which followed. The literary evidence and the testimony of the epitaphs of Germany and Numidia (CIL 13 and CIL 8) bear out the view that mixed marriage was not uncommon and that the law was out of step with social practice.

Preface

The twenty years which have passed since Arnaldo Momigliano sanguinely declared that historians of Roman law had apprehended "the impossibility of leaving Roman society out of the history of Roman law", and were "bent upon discovering the social realities that underlie their institutions",¹ have yielded only a handful of books which set-out (expressly or otherwise) to bind Roman law to its social context, and, conversely, to determine how far the Roman world ordered itself according to the rules so carefully elaborated by the jurisconsults:² I think especially of J. Crook's Law and Life of Rome (1967), of A. Watson's The Law of Persons in the Later Roman Republic (1967), of (parts of) D. Daube's Roman Law: Linguistic, Social and Philosophical Aspects (1969), and of B. Frier's Landlords and Tenants in Imperial Rome (1980). A good deal of what has been written of Roman law in the past two decades (as before) is excessively (i.e. narrowly) legalistic.

An apology is (in part) in order then, for the first half of this study is little more than an exposition of the legal rules governing marriage between Roman citizens and non-citizens (peregrines and Latins). In reconstructing the history of the Roman law of mixed marriage, and in assembling the scattered evidence for it, I have borrowed heavily from the works of legal historians and of students of the Roman citizenship (e.g. C. Castello, L'acquisto della cittadinanza e i suoi riflessi familiari nel

diritto romano, P.E. Corbett, The Roman Law of Marriage, E. Nardi, La reciproca posizione successoria dei coniugi privi di conubium, A.N.

Sherwin-White, The Roman Citizenship). My starting point is the lex Minicia, which was passed sometime before the Social War, and which was at the heart of the law of mixed marriage for the next three centuries. I have not gone much past the Constitutio Antoniniana of A.D. 212, since in awarding the Roman citizenship to all free men and women who lived in orbe Romano,³ it largely swept away the *raison d'être* of the regulations. I admit that the chronological frame is as much convenient (i.e. workable) as historical, for Romans married non-Romans before the lex Minicia and after Caracalla's edict. I defend it on the grounds that the evidence for early Rome is very thin and unreliable (mostly Livy), and that intermarriage after the Constitutio Antoniniana is, for the most part, an issue of ethnic origin, not of citizenship.⁴

Much of the rest of the thesis (and the part that matters most) is given over to investigation of the relationship between the Roman law of mixed marriage and social practice: my purpose is to determine the extent to which Romans formed unions of mixed status despite the legal disabilities which followed. It is an axiom of legal history that law is a reflection of society (usually of its more conservative elements) and at the same time an influence upon it (usually a brake).⁵ It is a credible notion (I subscribe to it), but rarely put to the test, and never, as far as I know, in connection with the Roman law of personal status.

I had hoped that study of the relationship between the law of mixed

marriage and its application would reveal something of the larger relationship between law and practice at a level of Roman society below the privileged and literate class of which written record survives. But I cannot get much beyond (or below) the caste which wrote the law and for which it was written. Virtually nothing is known of local laws or of their relationship with Roman civil law,⁶ and there is no evidence of how law affected the lives of the poor.⁷

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Introduction

Conubium and Civitas

The Roman citizenship is a vast and complex topic, and one which has engendered a rich corpus of able and meticulous scholarship—it cannot and need not be re-examined here.¹ My subject is less unwieldy and less often canvassed: the definition of conubium and the means by which it was acquired.²

The Definition of Conubium

Most modern authors define conubium as "intermarriage" or "the right of intermarriage".³ It carries these meanings in several literary texts, such as Curt. 8.4.25, where the Persians and Macedonians are said to be joined by conubium (Persas et Macedones conubio iungi).⁴ Isidorus Hispalensis, the seventh century A.D. Bishop of Seville, supplies the following:

dicitur autem conubium, cum aequales in nuptias coeunt, ut puta cives Romani, pari utique dignitate. conubium autem non est, cum civis Romanus cum Latina iungitur.⁵

His interpretation of the meaning of the word recalls its usage in a number of texts (mostly poetic) of the late Republic and early Principate, where conubium is not the right of intermarriage, but the marriage itself

(conubium = matrimonium).⁶ Dicitur is the clue: "it is called", not "there is". Pari utique dignitate is a moralizer's touch.⁷

In most Roman juristic texts, conubium denotes more than the right of intermarriage.⁸ It is the right of contracting a marriage valid in Roman law (i.e. iure civili): conubium est uxoris iure ducendae facultas.⁹ Gaius¹⁰ and the Tituli Ulpiani¹¹ report that a lawful Roman marriage (iustae nuptiae) could be contracted only by two Roman citizens or by a Roman citizen and a Latin or peregrine who possessed conubium. Children born of a marriage for which the partners possessed conubium took the legal (i.e. citizenship) status of the father (conubio interveniente liberi semper patrem sequuntur).¹²

Acquiring the Roman Citizenship

From the early Republic, the Roman citizenship carried with it conubium. Though identified as a distinct right (ius conubii) in the Latin settlement of 338 B.C.,¹³ and occasionally separated from the citizenship,¹⁴ conubium was normally acquired in the same ways in which the citizenship was obtained.¹⁵

(i) Birth

Children born to the marriage of two Roman citizens were Roman citizens from birth. If the marriage was not valid in Roman law, the children were illegitimate Roman citizens (spurii). A marriage was not valid if the necessary consents were lacking,¹⁶ if one partner was below the legal age

for marriage,¹⁷ or if it involved close relatives,¹⁸ a senator and a freedwoman (after the lex Iulia de maritandis ordinibus of 18 B.C.),¹⁹ a tutor and his ward (from A.D. 175-180),²⁰ a soldier (from the reign of Claudius, if not before),²¹ or a provincial official and a woman of the province in which he served (probably from the late second century A.D.).²²

(ii) Manumission

Slaves owned by a Roman citizen acquired the citizenship if freed with the requisite formalities: touched by the lictor's rod (vindicta) in the presence of a magistrate with imperium, enrolled on the census list with their owner's approval (censu), or manumitted in their owner's will (testamento).²³

The right to manumit was circumscribed by two Augustan laws. The lex Fufia Caninia of 2 B.C. decreed that no one could emancipate testamento more than half his slaves if he owned between two and ten, more than a third if he had between ten and thirty, more than a quarter if he owned between thirty and a hundred, more than a fifth if he had between a hundred and five hundred and never more than a hundred.²⁴ The lex Aelia Sentia of A.D. 4 declared invalid manumission where the slave was under thirty years of age or the owner under twenty.²⁵

The lex Aelia Sentia also created a special class of slaves. Those consigned to combat in the arena, runaways and others (listed in Gaius Inst. 1.13) were henceforth dediticii and forever barred from the citizenship.²⁶ A.H.M. Jones has argued that Egyptians (and Cappadocians)

were classed with dediticii and similarly forbidden to acquire the citizenship.²⁷ He cites Josephus' remark that the Romans prevented only the Egyptians from participating in any kind of polity,²⁸ and a clause in the papyrus generally known as the Gnomon of the Idios Logos (mid second century A.D.) which bars Egyptians from service in the legions and goes on to say that those who serve surreptitiously do not thereby better their status.²⁹ But it is clear from a letter of Pliny the Younger that the rule forbidding the enfranchisement of Egyptians extended only to direct enfranchisement: those who first obtained the Alexandrian citizenship could then acquire the Roman citizenship.³⁰

A slave who was improperly manumitted (e.g. when below the age of thirty) or informally manumitted (by letter or inter amicos) did not become a Roman citizen even if his owner was a Roman citizen. From the promulgation of the lex Iunia Norbana (perhaps simply the lex Iunia),³¹ improperly and informally manumitted slaves were designated Junian Latins. The date of the law is controversial. H. Last argued, mainly on the basis of juristic evidence, that the law was passed before the lex Aelia Sentia of A.D. 4.³² Others favor A.D. 15 or 19, when a Junius and a Norbanus were either consuls ordinarii or consuls suffecti.³³

Prior to the passage of the lex Iunia Norbana, improperly and informally manumitted slaves had to rely on the praetor to protect their claim to liberty.³⁴ And they had no precise legal status or civil rights.³⁵ The lex Iunia Norbana granted them status in law and most of the property and

procedural rights of Roman citizens.³⁶

Junian Latins could acquire the citizenship (and conubium) in several ways:

Latini ius Quiritium consequuntur his modis: beneficio principali, liberis, iteratione, militia, nave, aedificio, pistrino.³⁷

An example of beneficium principale survives in one of the letters of Pliny the Younger (10.104). Pliny asks Trajan to grant the citizenship to three Junian Latins whom he had acquired in the will of his friend Julius Paulinus (rogo tribus interim ius Quiritium des). Trajan's generous reply suggests that petitions of this nature were neither uncommon nor unwelcome.³⁸

iis interim, quibus nunc petisti, dedisse me ius Quiritium referri in commentarios meos iussi idem facturum in ceteris, pro quibus petieris.

Iteratio is attested in Plin. Ep. 7.16. Some slaves belonging to Calpurnius Fabatus, grandfather of Pliny's wife, had been informally manumitted (quos proxime inter amicos manumisisti). Pliny announces that his friend Calestrius Tiro will be passing through Calpurnius' home town (Ticinum) on his way to Baetica, where he is to be governor, and that repetition of the manumission (iteratio) in the presence of Tiro, a magistrate with imperium, will secure freedom and the citizenship for the Latins.³⁹

Gaius reports (Inst. 1.29) that improperly manumitted slaves could

acquire the citizenship through marriage and fatherhood:

statim enim ex lege Aelia Sentia⁴⁰ minores triginta annorum manumissi et Latini facti si uxores duxerint vel cives Romanas⁴¹ vel Latinas coloniarias vel eiusdem condicionis, cuius et ipsi essent, idque testati fuerint adhibitis non minus quam septem testibus civibus Romanis puberibus et filium procreaverint, cum is filius anniculus esse coeperit, datur eis potestas per eam legem adire praetorem vel in provinciis praesidem provinciae et adprobare se ex lege Aelia Sentia uxorem duxisse et ex ea filium anniculum habere: et si is, apud quem causa probata est, id ita esse pronuntiaverit, tunc et ipse Latinus et uxor eius, si et ipsa eiusdem condicionis sit, et filius eius, si et ipse eiusdem condicionis sit, cives Romani esse iubentur.⁴²

If the father died before his son (or daughter)⁴³ reached the age of one, his wife could act in his place.⁴⁴ These rights were extended to informally manumitted slaves by a senatus consultum promulgated during the consulship of Pegasus and Pusio in the reign of Vespasian (probably c. A.D. 75).⁴⁵

Junian Latins could also earn the citizenship by various services to the state. The lex Visellia of A.D. 23 conferred it on all Junian Latins who served six (later three)⁴⁶ years in the vigiles at Rome. An edict of Claudius gave it to Junian Latins who constructed a sea-going ship (navem marinam) capable of carrying not less than 10,000 modii of grain and used it (or a substitute) to transport grain to Rome for six years.⁴⁷ An enactment of Nero enfranchised Junian Latins who had a fortune of at least 200,000 sesterces and who built a house at Rome on which they spent at least half their patrimonium.⁴⁸ Trajan gave the citizenship to Junian Latins who operated a mill (pistrinum) at Rome for three years, provided that it ground at least one hundred measures of grain daily.⁴⁹ A.N. Sherwin-White

points out that many of the avenues to the citizenship which were open to Junian Latins were not available (militia, navis, aedificium, pistrinum) or rarely available (liberi and iteratio, which required the presence of a magistrate with imperium) to Junian Latins in the provinces.⁵⁰

(iii) Ius Latii

Latin colonists in Italy enjoyed conubium (and commercium) with Roman citizens.⁵¹ Other Latins could acquire the citizenship and conubium by taking up residence in Rome, a privilege (ius migrationis) which probably originated with the Latin settlement of 338 B.C. and continued until at least the Social War.⁵² The magistrates of Latin colonies and of municipalities which had been granted Latin status (e.g. all the cities of Spain during the reign of Vespasian)⁵³ automatically acquired the citizenship when they left office. The evidence for this is a passage in Asconius,⁵⁴ and a clause (21) in the lex Municipalis Salpensana of A.D. 82/84.⁵⁵ By the time of Gaius (mid second century A.D.), the right to acquire the citizenship per magistratum had come to be called ius Latii minus, since there was now available a greater privilege (ius Latii maius):

huius autem iuris [i.e. ius Latii] duae species sunt; nam aut maius est Latium aut minus. maius est Latium cum et hi qui decuriones leguntur, et ei qui honorem aliquem aut magistratum gerunt, civitatem Romanam consequuntur. minus Latium est cum hi tantum qui vel magistratum vel honorem gerunt ad civitatem Romanam perveniunt.⁵⁶

(iv) The Government

The citizenship was granted to many Latins (other than decurions and

magistrates)⁵⁷ and peregrines (i.e. non-Romans other than those of Latin status), to certain professions (e.g. doctors) and to some municipalities and territories by the Senate, by generals such as Marius and Pompeius Strabo, and by various emperors.⁵⁸ Enfranchisement was sometimes accompanied by a grant of immunitas (immunity from property taxation),⁵⁹ but the practice was not common and almost disappears after Augustus.⁶⁰ Communities occasionally lost the citizenship, at least for a time (e.g. Neapolis),⁶¹ and some treaties denied certain cities the right to acquire it.⁶²

Grants of the citizenship were recorded in the emperor's commentarius civitate donatorum.⁶³ Trajan refers to it in his reply to Pliny's petition on behalf of the three Junian Latins bequeathed to him by Julius Paulinus: dedisse me ius Quiritium referri in commentarios meos iussi.⁶⁴ It appears that those who were awarded the citizenship could obtain a document attesting their enfranchisement. Suetonius says (Ner. 12.1) that Nero gave diplomata civitatis Romanae to some Greek dancers. He elsewhere reports (Cal. 38.1) that Caligula, having first decreed that the term posterii applied only to the sons of those who had obtained the citizenship for themselves and their "descendants", then refused to recognize certain grants of the citizenship made by Caesar and Augustus: prolataque Divorum Iuli et Augusti diplomata ut vetera et obsoleta deflabat. However these may be military diplomas.⁶⁵ The Tabula of Banasa, published in part in 1961 and fully in 1972, furnishes more solid evidence.⁶⁶ The text contains two epistulae and a citation from the imperial archives. In the first letter,

addressed to Coedius Maximus, procurator of Mauretania Tingitana c.

A.D. 168, the co-emperors Marcus Aurelius and Lucius Verus grant the citizenship to Julianus, one of the primores of the Zegrenses, his wife Ziddina and their children Julianus, Maximus, Maximinus and Diogenianus.

In the second letter, addressed to a certain Vallius Maximianus and dated to A.D. 177, the co-emperors Marcus Aurelius and Commodus confer the citizenship on the wife and children of Julianus, probably to be identified with Julianus filius of the first letter.⁶⁷ There follows a formal citation from the commentarius civitate Romana donatorum, which records the names and titles of the issuing emperors, the date (July 6, 177), the names of the recipients (Faggura uxor and her children Juliana, Maxima, Julianus and Diogenianus), and the names of twelve witnesses, six of them consulars, and six of them equestrians, including the jurisconsult Q. Cervidius Scaevola.

Enfranchisement and Law

The status of the enfranchised in Roman law and in peregrine (or local) law has been vigorously debated.⁶⁸ The Republican rule is clear from Cic. Balb. 28: duarum civitatum civis noster esse iure civili nemo potest.⁶⁹ He elsewhere explains (Caec. 100) that iur civile here means the law of property and persons, not public and political rights. From the Roman point of view then — and there is no evidence for the views of the city of original citizenship — an enfranchised peregrine automatically relinquished his former citizenship and fell under the jurisdiction of Roman civil law.⁷⁰ However the doctrine of incompatibility did not outlive the Republic.⁷¹ The edict in which Octavian grants the citizenship to his

admiral Seleucus of Rhosos (36/34 B.C.) allows him to retain all local honours and priesthoods and offers him a choice of legal jurisdiction: the courts of Rhosos, a Roman proconsular tribunal or the arbitration of an independent free city. In capital cases, he could appeal to the Roman Senate or to a provincial governor.⁷² The third Augustan edict of Cyrene (7/6 B.C.) apparently orders the Roman citizens living there who did not enjoy immunity from taxation (*ἀνευφοροῦν*) to perform at least some of the duties (*λειτουργεῖν*) of the local citizenship.⁷³

The grants of the citizenship recorded in the Tabula of Banasa are said to be salvo iure gentis. W. Seston and M. Euzennat understood that the enfranchised were to remain subject to local laws and custom.⁷⁴ However Sherwin-White has countered with the argument that ius gentis may be no more than local privileges and duties (sacerdotia, honores, praemia, munera).⁷⁵

Better documented is the condition of enfranchised Egyptians. The Gnomon of the Idios Logos makes it clear that all Roman citizens in Egypt were under the jurisdiction of the ius civile. The rules of Roman civil law are strictly enforced: clause 23, for example, declares that a Roman citizen, though not permitted to marry his sister or aunt, is allowed to marry his brother's daughter, and reports that the Egyptian prefect Pardalus confiscated the property of a brother and sister who married.⁷⁶

Like the enfranchised in Egypt, Latins who acquired the citizenship per magistratum were obliged to adopt the ius civile. The evidence for this is clause 22 of the lex Municipalis Salpensana, which provides that all enfranchised Latins should continue to enjoy manus and patria potestas.⁷⁷

and choose a legal guardian just as if they had been born Roman citizens (i.e. iure civili).⁷⁸ Gaius Inst. 1.95 is similar:

alia causa est⁷⁹ eorum qui Latii iure cum liberis suis ad civitatem Romanam perveniunt; nam horum in potestate fiunt liberi.

Civitas et Conubium

Enfranchised peregrines and Latins automatically enjoyed conubium with other Roman citizens. Some, such as the men of Volubilis enfranchised by Claudius in A.D. 44, were also awarded conubium with peregrine women.⁸⁰ But the granting of conubium cum peregrinis mulieribus was probably rare. The Volubilitani were given it because, for some reason, their wives were not enfranchised. Enfranchised veterans (e.g. of the auxilia) were awarded conubium with peregrine and Latin women in order to regularize unions of mixed status formed during service — the "wives" whom they had when they were discharged were not given the citizenship — or post missionem. There is no mention of conubium in the Tabula of Banasa.

There are very few documented cases of the granting of conubium without simultaneous enfranchisement, and most of these date to the period before the Social War.⁸¹ Conubium was awarded to Latin colonists,⁸² to some, if not most, of the Latins resident in Italy before the Social War,⁸³ and (perhaps) to some of the Italian socii.⁸⁴

In the course of a speech advocating abrogation of the ban on marriage between patricians and plebeians, which Livy (4.3.4) puts in the

mouth of C. Canuleius, tribune of 445 B.C., Canuleius is made to say: conubium petimus, quod finitimis externisque dari solet. Livy must have in mind the granting of conubium without civitas,⁸⁵ since he has Canuleius go on to say: nos quidem civitatem, quae plus quam conubium est, hostibus etiam victis dedimus.⁸⁶ Less instructive is Ov. Fast. 3.195-96, where Mars talks of the difficulty of finding wives at Rome in the time of Romulus:

extremis dantur connubia gentibus: at quae
Romano vellet nubere, nulla fuit.⁸⁷

Gaius reports (Inst. 1.56) that children born to a Roman citizen were in his potestas only if his wife was a Roman citizen or a Latin or peregrine with whom he enjoyed conubium (Latinas peregrinasve cum quibus conubium habeant). Th. Mommsen and P.E. Corbett inferred that conubium cum civibus Romanis was granted to some, but not all, Latin and peregrine women.⁸⁸ But the opposite is much more likely. Gaius almost certainly had in mind veterans, who, he goes on to say (Inst. 1.57), were customarily given conubium cum his Latinis peregrinisve, quas primas post missionem uxores duxerint. Cum his Latinis peregrinisve should be taken with cum quibus in Inst. 1.56. It is the veterans who were granted conubium with Latin and peregrine women, and not vice versa; as noted above (p. 11), they required it in order to regularize unions of mixed status formed during service or post missionem. Tit.Ulp. 5.3 is more vague: conubium habent cives Romani cum civibus Romanis: cum Latinis autem et peregrinis ita, si concessum sit. It is arguable whether the indirect object of

concessum sit is the Latins and peregrines or the cives Romani.

Sherwin-White thinks that the inhabitants of municipalities of Latin status enjoyed conubium with (some) Roman citizens.⁸⁹ He adduces clause 21 of the lex Municipalis Salpensana:

Qui IIvir aedilis quaestor ex hac lege factus erit, cives Romani sunt, cum post annum magistratu abierint, cum parentibus coniugibusque hac liberi [sc. ac liberis], qui legitimis nuptis quaesiti in potestatem parentum fuerunt [sc. fuerint], item nepotibus ac neptibus filio natalis [sc. natis], qui quaeque in potestate parentum fuerint⁹⁰

From the clause which begins qui legitimis nuptis, he infers "the existence of ius conubii between at least the local Latins and Romans". But there is no reason to suppose that the author of the law was thinking of the marriage of Latins and Romans. A child born of the lawful union of two Latins was in his father's potestas, i.e. the form of patria potestas enjoyed by Latins and elsewhere attested in the lex Municipalis Salpensana.⁹¹ The purpose of the restrictive clause beginning with qui legitimis nuptis was to exclude illegitimate children from the grant of the citizenship.

The Constitutio Antoniniana

Roman generosity in extending the citizenship to Latins and peregrines is well documented.⁹² Aristides is hyperbolic, not mendacious:

καὶ οὕτε θάλαττα διεύργει τὸ μὴ εἶναι πολῦτην οὐτε πλῆθος τῆς ἐν μέσῳ χώρας οὐδ' Ἀσία καὶ Εὐρώπη διέηρηται ἐνταῦθα· πρόκειται δ' ἐν μέσῳ πᾶσι πάντα· ἐξένος δ' οὐδεὶς ὅστις ἀρχῆς ἢ πίστεως ἄξιος.⁹³

The citizenship spread rapidly in the first two centuries A.D., more so in the West (Africa, Baetica, Narbonensis) than the East,⁹⁴ and more quickly in the wealthier classes.⁹⁵ It lost much of its legal significance, and was less and less a source of privilege.⁹⁶ The gradual breaking down of the distinction between Roman citizens and non-citizens⁹⁷ paved the way for the Constitutio Antoniniana.

No part of the history of the Roman citizenship has been so fully (and, in proportion, less profitably) studied than the Constitutio Antoniniana.⁹⁸ The principal feature of the edict, the awarding of the citizenship to all free men in the Empire (data cunctis promiscue civitas Romana),⁹⁹ has never been in doubt, and there is almost unanimous agreement in dating it to A.D. 212.¹⁰⁰ The controversy centers on P.Gissensis 40.1 (generally regarded to be a copy of Caracalla's edict),¹⁰¹ and, in particular, on restoring the damaged text of the papyrus and identifying the dediticii mentioned in line 9. The text which follows is that of A. Wilhelm, published in AJA, 38 (1934), 180:¹⁰²

(1) [Αὐτοκράτωρ Καῖσαρ Μάρκος Αὐρήλιος Σεουήρος] Ἀντωνῖνο[ς]
Σ[εβαστὸς] λέγει· (2) [Πάντως εἰς τὸ θεῖον χρ]ῆ μᾶλλον ἀν[αφέρειν
καὶ τὰς αἰτίας κ[α]ὶ το[ύς] λ[ογ]ο[ύ]σμου[ς], (3) [δικαίως δ' ἐν
κἀγὼ τοῖς θεοῖς τι[οῦς] ἀθ[αν]άτοις εὐχαριστήσαιμι, ὅτι τῇ[ς]
τοιαύτῃ[ς] (4) [ἐπιβουλῆς¹⁰³ γενομένης σφο]ν ἐμὲ συν[ειρή]ησαν.
Τοιγαροῦν νομίζω [ο]ὔτω με - (5) [γαλομερῶς καὶ θεοπρεπ]ῶς δύ[να]σθαι
τῇ μεγαλει[ό]τητι αὐτῶν τὸ ἱκανὸν ποι - (6) [εἶν, εἰ τοσάκις
μυρῖους ὁσ]άκις ἐὰν ὁ [π]εισε[λθ]ω[ς]ιν¹⁰⁴ εἰς τοὺς ἐμοὺς ἀν[θρ]ώπους
(7) [ὥς Ῥωμαῖους εἰς τὰ ἱερὰ τῶν] θεῶν συνει[σ]ενέγ[κ]ου[μι]. Δύωμι
τοῦ[ν]ιν ἅπα - (8) [σιν τοῖς κατοικοῦσιν τ]ῇν οἰκουμένην π[ολιτ]εῖαν
Ῥωμαίων [μ]ένοντος (9) [οὐδενὸς ἐκτὸς τῶν πολιτευμ]άτων χωρ[ὺς]
τῶν [δ]εδειυκένων.¹⁰⁵ Ὁ[φ]είλει [γ]ὰρ τὸ (10) [πληθος οὐ μόνον τᾶλλα
συνυπομέ]νειν πάντα, ἀ[λλ]ὰ ἤδη κ[α]ὶ τῇ νύκτῃ ἐνπεριεῖ - (11) [ληφθαι.
τοῦτο δὲ τὸ ἐμὸν διὰ τ]αγμα ἐ[ξαπ]λώσει [τὴν] μεγαλειότητα [το]ῦ

*Ρωμα[ί] - (12) [ων δήμου. συμβαίνει γὰρ τὴν αὐτὴν περὶ τοὺς
[ἄλλους γεγενῆσθαι ἥπερ δ[ι]α - (13) [πρέπουσιν ἀνέκαθεν
*Ρωμαῖοι τιμῇ καὶ ταπειφ[θέντων] ων τῶν ἐκάστης

The chief problem is the genitive absolute clause introduced by μένοντος in line 8. Some take the clause exempting the dediticii (χωρὶς τῶν δεδουλευκῶν) with the main verb δίδωμι, thereby excluding them from the grant of the citizenship; others assign it to the genitive absolute, arguing that the dediticii alone were exempted from the limiting clause. The Tabula of Banasa may furnish a clue. With Sherwin-White,¹⁰⁶ it is tempting to follow P.M. Meyer in restoring παντὸς γένους (or its equivalent) instead of οὐδενὸς ἐκτὸς, and to see in the genitive absolute clause the Greek equivalent of salvo iure gentis, i.e. the dediticii were included in the grant of the citizenship and alone failed to retain (or enjoy) ius gentis (local autonomy?).

The dediticii have been variously identified with the freedmen described in juristic texts as in numero dediticiorum,¹⁰⁷ with the Egyptians, who alone were barred from direct access to the citizenship and probably lacked any form of autonomous government,¹⁰⁸ and, perhaps most plausibly, with the barbarians allowed to settle within the boundaries of the Empire in the second century A.D. (e.g. during the reign of Marcus Aurelius).¹⁰⁹ But what matters most, and what the avalanche of scholarship has tended to obscure, is that they were few in number. Neither of the two surviving accounts of the Constitutio Antoniniana written by contemporaries mentions dediticii or any exception to the grant of the citizenship.

Dio, who was a senator under Caracalla and accompanied him to Nicomedia in A.D. 214,¹¹⁰ declares (78.9.5) that he made everyone in the Empire a Roman citizen ('Ρωμαίους πάντας τοὺς ἐν τῇ ἀρχῇ ἀπέδωκεν). An even better witness is Ulpian,¹¹¹ who was a member of Caracalla's consilium and probably involved in the drafting of the edict: in orbe Romano qui sunt ex constitutione imperatoris Antonini cives Romani effecti sunt.¹¹²

It is sometimes objected that the reports of Dio and Ulpian cannot explain why the term peregrini was used after A.D. 212.¹¹³ But the edict granted the citizenship only to those non-citizens who were living in the Empire in A.D. 212, not also to future immigrants (e.g. the cunei Frisionum who served in Britain in the third century A.D.¹¹⁴).¹¹⁵

No doubt some of these later immigrants married Roman citizens. But unions of mixed status were probably far less common than before the promulgation of the Constitutio Antoniniana, and, in this respect, it went a long way toward rendering conubium (in its original and juridical sense) an anachronism.¹¹⁶

Chapter I

The Roman Law of Mixed Marriage

Authors of textbooks of Roman law and experts in the Roman law of marriage regularly quote the famous definition of marriage ascribed to the third century A.D. lawyer Modestinus: nuptiae sunt coniunctio maris et feminae et consortium omnis vitae, divini et humani iuris communicatio.¹ It is not often remarked that Modestinus had in mind only the marriage of two Roman citizens. The history of the Roman law of mixed marriage² is largely one of punishment.³

Roman Marriage: Forms and Requirements

From the early Republic, the Roman state actively encouraged marriage. Roman citizens were expected, and from the time of Augustus required, to marry and to raise families.⁴ The lex Iulia de maritandis ordinibus of 18 B.C. and the lex Papia Poppaea of A.D. 9 prescribed harsh penalties for the unmarried (caelibes) and for the married but childless (orbi).⁵ Their provisions were abolished only with the advent of Christianity and a concomitant change in attitudes toward celibacy.

In the early Republic, marriage was by confarreatio (a religious ceremony involving an emmer cake),⁶ coemptio (imaginary sale of the bride),⁷ or usus, for which no particular ceremony is attested.⁸ All three types of marriage conferred manus, immediately in the case of

confarreatio or coemptio, after a year in the case of usus (on the analogy of usucapio). In marriage cum manu, the husband exercised a control over his wife akin to that of a paterfamilias over his children. Manus could be broken where a couple had married by usus if the wife absented herself from the family home for three nights in every year, or through a somewhat complicated process involving mancipatio (a form of sale), and in the case of coemptio, remancipatio.⁹ Confarreatio had virtually dropped out of use by A.D. 23 when, Tacitus reports (Ann. 4.16), there was difficulty in finding candidates for the office of flamen Dialis, which could be filled only by men who had been born of a confarreate marriage and had married by confarreatio.¹⁰ Usus was rare by the late Republic and Gaius considers it (Inst. 1.111) an anachronism. Coemptio probably disappeared in the third century A.D. Manus became increasingly uncommon from the second century B.C., so that Cicero was able to treat it (Flac. 84) as an oddity.¹¹

In the classical period of Roman law (in the widest sense, the period from Augustus to the middle of the third century A.D.), a union was a valid Roman marriage (iustae nuptiae or iustum matrimonium) only if the partners enjoyed conubium with each other; if the woman was at least twelve years of age and the male at least fourteen or pubescent (perhaps both), and if the partners and their patresfamilias (if any) consented:

iustum matrimonium est, si inter eos qui nuptias contrahunt
conubium sit, et tam masculus pubes quam femina potens sit,

et utrique consentiant, si sui iuris sunt, aut etiam
parentes eorum, si in potestate sunt.¹²

The requirements of lawful marriage listed in Just. Inst. I.10.pr.
are only slightly different:

iustas autem nuptias inter se cives Romani contrahunt, qui
secundum praecepta legum coeunt, masculi quidem puberes,
feminae autem viripotentes, sive patresfamilias sint sive
filiifamilias, dum tamen filiifamilias et consensum habeant
parentum, quorum in potestate sunt.

There is no mention of conubium, which had long ago ceased to have any
legal significance: by the time of Justinian, the only non-citizens
were slaves and barbarians, and a Roman citizen could not legally marry
either a slave or a barbarian.¹³

A girl married before the age of twelve did not become a lawful
wife until her twelfth birthday,¹⁴ when she was understood to have
reached sexual maturity.¹⁵ The jurists could not agree about the age
requirement for boys. Some favored fourteen, others argued that puberty
was required (to be tested by a physical examination), and still others
thought that both were necessary.¹⁶

Ulpian's view that all parties must consent to the marriage (the
partners and their parents) belongs to the classical law of marriage.
Republican practice is less certain: it may be that the consent of
filiusfamilias or filiafamilias was not required.¹⁷ A marriage was
dissolved if one partner withdrew his consent, since it was the intention
to be married (affectio maritalis) which bound a couple together and

alone served to distinguish marriage from concubinage.¹⁸

The Effects of Conubium

Children born of a marriage for which the partners possessed conubium took their father's status (conubio interveniente liberi semper patrem sequuntur)¹⁹ and immediately came under his potestas: in potestate sunt liberi parentum ex iusto matrimonio nati.²⁰ So if a Roman man fathered a child by a peregrine (or Latin) woman with whom he enjoyed conubium, it was born a Roman citizen and was automatically in his potestas. The rules are summarized by Gaius (Inst. 1.56):

itaque liberos suos in potestate habent cives Romani, si cives Romanas uxores duxerint, vel etiam Latinas peregrinasve cum quibus conubium habeant. cum enim conubium id efficiat, ut liberi patris condicionem sequantur, evenit ut non solum cives Romani fiant, sed etiam in potestate patris sint.²¹

Conversely, if a Roman woman married a peregrine (or Latin) with whom she enjoyed conubium, their child was born a peregrine (or Latin):

si civis Romana peregrino cum quo ei conubium est nupserit, peregrinus sane procreatur, et is iustus patris filius est, tamquam si ex peregrina eum procreasset.²²

It was not in potestate patris, since only Roman citizens could be patresfamilias or in potestas.²³

A marriage for which the partners lacked conubium (e.g. the union

of an equestrian officer and a woman of the province in which he served or of a Roman senator and a freedwoman after the Augustan marriage laws), was not legally void or null, but iniustum (unlawful).²⁴ The couple were, in a sense, married and the law treated them as husband and wife. At least some of the legal rights (and disabilities) of lawful Roman marriage also followed from iniustum matrimonium. The husband was entitled to charge his iniusta uxor with adultery, since the lex Iulia de adulteriis of 17 B.C. encompassed all marriages (omnia matrimonia):

plane sive iusta uxor fuit sive iniusta, accusationem
institueret vir poterit: nam et Sextus Caecilius ait,
haec lex [de adulteriis] ad omnia matrimonia pertinet,
et illud Homericum adfert: nec enim soli, inquit,
Atridae uxores suas amant: οὐ μόνου φιλέουσ' ἁλόχους
μερόπων ἀνθρώπων Ἀτρεΐδαι.²⁵

If the couple were divorced, the woman could reclaim whatever she had given to her husband by way of dowry. And he was not allowed to retain a portion of it pro liberis, since their children were not in his potestas:

si mulier, cum fuisset nupta cum eo quicum conubium non
esset, nuntium remisit; quoniam qui nati sunt patrem non
sequuntur, pro liberis manere nihil oportet.²⁶

Neither partner could be appointed heir to the estate of the other or claim bonorum possessio²⁷ in the case of intestacy:

ut bonorum possessio peti possit unde vir et uxor, iustum
esse matrimonium oportet. ceterum si iniustum fuerit
matrimonium, nequaquam bonorum possessio peti poterit,
quemadmodum nec ex testamento adiri hereditas vel secundum

tabulas peti bonorum possessio potest: nihil enim capi
propter iniustum matrimonium potest.²⁸

It can be inferred from a case (perhaps imaginary) reported by the
jurist Scaevola (Dig. 33.2.27) that neither partner of an iniustum
matrimonium could receive a trust (fideicommissum)²⁹ from the other:

uxori maritus per fideicommissum usum fructum³⁰ et alia et
dotem praelegavit³¹: heredes usum fructum ei concesserunt:
post biennium illicitum matrimonium fuisse pronuntiatum est:
quaesitum est, an id, quod praeterito tempore possedit, ab
ea repeti possit. respondit id, quod fructus nomine³²
percepisset, repeti posse.

By the rule of ius gentium ("the law of nations"), which comprised
those legal principles that the Roman jurists considered to be common to
all peoples, including Roman citizens,³³ children born of a marriage for
which the partners did not possess conubium were illegitimate and took
their mother's, not their father's, status: conubio interveniente liberi
semper patrem sequuntur: non interveniente conubio matris conditioni
accedunt.³⁴ Gaius reveals (Inst. 2.241) that children conceived in the
absence of conubium but not yet born (i.e. in utero) at the time of
their father's death (postumi) were also considered to be illegitimate
and took their mother's status. The condition of children born of a
union for which the partners lacked conubium was analogous to that of
children conceived in extra-marital intercourse.³⁵

Iure gentium then, children born to a Roman man and a peregrine
(or Latin) woman with whom he did not have conubium were illegitimate
(i.e. illegitimate in Roman law) peregrines (or Latins). Conversely,

children born to a Roman woman and a peregrine (or Latin) man who did not have conubium were illegitimate Roman citizens.³⁶ Livy furnishes two examples.

After Capua had been recaptured by the Romans in 211 B.C., a number of Campanians were stripped of the Roman citizenship and exiled, some ultra Tiberim, others cis Lirim or cis Volturnum.³⁷ In 188 B.C., they petitioned the Roman Senate for permission to marry Roman women (i.e. for conubium) and asked, si qui prius duxissent, ut habere eas et nati ante eam diem uti iusti sibi liberi heredesque essent.³⁸ Since the men did not possess conubium, their children were illegitimate Roman citizens (hence not iusti liberi). What they wanted, and obtained (Livy says that both requests were granted: utraque res impetrata), was a retroactive grant of conubium. In the upshot, their Roman children were transformed into liberi homines lacking a res publica.³⁹

In 171 B.C., the Senate settled more than 4,000 Spaniards born of Roman soldiers and Spanish women at Carteia (on the bay of Algeciras) and conferred upon it the status of a Latin colony. The men were Spanish because their parents did not possess conubium (ex militibus Romanis et ex Hispanis mulieribus, cum quibus conubium non esset).⁴⁰

The Lex Minicia: Dating

The rules governing the status of children born of marriages for which the partners lacked conubium were altered by the lex Minicia. It is not readily dated. Only Gaius and the Tituli Ulpiani mention it⁴¹ and neither assigns it a date.⁴² However it can be inferred from Gaius Inst. P.79 that it was passed sometime before 90 B.C. (i.e. the Social War).⁴³

Having first described its effects on Roman-peregrine marriages for which the partners lacked conubium, he goes on to apply it to Roman-Latin marriages:

adeo autem hoc ita est, ut [ex cive Romano et Latina qui nascitur Latinus nascatur, quamquam ad eos qui hodie Latini appellantur lex Minicia non pertinet; nam comprehenduntur quidem peregrinorum appellatione in ea lege non] solum exterarum nationes et gentes, sed etiam qui Latini nominantur; sed ad alios Latinos pertinet, qui proprios populos propriasque civitates habebant et erant peregrinorum numero.

Even without Th. Mommsen's plausible restoration of two and one-quarter illegible lines in the manuscript of Gaius known as Veronese Codex 13,⁴⁴ it is clear that the law applied both to peregrines (exterarum nationes et gentes) and to Latins, but only to those Latins who possessed their own communities and states and who were classified with peregrines. The past tense (habebant and erant) suggests that Gaius was not thinking of a type of Latin status which existed in his own time. It is unlikely then that he had in mind either Junian Latins⁴⁵ or communities which had been granted Latin status. Nor did Junian Latins have their own populi and civitates. A. Watson has argued that the Latini here could include Latin colonists (Latini coloniarii) and that the passage of the law could date as late as A.D. 19 (his date for the passage of the lex Iunia Norbana, which introduced Junian Latin status).⁴⁶ But I doubt that Gaius (or the author of the lex Minicia) would have considered Latin colonists to be peregrinorum numero—their status was increasingly assimilated to that of Roman citizens from the early second century B.C.⁴⁷ The Latini of Gaius Inst. 1.79 are more likely to be those Latins living in Italy

in their own communities and allied to Rome by treaties who were given the citizenship in the lex Iulia de civitate of 90 B.C.⁴⁸

It is even more difficult to establish a terminus post quem for the lex Minicia. I hazard 188 B.C., on the somewhat shaky grounds that Livy would not have overlooked (or failed to mention) it when delineating the plight of the disenfranchised and exiled Campanians who petitioned the Senate for conubium with Roman women. The Spaniards settled at Carteia in 172 B.C. receive much shorter notice in Livy, and so presumably did not equally attract his (or his source's) attention.

It was normal practice for Republican laws to be named after the magistrates who had introduced them. Thus, the lex Gellia Cornelia of 72 B.C., which validated Pompey's grants of the citizenship in Spain, was proposed by the consuls L. Gellius Publicola and Cn. Cornelius Lentulus Clodianus. It follows that the lex Minicia was proposed by a magistrate named Minicius. However no Minicii are attested as magistrates at Rome before L. Minicius Rufus, consul in A.D. 88 (RE, no. 23). This led C. Castello to suggest, I think not implausibly, that "lex Minicia" should be emended to "lex Minucia", i.e. the law was proposed by a magistrate named Minucius, not Minicius.⁴⁹ It is not inconceivable that "Minucia" was in some way transformed into "Minicia" sometime between the second century B.C. and the second century A.D. (the time of Gaius).⁵⁰

Of the eleven Minucii attested as magistrates in the period between 188 and 90 B.C.,⁵¹ only five — two praetors and three tribunes of the plebs — were entitled to propose legislation. Of Ti. Minucius Molliculus, praetor in 180 B.C., it is said (Liv. 40.37.1) only that he died in office.

Not much more is known of Q. Minucius, attested (SIG³ 664) as praetor in 164 B.C. Aulus Gellius says (6.19.2) that C. Minucius Augurinus, tribune in 184 B.C., imposed a fine on L. Scipio (the charge was peculation) and ordered his arrest. But Minucius Augurinus is nowhere else attested, and several sources assign the incident to 187 B.C., when Q. Petillius and Q. Petillius Spurius were tribunes.⁵² Not a good bet either is the tribune of 133 B.C. who replaced the deposed M. Octavius (unwilling to drop his veto of Tiberius Gracchus' agrarian law) and who is called Q. Mucius by Plutarch (Ti. Gracch. 13.2 and 18.1), Q. Mummius by Appian (B. Civ. 1.12 and 1.14) and Q. Minucius only by Orosius (5.8.3). More likely to be the author of the lex Minicia/Minucia is M. Minucius Rufus,⁵³ tribune in 121 B.C.,⁵⁴ i.e. one year after Gaius Gracchus had proposed that the citizenship be granted to Latins (the Latini of Gaius Inst. 1.79?) and Latin rights to the Italians. He is said to have introduced several bills designed to annul Gracchus' legislation.⁵⁵ The lex Minicia fits well the reactionary aftermath of Gracchus' second tribunate.

The Lex Minicia: Terms

The terms of the lex Minicia are described only in Gaius Inst. 1.78 and Tit. Ulp. 5.8.⁵⁶ The sole complete manuscript of Gaius' Institutiones (Veronese Codex 13) is badly damaged at this point, mostly illegible and perhaps corrupt.⁵⁷ The restorations suggested by Mommsen and P. Krüger have been adopted by most recent editors and form the basis of the text

of E. Seckel and B. Kuebler (Teubner, 1969):

quod autem diximus inter civem Romanum peregrinamque⁵⁸ nisi⁵⁹
 conubium sit,⁶⁰ qui nascitur, peregrinum esse, lege Minicia
 cavetur, ut is quidem deterioris parentis condicionem sequatur.
 eadem lege autem ex diverso cavetur, ut si peregrinus, cum qua
 ei conubium non sit, uxorem duxerit civem Romanam, peregrinus
 ex eo coitu nascatur. sed hoc maxime casu necessaria lex
 Minicia fuit;⁶¹ nam remota ea lege diversam condicionem sequi
 debebat, quia ex eis, inter quos non est conubium, qui
 nascitur, iure gentium matris condicioni accedit. qua parte
 autem iubet lex ex cive Romano et peregrina peregrinum nasci,
 supervacua videtur; nam et remota ea lege hoc utique iure
 gentium futurum erat.

Most of the gaps in the codex can be filled by reference to Tit.Ulp.

5.8:

conubio interveniente liberi semper patrem sequuntur: non
 interveniente conubio matris condicioni accedunt, excepto
 eo qui ex peregrino et cive Romana peregrinus nascitur,
 quoniam lex Minicia ex alterutro peregrino natum deterioris
 parentis condicionem sequi iubet.⁶²

Taken together, the two texts provide a reasonably clear picture of the
 provisions of the law: children born of a mixed marriage for which the
 partners did not enjoy conubium took the status of the non-Roman (i.e.
deterior) parent.⁶³ The law affected only one of the four types of mixed
 marriage, that of a peregrine man and a Roman woman for which there was not
conubium, which prior to its passage yielded Roman children iure gentium.
 Both before the law and after it, the children of a mixed marriage for which
 the partners possessed conubium took their father's status, and the children
 of a Roman man and a peregrine woman who did not possess conubium were
 born peregrines (hence Gaius calls this part of the law supervacua).

Gaius also applies the lex Minicia (Inst. 1.79) to Latins who at one time had their own populi and civitates and were considered to be peregrinorum numero. As argued above (pp. 24-25), these are probably the Latins resident in Italy before the Social War, apart from the Latini coloniarii. That part of Gaius' text in which he may have discussed the law's effect on Roman-Latin marriages is lost. But since he describes the Latins as peregrinorum numero, it can be inferred that they were classified with peregrines.

In treating of the lex Minicia, Gaius speaks only of marriage (uxorem duxerit), and I think it likely that the law applied only to marriages, not also to less formal unions, e.g. concubinage (Tit.Ulp. speaks only of birth: nascitur and natum). It follows that a Roman woman and a peregrine man could have ensured that their children would be Roman citizens by not marrying (iure gentium). But few Roman women (especially upper-class women) will have chosen to forgo marriage and the status it conferred so that their children would have the citizenship. And the children's right to succeed to their father's estate — Roman citizens could not inherit from peregrines — must often have been considered to be more valuable than the political and other rights of the citizenship (so the disenfranchised Campanians discussed above, p. 23).

A union of mixed status was transformed into a lawful Roman marriage if the peregrine partner acquired the citizenship.⁶⁴ Children born of the union after the peregrine partner had been enfranchised were Roman citizens. A somewhat more complicated rule governed the status of children conceived but not yet born when the peregrine partner acquired

the citizenship: since children conceived outside of lawful marriage (e.g. in a mixed marriage or in "random" intercourse: vulgo concepti) took their status from the time of birth, whereas those conceived of iustae nuptiae or a marriage valid in peregrine law took their status from the time of conception,⁶⁵ they were born Roman citizens.

It can be inferred from two passages in Gaius' Institutiones (1.92 and 1.94) that the lex Minicia did not apply to children conceived by two peregrines.⁶⁶ He reports that if a peregrine woman conceived outside of lawful peregrine marriage (vulgo), and acquired the citizenship while pregnant, she gave birth to a Roman citizen (i.e. the child took its mother's status iure gentium). And it was not until sometime during the reign of Hadrian that a senatus consultum was enacted which declared that if a child was conceived secundum leges moresque peregrinorum, and its mother acquired the citizenship before its birth, it was born a Roman citizen only if the citizenship was also awarded to its father. In any case, there is no recorded instance of the granting of the citizenship to a peregrine (man or woman) without a corresponding grant of the citizenship to his (or her) partner or a simultaneous grant of conubium.

A Roman citizen could lose his status in several ways. Capture in war resulted in capitis deminutio maxima, loss of both citizenship and freedom.⁶⁷ Marriage was dissolved by capture, since there could be no marriage with a slave.⁶⁸ Children born to a captive took their mother's status (iure gentium), since the lex Minicia did not apply to children born of a slave parent.⁶⁹ By right of postliminium, a captive could regain

his citizenship and freedom.

A senatus consultum promulgated during the reign of Hadrian provided that a free-born Roman woman who cohabited with a slave without his owner's consent could be stripped of the citizenship and freedom.⁷⁰

Children conceived by the slave but not yet born when she lost her freedom, because they took their status from the time of birth, were born slaves.⁷¹

A Roman citizen convicted of a capital offence and banished to a remote place (deportatio) underwent capitis deminutio minor (or media), loss of citizenship without loss of liberty.⁷² Deportatio probably dissolved marriage.⁷³ But interdiction from fire and water, which also entailed capitis deminutio minor,⁷⁴ appears not to have dissolved marriage.⁷⁵ Relegatio (e.g. of Ovid to Tomis in A.D. 8) brought about neither loss of citizenship nor loss of freedom.⁷⁶

The Lex Minicia: Enforcement

There is no evidence of how the lex Minicia was enforced. Though a punitive law, it appears to have established no method of enforcing what it prescribed (i.e. that a child born of a mixed marriage take the status of its "inferior" parent).⁷⁷ The status of children born of mixed unions will probably not have become an issue unless they were betrayed to the authorities or laid claim to Roman status in a Roman court of law or before a Roman magistrate, e.g. in a case involving the law of succession (peregrines could not inherit from Roman citizens).⁷⁸ It follows that there were probably regional differences in the degree to which the law

was enforced, varying according to the extent to which Roman law was known and applied.

The lex Minicia probably applied to all Roman citizens, both those living in Italy and those resident in the provinces.⁷⁹ Some Roman laws which dealt largely with matters of contract or property affected only Roman citizens in Italy. An example is the lex Furia (probably passed in the first century B.C.), which regulated the release of sponsores and fidepromissores.⁸⁰ But this is hardly likely to have been the case with the lex Minicia. Neither Gaius nor the Tituli Ulpiani distinguishes between Roman citizens in Italy and Roman citizens in the provinces. There is at least one recorded case of Roman citizens being governed by local law (Chios).⁸¹ But (again) real estate was involved, not the law of personal status. I cannot believe that local magistrates or other officials could ever have overruled the lex Minicia.

Mixed Marriage in Peregrine Law

The status of mixed marriages in peregrine or local law is not attested.⁸² Of the Roman jurists, only Gaius shows any interest in peregrine law, and then only when it was likely to become an issue in Roman law (e.g. when the citizenship was granted to one partner of a peregrine marriage).⁸³ According to Cicero (Balb. 20), peregrine communities had the right to adopt or reject Roman legislation. But even if he was correct (and he almost certainly was),⁸⁴ no peregrine community will have chosen to adopt the lex Minicia and punish the children of those who had the good fortune to marry a Roman citizen. Mixed marriages were

probably valid, or at least not penalized, in peregrine law.

The Marriage of Romans and Latins

The union of a Roman citizen and a Junian Latin (an informally or improperly manumitted slave) was (in part) governed by the lex Aelia Sentia of A.D. 4.⁸⁵ The law declared that if an improperly manumitted slave (e.g. a slave manumitted when below the age of thirty) married a Roman citizen, a Latin colonist or a Junian Latin, testified to this in the presence of no less than seven adult (puberes) Roman citizens and then fathered a child by her, he could, when his son or daughter⁸⁶ was one year old, appear before a praetor at Rome or a provincial governor and attempt to prove that he had married e lege Aelia Sentia and that he had a year-old child. If the praetor or governor announced that the case was as stated, the man acquired the citizenship for himself, his child and his wife (if she was not already a citizen).⁸⁷ If the Latin died before proving his case, his wife could act in his place.⁸⁸ A senatus consultum of c. A.D. 75 extended these privileges to informally manumitted slaves (inter amicos or per epistulam).⁸⁹ Gaius does not say that the same rights were enjoyed by Junian Latin women who married Roman citizens or Latin colonists.⁹⁰ The Roman jurists (Gaius included) regularly subsume women in the masculine gender. But that is not likely to be the case here, since Gaius elsewhere indicates that Junian Latin men enjoyed other privileges which were denied to Junian Latin women.⁹¹

The lex Aelia Sentia created some confusion in juristic circles.

Some lawyers believed that the children of a Junian Latin who married a Roman woman e lege Aelia Sentia (i.e. in the manner described above), were born Latins, since the lex Aelia Sentia and the lex Iunia Norbana appeared to confer conubium upon those who married e lege Aelia Sentia, and because children born of a marriage for which the partners enjoyed conubium took their father's status. And they argued that the children of a Junian Latin who married a Roman woman other than e lege Aelia Sentia were born Roman citizens, since the couple did not possess conubium and because therefore the rule of ius gentium applied (i.e. the children took their mother's status). Other jurists believed, probably rightly,⁹² that children born of the marriage of a Junian Latin and a Roman woman took their status iure gentium whether their parents had married e lege Aelia Sentia or otherwise. This was the opinion which eventually prevailed: a senatus consultum of the reign of Hadrian declared ut quoquo modo ex Latino et cive Romana natus civis Romanus nascatur.⁹³

The status of children born to a Roman man and a Junian Latin was probably governed by ius gentium. That part of Gaius Inst. 1.79 where he probably described the rule is illegible. The passage begins with adeo autem hoc est, ut and ends with solum exterae nationes et gentes, sed etiam qui Latini nominantur; sed ad alios Latinos pertinet, qui proprios populos propriasque civitates habebant et erant peregrinorum numero. Inst. 1.80 begins with eadem ratione ex contrario ex Latino et cive Romana, sive ex lege Aelia Sentia sive aliter contractum fuerit matrimonium, civis Romanus nascitur. The phrase eadem ratione ex contrario implies

that the converse of this rule was expressed in the preceding sentence (i.e. in Inst. 1.79) and so makes plausible Mommsen's restoration of ex cive Romano et Latina qui nascitur Latinus nascatur, quamquam ad eos qui hodie Latini appellantur lex Minicia non pertinet; nam comprehenduntur quidem peregrinorum appellatione in ea lege non.

The Latins in Caius are almost all Junian Latins. He once mentions (Inst. 1.29) coloniariae Latinae in connection with the granting of the citizenship to Junian Latins who married e lege Aelia Sentia, and subjects to the terms of the lex Minicia (Inst. 1.79) those Latins qui proprios populos propriasque civitates habebant et erant peregrinorum numero (probably the Latins resident in Italy before the Social War). It is arguable whether Latin colonists and other Latins (e.g. those who had acquired their status iure Latii) were lumped together with those who were peregrinorum numero, and so governed by the lex Minicia, or classified with Junian Latins, and therefore governed by ius gentium.⁹⁴ Nothing can be deduced from the senatus consultum which provided that quoquo modo ex Latino et cive Romana natus civis Romanus nascatur, for quoquo modo refers not to the types of Latins who were to be governed by ius gentium, but to the form of marriage contracted (sive ex lege Aelia Sentia sive aliter).

The Law of Mixed Marriage Ameliorated: Erroris Probatio

An unnamed and undated senatus consultum⁹⁵ legitimized certain types of mixed marriage contracted by mistake (e.g. if a Roman married a peregrine woman in the belief that she was a Roman). It was promulgated

sometime between the passage of the lex Iunia Norbana — it treated of Junian Latins — and a senatus consultum of the reign of Hadrian, which altered some of its provisions and which is probably to be identified with the senatus consultum which subjected Roman-Latin marriages to the rule of ius gentium.

If a Roman woman married a peregrine, and could prove that she had believed him to be a Roman citizen (causam erroris probare), the citizenship was awarded to her husband and children (sons or daughters).⁹⁶ There was the same result if she married a peregrine in the belief that she was marrying a Junian Latin e lege Aelia Sentia (i.e. in the manner described in Gaius Inst. 1.29). But if she married a dediticius⁹⁷ in the belief that she was marrying a Roman or a Junian Latin e lege Aelia Sentia, the citizenship was awarded only to her children.⁹⁸ ✓

If a Roman man married a peregrine or Junian Latin and could prove that he had believed her to be a Roman citizen, his wife and children were enfranchised.⁹⁹ If he married a peregrine or Junian Latin in the belief that he himself was a peregrine or Latin,¹⁰⁰ the citizenship was awarded to his wife and children.¹⁰¹ But if he married a woman who was in dediticiorum numero in the belief that she was a Roman citizen, only his children were granted the citizenship.¹⁰² Gaius does not say that the senatus consultum provided for the case of a Roman man who married a peregrine in the belief that he was marrying a Junian Latin e lege Aelia Sentia. This, together with the passage (Inst. 1.29) in which he assigns the benefits of the lex Aelia Sentia only to Junian Latin men who married Roman citizens or Latin colonists or Junian Latins, suggests

that Junian Latin women could not marry Roman citizens e lege Aelia Sentia.¹⁰³

Junian Latins were also entitled to sue for the favor of the senatus consultum. A Junian Latin woman who married a peregrine in the belief that he was a Junian Latin and who was able to prove that she had married in error, acquired the citizenship for herself, her husband and her children.¹⁰⁴ The same right was extended to Junian Latin men who married peregrine women believing them to be Junian Latins or Roman citizens.¹⁰⁵

Gaius reports (Inst. 1.74) that there was for a time some doubt about whether a peregrine could apply for the benefits of the senatus consultum (quaesitum est). The issue was settled, at least to his satisfaction, by a rescript of Antoninus Pius, from which it could be inferred that peregrines were eligible: Antoninus declared that a peregrine who married a Roman woman, fathered a child by her, and then in some way acquired the citizenship, could try to prove that he had married in error (presumably in order that his son be enfranchised) just as if he had not become a Roman citizen (atque si peregrinus mansisset).

In the section of the Institutiones where Gaius sketches the rules governing erroris probatio (1.67-75), he nowhere describes the procedure to be followed in applying for the benefits of the senatus consultum. However it can be inferred that it was the same as that followed by Junian Latins who married e lege Aelia Sentia and applied for the citizenship. He several times uses filio nato in connection with erroris causam probare, and in Inst. 1.73 reveals that a man could try to prove that he had been mistaken about his wife's (or his own) status regardless of the age of his

filius or filia: et quantum ad erroris causam probandam attinet, nihil interest cuius aetatis filius sit filiave.¹⁰⁶ It seems likely then that a man who wanted to obtain the benefits of the senatus consultum was required to attest his marriage in the presence of at least seven adult Roman citizens and then, upon the birth of a son or daughter, plead his case before one of the praetors or before a provincial governor.

In the upshot, the senatus consultum intervened to better the condition of the partners and children of certain types of mixed marriage contracted because one partner had been mistaken about the other's (or his own) status.¹⁰⁷ It did so by granting the citizenship and, concomitantly, patria potestas, which is what Gaius had uppermost in mind in abstracting its provisions:

et ideo superius rettulimus [1.67-75] quibusdam casibus,
per errorem non iusto contracto matrimonio, senatum
intervenire et emendare vitium matrimonii, eoque modo
plerumque efficere ut in potestatem patris filius redigatur.¹⁰⁸

But help was not immediately forthcoming for those who knowingly contracted mixed marriages:

si vero nullus error intervenerit, sed scientes suam
condicionem ita coierint, nullo casu emendatur vitium
eius matrimonii.¹⁰⁹

It was not until sometime in the reign of Hadrian that the rules governing mixed marriage were relaxed, and even then not much.

The Law of Mixed Marriage Ameliorated: Hadrian

A senatus consultum promulgated during the reign of Hadrian, probably

to be identified with the one which Gaius says applied ius gentium to Roman-Latin marriages,¹¹⁰ decreed:

etiamsi non fuerit conubium inter civem Romanam et peregrinum, qui nascitur iustus patris filius est.¹¹¹

Children born of the marriage of a Roman woman and a peregrine man for which there was not conubium were henceforth to be treated as legitimate (iusti filii)¹¹² in Roman law (I suspect that they had always been treated as legitimate in peregrine law).¹¹³ Hadrian's generosity did not extend to making iusti filii the children born of a Roman man and a peregrine woman who did not enjoy conubium, for that would have made the children of at least some mixed marriages Roman citizens.¹¹⁴

The same senatus consultum decreed that the child of a Junian Latin and a peregrine woman or of a peregrine and a Junian Latin woman should take its mother's status (i.e. iure gentium). Gaius does not say (Inst. 1.81) whether the senatus consultum introduced or reiterated the rule.

The senatus consultum also declared that if a child was conceived in accordance with peregrine laws and custom, and its mother acquired the citizenship before its birth, it was born a Roman citizen only if the citizenship was also awarded to its father. This rule followed from the principle that a child conceived in lawful marriage (Roman or peregrine) took its status from the time of conception. It is one of the very few instances in which Roman law took into account leges moresque peregrinorum. If a child was conceived outside of lawful marriage (vulgo), and its mother acquired the citizenship before its birth, it was born a Roman

citizen (i.e. took its status from the time of birth).¹¹⁵

Antoninus Pius: The Lex Minicia Amended?

The reforms of Hadrian did not affect the operation of the lex Minicia, which can perhaps be seen at work in the mid second century A.D. travelogue of Pausanias (8.43.5: Arcadia):

ὅσοις τῶν ὑπηκόων πολῦταις ὑπῆρχεν εἶναι Ῥωμαίων,¹¹⁶
οἱ δὲ παῖδες ἐτέλουν σφύσιν ἐς τὸ Ἑλληνικόν, τοῦτοις
ἐλείπετο ἢ καταναεῖναι τὰ χρήματα ἐς οὐ προσήκοντας ἢ
ἐπαυξῆσαι τὸν βασιλέως πλοῦτον κατὰ νόμον δὴ τινα.

The children were Greek probably because one of their parents was Greek and because the lex Minicia ordered the children of a mixed marriage to take the status of their "inferior" (deterior) parent.¹¹⁷ The νόμος is either the lex Minicia or, more likely in view of its place in the sentence, the rule that peregrines could not inherit from Roman citizens¹¹⁸ (hence property bequeathed by a Roman to his peregrine children could be confiscated by the imperial treasury: ἐπαυξῆσαι τὸν βασιλέως πλοῦτον). Antoninus Pius benevolently ἐφῆκε καὶ τοῦτοις οὐδὲναι σφᾶς πατρὶ τὸν κληρὸν, προτιμήσας φανῆναι φιλόανθρωπος ἢ ὠφέλιμος ἐς χρήματα φυλάξαι νόμον. It is arguable whether he abolished the rule which barred peregrines from inheriting the property of a Roman citizen or set it aside only for the peregrine children of a Roman parent¹¹⁹ or granted a special exemption to the children of mixed unions in Arcadia. This last view finds some support in τοῦτοις, which recalls ὅσοις τῶν ὑπηκόων πολῦταις and seems to narrow the scope of φυλάξαι νόμον.¹²⁰

Mixed Marriage in Egypt

Roughly contemporaneous with the passage in Pausanias and even more problematic is the papyrus generally known as the Gnomon of the Idios Logos (BGU Vol. 5),¹²¹ which provides in summary form a collection of regulations, mostly of a financial nature, originally drawn up during the reign of Augustus, amended and augmented by later emperors, Egyptian prefects, financial officials and the Roman Senate, and designed to be used in the administration of the ἰδίος λόγος (the emperor's "private account"). The list of rules preserved in BGU Vol. 5 was probably compiled in the mid second century A.D. on the orders of the idiologus, who, apart from the prefect, was the chief financial official in Egypt. Fragments of an earlier version (P.Oxy. 3014), which seems to vary only slightly from BGU Vol. 5, date perhaps to the middle of the first century A.D. and almost certainly to the period before the reign of Hadrian.

The Gnomon of the Idios Logos contains a mixture of Roman law and Egyptian law, and a wide variety of provisions: clause 41 orders the confiscation of one-quarter of the estate of any Egyptian who rears and adopts a child exposed on the dung-heap (ἐκ κομπῶς); clause 29 declares that unmarried free-born Roman women with property valued at 20,000 sesterces or more must pay to the treasury annually one hundredth of its value so long as they remain unmarried (presumably a means of enforcing the Augustan laws on marriage). There are numerous clauses treating of the rights, duties and salaries of Egyptian priests and temple-helpers (71-97), and several which regulate the intermarriage of Macedonian women (Κρηναίαι), foreigners (ξένου), ἀσπίου (probably Alexandrian citizens),

Egyptians (Αἰγυπτίου), women of the Islands (Νησιώτιδας), the freedmen of Alexandrian citizens (ἀπελευθέρου Ἀλεξανδρέων), Syrians (Σύροι), and Paraetonians (Παραιτονίου).¹²²

Three clauses treat of marriage between Roman citizens and non-citizens. Clause 52 permits the intermarriage of Romans and Egyptians: Ῥωμαίους ἐξὸν Αἰγυπτίαν γ[ήμα]. But clause 39 prescribes the rule laid down by the lex Minicia:

Ῥωμαίου ἢ Ῥωμαίας κατ' ἄγνοιαν συνελθόντων ἢ ἀστοῦς ἢ Αἰγυπτίου τὰ τέκνα ἥτιονι γένει ἀκολουθεῖ.

The phrase ἥτιονι γένει is probably a translation of the jurists' deterior parens.¹²³ I do not know what to make of ἄγνοιαν: it may be ignorance of the difference in status or it may be ignorance of the law. It is even more puzzling in light of clause 46:

Ῥωμαίους καὶ ἀστοῦς κατ' ἄ[γνοι]αν Αἰγυπ[τι]αὺς
συνελθοῦσι συνεχωρήθη μετὰ τοῦ ἀνευθύ[ν]ους εἶναι
καὶ τ[ὰ] τέκνα τῷ πατρικῷ γένει ἀκολουθεῖ.

The status of these children is governed neither by the lex Minicia nor by ius gentium (they take their father's status). Much may hinge on the mysterious phrase μετὰ τοῦ, which could mean almost anything. On the basis of what is known of the Roman law of mixed marriage of this period, it is tempting to try to reconcile clauses 39 and 46 by identifying the ἄγνοιαν of clause 39 as ignorance of the law, the ἄγνοιαν of clause 46 as ignorance of the difference in status, and μετὰ τοῦ as a veiled or much compressed reference to a sort of erroris probatio¹²⁴ whereby

children born of the union of a Roman or an Alexandrian citizen and an Egyptian woman were granted the status of their father (τῷ πατρικῷ γένει ἀκολουθεῖ). But this is probably wishful thinking, and perhaps unnecessary. There is no reason why the rules governing mixed marriage in Egypt should have been identical to those described in Gaius' Institutiones and the Tituli Ulpiani. There were probably a great many regional variations in the application of the Roman law of mixed marriage, and it must have come as a relief to Roman officials and their subjects when the Constitutio Antoniniana largely swept away the foundations on which it had rested.

Chapter II

The Children of Mixed Marriage

Consonantly with the temper of the Roman law of personal status, which customarily reserved its harshest penalties for the offspring of the disobedient, it was the children of mixed marriages who bore the brunt of the disabilities which followed. Born illegitimate (in Roman law)¹ and, by the terms of the lex Minicia, non-Roman, they suffered a variety of handicaps, mostly legal in nature.

Non-Romans and the Ius Civile

The children of a mixed marriage, whether born peregrine or Latin, possessed none of the rights and privileges enjoyed by Roman citizens, e.g. the right to appeal conviction in a capital case (originally ad populum, later, to the emperor),² and exemption from flogging or torture.³ They also lacked conubium and commercium, unless these had been granted to them by the government.⁴ And though the distinction between Romans and non-Romans gradually broke down in the first two centuries A.D.,⁵ non-Romans continued to be punished more harshly than Romans for identical crimes. The double standard can be seen at work in A.D. 16 when Tiberius expelled from Rome those astrologers and magicians who were Roman citizens and executed those who were not,⁶ and during the persecutions at Lyons in A.D. 177 when Christians with the citizenship were beheaded and those without it were thrown to the beasts of prey.⁷

Peregrines and Latins were denied access to most of the institutions of Roman civil law (the ius civile). They could not acquire or alienate property by mancipatio,⁸ in iure cessio,⁹ or usucapio,¹⁰ since mancipationis et in iure cessionis et usucapionis ius proprium est civium Romanorum.¹¹

Probably from 46 B.C. (the passage of a lex Iulia), certain rules governing civil procedure varied according to the citizenship status of the iudex and of the litigants. If a civil case was brought to trial at Rome or within the first milestone of Rome before a single iudex, and if all parties (including the iudex) were Roman citizens, the trial was allowed to proceed for eighteen months. But if the iudex or one of the litigants was not a Roman citizen, the trial was allowed to proceed only so long as the magistrate who had authorized it retained his imperium.¹² Sometimes peregrines (and, by inference, probably Latins) could bring suit or be brought to trial iure civili. The law pretended that the peregrine was a Roman citizen (civitas Romana peregrino fingitur). But the privilege was granted only when it was considered to be equitable (iustum) that one of the parties be entitled to an actio, for example in a case of theft (actio furti) or of wrongful damage under the lex Aquilia,¹³ and it is likely that more often than not peregrines were barred from access to Roman civil procedure (legis actiones).

Peregrines and Latins generally had no place in the Roman law of obligations. Gaius says (Inst. 3.132) that peregrines were not bound by a nomen arcarium (a type of obligation created by the payment of cash).¹⁴ The jurists debated whether they were bound by a nomen transcripticium (a form of obligation based on an entry in an account book: litteris):

Nerva thought that this type of obligation was iuris civilis; Sabinus and Cassius argued that they were bound if the obligation was a re in personam, but not if it was a persona in personam.¹⁵ Peculiar to peregrines was the obligation created by chirographi (hand-written undertakings, promises or bonds) and syngraphae (written contracts signed by both parties).¹⁶

Since most forms of verbal contract were governed by ius gentium, they were valid between all men, citizens and non-citizens. They were valid between peregrines even when expressed in Latin, si modo Latini sermonis intellectum habeant.¹⁷ But one form of verbal contract, stipulatio, which in its earliest form always employed the formula dari spondes? spondeo,¹⁸ was valid only between Roman citizens.¹⁹ The rule extended so far that a sponsor or fidepromissor was not bound on behalf of a peregrine who made a promise using the word spondeo.²⁰

A partnership (societas) based on simple consent (nudus consensus), like most forms of verbal contract, was governed by ius gentium and so valid among all men naturali ratione.²¹ However the type of partnership called ercto non cito, which provided for undivided ownership among proper heirs (sui heredes), was peculiar to Roman citizens.²²

Patria Potestas²³

The Roman lawyers considered patria potestas to be an exclusively

Roman institution:

item in potestate nostra sunt liberi nostri quos iustis nuptiis procreavimus. quod ius proprium civium Romanorum est.²⁴

A non-Roman could neither have a Roman citizen in his potestas nor be in the potestas of a Roman citizen:

nec enim ratio patitur ut peregrinae condicionis homo civem Romanum in potestate habeat aequae ratio non patitur ut peregrinae condicionis homo in potestate sit civis Romani parentis.²⁵

It follows that the children of a mixed marriage were not in their father's potestas at birth.²⁶ And unlike illegitimate Roman children, they could not be brought under potestas through adrogation,²⁷ since non-Romans could not be adrogated.²⁸

A paterfamilias who was stripped of the citizenship (e.g. through interdiction from fire and water) ceased to have his children in his potestas. Conversely, a filiusfamilias who lost the citizenship ceased to be in his father's potestas.²⁹ However the same principle did not always apply in the case of enfranchised peregrines.³⁰ If a peregrine acquired the citizenship for himself and his children, they did not come under his potestas unless the emperor subjected them to it.³¹ This he did only if he judged it to be in their best interests. According to Gaius (Inst. 1.93), it was customary for emperors to examine most carefully the cases of children who were below the age of puberty and of those who did not appear before them. He also says (Inst. 1.93) that the rules governing the acquisition of patria potestas by enfranchised peregrines were laid down in an edict of Hadrian. But their origin is probably much earlier.³²

Testamentary Succession: Roman Law

The children of mixed marriages were acutely disadvantaged in the Roman law of inheritance.³³ They could not accept anything bequeathed to them by their Roman parent, because peregrines and Latins (at least Junian Latins)³⁴ could not receive inheritances or legacies from Roman citizens:

peregrini quidem ratione civili prohibeantur capere³⁵
hereditatem legataque, Latini vero per legem Iuniam.

Anything bequeathed to a non-Roman could be confiscated by the state.³⁶

The jurists talk of vitium personae:

tunc autem vitio personae legatum non valere, cum ei
legatum sit cui nullo modo legari possit, velut peregrino,
cum quo testamenti factio non sit.³⁷

The rule extended so far that a Roman could not bequeath even a usufruct to a peregrine.³⁸

If a Roman lost his citizenship, he could not accept anything left to him by a Roman citizen.³⁹ And that the converse was true, i.e. that enfranchised peregrines could not receive inheritances or legacies from peregrines, is clear from clause 54 of the Gnomon of the Idios Logos, which records a ruling of Ursus, prefect of Egypt c. A.D. 84/85:

Θυγατρί μ[ι]σσηκίου Ῥωμαῖα γενομένη Οὐρσοῦ οὐκ
[ἐπέτρε]ψε κληρον[ομ]ῆσαι τὴν μητέρα (sic)
Αἰγ[υπ]τίαν οὖσαν.

The rules governing the inheritance rights of the offspring of

mixed marriages were altered, at least to some extent, by Antoninus Pius. Pausanias says (8.43.5) that he allowed some Roman citizens to leave their property to their Greek children (Greek probably because they had been born of Roman-Greek marriages), because he preferred to appear benevolent than to enrich the imperial treasury (i.e. through the confiscation of illegal bequests). Pausanias does not make it clear whether he allowed all peregrines to inherit from Roman citizens, or only the peregrine children of a Roman parent,⁴⁰ or only the children of mixed unions in Arcadia (the setting of Pausanias 8.43.5).⁴¹

(i) A (Temporary) Loophole: Fideicommissa

One way in which a Roman could leave something to his non-Roman child was through a trust (fideicommissum), i.e. by appointing someone his heir with the request that the heir pass on all or part of the estate to the child. Peregrines⁴² and Latins⁴³ were expressly allowed to receive fideicommissa.

In Republican law, an heir who refused to execute a fideicommissum could not be prosecuted for breach of trust.⁴⁴ Augustus, moved by personal favor, the pleas of testators or notorious examples of breach of trust, intervened:

postea primus divus Augustus semel iterumque gratia personarum motus, vel quia per ipsius salutem rogatus quis diceretur, aut ob insignem quorundam perfidiam iussit consulibus auctoritatem suam interponere. quod quia iustum videbatur et populare erat, paulatim conversum est in adsiduam iurisdictionem.⁴⁵

From the reign of Augustus then (or shortly after), a Roman could leave

something to his peregrine or Latin child in a way which was protected by law.

Since trusts were much more flexible than inheritances or legacies,⁴⁶ (though not unregulated⁴⁷), they were quickly seized upon, at least by the wealthy,⁴⁸ as a means of evading various restrictions on rights of inheritance.⁴⁹ Not surprisingly then, the law eventually clamped down. Fideicommissa were gradually assimilated to legacies and subjected to the same restrictions. A senatus consultum Pegasianum promulgated during the reign of Vespasian made them liable to the terms of the lex Falcidia, so that no more than three-quarters of an estate could be left in trust.⁵⁰ And Vespasian declared that peregrines could not receive trusts from Roman citizens.⁵¹

Intestate Succession: Roman Law

If a Roman citizen died intestate (and the large majority of Roman citizens probably died intestate),⁵² the Praetor's Edict awarded possession of the estate (bonorum possessio) in a fixed order of succession: first to liberi, i.e. proper heirs (sui heredes), those children who were in the man's poteestas at the time of his death, then, if there were no liberi or if they were ineligible, to legitimi (normally the nearest agnate relatives); thirdly, if no one was yet eligible, to cognati (blood relatives apart from the nearest agnates), and lastly, and probably very rarely, to his wife.⁵³

There is no evidence for the position of the peregrine child of a Roman parent. I think it likely that he will have had a very low claim,

if any, on the estate.

Succession: Peregrine Law

There is also no evidence for the rules governing succession (testamentary or intestate) to the estate of the non-Roman partner of a mixed marriage. I hazard that peregrine law will not have barred the peregrine partner of a mixed marriage from appointing his peregrine child heir (or legatee) or the child from claiming his estate if he were to die intestate.

Gaius reports (Inst. 1.77) that a senatus consultum of the reign of Hadrian provided that the son of a Roman woman and a peregrine man should be iustus patris filius (i.e. legitimate).⁵⁴ It can be inferred that prior to the reign of Hadrian the children of mixed marriages were not considered to be iusti filii. But I am convinced that Gaius is writing of their status in Roman, not peregrine, law, for I find it hard to believe that the children of mixed marriages were ever considered to be illegitimate in peregrine law. I cannot readily explain why Roman law should have been concerned with the legitimacy (or illegitimacy) of the peregrine children of peregrine fathers. Perhaps the author(s) of the senatus consultum thought it worthwhile to define their status because the enfranchisement of a peregrine and his children brought them under the jurisdiction of the ius civile.

The Law of Succession: Conclusion

In short, the children of a mixed marriage had little chance of

acquiring the estate of their Roman parent, whether he (or she) died testate or intestate (except perhaps in the early first century A.D., when they could be left property per fideicommissum). And the Roman authorities did little to better their lot. The reform in the law of inheritance which Pausanias attributes to Antoninus Pius was probably narrow in scope. And few will have benefitted from the senatus consultum which awarded the citizenship to the children of a mixed marriage if one of their parents could prove that he had been mistaken about his own or his partner's status.⁵⁵ Somewhat more was done for soldiers' children.

Military Privilege: The Children of Soldiers

For much of the first two centuries A.D. (at least from the reign of Claudius until that of Septimius Severus), soldiers' children took their mother's status (i.e. iure gentium), since soldiers were forbidden to marry,⁵⁶ and because the lex Minicia applied only to marriages: the children of soldiers and Roman women were illegitimate Roman citizens; the children of soldiers and peregrine women were illegitimate (in Roman law) peregrines.

Roman soldiers (i.e. citizens serving in the legions, the Praetorian Guard and the auxilia)⁵⁷ who made a military will were allowed to appoint peregrines or Latins their heirs or legatees:

praeterea permissum est iis [i.e. militibus] et peregrinos
et Latinos instituere heredes vel iis legare.⁵⁸

The introduction of this privilege cannot be dated. It may be coeval with

the introduction of the military will. Ulpian says (Dig. 29.1.1.pr.) that it was Julius Caesar who first relaxed the rules governing soldiers' wills, sed ea concessio temporalis erat. The privileges of the military will were reintroduced by Titus, reaffirmed by Domitian, perhaps expanded by Nerva,⁵⁹ and entrenched in law by Trajan. It was during his reign that they were first recorded in the mandata issued to provincial governors, a chapter of which is quoted by Ulpian:

cum in notitiam meam prolatum sit subinde testamenta a commilitonibus relicta proferri, quae possint in controversiam deduci, si ad diligentiam legum revocentur et observationem: secutus animi mei integritudinem erga optimos fidelissimosque commilitones simplicitati eorum⁶⁰ consulendum existimaui, ut quoquomodo testati fuissent, rata esset eorum voluntas. faciant igitur testamenta quo modo volent, faciant quo modo poterint sufficiatque ad bonorum suorum divisionem faciendam nuda voluntas testatoris.

That the peregrine children born to a Roman soldier and a peregrine woman were illegitimate in Roman law,⁶¹ probably did not affect his right to bequeath property to them, since illegitimate children could be appointed heirs or legatees in a Roman will.⁶²

Another privilege afforded soldiers' children is described in a letter of Hadrian sent to Rammius, prefect of Egypt in A.D. 119, and posted in the winter camp of legio III Cyrenaica and legio XXII Deiotariana:

ἐπί[σ]ταμαι, 'Ράμμιε,⁶³ μου, τ[ο]ύτους ο[ὗ]ς οἱ γονεῖς αὐτῶν τῇ τῆς στρατείας ἀνεῖ - λαντο χρόνῳ τὴν πρὸς τὰ πατρικὰ [ὕ]π[α]ρχοντα πρόσδοτον κεκαλῦσθαι, καὶ τ[ο]ῦτο οὐκ ἐδόκει σκληρὸν εἶ[ν]αι [τοῦ]ναντίον αὐτῶν τῆς στρατιω[τι]κῆς [δ]ιδά[χ]ῃς πεποιηκότων. ἥδιστα δὲ αὐτοὺς προεῖναι τὰς ἀφορμὰς δι' ἃν τὸ αὐστηρότερον ὑπὸ τῶν πρὸ ἐμοῦ αὐτοκρατόρων σταθὲν φιλανθρωπῶ - τερ[ο]ν ἐρμηνεύω. ὅνπερ τοιγαροῦν τ[ρ]ό[π]ον οὐκ εἶσιν νόμιμοι

κληρο - [νόμ]οι τῶν ἑαυτῶν πατέρων οἱ τῷ [τ]ῆς στρατείας
 χρόνῳ ἀναλημφθέντες, ὅπως κατοχή[ν] ὑ[πα]ρχόντων ἐξ ἐκεῖνου
 τοῦ μέ[ρ]ους τοῦ διατάγμα - τος οὐ καὶ τοῖς πρὸς [γ]ένους
 συγγενέσι δίδονται αἰτεῖσθαι δύνασθαι καὶ αὐτοὺς κρε[ῖν]ω.
 ταύτην μου τὴν δωρεὰν καὶ τοῖς στρατιώταις ἐμοῦ καὶ τοῖς
 οὐε - τρανοῖς εὐγνωστόν σε ποιῆσαι δεή - σει, οὐχ ἕνεκα
 τοῦ δοκεῖν με αὐτοῖς ἐνλογεῖν, ἀλλὰ ἵνα τοῦτω χρῶνται,
 εἰς ἀγνοῶσι.⁶⁴

Soldiers' children could now claim bonorum possessio if their father were to die intestate just as if they were cognate relatives (unde cognati),⁶⁵ i.e. in the third degree of succession after proper heirs (sui heredes) and the nearest agnate relatives. Since bonorum possessio was iuris civilis, I think it unlikely that peregrine children were eligible, i.e. the children of peregrine women and Roman or peregrine soldiers.

Much better off, at least from the reign of Claudius until c. A.D. 140, were the peregrine children of auxiliary and naval veterans, for they were awarded the citizenship when their father was discharged.⁶⁶ The peregrine children of legionary and praetorian veterans were not granted the citizenship.⁶⁷

Chapter III

Soldiers and Veterans

At least from the reign of Claudius until that of Septimius Severus, soldiers¹ (legionaries and auxiliaries) were forbidden to marry. It is frequently, and rightly, remarked that the prohibition did not prevent soldiers from forming unions with women, whom they treated as their "wives". Less happily, and, I shall try to show, unfoundedly, it is sometimes argued that most of these unions were of mixed status.²

From the reign of Claudius (if not before), auxiliary and naval veterans were awarded the Roman citizenship (if needed) and, like praetorian veterans, conubium with peregrine women. Most students of the Roman army and of the diplomas which recorded these privileges believe that many of these veterans contracted lawful marriages with non-Roman women.³ But no evidence has ever been adduced, and the testimony of the veterans' epitaphs which I have studied suggests that the large majority of married veterans had Roman wives.

The Ban on Soldiers' Marriages

The ban on soldiers' marriages is widely attested, expressly in BGU 114.1.⁴ In A.D. 117, a woman named Lucia Macrina appeared before the Egyptian prefect Rutilius Lupus, and tried, through her representative Phanius, to claim the estate of her "husband" Antonius Germanus, who had

been a soldier (probably an auxiliary)⁵ at the time of his death. She was abruptly dismissed:

νοοῦμεν ὅτι αἱ παρακαταθήκαι προῦκ' εἰσιν. ἐκ τῶν τοιούτων αἰτιῶν κριτὴν οὐ δίδωμι· οὐ γὰρ ἔξεστιν στρατιώτην γαμεῖν. εἰ δὲ προῦκα ἀπαίτεῖς, κριτὴν δίδωμι[λ], δόξω πεπεῖσθαι νόμιμον εἶναι τὸν γάμον.

The tone of the document, and Lupus' blanket statement — οὐ γὰρ ἔξεστιν στρατιώτην γαμεῖν — strongly suggest that the ban applied to all soldiers (i.e. legionaries and auxiliaries, citizens and non-citizens).⁶

The prohibition evidently did not apply to officers, certainly not to those at or above the rank of centurion.⁷ Of the 47 officers recorded on the epitaphs of Germania Superior and Germania Inferior collected in CIL 13, 51.1 % (24) are attested with wives and/or children, in comparison to 6.3 % (14) of the 222 soldiers recorded (3.8 % of the legionaries and 12.3 % of the auxiliaries).⁸

A different set of regulations governed the marriage rights of equestrian officers (tribuni, praefecti cohortum and praefecti equitum). At least from the reign of Septimius Severus, they were forbidden to marry women of the province in which they were stationed.⁹ The prohibition was probably designed to prevent them from using their influence to pressure women into marriage.¹⁰

The introduction of the ban on soldiers' marriages can be taken back to at least A.D. 44. In his account of that year, Dio reports (60.24.3) that Claudius granted to soldiers the legal rights and privileges normally reserved for married men, because they could not lawfully

marry:

τοῖς τε στρατευομένοις, ἐπειδὴ γυναῖκας οὐκ ἐδύναντο
ἔκ γε τῶν νόμων ἔχειν, τὰ τῶν γεγαμηκότων δικαιώματα
ἔδωκε.

They were henceforth exempt from the penalties for celibacy established by the lex Iulia de maritandis ordinibus of 18 B.C.¹¹

I doubt that Claudius himself introduced the prohibition, since he tried to mitigate its effects. More likely to be the author of the ban is Augustus, who made several reforms in the organization of the armed forces, and in 13 B.C. altered the length and conditions of military service.¹² In any case, the proscription was not in effect in the late Republic.¹³

It is not clear how the ban was introduced. Dio talks of laws (νόμου), and most students of the Roman army have concluded that soldiers were forbidden to marry "by law".¹⁴ I think it more likely that the ban was made a condition of service by imperial fiat.

The purpose of the prohibition is not explicitly attested. Most scholars believe, I think rightly, that it was introduced because the authorities considered marriage and fatherhood to be inimical to military discipline.¹⁵ Hadrian evidently thought that fatherhood undermined discipline. In his letter to Rammius, prefect of Egypt in A.D. 119, he declares that he does not think it harsh to bar soldiers' children from inheriting their father's property,¹⁶ since such soldiers acted contrary to military discipline: κ[αὶ] τοῦτο οὐκ ἐδόκει σκληρὸν εἶναι [τοῦ]ναντίον αὐτῶν τῆς στρατιωτικῆς [διδασ]χῆς πεποινηκότων.¹⁷

It is arguable what happened to the marriage of two civilians if the husband enlisted in the army. It is Peter Garnsey's view that "such marriages were not terminated by the husband's entry into the army".¹⁸ But since the upshot of such a policy would have been to create two classes of soldiers, one entitled to wives, and the other denied the right to marry, I think it more likely that marriage was dissolved by enlistment.

There is only one relevant legal text (Dig. 24.1.60-62), and it is inconclusive:

(Hermogenianus) *divortii causa donationes inter virum et uxorem concessae sunt: saepe enim evenit, uti propter sacerdotium vel etiam sterilitatem, (Gaius) vel senectutem aut valetudinem aut militiam satis commode retineri matrimonium non possit: (Hermogenianus) et ideo bona gratia matrimonium dissolvitur.*

Retineri indicates that Gaius had in mind a soldier married prior to his period of military service (militiam). Hermogenianus implies that divorce was a likely but not automatic result of enlistment (saepe enim evenit). Satis commode may refer to the difficulty of carrying on a normal married life. But it may be framed in reference to a legal impediment.¹⁹

Even more controversial is the date of the abolition of the ban on soldiers' marriages. Most scholars agree that Septimius Severus was responsible for lifting it.²⁰ But Garnsey contends that much of the literary,²¹ archaeological²² and juristic evidence "either is ambiguous, or favors the contrary view that Severus did not revoke the ban on soldiers' marriages".²³

Indirect evidence that Severus abolished the ban is furnished by a number of juristic texts which refer to soldiers who have wives and control dowries, and which date to the reign of Severus or shortly after. But their interpretation is problematical.

In several cases, Severan jurists cite the opinions of pre-Severan emperors or lawyers as the basis for their own rulings or as consistent with their own pronouncements.²⁴ An example is Dig. 49.17.16.pr., where Papinian says that a dowry cannot be part of a soldier's peculium castrense:

dotem filio familias datam vel promissam in peculio
castrensi non esse respondi.

From the time of Augustus, a soldier who was in his father's potestas was allowed to bequeath his peculium castrense, which comprised anything given to him by relatives or friends at the time of his enlistment or acquired during his tour of duty.²⁵ That Papinian mentions dowry suggests that he was thinking of marriage (i.e. not of a less formal sort of union or of betrothal).²⁶ But he goes on to say that his opinion is consistent with a decision made during the reign of Hadrian:

nec ea res contraria videbitur ei, quod divi Hadriani
temporibus filium familias militem uxori heredem
extitisse placuit et hereditatem in castrense peculium
habuisse.

Uxor must mean "former wife" (i.e. the woman to whom the soldier was married before he enlisted), since it is clear from BGU 114.1 (quoted above, p. 55) that in the time of Hadrian soldiers were forbidden to

marry. The passage cannot be taken as evidence that Severus lifted the ban, unless it is argued that in the two sentences Papinian refers to two different types of marriage, one contracted during service, the other prior to enlistment.²⁷

A number of other texts must be rejected because they may refer to marriages contracted before enlistment.²⁸ However several almost certainly refer to soldiers married during service. These constitute the best evidence for the abolition of the prohibition.

One of the texts frequently adduced is Dig. 48.5.12.1. It is a poor choice. According to Papinian:

militem, qui sororis filiam in contubernio habuit,
licet non in matrimonium, adulterii poena teneri
rectius dicetur.²⁹

B. Campbell believes that the soldier was subject to "punishment for adultery" (adulterii poena), and argues that licet non in matrimonium would be redundant if soldiers could not marry.³⁰ But adulterii poena should be rendered as "penalty of adultery", not as "punishment for adultery": the crime here was almost certainly incest, for which the penalty in classical law was the same as that for adultery (adulterii poena).³¹ The phrase licet non in matrimonium does not imply that the soldier could have married his niece. Papinian inserted it to emphasize that the soldier could be punished for incest, even though (licet) the relationship was only contubernium—the jurists usually speak of incestuous marriages, not of more casual relationships. If anything, the passage suggests that soldiers could not marry. But the text is too

mutilated and compressed to allow for any conclusion.

More instructive is Dig. 23.2.35 (Papinian):

filius familias miles matrimonium sine patris
voluntate non contrahit.

Papinian's use of the term filius familias shows that he was thinking of Roman marriage—patria potestas was iuris civilis. The passage makes no sense unless soldiers had the right to marry.³²

The same is true of Dig. 29.1.33 (Tertullian):

si filius familias miles fecisset testamentum more
militiae, deinde post mortem patris postumus ei
nascetur, utique rumpitur eius testamentum. verum
si perseverasset in ea voluntate, ut vellet adhuc
illud testamentum valere, valiturum illud, quasi
rursum aliud factum, si modo militaret adhuc eo
tempore quo nasceretur illi postumus.

Only the legitimate child of a lawful marriage could break a will
(since bastards were not in their father's potestas, they did not have
to be disinherited).³³ I do not believe that Tertullian has failed to
mention that he was thinking of a postumus conceived before its father
enlisted.

Even better evidence is a somewhat later text, Cod.Iust. 2.11.15.

Writing to a woman named Sulpicia in A.D. 239, Gordian decreed:

decreto amplissimi ordinis luctu feminarum deminuto
tristior habitus ceteraque hoc genus insignia mulieribus
remittuntur, non etiam intra tempus, quo lugere maritum
moris est, matrimonium contrahere permittitur, cum etiam,
si nuptias alias intra hoc tempus secuta est, tam ea quam
is, qui sciens eam duxit uxorem, etiam si miles sit, perpetuo
edicto labem pudoris contrahit.

Matrimonium must be lawful marriage since the couple is liable to the perpetual edict.

Three texts then (Dig. 23.2.35 and 29.1.33 and Cod.Iust. 2.11.15) strongly favor the view that soldiers were allowed to marry during, or shortly after, the reign of Severus.³⁴ They do not, however, prove that it was Severus himself, and not an earlier emperor, who lifted the ban.³⁵ The first appearance of a rule in a juristic text should not be taken as evidence of the date of its introduction.

It is sometimes objected that the diplomas issued to veterans show that the ban was not abolished until after the reign of Severus.³⁶ Those issued after his death to discharged sailors,³⁷ praetorians,³⁸ and equites singulares³⁹ give the veterans conubium dumtaxat cum singulis et primis uxoribus. M. Durry concluded that praetorians were not awarded the right to marry because they were expected to be more disciplined than other soldiers.⁴⁰ But in the third century A.D., praetorians were recruited from the legions, and I cannot believe that legionaries lost the right to marry when promoted into the Guard.

A simpler explanation is at hand. The conubium awarded to veterans in the diplomas is not merely the right to marry, but the right to contract a valid marriage with a non-Roman woman. Gaius is explicit (Inst. 1.57):

unde et veteranis quibusdam concedi solet principalibus constitutionibus conubium cum his Latinis peregrinisve, quas primas post missionem uxores duxerint.

Diplomas were issued even after the Constitutio Antoniniana probably

to provide for those veterans who intended to settle in remote or frontier regions where they might come in contact with non-Roman women.⁴¹

Soldiers' Families

The ban on soldiers' marriages did not prevent some soldiers from forming stable, if not permanent, unions with women, whom they treated as their "wives".⁴² The evidence is epigraphic—epitaphs on which a soldier commemorates or is commemorated by a woman described as uxor, coniunx etc., or a soldier described as maritus, coniunx etc. commemorates or is commemorated by a woman, or a soldier commemorates or is commemorated by his child/children (I think it reasonable to assume that soldiers who commemorated or were commemorated by their children were involved in lasting unions). To ascertain the extent to which soldiers (legionaries and auxiliaries) formed unions, I examined all of the epitaphs of Germania Superior, Germania Inferior and Numidia collected in CIL 13 (Germany) and CIL 8 (Numidia). For the sake of comparison, I calculated the rate at which the German and Numidian officers (legionary and auxiliary) recorded on the epitaphs in CIL 13 and CIL 8 are attested with wives and/or children. My findings are presented in Table 1.

Table 1

	Soldiers			Officers		
	N ¹	N ²	%	N ³	N ⁴	%
Germania Superior	172	8	4.7	33	16	48.5
Germania Inferior	50	6	12.0	14	8	57.1
Numidia	169	47	27.8	160	82	51.3
Total	391	61	15.6	207	106	51.2

N¹ = Number of soldiers attested

N² = Number of soldiers attested with "wives" and/or children

N³ = Number of officers attested

N⁴ = Number of officers attested with wives and/or children

Table 2 shows the number of soldiers, officers and veterans attested with wives at Rome and in each of the western provinces for which there is a substantial corpus of Latin epitaphs. I have used my own data for Germany and Numidia, those of R. Saller and B.D. Shaw for Rome and the other provinces.⁴³ I have lumped together soldiers, officers and veterans because Saller and Shaw do not distinguish among them in their figures for Rome, Britain, Noricum, the Pannonias and Spain. And I have not counted soldiers, officers and veterans attested with children (i.e. I have counted only those men who commemorate or are commemorated by their wives) because in presenting their data Saller and Shaw do not separate men who commemorate or are commemorated by their children from

those who commemorate or are commemorated by their parents.

Table 2

	N ¹ *	N ²	%
Rome**	455	68	14.9
Britain	165	29	17.6
Germania Superior	226	25	11.1
Germania Inferior	96	23	24.0
Noricum	169	29	17.2
Pannonias	330	65	19.7
Spain	126	30	23.8
Numidia	492	174	35.4
Total	2059	443	21.5

N¹ = Number of soldiers, officers and veterans attested

N² = Number of soldiers, officers and veterans attested
with "wives"/wives

* Includes epitaphs on which no commemorator is recorded
(se vivo - sibi)

** I have combined the figures given by Saller and Shaw
for equites singulares and for other soldiers at Rome

For a number of reasons, the data probably under-represent the actual
rate of marriage among soldiers, officers and veterans. At least some

soldiers who formed unions will have been shy to advertise their behavior, since it was considered to be contrary to discipline. Some "married" soldiers will have been commemorated by fellow soldiers, because of male bonding and camaraderie (common to most armies and well attested in the legions).⁴⁴ The same is true of officers. And since I have had to exclude soldiers, officers and veterans attested with children but not wives (for the reasons outlined above), the figures also under-represent the rate at which they formed families, perhaps by as much as 5 - 10 % (by 2.6 % in Germania Superior, 7.2 % in Germania Inferior and 13.2 % in Numidia). I cannot judge to what extent the data are skewed. But I think it unlikely that they are grossly misleading.

In short, the epitaphs suggest that the large majority of soldiers (almost 85 % of those attested in Germany and Numidia) did not form unions or have children. Tacitus implies so much (Ann. 14.27), of the first century A.D.:

veterani Tarentum et Antium adscripti non tamen
infrequentiae locorum subvenere, dilapsis pluribus
in provincias in quibus stipendia expleverant; neque
coniugiis suscipiendis neque alendis liberis sueti
orbas sine posteris domos relinquebant.

The passage is framed in reference to the habits of veterans. But, neque coniugiis suscipiendis sueti suggests that, at least in Tacitus' opinion, most soldiers did not "marry".

Table 3 compares the rate of "marriage" attested for the German and Numidian soldiers with the rate of marriage attested for the civilians

— of Germany and Numidia.

Table 3

	Soldiers			Civilians		
	N ¹	N ²	%	N ³	N ⁴	%
Germania Superior	172	6	3.5	394	108	27.4
Germania Inferior	50	4	8.0	81	36	44.4
Numidia	169	37	21.9	4481	478	10.7
Total	391	47	12.0	4956	622	12.6

N¹ = Number of soldiers attested

N² = Number of soldiers attested with "wives"

N³ = Number of civilians attested

N⁴ = Number of civilians attested with wives/husbands

The anomaly is the very low rate of marriage attested for the civilian population of Numidia, the result of a peculiarity in the habit of commemoration: at sites other than Lambaesis, and especially at Thubursicu Numidarum and Cirta, most of the epitaphs (something in the order of 90 %) record no commemorator.⁴⁵ The data gathered by Saller and Shaw (in part through sampling) for the rate of marriage among soldiers, officers, veterans and civilians at Rome and in Britain, Noricum and Spain are presented in Table 4. Approximately 50 % of the

civilian epitaphs of Spain (877 of 1745) record no commemorator.

Table 4⁴⁶

	Military			Civilian		
	N ¹	N ²	%	N ³	N ⁴	%
Rome*	455	68	14.9	494	94	19.0
Britain	165	29	17.6	127	35	27.6
Noricum	169	29	17.2	892	255	28.6
Spain	126	30	23.8	1745	210	12.0
Total	915	156	17.0	3258	594	18.2

N¹ = Number of soldiers, officers and veterans attested

N² = Number of soldiers, officers and veterans attested with "wives"/wives

N³ = Number of civilians attested

N⁴ = Number of civilians attested with wives/husbands

* I have combined the figures given by Saller and Shaw for equites singulares and other soldiers at Rome, and for "Rome: Senators and Equites" and "Rome: Lower Orders"

(i) Soldiers' "Marriages" and Military Recruitment in Germania Superior and Numidia

The rate of marriage in the military population (i.e. soldiers and officers) appears to have fluctuated widely from one province to the next, and especially from Germania Superior (10.2 %) to Numidia

(32.8 %). Saller and Shaw attribute the lack of uniformity to regional variations in patterns of recruitment, arguing that the legions of Upper Germany, unlike those of North Africa, comprised men recruited largely from other parts of the Empire and therefore separated from, and less frequently commemorated by, their wives and other family members.⁴⁷ Their hypothesis rests on a bias (apparently undetected) in their data. Table 5 shows the rate of marriage attested for the soldiers and officers of Germania Superior and of Numidia.

Table 5

	Germania Superior			Numidia		
	N ¹	N ²	%	N ¹	N ²	%
Soldiers	172	6	3.5	169	37	21.9
Officers	33	15	45.5	160	71	44.4
Total	205	21	10.2	329	108	32.8

N¹ = Number of men attested

N² = Number of men attested with "wives"/wives

The ratio of soldiers' epitaphs to those of officers is roughly 1:1 in Numidia. It is 5:1 in Upper Germany. And because proportionately more officers are attested with wives, if the Numidian ratio of 1:1 is applied to the figures for Upper Germany (i.e. if a similar pattern of excavation and discovery is imposed), the overall rate of marriage in

the military population of Upper Germany rises to 24.5 %, still lower than that attested for Numidia (32.8 %), but higher than that attested for the soldiers, officers and veterans of Rome, Britain, Germania Inferior, Noricum, the Pannonias and Spain (Table 2). The higher rate of marriage in the military population of Numidia is at least partly the result of the pattern of excavation, and more precisely, the unearthing of the officers' cemetery, at Lambaesis.⁴⁸

The significant difference between Germania Superior and Numidia is in the rate of "marriage" attested for soldiers, 3.5 % in Upper Germany and 21.9 % in Numidia, not in the rate of marriage attested for officers, 45.5 % and 44.4 % respectively. The lower rate of marriage attested for the military population of Upper Germany cannot therefore be attributed to patterns of recruitment, unless it is argued, I think implausibly,⁴⁹ that the milites of the German legions were brought in from other parts of the Empire and the officers locally recruited. I think it far more likely that the lower rate of "marriage" attested for the soldiers of Germania Superior is the result of more rigorous enforcement of the ban on soldiers' marriages,⁵⁰ which in turn is readily explained by the nature and conditions of service in the legionary bases along the upper Rhine.

From the early second century A.D., when legio III Augusta was transferred to Lambaesis (find-spot of 83.3 % of the Numidian military epitaphs), the principal duty of the legionaries stationed there was to watch over (and, if need be, direct) the movements of the nomads.⁵¹ The base itself was not threatened — it was, as far as I can

determine, never attacked — and the men posted there were not required to be in a constant state of readiness for battle. Such was not the case in the legionary bases along the upper Rhine, notably Mogontiacum (now Mainz), a legionary base from the time of Augustus and find-spot of 61 % of the military epitaphs of Upper Germany. Situated on the Rhine, and close to the limes, Mogontiacum faced the mouth of the river Main, which constituted one of the three principal invasion-routes for the tribes living trans Rhenum.⁵² The constant danger of invasion in Upper Germany, and perhaps especially at the confluence of the Rhine and the Main, made it imperative that the legionaries posted there be alert and disciplined, i.e. not distracted by or encumbered with "wives" and children.

Soldiers' Families in the Military Diplomas

Several students of the Roman army and of the diplomas awarded to veterans have argued that proportionately more soldiers formed unions in the second century A.D. than in the first. The evidence adduced is epigraphic, and, in my view, inconclusive.

That most of the surviving inscriptions which attest soldiers' "wives" and/or children, including children born in the camps (castris),⁵³ are of the second century A.D.,⁵⁴ does not prove that fewer soldiers formed unions in the first century, since most Latin inscriptions probably date to the middle of the second century.⁵⁵

Some of the diplomas issued to discharged auxiliary soldiers record the names of their "wives" and/or children (at least until c. A.D. 140).⁵⁶

From studying those collected in CIL 16 and in her own Roman Military Diplomas 1954-1977, M. Roxan calculated that 70 % (12 of 17) of the auxiliary diplomas issued after c. A.D. 120 (and until about 140) record the names of "wives" and/or children, in comparison to only 36.5 % (19 of 52) of those issued before c. 120.⁵⁷ Similar are the findings of J.F. Gilliam,⁵⁸ who did not have available Roxan's collection of diplomas: 63.6 % (14 of 22) of the auxiliary diplomas issued between A.D. 117 and c. 140 record the names of "wives" and/or children, in comparison to only 31.8 % (14 of 44) of those issued between 54 and 117.⁵⁹ But the rate at which soldiers' families are attested on the diplomas may not accurately reflect the rate at which they formed unions. The diplomata were official documents, and the frequency with which soldiers' "wives" and children were recorded must have been influenced by the attitudes and policies of the emperor in whose name they were issued. The increase in the number of diplomas attesting soldiers' families may have been the result of an increasingly liberal and generous official policy toward them. Roxan notes that the number of diplomas which attest soldiers' families increases sharply from about A.D. 120. It may not be a coincidence that Hadrian announced in A.D. 119 that soldiers' (illegitimate) sons could henceforth claim bonorum possessio unde cognati if their father were to die intestate.⁶⁰

The diplomata do not prove that soldiers' "marriages" were increasingly common from the late first or early second century A.D. What they do show is that the Roman authorities were aware that some soldiers formed unions and had children, and that they chose not to

penalize these soldiers when they were discharged.

Soldiers and Mixed Marriage

It is sometimes argued that most of the unions formed by soldiers were of mixed status. G.R. Watson, for example, believes that "the local women with whom the soldiers formed more or less permanent associations were usually of peregrine status, at least in the frontier areas where most of the soldiers were stationed".⁶¹ Others point to the canabae which grew up around many legionary bases and which no doubt made it easier for legionaries to find "wives", claiming (e silentio, as far as I can tell) that most of the women who lived in them were of peregrine status.⁶² The epitaphs of Germania Superior, Germania Inferior and Numidia suggest that most of the unions formed by soldiers (and officers) were not of mixed status.

The criteria which I have employed in identifying marriages and in distinguishing between Roman citizens and non-citizens on the epitaphs are discussed in Chapter V (pp. 113-15). I note here only that the guidelines which I have followed in distinguishing between Romans and non-Romans are not as reliable as I should like (though as rigorous as I could make them), and that my findings should therefore be taken as only a rough (perhaps very rough) indication of the extent to which soldiers formed unions of mixed status.⁶³

Table 6 shows the status of the "wives" of the soldiers (legionary and auxiliary) of Germania Superior and Germania Inferior, and, for the sake of comparison, the status of the wives of the German officers

(legionary and auxiliary). I have distinguished among Roman citizens, "probable" Roman citizens, non-Romans and "probable" non-Romans, and combined the data for Upper and Lower Germany because the size of the sample in each province is small. Many of the husbands and all of the wives — women are especially difficult to classify — fall into one of the "probable" categories.

Table 6

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
PR soldier (legionary)	-	5	-	-	5
PNR soldier (auxiliary)	-	1 ¹	-	4	5
R officer (legionary officer)	-	16	-	3 ²	19
PNR officer (auxiliary officer)	-	4 ³	-	-	4
Total	-	26	-	7	33

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

1 CIL 13.7299 (Castellum Mattiacorum)

2 CIL 13.6808, 6970 (Mogontiacum) and 8290 (Colonia Agrippinensium, now Köln)

3 CIL 13.7028, 7032 (Mogontiacum), 7257 (Ager Mogontiagensis) and 8307 (Colonia Agrippinensium)

* The numbers of the other 25 inscriptions
can be found in Appendix D

Only 1 of the 10 (10.0 %) soldiers' unions attested appears to be of mixed status, in comparison to 7 of the 23 (30.4 %) officers' marriages: 1 auxiliary soldier and 4 auxiliary officers have "probable" Roman wives, 3 legionary officers have "probable" non-Roman wives. My findings for Numidia are presented in Table 7.

Table 7

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
PR soldier (legionary)	-	32	-	5 ¹	37
PNR soldier (auxiliary)	-	-	-	-	-
R officer (legionary officer)	-	68	-	2 ²	70
PNR officer (auxiliary officer)	-	1 ³	-	-	1
Total	-	101	-	7	108

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

1 CIL 8.3059, 3081, 3148, 3205 and 3271 (Lambaesis)

2 CIL 8.2897 and 2906 (both Lambaesis)

3 CIL 8.2090 (near Theueste)

* The numbers of the other 100 inscriptions
can be found in Appendix D

Only 5 of the 37 (13.5 %) soldiers' unions attested appear to be of mixed status, in comparison to 3 of the 71 (4.2 %) officers' marriages attested: 5 legionaries and 2 legionary officers have "probable" non-Roman wives, 1 auxiliary officer has a "probable" Roman wife.

The rate of mixed "marriage" attested for the German and Numidian soldiers is 12.8 % (6 of 47). The data probably under-represent the actual rate at which soldiers formed mixed unions, for if any soldiers are likely to have quit the chiefly Roman habit of commemoration on stone (i.e. to be unrecorded), it is precisely those who took native "wives" and adopted native customs and attitudes. But I cannot believe that the weight (if any) of this bias in the data could be enough to bear out the view that most soldiers' unions were of mixed status.⁶⁴

Veterans: The Issuing of Military Diplomas

Diplomas were awarded to naval and auxiliary veterans, including veterans of the numeri, and to veterans of the Praetorian Guard and of the equites singulares.⁶⁵ Not all veterans received them. The vigiles were not issued diplomas, perhaps because they automatically acquired the citizenship after six (and later after three) years of service.⁶⁶ Diplomas were not normally awarded to legionaries. The members of legio

I Adiutrix and of legio II Adiutrix who received them in A.D. 68 and 70 had been recruited from the Italian fleets (i.e. were non-citizens).⁶⁷ Veterans of legio X Fretensis were given conubium, and, presumably, the citizenship — the diploma is fragmentary — by Domitian.⁶⁸ But they were probably non-citizens who had been recruited in A.D. 68 and 69 in order to strengthen the legion in the civil war which followed Nero's death.⁶⁹

Despite the absence of legionary diplomas, Campbell has recently argued that the non-Roman children born to legionaries (like those born to auxiliaries) were granted the citizenship when their father was discharged, perhaps on an ad hoc basis until the reign of Domitian.⁷⁰ Claiming that "it is hard to see why they [the legions] should have been treated less well than the auxilia", he dismisses the plausible explanation that the authorities withheld the citizenship from legionaries' peregrine children so that they would have to enlist in the legions to acquire it.⁷¹ He adduces a decree of 31 B.C. in which Octavian conferred the citizenship upon all veterans, their wives, children and parents,⁷² and a similar edict of Domitian which dates to A.D. 88/89.⁷³ But as Campbell himself admits,⁷⁴ the edicts undoubtedly represent a bid for the support of the army, and may be extraordinary. It is hard to believe that all record of subsequent awards has utterly perished. Campbell also cites the diploma of A.D. 94 which attests the granting of the citizenship to the veterans of legio X Fretensis (and to their wives and children). But as noted above, these veterans were probably non-Romans who had been recruited in the civil war of A.D. 68-69.

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The origin of military diplomas is unattested. The earliest extant diploma (CIL 16 no. 1) was issued in A.D. 52 to a man named Spartacus (Divzeni f.) who had served in the fleet stationed at Misenum. The earliest surviving auxiliary diploma (CIL 16 no. 2: cohort II Hispanorum) also dates to the reign of Claudius (A.D. 54). Some have inferred that he was the first to issue diplomas.⁷⁵ However an epitaph (ILS 2531) which dates to the period before the reign of Claudius describes an enfranchised auxiliary veteran as stipendis emeritis XXXII aere incisso: the last two words bring to mind the final clause of all auxiliary (and fleet) diplomas: descriptum et recognitum ex tabula aenea, quae fixa est Romae in muro post templum divi Augusti ad Minervam.⁷⁶ Perhaps Claudius did no more than inaugurate the practice of giving veterans documentary records of their privileges.

The earliest diplomas appear to have been issued ob merita. Most of those which date to the reigns of Claudius and Nero were awarded for meritorious or exceptionally long service.⁷⁷ Others were issued to particular units or classes of soldiers for bravery or for participation in military expeditions.⁷⁸ It was probably Titus who first issued diplomas to soldiers who had completed the twenty-five years of service required for honorable discharge (i.e. not solely as a reward for meritorious service), though diplomas were issued ob merita as late as A.D. 178/190.⁷⁹

Auxiliary Diplomas

The privileges awarded to auxiliaries upon discharge are attested

by 187 auxiliary diplomas (including fragments).⁸⁰ The citizenship was granted to the veterans and to their children and descendants (liberis posterisque).⁸¹ The veterans were also awarded conubium with the "wives" whom they had at the time when the citizenship was granted to them or with the first women whom they married after they were discharged.⁸²

Not untypical is the diploma issued in A.D. 107 to an auxiliary veteran named Mogetissa (CIL 16 no. 55):

Imp. Caesar, divi Nervae f., Nerva Traianus Augustus Germanicus Dacicus, pontifex maximus, tribunus(ia) potestat(e) XI, imp(erator) VI, co(n)s(ul) V, p(ater) p(atriciae) equitibus et peditibus, qui militaverunt in alis quattuor et cohortibus decem et unam, quae appellantur I Hispanorum Auriana et I Augusta Thracum et I singulare c(ivium) R(omanorum) p(ia) f(idelis) et II Flavia p(ia) f(idelis) [milliaria] et I Breucorum et I et II Raetorum et III Bracaraugustanorum et III Thracum et III Thracum c(ivium) R(omanorum) et III Britannorum et III Batavorum [milliaria] et IIII Gallorum et V Bracaraugustanorum et VII Lusitanorum et sunt in Raetia sub Ti. Iulio Aquilino, quinque et vicenis pluribusve stipendiis emeritis dimissis honesta missione, quorum nomina subscripta sunt, ipsis liberis posterisque eorum civitatem dedit et conubium cum uxoribus, quas tunc habuissent, cum est civitas iis data, aut, si qui caelibes essent, cum iis, quas postea duxissent dumtaxat singuli singulas.

pr. k. Iul. C. Minicio Fundano, C. Vettennio Severo cos. alae I Hispanorum Aurianae, cui praest M. Insteius M.f. Pal. Coelenus, ex gregale Mogetissae Comatulli f., Boio, et Verecundae Casati filiae uxori eius, Sequan(ae), et Matrullae filiae eius.

descriptum et recognitum ex tabula aenea, quae fixa est Romae in muro post templum divi Aug(usti) ad Minervam.

There follows a list of the names of seven witnesses:⁸³

Q. Pompei	Homeri
L. Pulli	Verecundi
P. Cauli	Vitalis
P. Atini	Amerimni
C. Tuticani	Saturnini
Q. Apidi	Thalli
C. Vettieni	Modesti

The conubium granted to the veterans allowed them to contract lawful marriages with peregrine or Latin women. So Gaius Inst. 1.57:

unde et veteranis quibusdam⁸⁴ concedi solet principalibus constitutionibus conubium cum his Latinis peregrinisve, quas primas post missionem uxores duxerint; et qui ex eo matrimonio nascuntur, et cives Romani et in potestate parentum fiunt.⁸⁵

So too a fragmentary document which resembles a military diploma and which dates to the period between A.D. 79 and 98:

.... qui uxores non] habent, si qui eorum feminam peregrinam duxerit dumtaxat singuli singulas, quas primo duxerint, cum iis habeant conubium.
hoc quoque iis tribuo, ut, quos agros a me acceperint quasve res possederunt III k(alendas) [I] anuar(ias) Sex. Marcio Prisco, Cn. Pinario Aemilio Cicatricula co(n)s(ulibus), sint immunes.
....stai C.f. Galeria Saturnini [C] lunia cho(rtis) II pr(aetoriae).⁸⁶

The diplomas awarded to veterans of the numeri were not nearly as generous as those issued to veterans of the auxilia. They grant the citizenship to the veterans but not to their children. And there is no mention of conubium.⁸⁷ Odd in several respects, these diplomas constitute a peculiar form of reward, since they will have transformed lawful peregrine marriages into mixed unions.⁸⁸ Perhaps the veterans were expected to be content with the legal and social perquisites of the Roman citizenship.

From the reign of Antoninus Pius, auxiliaries' children were not awarded the citizenship when their father was discharged. Sometime between A.D. 140 and 144, the wording of auxiliary diplomas was altered:⁸⁹ the phrase ipsis liberis posterisque was dropped.⁹⁰ The alteration of the

formula was accompanied by another change in the diplomas. From about A.D. 140, the names of "wives" and children are not recorded.⁹¹ The change in policy is also attested in an Egyptian *ἐπίκρισις* of A.D. 148. Two types of veterans are distinguished:

ἔντεροι μὲν ἐπιτυχόντες σὺν τέκνοις καὶ ἐγγόνοις, ἕτεροι
μόνοι τῆς Ῥωμαίων πολιτείας (*sic*) καὶ ἐπιγαμίας πρὸς
γυναῖκας, ἃς τότε εἶχον, ὅτε τοῦτοις ἡ πολιτεία ἐδόθη.⁹²

The purpose of the new formula has been much debated. K. Kraft argues that the authorities stopped granting the citizenship to auxiliaries' children in order to curb the spread of "marriages" to non-Roman women.⁹³ He does not explain why they continued to give the veterans conubium with the non-Roman "wives" whom they had when they were discharged. Not much more convincing is the thesis advanced by H. Wolff, who believes that Antoninus Pius (and his advisers) altered the formula to discourage auxiliary soldiers from raising families during service.⁹⁴ The change in the wording of the diplomas did nothing to discourage auxiliaries from forming unions with Roman women (their children were born Roman citizens). More plausible is the explanation offered by J.C. Mann and others, who believe that the change in wording was designed to foster auxiliary recruitment: veterans' sons who wished to have the citizenship now had an additional incentive to follow their father's career.⁹⁵

The number of extant auxiliary diplomas, which may not accurately represent the number of diplomas issued, drops off sharply from c. A.D. 165/167.⁹⁶ Roxan thinks that fewer were issued because fewer auxiliaries

needed them: an increasing number of auxiliaries were Roman citizens, who could provide for their non-Roman children because of the privileges of the military will and because of the reform in the law of inheritance promulgated by Hadrian in A.D. 119.⁹⁷ However it is not true that fewer auxiliaries needed diplomas in the second century A.D. Non-Roman auxiliaries required the grant of the citizenship. Roman citizens in the auxilia who had non-Roman "wives" needed the grant of conubium to ensure that children born to them post missionem would be Roman and legitimate. And Roman citizens in the auxilia who had Roman "wives" never required diplomas, because their children were born Roman citizens and because they automatically enjoyed conubium with their wives after they had been discharged. If there was a decline in the number of diplomas issued after c. A.D. 165/167, it was probably the result of a change in the policy of issuing them, made at or about the same time as the change in their wording. I think it not implausible that Antoninus Pius decided to stop issuing them to those auxiliary veterans who did not require them (i.e. Roman citizens with Roman "wives"). And if this policy applied only to new recruits (i.e. not retroactively), it would have been twenty-five years (i.e. from about A.D. 140 to about 165) before it resulted in a decline in the number of diplomas issued.⁹⁸

Fleet Diplomas

The diplomas issued to naval veterans were identical to those awarded to auxiliary veterans, until the latter were altered during the reign of Antoninus Pius. The veterans were awarded the citizenship

for themselves and for their children, and conubium cum uxoribus, quas tunc habuissent, cum est civitas iis data, aut, siqui caelibes essent, cum iis, quas postea duxissent dumtaxat singuli singulas.⁹⁹ And from

A.D. 99, veterans of provincial fleets and auxiliary veterans of the same command appear on the same diplomas.¹⁰⁰ However the wording of

fleet diplomas was not altered c. A.D. 140 when the phrase ipsis liberis posterisque was dropped from the formula of auxiliary diplomas.

Sailors' children continued to receive the citizenship when their father was discharged.¹⁰¹ It is hard to see why they were afforded more generous treatment than auxiliaries' children. A.N. Sherwin-White thinks that it was because "the fleet was the unpopular service".¹⁰² But the awarding of the citizenship to the children of naval veterans cannot have done much to offset the unpopularity of naval service. And if the government's aim was to promote naval recruitment, it should have denied the citizenship to sailors' sons, as it did to auxiliaries' sons, and thereby obliged those who wanted it to sign up and serve the requisite twenty-six years.

Though they escaped the reforms of c. A.D. 140, fleet diplomas did not long go unaltered. Sometime between A.D. 152 and 166, their wording was changed. All diplomas issued from A.D. 166 award the citizenship to the veterans and to their children born to women with whom they had lived concessa consuetudine,¹⁰³ and conubium with the same women (cum iisdem) or with the first women whom they married post missionem.¹⁰⁴

The mysterious phrase concessa consuetudine has drawn much attention.

C.G. Starr translates it as "permitted custom", and concludes

that sailors had the right to marry from at least A.D. 166.¹⁰⁵ Watson asserts that consuetudo is matrimonium ex iure gentium: sailors now had the right to contract marriages which were valid iure gentium but not iure civili.¹⁰⁶ M.P. Arnaud-Lindet, reviving another theory put forward by Starr, contends that consuetudo is concubinage.¹⁰⁷ None of them is likely to be correct.

Only Starr adduces any evidence to show that sailors were given the right to marry. He cites a papyrus in the Michigan collection,¹⁰⁸ which he takes to be the marriage contract of a sailor in the fleet at Alexandria and which may date to the period after the change in the wording of fleet diplomas. However it is far from certain that the document is a marriage contract. Even H.A. Sanders, who published the papyrus in 1939 and was the first to advance the theory that it was a marriage contract, eventually came to doubt the identification.¹⁰⁹ In any case, marriage contracts (tabulae nuptiales) were proof not of the lawfulness of the unions for which they were drawn up, but of the intention to live as husband and wife,¹¹⁰ and, as such, reveal nothing about the status of the unions in Roman law.¹¹¹

The wording of the diplomas furnishes further grounds for scepticism. If sailors were given the right to marry sometime between A.D. 152 and 166, why the ambiguous phrase concessa consuetudine? Why not in matrimonio or, following Watson, in matrimonio ex iure gentium? Such a change in policy would have been public knowledge: no need of subterfuge and certainly no reason to disguise imperial magnanimity.

Consuetudo is a slippery word. Though its primary meaning is

"habitual or usual practice, usage, custom, habit", it carries a number of other meanings, among which is "amorous association".¹¹² The nature of that "association" is difficult to pin down. consuetudo was used to describe a variety of unions, some legal, most not. It was frequently linked with stuprum,¹¹³ once used for contubernium (perhaps more precisely, for sex with a slave),¹¹⁴ and sometimes associated with concubinage.¹¹⁵ It was often employed to mean love (or something like it),¹¹⁶ and appears in the Declamationes ascribed to Quintilian (279.13) as a feature of matrimonium ("companionship of marriage", I think).¹¹⁷ Yet many of the relationships which consuetudo was used to describe do have at least one thing in common—cohabitation. And that consuetudo was used to denote cohabitation is explicitly attested in Dig. 23.2.24 (Modest.):

in liberae mulieris consuetudine non concubinatus, sed
nuptiae intellegendae sunt, si non corpore quaestum fecerit.¹¹⁸

I think it not unlikely that the consuetudo of the fleet diplomas is cohabitation (which is not the same as concubinage),¹¹⁹ and that the wording of the diplomas was altered because sailors had been granted the right of cohabitation.¹²⁰

An objection is at hand. The epigraphic evidence is abundant and irrefutable: many sailors formed unions with women before A.D. 152; the uxores and children attested hint at long-term relationships, if not cohabitation. So what benefit did sailors derive; if they were granted only the right to do what they were already doing? The answer is none. The authorities chose to give their official blessing to what

they could (or would) not prevent. It was a gesture which cost nothing, perhaps advertised as an instance of imperial benevolence.

Praetorian Diplomas

Unlike the fleet diplomas, those issued to veterans of the Praetorian Guard (and of the urban cohorts) never resembled the diplomas awarded to auxiliary veterans. They number thirty-two, and range in date from c. A.D. 72 to 306.¹²¹ The large majority (twenty-one) are of the third century A.D.¹²² The first were issued probably because Vespasian wanted to demobilize some of the members of the grossly inflated Guard which he had inherited, and saw the diplomas as a means by which he could placate them.¹²³ Most of those issued in the third century A.D. were probably awarded to veterans who intended to settle in frontier regions where they might come across non-Roman women.¹²⁴

Praetorian veterans were given ius conubii dumtaxat cum singulis et primis uxoribus, ut, etiam si peregrini iuris feminas matrimonio suo iunxerint, proinde liberos tollant ac si ex duobus civibus Romanis natos.¹²⁵

E. Volterra, seizing upon liberos tollere, which was frequently used to describe the ceremony of lifting a new-born child, a ritual thought by some (including Volterra) to mark the creation of patria potestas,¹²⁶ believes that the purpose of the clause beginning with ut was to ensure that any child born to a praetorian veteran would be in his father's potestas. He sees a legal significance in the absence of a similar clause in the auxiliary diplomas, concluding that children born to auxiliary veterans were not in their father's potestas.¹²⁷ But the

difference in wording between praetorian and auxiliary diplomas does not warrant his conclusions.¹²⁸ Both types of veterans were awarded conubium, and the main effect of conubium was that children took their father's status and, if he was a Roman citizen, came under his potestas:

cum enim conubium id efficiat, ut liberi patris
condicionem sequantur, evenit, ut non solum cives
Romani fiant, sed et in potestate patris sint.¹²⁹

And since all auxiliary veterans were Roman citizens, children born to them post missionem were automatically in their potestas.

Campbell has recently challenged the traditional view that children born to praetorians during service were not given the citizenship when their father was discharged.¹³⁰ He adduces Gaius Inst. 1.57:

unde et veteranis quibusdam concedi solet principalibus
constitutionibus conubium cum his Latinis peregrinisve,
quas primas post missionem uxores duxerint; et qui ex eo
matrimonio nascuntur, et cives Romani et in potestate
parentum fiunt.

He infers that some children born to serving soldiers were in their father's potestas, and argues that these privileged soldiers are likely to be the praetorians. But Gaius says nothing of children born during service. His point is that conubium was awarded to some veterans and not to others (he was probably thinking here of legionary veterans), and that any child born to the union of a veteran and a non-Roman woman for which the partners possessed conubium (i.e. post missionem) was both a Roman citizen and in his father's potestas.

Like Volterra, Campbell reads a great deal into the clause introduced

by ut in the praetorian diplomas. He believes, rightly, that the grant of conubium was in itself enough to ensure that children born post missionem would be Roman citizens. Unhappily, he goes on to say that the clause "seems to be superfluous, unless it is intended to add a further privilege". Rendering tollere as "to raise", he argues that the clause signifies that children born to non-Roman women during service could be "raised" as Roman citizens from the moment when their father was discharged.

I cannot believe that those responsible for drafting the formula of the praetorian diplomas would have chosen such an awkward and ambiguous phrase if their purpose was to indicate that children born to serving praetorians were to receive the citizenship when their father was discharged. In any case, there is no evidence to show that a grant of conubium could make Roman citizens of peregrine children born before it was awarded; if such was the case, why do the auxiliary diplomas grant conubium to the veterans and at the same time confer the citizenship upon their children born during service? As A. Watson has observed, the clause introduced by ut ought not to be explained in a juridical way.¹³¹ Its sole purpose was to explain to the veterans that children born to them after the grant of conubium (proinde) were Roman citizens, even if their wives were peregrini iuris, i.e., that even veterans with non-Roman wives could rear (tollere) their children "just as if born to two Roman citizens" (ac si ex duobus civibus Romanis natos). The clause was inserted to explain what the effect of conubium was, nothing more. It could be objected that a similar clause should appear in the diplomas issued to

auxiliary veterans, who were probably even less well educated in Roman law than the praetorian veterans. But the auxiliary diplomas award both conubium and the citizenship. And while a grant of conubium had only one major result, i.e. the creation of patria potestas, the legal repercussions of a simultaneous grant of the citizenship and conubium were manifold. Even a cursory explanation of its consequences would, I hazard, have made the diplomas far longer than what those responsible for drafting and issuing them would accept.

Conclusion: Diplomas, The Citizenship and Conubium

The issuing of military diplomas had important consequences for the spread of the Roman citizenship. It annually created something in the order of 10,000 new citizens,¹³² and contributed to a wider geographical distribution of the citizenship, particularly in the frontier regions where many veterans settled.¹³³ Perhaps more importantly, the diplomas awarded the citizenship to men who socially and economically ranked far below the wealthy and privileged class which during the first century A.D. and at least part of the second was the main beneficiary of its extension.¹³⁴

Copied at Rome and displayed there on public buildings,¹³⁵ they could serve as proof of honourable discharge (honesta missio),¹³⁶ and of possession of the citizenship.¹³⁷

The diplomas also served to mitigate the rigor of the Roman law of mixed marriage. They legitimized any union formed during service by an auxiliary soldier, sailor or member of the Praetorian Guard, and ensured

that those veterans who wished to marry non-Roman women could do so ex iure civili.¹³⁸ But what is perhaps most remarkable about the issuing of military diplomas, and not often remarked by those who have studied it, is that it placed auxiliary, naval and praetorian veterans in a more privileged legal position than legionary veterans: the non-Roman children born to legionaries who formed unions with non-Roman women were not given the citizenship, and legionary veterans could not lawfully marry peregrine women.

It has long been assumed that many auxiliary, naval and praetorian veterans contracted lawful marriages with non-Roman women. The epitaphs attesting veterans in Germany and Numidia suggest otherwise.

The criteria which I have used in identifying marriages and in distinguishing between Roman citizens and non-citizens on the epitaphs are discussed in Chapter V (pp. 113-15). And again (cf. above, pp. 72-73), because I cannot establish wholly reliable guidelines, I have distinguished among Roman citizens, "probable" Roman citizens, non-Romans, and "probable" non-Romans.

Fifteen veterans (10 legionary and 5 auxiliary) attested on the epitaphs of Germania Superior and Germania Inferior in CIL 13 commemorate or are commemorated by their wives. The men, of course, are Roman citizens; of the 15 wives, only 1 appears to be non-Roman (CIL 13.8055, a legionary veteran: Bonna).¹³⁹ The rate of mixed marriage attested (6.7 %) is lower than those which I calculated for the German soldiers (10.0 %) and officers (30.4 %).

Numidia (CIL 8) furnishes a larger corpus of epitaphs attesting

veterans' marriages: 66 veterans (61 legionary and 5 auxiliary)¹⁴⁰ commemorate or are commemorated by their wives. The men are Roman citizens; of the 66 wives, 59 are "probable" Roman citizens, 7 are "probable" non-Romans (CIL 8.2505, auxiliary veteran: near Lambaesis; 3030, 3086, 3234, 3257, all legionary veterans: all Lambaesis; 4606, legionary veteran: Diana; 6050, legionary veteran: Arascal).¹⁴¹ The rate of mixed marriage attested (10.6 %) is higher than that which I calculated for the Numidian officers (4.2 %), but lower than that of the Numidian soldiers (13.5 %). More importantly, it is lower than that attested for the civilian population of Numidia (15.3 %).¹⁴²

In sum, more than 90 % (74 of 82) of the veterans' wives attested are "probable" Roman citizens. My figures probably under-represent the actual rate at which veterans contracted mixed marriages (I am not convinced that less than 10 % of all veterans took native wives). I suspect that the proportion of veterans' epitaphs recovered from the villages and farms of the remote and less Romanized regions of Germany and Numidia, where many of the veterans who married non-Roman women are likely to have settled, is, because of patterns of excavation, smaller than the proportion of veterans' epitaphs recovered from the cities and towns of Germany and Numidia. However I doubt that my data are so skewed that they point in the wrong direction. Most veterans' wives were probably Roman.

I also think it unlikely that only 7 % of the women in Germany and only 11 % of the women in Numidia were non-Roman. The married veterans

attested either searched for Roman women (while in service or after discharge) or, perhaps more likely, and not surprisingly, were sought out by Roman women. Veterans are frequently attested in municipal magistracies and sometimes as patrons of their native or adopted towns.¹⁴³ Their status in Roman law was in many and various ways privileged, and in the second century A.D. gradually assimilated to that of decurions.¹⁴⁴ In short, there are good reasons why a veteran should have been considered to be a happy catch.

Chapter IV

Law and Policy

The lex Minicia was passed sometime before the Social War and remained in effect at least until the middle of the second century A.D. (the time of Gaius). I do not find it surprising that Rome, like fifth century Athens, tried to restrict access to its citizenship.¹ What is remarkable is that the law appears not to have been abolished, even in the second century A.D. when the citizenship lost much of its political and legal significance in the flood tide of new citizens created by the enfranchisement policies of Trajan and his successors.² Law is an organ of conservatism, a buttress of order and stability, and normally lags behind social change.³ But the sluggish pace of legal reform is not in itself sufficient to account for the Roman authorities' failure to bring the law into line with the changing conditions in which it operated. A policy is implied, its purpose surmised—to maintain governmental control over the spread of the citizenship.

The Lex Minicia: Purpose and Practice

Not much can be said about the purpose of the lex Minicia, since its author and the exact date of its introduction are unknown. It is tempting to attribute the law to M. Minucius Rufus, the tribune of 121 B.C. who is said to have introduced various bills designed to overturn the reforms of Gaius Gracchus, and to see in it a narrow-minded backlash

against Gracchus' proposal to grant the citizenship to the Italian socii.⁴ But the evidence which points to Minucius is not unassailable, and the most that can safely be said is that the law was promulgated at a time when it had become apparent that the citizenship of Rome was more valuable than that of any other state (i.e. sometime before the Social War), and that its purpose was to exclude the Italians (or at least the children of an Italian parent) from the political and other rights and benefits of the citizenship.

The lex Minicia was not abolished even after the lex Iulia de civitate and the lex Plautia Papiria of 90/89 B.C. had made Roman citizens of all the Italian socii.⁵ probably because it was equally effective when directed at non-Romans living outside of Italy. The rigor of the lex Papia de peregrinis of 65 B.C., which sharply penalized peregrines who had usurped the citizenship,⁶ betrays the government's determination to maintain its exclusiveness. But it cannot be argued that similar concerns lie behind the government's failure to repeal the law in the first or in the second century A.D., when peregrine communities and even whole regions were enfranchised—the citizenship had lost its exclusiveness long before Caracalla showered it upon those who did not already possess it.⁷ Few extant authors object to the rapid extension of the citizenship: Tacitus, largely because it was at odds with Republican practice,⁸ and the author of the Apocolocyntosis (probably Seneca the Younger).⁹

Mixed Unions: Some Contemporary Sentiments

There is even little evidence to show that unions of mixed status (at least those in which the Roman partner was dominant) were viewed with disapprobation.

Horace's sentiments are betrayed in Carm. 3.6.25-32, where he magnifies the shame of a Roman adulteress by choosing a foreigner (a travelling salesman or a captain of a Spanish ship)¹⁰ to be the agent of her disgrace:

mox iuniores quaerit adulteros
inter mariti vina, neque eligit
cui donet impermissa raptim
gaudia luminibus remotis,

sed iussa coram non sine conscio
surgit marito, seu vocat institor
seu navis Hispaniae magister
dedecorum pretiosus emptor.

But E.S. Shuckburgh is surely wrong in citing Carm. 3.5.5-12 as an example of Roman distaste for mixed marriage:¹¹

milesne Crassi coniuge barbara
turpis maritus vixit et hostium—
pro curia inversique mores!—
consenuit socerorum in armis

sub rege Mede Marsus et Apulus,
anciliorum et nominis et togae
oblitus aeternaeque Vestae,
incolumi Iove et urbe Roma?

He has altogether missed the point of the poem, which is that Rome is to feel ashamed for her failure to avenge the defeat of Crassus and to recover the lost standards and her soldiers, who, largely as a result of her inactivity, have married non-Roman women, and (inversi mores) become

the dependents of their barbarian fathers-in-law. It is not so much the marriages themselves which are viewed with disapprobation as the circumstances which prompted them.

Suetonius reveals (Jul. 2 and 49) that Julius Caesar was widely reproached and ridiculed for his (alleged) affair with the Bithynian king Nicomedes, and especially for his passive role in the relationship (e.g. Gallias Caesar subegit, Nicomedes Caesarem). He also records (Aug. 63.2) that Antony twitted Octavian for betrothing his daughter Julia to Cotiso, king of the Getae, and for (allegedly) wanting to marry Cotiso's daughter. But he reports without comment (Jul. 52.1) - that Caesar had affairs with Eunoe the Moor, wife of king Bogudes, and with Cleopatra, by whom he fathered a son, or so Antony alleged.¹²

Tacitus is equally untroubled in reporting the intermarriage of Romans and non-Romans at Cremona (Hist. 3.34) and at Cologne (Hist. 4.65). So too Livy in describing (43.3.1-4) the plight of the Spaniards born of Roman soldiers and Spanish women in the second century B.C. The Senate settled them at Carteia and granted it the status of a Latin colony. The diplomas issued to auxiliary, naval and praetorian veterans show that the Roman authorities did not object to mixed unions, provided that they authorized them: the veterans were awarded conubium with peregrine and Latin women.¹³

In characteristically bad taste, Martial chastizes (7.30) a young Roman woman who reputedly preferred the company and attention of non-Roman

men:

das Parthis, das Germanis, das, Caelia, Dacis,
 nec Cilicum spernis Cappadocumque toros;
 et tibi de Pharia Memphiticus urbe fututor
 navigat, a rubris et niger Indus aquis;
 nec recutitorum fugis inguina Iudaeorum,
 nec te Sarmatico transit Alanus equo.
 qua ratione facis, cum sis Romana puella,
 quod Romana tibi mentula nulla placet?¹⁴

But even if Martial is to be taken seriously here, which I doubt, it is nevertheless clear that he objects not so much to Caelia's relationships with foreigners as to her (alleged) unwillingness to share her favors with her fellow Romans.

Seneca the Elder preserves a lengthy though incomplete declamation delivered by a man named Porcius Latro on behalf of an imaginary husband whose beautiful wife (formonsa uxor) was three times propositioned, but not seduced, by a foreign merchant (peregrinus negotiator) while her husband was away on business. Having returned home and having discovered that the merchant had bequeathed his entire estate to the woman (because, he said, pu dicam repperi), he accused his wife of adultery ex suspicione. In summing up his case, Latro emphasizes the non-Roman status of the merchant:

omnes te inpudicam locuntur, pudicam tantum et unus
 et peregrinus, qui plus laudator quam accusator nocet.¹⁵

Yet not once does he mark the purported union as especially reprehensible because the man was a foreigner. Nor does he claim, as he certainly could have, that the charge was more plausible in light of the merchant's

peregrine status. In a manner reminiscent of Cicero defending Lucius Valerius Flaccus,¹⁶ he says only that foreigners are inveterate liars.

In listing justifiable reasons for breaking promises, Seneca the Younger claims (Ben. 4.35.1) that he should have the right to dissolve his daughter's betrothal if he were to discover that her fiancé was a foreigner (peregrinus).¹⁷ However he objects to the man's status only because he fears the legal repercussions which would follow:

promisi tibi in matrimonio filiam; postea peregrinus
apparuisti; non est mihi cum externo conubium;¹⁸ eadem
res me defendit, quae vetat.

I think it unlikely then that the Roman authorities chose not to repeal the lex Minicia because of anti-peregrine sentiment or because of misgivings about the propriety of mixed unions. Even in the face of the gradual breakdown of the distinction between Romans and peregrines, they steadfastly upheld it. Their motives can only be conjectured.

The Citizenship in Roman Policy

From the late Republic, the citizenship was a tool of Roman policy. It was regularly used to reward conspicuous (or lengthy) service to the state (or to one of its leaders), or exceptional loyalty toward Rome and its interests,¹⁹ and as a means of cementing alliances with foreign kings, princes and civic potentates. Examples, which are too numerous to list, include Lucius Cornelius Balbus, the Spanish confidant and political fixer of Pompey and later Caesar;²⁰ Herod Antipater, friend and ally in turn of Caesar, Antony and Octavian;²¹ Seleucus of Rhosos,

one of Octavian's admirals and an officer of unwavering allegiance;²² Segestes, a leader of the Chatti enfranchised by Augustus and a man of good will toward Rome (insignem in nos ... fide);²³ the Parthian Ornospades, rewarded with the citizenship for his distinguished service under Tiberius in the Dalmatian war and later governor of Mesopotamia.²⁴ Hundreds of extant military diplomas also attest the granting of the citizenship as a reward for service to Rome.

The Citizenship and the Authorities: Administration and Regulation

At the same time, the authorities carefully controlled the spread of the citizenship: no peregrine or Latin could acquire it without their intervention. In the Republic, grants of the citizenship (to individuals, communities or territories) were valid only if made or approved by the Senate or sanctioned by special enabling laws such as the lex Cella Cornelia of 72 B.C.²⁵ Imperial practice was not markedly different—only the emperor could award the citizenship.²⁶

Even the granting of the citizenship to manumitted slaves, sometimes injudiciously described as automatic, was closely regulated. Slaves acquired it upon manumission only if their owner was a Roman citizen and at least twenty years of age, if they themselves were at least thirty years of age,²⁷ and then only if freed with the requisite formalities, all of which required the presence or intervention of a Roman magistrate:²⁸ touched by the lictor's rod (vindicta) before a magistrate with imperium, enrolled on the census lists with their owner's approval (censu), or freed in their owner's will (testamento),²⁹ which, in the developed law,

could not be executed without the sanction of a praetor.³⁰ And even if a slave was properly manumitted, his citizenship was, in several ways, second-class. Freedmen normally could not enlist in the legions or in the Praetorian Guard,³¹ and, except in Julius Caesar's colonies, could not serve as town-councillors (decuriones) or municipal magistrates.³² Their freedom was partly circumscribed, since their former owners were legally entitled to demand obsequium and officia.³³ From the passage of the lex Iulia de maritandis ordinibus in 18 B.C., they and their descendants down to the third generation were barred from marriage into a senatorial family.³⁴ Even their official nomenclature revealed the second-class nature of their citizenship. Unlike all other Roman citizens, they were not entitled to show filiation (e.g. M.f.); instead, they were marked out as former slaves (e.g. M.lib.).³⁵

From the passage of the lex Iunia Norbana (before A.D. 4?),³⁶ improperly and informally manumitted slaves (e.g. slaves manumitted when below the age of thirty or inter amicos) were designated Junian Latins. They could acquire the citizenship in several ways, all of which required the participation of the Roman authorities: beneficio principali, liberis, iteratione, militia, nave, aedificio, pistrino.³⁷ If a Junian Latin married a Roman citizen, a Latin colonist or a Junian Latin, testified to this in the presence of at least seven adult Roman citizens and then fathered a child by her, he could, when the child was one year old, appear before a praetor at Rome or a provincial governor and attempt to prove that he had married e lege Aelia Sentia and that he had a year-old child. If the praetor or governor announced that the case was as stated,

the man acquired the citizenship for himself, his child and his wife (if she was not already a citizen).³⁸ The citizenship was awarded to Junian Latins who were manumitted a second time (hence iteratio) in the presence of a magistrate with imperium.³⁹ A Junian Latin who served for six years in the vigiles at Rome (militia) was granted the citizenship.⁴⁰ So too a Junian Latin who built a large sea-going ship (nave) and used it (or a substitute) to transport grain to Rome for six years,⁴¹ or spent half or more of his patrimonium (and at least 100,000 sesterces) in building a house at Rome (aedificio),⁴² or operated a mill (pistrino) at Rome for three years which ground no less than 100 measures of grain daily.⁴³

Conclusion: Law and Policy

The unregulated spread of the citizenship would have sharply undermined the government's ability to pick out and reward loyal and meritorious subjects by awarding it to them. And this may explain why the lex Minicia was not repealed. Only two Roman citizens or a citizen and a peregrine woman who had been granted conubium (i.e. by the government) could have legitimate Roman children, who in turn could have legitimate Roman children only if they married Roman citizens or peregrine women who had been awarded conubium, and so on. If the lex Minicia had been abolished, provident peregrines could have ensured that their children would have the citizenship simply by marrying Roman women (i.e. iure gentium).⁴⁴ The law served a useful purpose then even at a time when the citizenship had lost much of its exclusiveness: it allowed

the authorities to regulate more closely the spread of the citizenship,
and, in so doing, served to make it a more effective instrument of
policy.

Chapter V

Legal Rules and Social Practice

Law is not in itself a reliable guide to social behavior.¹ Roman law prescribed a variety of penalties for the partners of mixed marriages, and for their children. But how many couples ignored the law? How many Romans even knew what the law was? And in any event, how much of the law was enforceable?

Modern opinion has it that, despite the legal repercussions, unions of mixed status were not uncommon, perhaps frequent—the law was out of step with social practice.² It is a view borne out by the patchy literary evidence and by the testimony of the epitaphs (of Germany and Numidia) which I have studied.

Some Examples of Mixed Marriage (and Betrothal)?

Examples of mixed marriage are not readily discovered in the literature and epigraphy of the late Republic and early Principate.³ Since ancient authors were not in the habit of distinguishing between Roman citizens and non-citizens, the status of the partners of the marriages (and less formal unions) which they record is rarely attested.⁴ The same is true of most inscriptions.

(i) Some Descendants of Antony⁵

So it is in the case of Pythodorus of Tralles and Antonia, the daughter

of Antony and (probably) his cousin Antonia.⁶ Born c. 54/49 B.C., she was betrothed to a son of the triumvir Lepidus from 44 until 37 or 36,⁷ perhaps until after Lepidus had lost favor.⁸ It can be inferred from OGI 377 (= IGRR 4.1407) that she married Pythodorus of Tralles a few years later. A man named Zeno, son of a woman named Pythodoris, and therefore probably the grandson of Pythodorus of Tralles,⁹ is described as θυγατρὸς δὲ τῆς εὐεργέτιδος Ἀντωνίας. It was Th. Mommsen who first pointed out that εὐεργέτης was an honorary title, sometimes conferred on kings and emperors.¹⁰ H. Dessau objected that Strabo or Tacitus should have mentioned the marriage, and, less persuasively, that there was too great a difference in age between Pythodorus and Antonia (at least thirty years).¹¹ Difference in age was not often a consideration in the dynastic marriages of the late Republic.¹²

That the royal family of Pontus had some connection by marriage with the Antonii can also be inferred from several Pontic coins¹³ which describe a M. Antonius Polemon as ἀρχιερεὺς and as δυνάστης Ὀλβέων τῆς ἑρᾶς καὶ Κεννατῶν καὶ Λαλασσεῶν.¹⁴ He is probably to be identified with the otherwise unnamed elder son of Pythodoris and Polemon I (king of Pontus from 37/36 B.C.),¹⁵ who, according to Strabo (12.3.37), helped his mother to rule Pontus after the death of her husband in 8 B.C.¹⁶

In short, what evidence there is favors the view that Pythodorus of Tralles married Antony's daughter. The status of the union can only be conjectured. Antonia had the citizenship from birth. There is some reason to think that Pythodorus was awarded it.¹⁷ He exercised considerable influence at Tralles,¹⁸ and he was wealthy—Caesar once fined him 2,000

talents.¹⁹ More importantly, he had been a friend of Pompey.²⁰ The lex Gellia Cornelia of 72 B.C. validated the grants of the citizenship which Pompey had made while campaigning against Sertorius in Spain (e.g. to Lucius Cornelius Balbus).²¹ I think it not unlikely that he enjoyed the same privilege during his settlement of the East in the 60's B.C., and that he used it to reward his friends and supporters, e.g. Pythodorus.

Equally uncertain is the status of the marriage of Juba II, king of Mauretania from c. 25 B.C., and Cleopatra Selene, another daughter of Antony. Born in 39 B.C., she was awarded Cyrene by Antony in 34, captured by Octavian in 30, and led in his triumph of 29. Raised by his sister Octavia and educated by Nicolaus of Damascus, she married Juba sometime between 25 and 20 B.C.²² He was a Roman citizen, probably from the time he served at Actium under Octavian (if not before).²³ It is arguable whether Cleopatra Selene was ever awarded the citizenship (e.g. by her father).²⁴ In any case, the couple may have enjoyed conubium. Probably about the same time that Juba was given the citizenship, Octavian granted it to his admiral Seleucus of Rhosos, and to Seleucus' wife, children and parents (36/34 B.C.). And it appears that he also received conubium (cum peregrina), presumably in the event of his remarriage: the word ἐνυπόμνημα appears in a fragmentary line (41) of the inscription recording Octavian's benefaction.²⁵ If Juba, like Seleucus, was awarded both the citizenship and conubium (cum peregrina), his marriage to Cleopatra Selene was a valid Roman marriage.

Cleopatra Selene bore a son named Ptolemaeus and a daughter named Drusilla, or so Tacitus believed. He reports (Hist. 5.9) that M. Antonius

Felix, freedman of Antonia Minor (Antony's younger daughter by Octavia), procurator of Judaea c. A.D. 52-60, and brother of Pallas, married Drusilla, the granddaughter (neptis) of Antony and Cleopatra.²⁶ Felix had previously been married to a woman named Drusilla, the daughter of Herod Agrippa I,²⁷ and it has been suggested that Tacitus may have confused the two women.²⁸ But it is hard to believe that he could have been muddled about a descendant of Antony and Cleopatra. And Suetonius says (Cl. 28) that Felix was trium reginarum maritus—the daughter of Juba II and Cleopatra was a regina.²⁹ Felix was a Roman citizen (i.e. had acquired the status of his patroness when manumitted). Drusilla's status is conjecturable. She may have been awarded the citizenship (perhaps through Pallas' influence), or born with it (if her mother was given the citizenship or if her father was awarded conubium cum peregrina).³⁰

(ii) Kings and Princesses

Two reported betrothals warrant brief notice. According to Suetonius (Aug. 63.2), Antony claimed that Augustus had once betrothed³¹ his daughter Julia to Cotiso, king of the Getae (and undoubtedly a peregrine), and asked in turn for the hand of Cotiso's daughter. I find it hard to believe that Augustus intended to marry the girl or that he betrothed Julia to Cotiso,³² though he was not above using members of his family to cement alliances.³³

Less credible is Herodian's tale (4.10-11) in which Caracalla is betrothed to the daughter of Artabanus, king of the Parthians.³⁴ In A.D.

216, he reports, Caracalla wrote to Artabanus asking for the hand of his daughter, and at the same time sent a diplomatic mission armed with gifts. Though he declared that he wanted to marry her because he thought it fitting for an emperor to be the son-in-law, not of a private person of low birth, but of a great king, because the marriage would unite Rome and Parthia, and because it would facilitate trade, the Parthians were not sympathetic: a barbarian marriage (γάμον βαρβαρὸν) was unsuitable for a Roman; the couple had nothing in common; there was no language which both could understand, and they had different habits of food and dress. However Artabanus eventually gave way before Caracalla's eagerness, gifts and promises and announced that the emperor was his prospective son-in-law (γαμβρὸν ἐσόμενον). Caracalla led his army into Parthia, and Artabanus rode out to meet him near the royal palace at Arbela, hailing him as his daughter's bridegroom (νυμφῶν). After the Parthians gathered round had begun to celebrate, they were attacked by Caracalla's soldiers. Many were killed; Artabanus escaped. Caracalla later returned to Mesopotamia, where he drafted a letter to the Senate announcing the subjugation of the East.

More trustworthy³⁵ (and much shorter) is Dio's version (79.1.1): aware that Caracalla was eager to get the Parthian kingdom for himself, and only pretending to want to marry his daughter, Artabanus refused to allow the marriage to take place, thereby affording Caracalla a pretext to attack the Parthians. There was almost certainly no betrothal. Herodian's account is fiction.³⁶

More Clues: Historians and Panegyrists

Evidence of a more general nature is furnished by Livy, Tacitus, Dio Chrysostom, Pausanias and, perhaps, Aristides. Livy reports (43.3.1-4) that a delegation from Spain appeared before the Senate in 171 B.C. with a novel sort of petition:

et alia novi generis hominum ex Hispania legatio venit.
ex militibus Romanis et ex Hispanis mulieribus, cum
quibus conubium non esset, natos se memorantes, supra
quattuor milia hominum, orabant ut sibi oppidum in quo
habitarent daretur.

Since their parents did not possess conubium, the men were peregrine and (at least in Roman law) illegitimate. Their number (over 4,000) suggests that unions of mixed status were not uncommon as early as the second century B.C., certainly not among the soldiers serving in Spain.³⁷

In A.D. 69, Cremona was destroyed by the troops of Vespasian under the command of M. Antonius Primus.³⁸ Founded as a Latin colony in 218 B.C., and intended to be a bulwark against the Gauls living north of the Po,³⁹ it had been made into a colony of Roman veterans c. 41 B.C.⁴⁰ It had subsequently prospered, Tacitus says (Hist. 3.34), because of an abundance of settlers, the proximity of rivers, the fertility of its territory and intermarriage (conubium)⁴¹ with local gentes:

igitur numero colonorum, opportunitate fluminum, ubere
agri, adnexu conubiisque gentium adolevit floruitque,
bellis externis intacta,⁴² civilibus infelix.

Tacitus says nothing more, and it is arguable whether the gentes which

intermarried with the settlers were of peregrine or of Roman status. If the custom goes back to the period before the Transpadani were enfranchised by Julius Caesar (i.e. before 49 B.C.),⁴³ at least some of the marriages will have been of mixed status, Latin-peregrine, perhaps in some cases Roman-peregrine—there must have been some Roman citizens living in the Latin colony (e.g. local officials who had acquired the citizenship per magistratum).⁴⁴

Somewhat more instructive is the speech which Tacitus attributes (Hist. 4.65) to the German residents of Köln (Colonia Agrippinensium), who in A.D. 70 were ordered by the Tenciteri to tear down their city walls and to slay their Roman neighbors (settlers sent out by Agrippina in A.D. 50). Surely, they pleaded, the Tenciteri were not so cruel as to force them to kill their own parents, brothers and children:

deductis [Romanis] olim et nobiscum per conubium
sociatis quique mox provenerunt haec patria est;
nec vos adeo iniquos existimamus ut interfici a
nobis parentes fratres liberos⁴⁵ nostros velit.

The speech is the work of Tacitus, not a verbatim account of what, if anything, was said (in hunc modum respondent). But Tacitus himself evidently believed that intermarriage was common at Köln.⁴⁶

In a speech delivered c. A.D. 100-105 to the Senate of Apameia, a Roman colony founded by Julius Caesar and settled by veterans, Dio Chrysostom declares (10) it fitting that Apameia be gentle and gracious in its dealings with the Greeks residing at Prusa, since they are virtually

housemates (συνοίκους):

πρὸς οὓς ὑμῖν καὶ γάμοι κοινοὶ καὶ τέκνα καὶ πολιτεῖται
καὶ θυσίαι θεῶν καὶ πανηγύρεις καὶ θεάματα, καὶ
συνπαιδεύεσθε αὐτοὺς καθ' ἓνα καὶ συνεστιᾶσθε καὶ
ἀλλήλους ὑποδέχεσθε καὶ ἀλλήλοις τὸν πλεῖον χρόνον
συνδιατρίβετε καὶ σχεδὸν εἰς ἑστὲ δῆμος καὶ μὴ πόλις
ἐν οὐ πολλῷ διαστήματι.

He doubtless exaggerates the close ties and cordial relationship which the two cities enjoyed (μὴ πόλις ἐν οὐ πολλῷ διαστήματι goes too far), for his purpose was to put to rest lingering resentments rooted in past conflicts. But he could not have invented ties of marriage with Apameia in a speech presented to its Senate. The intermarriage of Prusans and Apameians is symptomatic of the practical assimilation of Romans and Greeks in the first, and especially second, centuries A.D., i.e. Romanization of the Prusans and Hellenization of the Apameians.⁴⁷

Pausanias also attests (indirectly) the intermarriage of Greeks and Romans in the second century A.D. He mentions in passing (8.43.5) a law (νόμος) which barred the Greek children of a Roman father from inheriting his property, and goes on to report that Antoninus Pius, preferring to appear magnanimous than to enrich the state treasury (i.e. through the confiscation of illegal bequests), allowed them to accept whatever had been left to them. The νόμος which he had in mind is probably the rule that non-Romans (e.g. Greeks) could not inherit from Roman citizens.⁴⁸ More importantly, it can be deduced that the children so affected were the offspring of mixed marriages. I can think of no other reason why they should not have been born Roman citizens.

Less likely to be evidence of mixed marriage is a rather puzzling passage in Aristides' panegyric to Rome delivered in A.D. 117 or 129:⁴⁹

οὐδέ γε δεῦ νῦν περιήγησιν γῆς γράφειν οὐδ' οὔς ἕκαστοι
 χρώνται νόμοις ἀπαριθμεῖν, ἀλλ' ὑμεῖς ἅπασιν περιηγηταὶ
 κοινοὶ γέγονατε, ἀναπετάσαντες ἀπάσας τῆς οἰκουμένης τὰς
 πύλας καὶ παρασχόντες ἐξουσίαν αὐτόπτας πάντων τοὺς θέλοντας
 γύγνεσθαι, νόμους τε κοινοὺς ἅπασιν τάξαντες καὶ τὰ πρόσθεν
 λόγου μὲν διηγήσει τέρποντα, λογισμῷ δὲ εἰ λαμβάνου τις,
 ἀφόρητα παύσαντες, γάμους τε κοινοὺς ποιήσαντες καὶ συντάξαντες
 ὥσπερ ἓνα οἶκον ἅπασαν τὴν οἰκουμένην.⁵⁰

The phrase γάμους τε κοινοὺς ποιήσαντες is susceptible of various interpretations, especially since κοινός has a number of quite separate meanings. Perhaps Aristides believed that Rome was responsible for an increase in the number of marriages (i.e. had made marriage more commonplace). He may have thought that Rome allowed everyone to marry whom he wished (i.e. had made a common law of marriage). But I think it more likely that he had in mind the extension of the citizenship, and the ease with which the enfranchised could intermarry (i.e. without legal penalty).⁵¹ Aristides was inclined to think only of the urban upper classes, the main beneficiaries of the spread of the citizenship. This must also be the explanation of the phrase νόμους τε κοινοὺς. Even Aristides could not have imagined that Rome had swept away all law except the ius civile.

Another odd passage (59) in Aristides' speech can be explained in the same way:—

τὸ μὲν χαριέστερόν τε καὶ γενναϊότερον καὶ δυνατώτερον
 πανταχοῦ πολιτικὸν ἢ καὶ ὁμόφυλον πᾶν ἀπεδώκατε.⁵²

Like γάμους τε κοινούς ποιήσαντες, ὁμόφυλον, ought to be understood as a reference to the ease with which Roman citizens could intermarry (i.e. because they were governed by the same laws).

Inscriptions and Papyri: Some Guidelines for Distinguishing between Roman Citizens and Non-Citizens

It is sometimes assumed that inscriptions which attest a husband with a Latin name and a wife with a non-Latin name (or vice versa) constitute incontrovertible evidence of mixed marriage.⁵³ Frequently adduced is IG 12⁵ no. 307, which records the union of Aulus Babillius and Eparchis.⁵⁴ The same is true of papyri. R. Taubenschlag has collected several which, he contends, record the intermarriage of Romans and Egyptians:⁵⁵ P.Oxy. 273 (A.D. 95),⁵⁶ the union of Dionysios (also known as Pausanias) and Julia Heracla (they have a daughter Gaia, also known as Serapias); BGU 472 (Col. 1, 6: A.D. 139), Limnaios and Valeria Diodora; P.Tebt. 316 (A.D. 99), Sarapion and Romania Berenice have a son named Sarapion; Sammelb. 1090 (A.D. 161), Panos is the son of M. Clodius Alyras; P.Ryl. 153 (A.D. 138-161), Hellanikos is the son of Claudia Leontis; P.Lond. 908 (A.D. 139), Eudaimonis is the son of M. Ulpus Sarapion (also known as Serenus).⁵⁷ A more cautious approach is warranted. It is no more than likely that a man attested with the tria nomina — praenomen, nomen and cognomen (e.g. M. Ulpus Sarapion) — or with a Latin nomen and praenomen or cognomen (e.g. Aulus Babillius) is a Roman citizen.⁵⁸ The same is true of women attested with a Latin nomen and cognomen (e.g. Julia Heracla). Latin names, and even the Roman citizenship,

were readily usurped.⁵⁹

Claudius forbade peregrines to adopt Roman nomina: peregrinae
condicionis homines vetuit usurpare Romana nomina dum taxat gentilicia.⁶⁰

But as P.A. Brunt has shrewdly observed, "the prohibition is better evidence of the practice than of its cessation".⁶¹ Appian attests (Hisp. 66) a Spaniard from Italica named C. Marius, and elsewhere mentions (Hisp. 68) two Spanish robber-chieftains named Apuleius and Curius. Cicero records (Verr. 5.112) Sicilians with Latin names (e.g. Furius). Plenty of inscriptions attest non-Romans with Latin names: e.g. Grata, daughter of Dagobitus; Verēcud. Rutilia, a civis Dubonna (both Britons).⁶² Non-citizens in the auxilia regularly adopted Latin names, either upon enlistment or during service.⁶³ From A.D. 129, all sailors attested on fleet diplomas have the tria nomina. They were not Roman citizens.⁶⁴

The usurpation of the citizenship has a long history. It begins in 195 B.C., when the Senate denied the citizenship to some Latins who had joined the Roman colonies at Puteoli, Salernum and Buxentum, and were conducting themselves as Roman citizens (se pro civibus Romanis ferrent).⁶⁵ A century later the authorities clamped down again. The lex Licinia Mucia of 95 B.C. established a standing court (quaestio) for cases of usurpation of the citizenship.⁶⁶ And it can be inferred that the practice had not been uncommon before the law was promulgated: it resulted in many trials⁶⁷ and was bitterly resented.⁶⁸ Thirty years later,⁶⁹ the lex Papia de peregrinis reiterated the prohibition. A freedman servant of Aulus Gabinus, tribune in 67 B.C., was (unjustly) prosecuted and

convicted.⁷⁰ Two of Cicero's clients fared better: the Greek poet Archias (62 B.C.)⁷¹ and Lucius Cornelius Balbus (56 B.C.).⁷²

Claudius is said to have executed some men in the Esquiline field for having usurped the citizenship: civitatem R. usurpantes in campo Esquilino securi percussit.⁷³ More charitable was his treatment of the members of three Alpine tribes, the Anaunians, the Tulliassians and the Sindunians, who were conducting themselves as Roman citizens. He retroactively awarded them the citizenship and allowed them to keep the Latin names which they had adopted.⁷⁴ Suetonius reports (Cl. 15.2) that he allowed a man charged with usurping the citizenship (peregrinitatis reum) to change from Greek pallium to Roman toga and back again, depending upon whether he was being accused or defended.⁷⁵

Three clauses in the Gnomon of the Idios Logos treat of the usurpation of Roman status. Egyptians who fraudulently identified their deceased parents as Roman citizens were fined one-quarter of their property.⁷⁶ So too ex-soldiers who, though not legally discharged, claimed to be Roman citizens.⁷⁷ And an Egyptian woman who married a veteran and styled herself a Roman was liable to the edict on improper designation (τῆς ἀκαταλληλίας).⁷⁸

In short, possession of a Latin name is an indication, but not proof, of possession of the citizenship. Other guidelines for distinguishing between Roman citizens and non-citizens on inscriptions and papyri are of varying degrees of reliability:

(i) Roman Citizens

Men

- 1) Roman magistrate or official⁷⁹
- 2) Imperial freedman (e.g. Aug.l. or Aug.lib.)⁸⁰
- 3) Legionary, auxiliary or naval veteran
- 4) Legionary officer
- 5) Tria nomina with father's praenomen abbreviated (e.g. CIL 13.5384: D. Iulius P.f. Auctus)⁸¹
- 6) Membership in a tribe (e.g. CIL 13.6961: T. Iavennius C.f. Pol. Proculus)⁸²

Women

- 1) Imperial freedwoman⁸⁰
- 2) Tria nomina (e.g. CIL 13.5983: C. Lucania Carata; very rare)⁸³

(ii) "Probable" Roman Citizens

Men

- 1) Freedman⁸⁴
- 2) Legionary
- 3) Tria nomina (e.g. CIL 13.5871: P. Visellius Senicianus)
- 4) Two Latin names, either praenomen and nomen or nomen and cognomen (e.g. CIL 13.7281: Iulius Severus)⁸⁵

Women

- 1) Freedwoman⁸⁴

- 2) Two Latin names: nomen and cognomen (e.g. CIL 13.5029: Iulia Censorina)⁸⁵

(iii) Non-Romans

Men

- 1) Slave

Women

- 1) Slave

(iv) "Probable" Non-Romans

Men

- 1) Auxiliary soldier
- 2) Single non-Latin name (e.g. CIL 13.6154: Magissā)
- 3) Two non-Latin names (e.g. CIL 13.4002: Moxsius Drappus)⁸⁶
- 4) Single Latin name (e.g. CIL 13.5505: Victor)⁸⁷

Women

- 1) Single non-Latin name (e.g. CIL 13.6393: Meddile)
- 2) Two non-Latin names (e.g. CIL 13.460: Eutazia Ande)
- 3) Single Latin name (e.g. CIL 13.5453: Cara)⁸⁷

Mixed Marriage in Germany and Numidia

To test the relationship between the Roman law of mixed marriage

and social practice (i.e. the extent to which Romans formed unions of mixed status despite the legal disabilities which followed), I examined all of the epitaphs of Germania Superior (CIL 13), Germania Inferior (CIL 13) and Numidia (CIL 8).⁸⁸ I chose these three provinces because each offers a manageable corpus of epitaphs and because the military population of each is sufficiently large to allow for at least some comparative analysis of the habits of soldiers and civilians.

Having first discarded those which I judged to be unusable (i.e. too fragmentary or Christian), I determined which of the remaining epitaphs attest unions (expressly or otherwise), i.e., where a man is described as maritus or coniunx or a woman as uxor or coniunx, or a man and woman are identified as pater and mater, parentes etc., or a man is commemorated by a woman (or vice versa) and no other name is recorded.⁸⁹ Following the guidelines outlined above (pp. 113-15), I classified the partners of these unions as Roman citizens, "probable" Roman citizens, non-Romans or "probable" non-Romans.⁹⁰

(i) Germania Superior

There are 3,548 inscriptions of Upper Germany collected in CIL 13 (5001-7775 and 11468-11980). Of these, 1,191 (33.6 %) are epitaphs. 497 (41.7 %) are too fragmentary to be used, another 74 (6.2 %) are Christian. Of the 620 usable epitaphs, 394 (63.5 %) are civilian. 133 marriages (21.5 %) are attested on 132 epitaphs (CIL 13.6808 records two marriages, one civilian, the other military), 108 civilian marriages (27.4 %), 25 military marriages (11.1 %). The four principal find-spots

of the epitaphs attesting marriages are Andemantunnum (later Civitas Lingonum, now Langres: 20.5 %), Mogontiacum (now Mainz: 15.2 %), Aventicum (now Avenches: 4.5 %) and Borbetomagus (now Worms: 4.5 %). Of the 25 epitaphs which record military marriages, 14 (56.0 %) are from Mogontiacum.

Table 1 shows the status of the partners of the 133 civilian and military marriages.

Table 1

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	1	14	-	5 ¹	20
PR	-	48	-	8 ²	56
NR	-	1 ³	1	-	2
PNR	-	10 ⁴	-	45	55
Total	1	73	1	58	133

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

1 CIL 13.5284 (Augusta Rauricorum); 5384 (Vesontio); 6806, 6808, 6970 (Mogontiacum; two legionary officers)

2 CIL 13.5153 (Amsoldingen); 5700, 5868 (Andemantunnum); 5976 (Argentoratum); 6201 (Schwarzerden); 6246 (Borbetomagus); 6310 (Aquae); 6410 (Heidelberg)

3 CIL 13.5697 (Andemantunnum)

4 CIL 13.5018 (Colonia Iulia Equestris Noviodunum);
5743, 5782, 5783 (Andemantunnum); 6090 (Tabernae);
7028, 7032 (Mogontiacum; both auxiliary officers);
7257 (Ager Mogontiacensis; auxiliary officer); 7299,
7304 (Castellum Mattiacorum; one auxiliary officer)

* The numbers of the other 109 inscriptions can be found in Appendix D

The rate of mixed marriage attested is 18.0 % (24 of 133): 5 Romans and 8 "probable" Romans have "probable" non-Roman wives, 1 non-Roman and 10 "probable" non-Romans have "probable" Roman wives.

Tables 2 and 3 compare the civilian and military populations of Upper Germany (soldiers, officers and veterans). The rate of mixed marriage attested for the military population (24.0 %: 6 of 25) is somewhat higher than that attested for the civilian population (16.7 %: 18 of 108).

Table 2

Civilian Population

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	-	1	-	3	4
PR	-	44	-	8	52
NR	-	1	1	-	2
PNR	-	6	-	44	50
Total	-	52	1	55	108

Table 3
Military Population

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	1	13	-	2	16
PR	-	4	-	-	4
NR	-	-	-	-	-
PNR	-	4	-	1	5
Total	1	21	-	3	25

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

(ii) Germania Inferior

Of the 1,188 inscriptions of Lower Germany in CIL 13 (7776-8860 and 11981-12086a), 348 (29.3 %) are epitaphs. 19 (5.5 %) are Christian, another 131 (43.4 %) too fragmentary to be used. Of the 178 usable epitaphs, 81 (45.5 %) are civilian. 59 marriages (33.1 %) are attested on 58 epitaphs (CIL 13.8267 records two marriages, both military), 36 civilian marriages (44.4 %), 23 military marriages (23.7 %). More than one-half (33 of 58) of the epitaphs attesting marriages are from Colonia Agrippinensium (now Köln). It is also the principal find-spot of the military epitaphs which attest unions (52.2 %).

Table 4 shows the status of the partners of the 59 civilian and military marriages.

Table 4

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	-	16	-	2 ¹	18
PR	-	26	-	1 ²	27
NR	-	1 ³	-	-	1
PNR	-	3 ⁴	-	10	13
Total	-	46	-	13	59

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

1 CIL 13.8055 (Bonna; legionary veteran); 8290
(Colonia Agrippinensium; legionary officer)

2 CIL 13.8565 (Novaesium)

3 CIL 13.8374 (Colonia Agrippinensium)

4 CIL 13.8307, 8340 (Colonia Agrippinensium; one
auxiliary officer); 8855 (no find-spot attested)

* The numbers of the other 52 inscriptions can be
found in Appendix D

The rate of mixed marriage attested is 11.9 % (7 of 59), somewhat lower than that (18.0 %) which I calculated for Upper Germany: 2 Romans and 1 "probable" Roman have "probable" non-Roman wives, 1 non-Roman and 3 "probable" non-Romans have "probable" Roman wives.

Tables 5 and 6 compare the habits of the civilian and military populations of Lower Germany. A slightly higher rate of mixed marriage is attested for the military population, 13.0 % (3 of 23) compared to 11.1 % (4 of 36).

Table 5
Civilian Population

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	-	-	-	-	-
PR	-	25	-	1	26
NR	-	1	-	-	1
PNR	-	2	-	7	9
Total	-	28	-	8	36

Table 6

• Military Population

Citizenship of Husband.	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	-	16	-	2	18
PR	-	1	-	-	1
NR	-	-	-	-	-
PNR	-	1	-	3	4
Total	-	18	-	5	23

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

(iii) Numidia

Numidia furnishes a much larger number of epitaphs—6,615 (76.8 %) of the 8,614 Numidian inscriptions collected in CIL 8 (1837-8366a, 10623-10904 and 17585-20206). Of these, 1,584 (23.9 %) are too fragmentary to be used, another 59 (0.9 %) are Christian. 4,481 of the 4,972 usable epitaphs (90.1 %) are civilian. 652 marriages (13.1 %) are attested, 478 civilian marriages (10.7 %), 174 military marriages (35.4 %). The find-spot of more than one-half (375) of all the epitaphs attesting marriages and of 83.3 % (145) of the epitaphs which attest military marriages is

Lambaesis.

Table 7 shows the status of the partners of the 652 civilian and military marriages.

Table 7

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	2	150	-	11 ¹	163
PR	-	366	1 ²	44 ³	411
NR	-	-	2	1	3
PNR	1 ⁴	31 ⁵	3	40	75
Total	3	547	6	96	652

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

1 CIL 8.2505 (Calceus Herculis; auxiliary veteran); 2897, 2906, 3030, 3086, 3234, 3257 (Lambaesis; two legionary officers, four legionary veterans); 4606 (Diana; legionary veteran); 5846, 19174 (Sigus); 6050 (Arascal; legionary veteran)

2 CIL 8.1899 (Theueste)

3 CIL 8.1936, 1937, 1962 (Theueste); 2148 (near Theueste); 2759, 3059, 3081, 3148, 3205, 3271, 3407, 3469, 3497, 3639, 3655, 3672, 3698, 3717, 3725, 3726, 3727, 3859, 3998, 4074, 18463 (Lambaesis = 21; five legionaries); 4340 (between

Lambaesis and Diana); 4478 (Ngaus); 4850 (Tipasa); 4906, 4953, 5044, 5066 (Thubursicu Numidarum); 5244 (Hippo Regius); 5370, 5448, 5466 (Calama); 5495 (Aquae Thibilitanae); 5777 (Sigus); 6024 (Subzuar); 6235 (Arascal); 10785 (Macomades); 18570 (Lambiridi); 19610 (Cirta); 20084 (between Milev and Cuicul)

4 CIL 8.7665 (Cirta)

5 CIL 8.1931, 1953, 1954 (Theueste); 2090, 2139 (near Theueste; one auxiliary officer); 3347, 3427, 3449, 3463, 3584, 3809, 3819, 3874, 3946, 4078, 18443 (Lambaesis = 11); 4298, 4339 (between Lambaesis and Diana); 4660 (Thagora); 4748 (Madaura); 4965, 5018, 5037, 5054, 5074, 5086 (Thubursicu Numidarum); 7616, 7718 (Cirta); 10774 (Macomades); 17592 (Bir Umm Alî); 17702 (Mascula)

* The numbers of the other 564 inscriptions can be found in Appendix D

The rate of mixed marriage attested is 13.5 % (88 of 652): 11 Romans and 44 "probable" Romans have "probable" non-Roman wives, 1 "probable" Roman has a non-Roman wife, 1 "probable" non-Roman has a Roman wife, 31 "probable" non-Romans have "probable" Roman wives. Unions of mixed status seem to have been especially common at Thubursicu Numidarum. Find-spot of only 5.4 % (35 of 652) of the epitaphs which record marriages, it boasts 11.4 % (10 of 88) of the mixed unions attested. And while the rate of mixed marriage attested is 12.6 % in the rest of Numidia (10.4 % at Lambaesis), it is 28.6 % (10 of 35) at Thubursicu Numidarum.

Tables 8 and 9 compare the civilian and military populations of Numidia. The rate of mixed marriage attested for the military population is lower than that attested for the civilian population (8.6 % compared to 15.3 %).

Table 8
Civilian Population

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	2	23	-	2	27
PR	-	334	1	39	374
NR	-	-	2	1	3
PNR	1	30	3	40	74
Total	3	387	6	82	478

Table 9
Military Population

Citizenship of Husband	Citizenship of Wife				Total
	R	PR	NR	PNR	
R	-	127	-	9	136
PR	-	32	-	5	37
NR	-	-	-	-	-
PNR	-	1	-	-	1
Total	-	160	-	14	174

R = Roman

PR = "Probable" Roman

NR = Non-Roman

PNR = "Probable" Non-Roman

(iv) Conclusion: Law and Social Practice

The epitaphs of Germany and Numidia furnish a rough indication of the rate at which Romans contracted mixed marriages: it appears that almost one of every seven unions attested (14.1 %: 119 of 844) was of mixed status. I cannot tell whether this constitutes a great deal of intermarriage or very little (or something in between), chiefly because I have no yardstick by which to judge (I know of no comparative evidence from other societies).⁹¹ The most that can be said is that intermarriage was not uncommon, and that the Roman law of mixed marriage was, to some extent, out of step with social behavior.

Mixed Marriage and Romanization

It is sometimes argued that the intermarriage of Roman citizens and non-citizens fostered the Romanization of the provinces.⁹² There is plenty of evidence, especially from Africa and the Danubian provinces, for the development of coterminous Roman and peregrine communities.⁹³ I think it not unlikely that intermarriage contributed to their assimilation, a process well attested in the second century A.D.⁹⁴ Mixed marriage probably hastened the Romanization of the canabae which sprang up around legionary bases, several of which eventually acquired municipal status (municipia).⁹⁵

In short, mixed marriage will have done something to facilitate the diffusion of Roman attitudes and values (Romanitas). However its role cannot be tested or measured.⁹⁶ The medium of cultural assimilation is attitude and sentiment, of which much is intangible and imponderable.

Appendix A

The Marriage Rights of Equestrian Officers /

In the first book of his Definitiones, Papinian reveals (Dig. 23.2.63) that the union of an equestrian officer (praefectus cohortis, tribunus militum or praefectus equitum)¹ and a woman of the province in which he served was forbidden because of the officer's potentatus:

praefectus cohortis vel equitum aut tribunus contra interdictum
eius provinciae duxit uxorem, in qua officium gerebat:²
matrimonium non erit: quae species pupillae comparanda est,
cum ratio potentatus nuptias prohibuerit.³

It is not clear what happened if an equestrian officer married contra interdictum—matrimonium non erit is ambiguous. It may be that the union was void (non erit). But I think it more likely that the marriage was iniustum (i.e. the couple was treated as husband and wife, but subject to a variety of legal disabilities):⁴ matrimonium probably denotes "lawful Roman marriage" (as elsewhere in the Digest).⁵

That Papinian had in mind matrimonium iniustum is, to some extent, confirmed by Dig. 23.2.65. In the seventh book of his Responsa, Paul reports that an equestrian officer serving in his native province (so I take in patria sua) who married a woman of that province was not considered to have married contra mandata. Careful to point out that the same view was expressed in certain official documents (quibusdam mandatis), he goes on to say that a marriage contracted contra mandata (and this strongly suggests that such a union was not void) was ex post facto legitimized

when the man had laid aside his office:

eos, qui in patria sua militant, non videri⁶ contra mandata ex eadem provincia uxorem ducere idque etiam quibusdam mandatis contineri. idem eodem. respondit mihi placere, etsi contra mandata contractum sit matrimonium in provincia, tamen post depositum officium, si in eadem voluntate perseverat, iustas nuptias effici: et ideo postea liberos natos ex iusto matrimonio legitimos esse.

Militant has caused some confusion. One translator, thinking that the passage refers to the marriage rights of civilian officials, renders it as "administer public office".⁷ But if Paul was thinking of public officials he is likely to have used a less precise verb such as mereo. Two passages in the Digest are especially instructive: 29.1.38.1, where Paul uses milito to contrast a soldier and a paganus, and 29.1.21, where Africanus employs it in connection with equestrian prefects and tribunes. The militant of Dig. 23.2.65 almost certainly refers to military service, and, as such, recalls Dig. 23.2.63 and the rules governing the marriage rights of equestrian officers.⁸

The introduction of the regulations cannot be dated. Both Papinian and Paul are Severan jurists (i.e. did much of their writing during the reign of Severus).⁹ Severus himself could be the author of the regulations. But the first appearance of a rule in a legal text should not be taken as evidence of the date of its introduction. It is certain only that the rules were in effect in the post-Severan army.

Papinian does not describe the nature of the potentatus enjoyed by equestrian officers.¹⁰ But he furnishes a clue when he introduces the analogy of marriage between a tutor and his ward.

Callistratus says (Dig. 23.2.64.1) that the purpose of the ban on marriage between a tutor and his ward¹¹ was to ensure that there would be a proper account of the guardianship: as supervisor of his ward's financial interests, a tutor was expected to maintain an arm's-length relationship (ne pupillae in re familiari circumscribantur ab his, qui rationes eis gestae tutelae reddere compelluntur). But this cannot be what Papinian had in mind, since equestrian officers had no such responsibilities.

Several juristic texts show that provincial officials could not marry women of the province in which they were stationed.¹² The purpose of the prohibition is made explicit in a decree of Gratian, Valentinian and Theodosius:

si quis ordinaria vel qualibet praeditus potestate circa nuptias invitis ipsis vel parentibus contrahendas, sive pupillae sive apud patres virgines sive viduae erunt, sive et iuris sui viduae, denique cuiuscumque sortis, occasione potestatis utatur et minacem favorem suum invitis his, quorum utilitas agitur, exhibere aut exhibuisse detegitur, hunc, licet prohibitas nuptias non peregerit, attamen pro tali conamine multae librarum auri decem obnoxium statuimus.¹³

I think it not unlikely that the potentatus which Papinian attributes to equestrian officers and tutors is equivalent to the potestas here ascribed to public officials, and that all were forbidden to marry for the same reason: to prevent them from using the influence afforded by rank and position to pressure women into marriage.¹⁴

I cannot readily explain why an officer serving in his native province (in patria sua) was allowed to marry a woman of that province. It cannot

be held that those who served in patria sua had less potentatus. If anything, they will have had more, because of closer proximity to family (perhaps, also to influential friends). It may have been more difficult to enforce the regulations among officers serving in their native provinces. But it is not in the nature of the Roman lawyers and of those who framed the laws to admit defeat (or acknowledge a mistake). Reiteration of a prohibition, no matter how difficult to enforce, is the rule.¹⁵

I think it more likely that the exemption was granted so as not to disrupt unions formed prior to enlistment (i.e. in patria sua).¹⁶ If the purpose of the prohibition was to prevent equestrian officers from pressuring women into marriage, there was no reason to forbid the marriage of couples who had manifested the intention to marry before the men enlisted.¹⁷

Appendix B

Provincial Officials

Provincial officials were forbidden to marry women born or domiciled in the province in which they were stationed:¹

si quis officium in aliqua provincia administrat, inde oriundam vel ibi domicilium habentem uxorem ducere non potest, quamvis sponsare non prohibeatur, ita scilicet ut, si post officium depositum noluerit mulier nuptias contrahere, libeat ei hoc facere arris tantummodo redditus quas acceperat.²

The prohibition did not extend to betrothal (sponsare non prohibeatur) probably because the woman would have the opportunity to reconsider after the official had left office and before she married him. An official could even marry a woman of his province if he had been betrothed to her prior to taking office. This must be the meaning of veterem in Dig. 23.2.38.1 (Paul):

veterem sponsam in provincia, qua quis administrat, uxorem ducere potest et dos data non fit caduca.

And provincial officials were entitled to have concubines:

concubinam ex ea provincia, in qua quis aliquid administrat, habere potest.³

Ulpian reveals (Dig. 24.1.3.1) that the union of an official and a woman of his province was contra mandata:

videamus, inter quos sunt prohibitae donationes. et quidem si matrimonium moribus legibusque nostris constat, donatio non valebit. sed si aliquod impedimentum interveniat, ne sit omnino matrimonium, donatio valebit: ergo si senatoris filia libertino contra senatus consultum nupserit, vel provincialis mulier ei, qui provinciam regit vel qui ibi meret, contra mandata, valebit donatio, quia nuptiae non sunt.⁴

He was probably thinking of the instructions issued to provincial governors when they took up office.⁵ The phrase qui provinciam regit vel qui ibi meret shows that the prohibition applied to all provincial officials, including governors and legati.

Ulpian's use of ne sit omnino matrimonium and of nuptiae non sunt strongly suggest that unions formed in contravention of the ban were null and void (i.e. not iniusta matrimonia).⁶ The same can be said of his use of cessat matrimonium in Dig. 25.2.17.pr., where he reports that a woman who married contra mandata was in law equivalent to a concubine, and therefore liable to the action for theft (actio furti) instead of the actio rerum amotarum.⁷

si concubina res amoverit, hoc iure utimur, ut furti teneatur: consequentur dicemus, ubicumque cessat matrimonium, ut puta in ea, quae tutori suo nupsit vel contra mandata convenit vel sicubi alibi cessat matrimonium, cessare rerum amotarum actionem, quia competit furti.

The partners of a union contracted contra mandata were subject to a variety of legal disabilities. Neither could succeed to the estate of the other.⁸ However provident officials could provide for their "wives" by giving them gifts during "marriage" (something which was forbidden in iusta matrimonia).⁹ Anything which the woman had given to her "husband" by way of

dowry was declared ownerless (dos caduca) and devolved upon the state treasury (fiscus).¹⁰ But he was obliged to pay to her whatever he would have been required to restore had she been entitled to sue him for return of the dowry, except for the expenses which he had incurred in maintaining its value (expensa necessaria):

dote propter illicitum matrimonium caduca facta exceptis impensis necessariis, quae dotem ipso iure minuere solent, quod iudicio de dote redditurus esset maritus solvere debet.¹¹

Since the couple did not possess conubium, any children born to them were illegitimate.¹² But children born to them after his term of service were legitimate, since the union was ex post facto legitimized as soon as he had laid aside his office:

respondit¹³ mihi placere, etsi contra mandata contractum sit matrimonium in provincia, tamen post depositum officium, si in eadem voluntate perseverat, iustas nuptias effici: et ideo postea liberos natos ex iusto matrimonio legitimos esse.¹⁴

An excerpt from the eleventh book of the Institutiones of Marcianus (Dig. 34.9.2.1) takes the introduction of the ban back to at least A.D. 211 (the death of Severus). In elaborating the rules governing succession between the "husband" and "wife" of a marriage contracted contra mandata, he cites a rescript of Severus and Caracalla:

item si quis contra mandata duxerit uxorem ex ea provincia, in qua officium aliquid gerit, quod ei ex testamento uxoris adquisitum est divi Severus et Antoninus rescripserunt retinere eum non posse, tamquam si tutor pupillam contra decretum amplissimi ordinis in domum suam duxisset.

A. Dell'Oro thinks that there may be a connection between the

introduction of the regulations and the senatorial debate of A.D. 21, when Caecina Severus proposed that governors not be allowed to take their wives to the provinces:¹⁵ governors' wives were ambitious, prone to intrigue and luxurious living, and a malign influence on military discipline.¹⁶ Following a lengthy rebuttal delivered by Valerius Messalinus (which shows an almost equally ~~biased~~ view of women), saner heads prevailed and the motion of Caecina Severus was evaded (i.e. did not go to a vote).¹⁷ But he and other like-minded senators got some satisfaction three years later. After Gaius Silius and his wife Sosia Gallia had been tried for provincial maladministration (she was cited as an accomplice),¹⁸ a senatus consultum was passed on the instance of Marcus Aurelius Cotta Maximus Messalinus, which decreed that governors should be punished for their wives' misdeeds in the provinces, even if they themselves were innocent of any wrongdoing.¹⁹

It is tempting to link the senatorial debate and the senatus consultum with the rule forbidding governors to marry women of the province in which they served. But the connection is tenuous at best.²⁰

Like the date of its introduction, the purpose of the ban is not attested. However it can be inferred from other regulations governing the conduct of provincial officials that it was intended to prevent them from using their authority and influence to pressure provincial women to marry them.²¹

As early as the second century B.C., governors were forbidden to purchase slaves in the province to which they had been posted, because their position could enable them to influence the price.²² Probably for

the same reason, provincial officials were later barred from purchasing anything in the province in which they were stationed.²³ The rule appears first in Marcianus' work on delatores:

non licet ex officio, quod administrat quis, emere quid vel per se vel per aliam personam: alioquin non tantum rem amittit, sed et in quadruplum convenitur secundum constitutionem Severi et Antonini: et hoc ad procuratorem quoque Caesaris pertinet. sed hoc ita se habet, nisi specialiter quibusdam hoc concessum est.²⁴

That a constitution of Severus and Caracalla introduced (or reaffirmed) a quadruple penalty for those who contravened the rules shows that, like the ban on marriage, they were in effect at least by A.D. 211.

A provincial official could not even build a ship in his province, probably because he could influence the price of the materials:

quod a praeside seu procuratore vel quolibet alio in ea provincia, in qua administrat, licet per suppositam personam comparatum est, infirmato contractu vindicatur et aestimatio eius fisco infertur: nam et navem in eadem provincia, in qua quis administrat, aedificare prohibetur.²⁵

A law of A.D. 176 decreed that no one could be governor of his native province.²⁶ Fiscal officials were also barred from serving in their native provinces (ne aut gratiosus aut calumniosus apud suos esse videatur).²⁷

Callistratus reports (Dig. 1.18.19.pr.) that governors were advised in their mandata to keep a certain distance between themselves and their subjects. However the policy was probably intended not so much to prevent governors from abusing their power as to maintain the dignity of their office, or, what Callistratus discreetly neglects to mention, to discourage

governors, and especially those who commanded legions, from forming closer attachments to their provincial subjects than to their political bosses at Rome:

unde mandatis adicitur, ne praesides provinciarum in ulteriorem familiaritatem provinciales admittant: nam ex conversatione aequali contemptio dignitatis nascitur.

Promulgated long after the introduction of the marriage ban but a good clue to its purpose is a decree of Gratian, Valentinian and Theodosius:

si quis ordinaria vel qualibet praeditus potestate circa nuptias invitis ipsis vel parentibus contrahendas, sive pupillae sive apud patres virgines sive viduae erunt, sive et iuris sui viduae, denique cuiuscumque sortis, occasione potestatis utatur et minacem favorem suum invitis his, quorum utilitas agitur, exhibere aut exhibuisse detegitur, hunc, licet prohibitas nuptias non peregerit, attamen pro tali conamine multae librarum auri decem obnoxium statuimus. 28

And the exemption for couples who were betrothed before the man took office (Dig. 23.2.38.1, quoted above, p. 131) is consistent with a policy of protecting women from the unwelcome advances of provincial officials (i.e., there was no need to forbid the marriage of those who had previously manifested the intention to marry).

The marriage ban applied to unions formed with Roman women, perhaps also to those formed with peregrine women. Paul was certainly thinking of Roman women in Dig. 23.2.65.1 (the legitimization of marriages contracted contra mandata). Mixed unions could not so readily have been transformed into iusta matrimonia. It is clear that the ban was not directed specifically at unions of mixed status.

Appendix C

Antony and Cleopatra

It is sometimes argued that Antony and Cleopatra never married (i.e. only cohabited).¹ The evidence suggests otherwise.²

Two late writers attest the marriage.³ Eusebius reports (Chron. 162^f (Helm) = Porphyrius Fr. 2.17) that in 33 B.C. Antony divorced Octavia, sister of Octavian, and then married Cleopatra:

Augusti et Antonii tertiae dissensionis exordium, quod repudiata sorore Caesaris Cleopatram duxisset uxorem.

Eutropius (7.6.1) places the marriage at least three years earlier (i.e. around the time when Antony was fighting against the Parthians):

Antonius, qui Asiam et Orientem tenebat, repudiata sorore Caesaris Augusti Octaviani, Cleopatram reginam Aegypti duxit uxorem. Contra Persas etiam ipse pugnavit.

Written somewhat closer to the event is Plut. Comp. Dem. et Ant. 4.1:

Ἀντώνιος δὲ πρῶτον μὲν ὁμοῦ δύο γυναῖκας ἡγάγετο, πρῶτα μὴδενὶ Ῥωμαίῳ τετολμημένον, ἔπειτα τὴν ἀστὴν καὶ δικαίως γαμηθεῖσαν ἐξήλασε τῇ ξένῃ καὶ μὴ κατὰ νόμους συνοῦση χαριζόμενος.

M. Grant labels the passage confusing.⁴ It need not be. Plutarch makes two points about the marriage of Antony and Cleopatra: he was the first Roman to remarry without divorcing his wife; the marriage was μὴ κατὰ νόμους. The first is incorrect.

Cicero reports (De Orat. 1.183 and 238) that a Spaniard remarried non remisso nuntio superiori. His behavior caused a summa de iure dissensio: the jurists were unable to decide whether or not the second marriage was proof of divorce.⁵ Antony's marriage to Cleopatra probably engendered a similar debate, perhaps not settled until Antony, for political or other reasons, sent formal notice of divorce to Octavia, perhaps in 33 or 32 B.C.⁶

Plutarch also says that the marriage to Cleopatra was μη κατὰ νόμους. Grant takes this to mean that Antony could not marry Cleopatra, and goes on to say that there is no evidence that Egyptian jurists annulled the marriage to Octavia.⁷ But Plutarch describes Cleopatra as Antony's wife (δύο γυναῖκας). And I think it unlikely, even improbable, that Egyptian jurists (and why jurists?) could have annulled a marriage contracted by two Roman citizens and valid iure civili. It would have been far easier for Antony to repudiate Octavia, which is what Eusebius and Eutropius say he did.

The phrase makes more sense if νόμους is understood to be the equivalent of "Roman law".⁸ Since Cleopatra was probably a peregrine,⁹ and because peregrines could not contract a valid Roman marriage (iustum matrimonium), her union with Antony was "not in accordance with the laws". Grant believes that her non-Roman status prevented Antony from marrying her at all, and adduces as proof Just. Inst. 1.10.pr.:¹⁰

iustas autem nuptias inter se cives Romani contrahunt,
qui secundum praecepta legum coeunt.

But the text, which is loosely based on Gaius Inst. 1.56, shows only that

a Roman citizen could not contract a valid Roman marriage (iustas nuptias) with a peregrine. The union of a Roman citizen and a peregrine was a marriage (an iniustum matrimonium), even in Roman law.¹¹

Even better evidence of Antony's marriage to Cleopatra is furnished by Suetonius. He quotes (Aug. 69.2) from a letter which Antony sent to Octavian at a time when the two men were not yet openly inimical (necdum plane inimicus aut hostis):

quid te mutavit? quod reginam in eo? uxor mea est. nunc coepi an abhinc annos novem? tu deinde solam Drusillam inis? ita valeas, uti tu, hanc epistulam cum leges, non inieris Tertullam aut Terentillam aut Rufillam aut Salviam Titiseniam aut omnes. an refert, ubi et in qua arrigas?

Seizing upon a suggestion first advanced by K. Kraft,¹² Grant substitutes a question mark for the period after uxor mea est, largely because all the other sentences at the beginning of the letter are punctuated with question marks, and so has Antony say something like, "at least she is not my wife, *is* she?".¹³ But there is little more than wishful thinking to support his notion, and of course no textual authority for it.¹⁴ And the passage makes more sense if the sentence is punctuated with a period. Antony is contrasting his own habits with those of Octavian, who, he alleges, has a predilection for extra-marital affairs:

What's come over you? That I'm screwing the queen? We're married. Is it anything new? It's been going on for nine years. Is Livia Drusilla the only one you're screwing? Good luck to you if you haven't screwed Tertulla or Terentilla or Rufilla or Salvia Titisenia or all of them by the time you read this. Does it matter when you have it away, and who with?¹⁵

In short, there are four texts which expressly attest the marriage of Antony and Cleopatra. Grant counters by invoking the silence of Dio,¹⁶ who says only that Antony acknowledged the children whom he had fathered by Cleopatra (49.32.4) and that he once declared her to have been the wife of Julius Caesar (49.32.41). But argumentum e silentio carries little weight in light of so much testimony to the contrary. Grant also cites Liv. Per. 131, where Cleopatra is described as uxoris loco:¹⁷

Antonius Artavasden Armeniae regem fide data perductum
in vincula conici iussit, regnumque Armeniae filio suo
ex Cleopatra nato dedit, quam uxoris loco iam pridem
captus amore eius habere coeperat.¹⁸

But uxoris loco is not the testimony of an impartial witness. Livy is openly hostile toward Cleopatra¹⁹ (as suited his nature and his allegiances) and is not likely to have afforded her the status of a wife, even though she warranted it. In any case, Per. 131 is a summary of Livy's account of the years 36-34 B.C., a period which may pre-date the marriage of Antony and Cleopatra (i.e. when Cleopatra was indeed uxoris loco).²⁰

The marriage is not readily dated. Eusebius says that Antony married Cleopatra in 33 B.C., after he had repudiated Octavia. However Liv. Per. 132 and Dio 50.3.2 date the repudiation to 32 B.C., and Plutarch has Antony marry Cleopatra while still married to Octavia. Eutropius, who places the marriage around 36 B.C., has so telescoped events that he is not a reliable chronological guide. Egyptian coinage shows that a new regnal era began in 37 or 36 B.C., and it has been argued that its inauguration was prompted by the marriage of Antony and Cleopatra.²¹ But

the connection is very tenuous. A better clue is supplied by Dio, when he reports (49.32.4) that in 37 B.C. Antony acknowledged the children whom he had fathered by Cleopatra, a very public act from which it can be inferred that he had begun to treat Cleopatra as his wife: in Roman law, it was the intention to be married (affectio maritalis) which distinguished marriage from more casual relationships. A terminus ante quem of 33 B.C. can be deduced from Suet. Aug. 69.2.²² I cannot-determine when Antony began to sleep with Cleopatra. But it is known that their relationship began at Tarsus in 41 B.C. Assuming that there was not a lengthy interval, abhinc novem annos, by inclusive reckoning, dates Antony's letter to 33 B.C.²³

In short, it appears that Antony and Cleopatra were married (i.e. had begun to treat each other as husband and wife) no later than 33 B.C., and perhaps as early as 37, probably before he had formally repudiated Octavia. In any event, it was a marriage of mixed status, and so subject to the terms of the lex Minicia.²⁴

Appendix D

Mixed Marriage in Germany and Numidia

Below are the numbers of the 132 epitaphs of Germania Superior in CIL 13 (5001-7775 and 11468-11980), of the 58 epitaphs of Germania Inferior in CIL 13 (7776-8860 and 11981-12086a), and of the 652 epitaphs of Numidia in CIL 8 (1837-8388a, 10623-10904 and 17585-20206) which attest marriages. They are grouped according to the citizenship status of the partners (cf. Chapter V, pp. 113-15). I have marked military epitaphs with an asterisk (*), and distinguished among legionaries (L), legionary officers (LO), legionary veterans (LV), auxiliaries (A), auxiliary officers (AO) and auxiliary veterans (AV).

Germania Superior

(i) Roman Man : Roman Woman

CIL 13.5983*(AV)

(ii) Roman Man : "Probable" Roman Woman

CIL 13.5029*(AV), 5244, 5684*(LO), 6279*(LO), 6813*(LO),
6962*(LO), 6999*(LO), 7000*(LO), 7006*(LO), 7256*(LO),
7287*(LO), 7515*(AV), 11861*(LV), 11862*(LO)

(iii) Roman Man : "Probable" Non-Roman Woman

CIL 13.5284, 5384, 6806, 6808*(LO), 6970*(LO)

(iv) "Probable" Roman Man : "Probable" Roman Woman

CIL 13.5107, 5111, 5129, 5132, 5135, 5137, 5155, 5157,
 5192, 5311, 5390, 5391, 5466, 5720, 5756, 5781, 5812,
 5816, 5871, 6000, 6108, 6151, 6158, 6237*(L), 6243,
 6249, 6252, 6270, 6311, 6368, 6435, 6436, 6956*(L),
 6983*(L), 7061, 7063, 7076, 7112, 7116, 7306, 7328,
 7520, 7535a*(L), 7678, 11633, 11635, 11665, 11709a.

(v) "Probable" Roman Man : "Probable" Non-Roman Woman

CIL 13.5153, 5700, 5868, 5976, 6201, 6246, 6310, 6410

(vi) Non-Roman Man : "Probable" Roman Woman

CIL 13.5697

(vii) Non-Roman Man : Non-Roman Woman

CIL 13.6808

(viii) "Probable" Non-Roman Man : "Probable" Roman Woman

CIL 13.5018, 5743, 5782, 5783, 6090, 7028*(AO), 7032*(AO),
 7257*(AO), 7299*(A), 7304

(ix) "Probable" Non-Roman Man : "Probable" Non-Roman Woman

CIL 13.5278, 5431, 5453, 5532, 5540, 5548, 5570, 5727,
 5759, 5786, 5787, 5821, 5827, 5840, 5843, 5846, 5853,
 5855, 5859, 5873, 5950, 5958, 6001, 6024, 6154, 6159,
 6178, 6369, 6372, 6393, 6534, 6626, 7067*(A), 7501,
 7516a, 7519, 11589, 11638, 11664, 11669, 11689, 11706,
 11737, 11738, 11978

* CIL 13.6808 records two marriages

Germania-Inferior

(i) Roman Man : "Probable" Roman Woman

CIL 13.8065*(LO), 8066*(LV), 8068*(LO), 8069*(LO),
8072*(LO), 8267*(LV;LO), 8273*(LO), 8277*(LV),
8279*(LV), 8283*(LV), 8286*(LV), 8306*(AV), 8601*(LV),
11982*(AV), 12075*(LV)

(ii) Roman Man : "Probable" Non-Roman Woman

CIL 13.8055*(LV), 8290*(LO)

(iii) "Probable" Roman Man : "Probable" Roman Woman

CIL 13.7871, 7873, 7875, 7877, 7929, 8070*(L), 8159,
8338, 8339, 8351, 8353, 8359, 8362, 8366, 8384, 8391,
8405, 8419, 8423, 8426, 8514, 8566, 8568, 8820, 8844,
8850

(iv) "Probable" Roman Man : "Probable" Non-Roman Woman

CIL 13.8565

(v) Non-Roman Man : "Probable" Roman Woman

CIL 13.8374

(vi) "Probable" Non-Roman Man : "Probable" Roman Woman

CIL 13.8307*(AO), 8340, 8855

(vii) "Probable" Non-Roman Man : "Probable" Non-Roman Woman

CIL 13.7872, 7965, 8268*(A), 8321*(A), 8324*(A),
8341, 8342, 8352, 8409, 8410

* CIL 13.8267 records two marriages

Nupridia

(i) Roman Man : Roman Woman

CIL 8.5805, 19057

(ii) Roman Man : "Probable" Roman Woman

CIL 8.2198*(AV), 2444*(LV), 2739, 2746, 2748, 2756*(LO),
 2761*(LO), 2762*(LO), 2763*(LO), 2786*(LO), 2795*(LO),
 2802*(LO), 2805*(LO), 2806*(LO), 2808*(LO), 2809*(LO),
 2816*(LO), 2818*(LO), 2819*(LO), 2823*(LO), 2825*(LO),
 2826*(LO), 2827*(LO), 2830*(LO), 2831*(LO), 2837*(LO),
 2838*(LO), 2843*(LO), 2845*(LO), 2849*(LO), 2851*(LO),
 2857*(LO), 2861*(LO), 2867*(LO), 2868*(LV), 2871*(LO),
 2873*(LO), 2876*(LO), 2877*(LO), 2878*(LO), 2880*(LO),
 2891*(LO), 2895*(LO), 2896*(LO), 2899*(LO), 2900*(LO),
 2903*(LO), 2907*(LO), 2913*(LO), 2919*(LO), 2929*(LO),
 2930*(LO), 2937*(LO), 2939*(LO), 2940*(LO), 2941*(LO),
 2953*(LO), 2955*(LO), 2957*(LO), 2958*(LO), 2959*(LO),
 2967*(LO), 2972*(LO), 2977*(LO), 2984*(LO), 2996*(LO),
 3003*(LO), 3004*(LO), 3011*(LV), 3025*(LV), 3027*(LV),
 3036*(LV), 3048*(LV), 3051*(LV), 3058*(LV), 3063*(LV),
 3066*(LV), 3070*(LV), 3074*(LV), 3104*(AV), 3109*(LV),
 3110*(LV), 3112*(LV), 3121*(LV), 3124*(LV), 3132*(LV),
 3136*(LV), 3144*(LV), 3153*(LV), 3157*(LV), 3160*(LV),
 3167*(LV), 3169*(LV), 3173*(AV), 3179*(LV), 3187*(LV),
 3192*(LV), 3196*(LV), 3204*(LV), 3210*(LV), 3239*(LV),
 3252*(LV), 3269*(LV), 3273*(LV), 3276*(LV), 3290, 3292,
 3334, 3358, 3881, 3919*(LV), 4232, 4234, 4241*(LV),
 4245*(LV), 4247*(LV), 4307*(LO), 4310*(LV), 4329*(LV),
 4331*(LV), 4355*(LV), 4375*(LO), 4378*(LV), 4522*(LV),
 4524*(LV), 4525*(LV), 4605*(AV), 4607*(LV), 4822,
 4881*(LV), 4882*(LV), 4890, 5501, 5585, 5622, 5638,
 5767, 5849, 5868, 7080*(LV), 7977, 7986, 8217, 18281*(LO),
 18287*(LO), 18293*(LO), 18297*(LV), 18307*(LV), 18314*(LO),
 18461

(iii) Roman Man : "Probable" Non-Roman Woman

CIL 8.2505*(AV), 2897*(LO), 2906*(LO), 3030*(LV),
 3086*(LV), 3234*(LV), 3257*(LV), 4606*(LV), 5846,
 6050*(LV), 19174

(iv) "Probable" Roman Man : "Probable" Roman Woman

CIL 8.1903, 1909, 1910, 1912, 1913, 1915, 1917, 1923,
 1942, 1947, 1960, 1967, 1974, 1978, 1988, 1994, 2001,

2002, 2004, 2024, 2028, 2038, 2064, 2067, 2083, 2100,
 2103*(L), 2118, 2165, 2210, 2225, 2248, 2262, 2264,
 2282, 2327, 2397*(L), 2431, 2433, 2441, 2445, 2451,
 2459, 2477, 2489, 2772*(L), 2844, 3018*(L), 3019*(L),
 3038*(L), 3049*(L), 3053*(L), 3054*(L), 3064*(L),
 3065*(L), 3077*(L), 3078*(L), 3084*(L), 3095*(L),
 3127*(L), 3133*(L), 3137*(L), 3141*(L), 3158*(L),
 3164*(L), 3165*(L), 3166*(L), 3216*(L), 3219*(L),
 3232*(L), 3244*(L), 3256*(L), 3259*(L), 3301, 3302,
 3306, 3328, 3333, 3339, 3342, 3346, 3350, 3354/55,
 3357, 3359, 3363, 3366, 3368, 3371, 3372, 3373, 3377,
 3380, 3393, 3395, 3409, 3415, 3416, 3417, 3418, 3423,
 3439, 3446, 3448, 3457, 3461, 3464, 3470, 3485, 3488,
 3489, 3493, 3499, 3508, 3529, 3531, 3532, 3535/36,
 3542, 3545, 3552, 3555, 3573, 3575, 3577, 3583, 3587,
 3591, 3600, 3601, 3602, 3628, 3629, 3631, 3634, 3637,
 3642, 3644, 3656, 3664, 3667, 3676, 3679, 3690, 3695,
 3702, 3704, 3710, 3713, 3716, 3722, 3729, 3734, 3739,
 3741, 3742, 3750, 3758, 3761, 3767, 3769, 3770, 3773,
 3774, 3775, 3776, 3777, 3787, 3789, 3790, 3792, 3794,
 3797, 3803, 3806, 3810, 3811, 3812, 3818, 3826, 3833,
 3834, 3835, 3836, 3841, 3858, 3860, 3862, 3868, 3875,
 3883, 3891, 3893, 3899, 3901, 3905, 3916, 3920, 3924,
 3940, 3941, 3942, 3943, 3948/49, 3963, 3966, 3971, *
 3985, 3986, 3992, 3993, 3995, 3999, 4014, 4018, 4027,
 4032, 4033, 4037, 4045, 4049, 4051, 4054, 4062, 4067,
 4077, 4086, 4087, 4088, 4089, 4101, 4105, 4107, 4109,
 4117, 4118, 4122, 4126, 4138, 4142, 4148, 4149, 4163,
 4165, 4166, 4237*(L), 4273, 4277, 4278, 4285, 4304,
 4317, 4318, 4338, 4366, 4369, 4370, 4388, 4410, 4426,
 4429, 4430, 4433, 4444, 4450, 4452, 4454, 4460, 4491,
 4535, 4536, 4539, 4542, 4543, 4554, 4560, 4564, 4572,
 4608, 4609, 4612, 4619, 4621, 4622, 4627, 4630, 4632,
 4661, 4686, 4692, 4705, 4723, 4740, 4784, 4841, 4941,
 4963, 4974, 4975, 4987, 5019, 5030, 5041, 5064, 5065,
 5080, 5083, 5084, 5109, 5116, 5168, 5170, 5180*(L),
 5185, 5456, 5467, 5469, 5497, 5679, 5708, 5720, 5727,
 5776, 5836, 6013, 7202, 7209, 7395, 7517, 7543, 7723,
 7764, 7804, 8026, 8089, 8103, 8249, 8259, 8341/42,
 10680, 10696, 10749, 10773, 10899, 17644, 17648, 17761,
 17764, 17795, 17967*(L), 18363, 18369, 18374, 18395,
 18426, 18428, 18453, 18577, 19011, 19089, 19143, 19168,
 19508, 19510, 20165, 20190

(v) "Probable" Roman Man : Non-Roman Woman

CIL 8.1899

- (vi) "Probable" Roman Man : "Probable" Non-Roman Woman

CIL 8.1936, 1937, 1962, 2148, 2759, 3059*(L), 3081*(L),
3148*(L), 3205*(L), 3271*(L), 3407, 3469, 3497, 3639,
3655, 3672, 3698, 3717, 3725, 3726, 3727, 3859, 3998,
4074, 4340, 4478, 4850, 4906, 4953, 5044, 5066, 5244,
5370, 5448, 5466, 5495, 5777, 6024, 6235, 10785, 18463,
18570, 19610, 20084

- (vii) Non-Roman Man : Non-Roman Woman

CIL 8.2296, 4373 (cf. 4372)

- (viii) Non-Roman Man : "Probable" Non-Roman Woman

CIL 8.5711

- (ix) "Probable" Non-Roman Man : Roman Woman

CIL 8.7665

- (x) "Probable" Non-Roman Man : "Probable" Roman Woman

CIL 8.1931, 1953, 1954, 2090*(AO), 2139, 3347, 3427,
3449, 3463, 3584, 3809, 3819, 3874, 3946, 4078, 4298,
4339, 4660, 4748, 4965, 5018, 5037, 5054, 5074, 5086,
7616, 7718, 10774, 17592, 17702, 18443

- (xi) "Probable" Non-Roman Man : Non-Roman Woman

CIL 8.1898, 3521, 18602

- (xii) "Probable" Non-Roman Man : "Probable" Non-Roman Woman

CIL 8.1911, 1932, 1963, 1983, 2000, 2035, 2078, 2158,
2163, 2181, 2200, 2306, 2803a, 2859 (cf. 2858), 3563,
3688, 3907, 3930, 3935, 4038, 4046, 4047, 4152, 4471,
4553, 4670, 4914, 4924, 4955, 5003, 5036, 5069, 5098,
5184, 7228, 18392, 18400, 19042, 19606, 20193

Notes

Abbreviations of the titles of ancient works are those employed in the Oxford Latin Dictionary, ed. P.W. Glare (Oxford: Clarendon Press, 1982) and in the Oxford Classical Dictionary, 2nd ed. (Oxford: Clarendon Press, 1970). The names of journals are abbreviated as in L'Année Philologique (except for Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, given here as ZSS). The titles of books and articles are given in full the first time that they appear in the notes to each chapter.

Preface

1. "New Trends in the History of Ancient Law," in A. Momigliano, Studies in Historiography (London: Weidenfeld and Nicolson, 1966), 240 and 251.
2. Cf. J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 7 and 12.
3. Dig. 1.5.17 (Ulp.).
4. Cf. R.C. Blockley, "Roman-Barbarian Marriages in the Late Empire," Florilegium, 4 (1982), 63-79.
5. Crook, Law and Life (1967), 7.
6. See Crook, Law and Life (1967), 10-11 and 290 n. 17.
7. Cf. D. Daube, Roman Law: Linguistic, Social and Philosophical Aspects (Edinburgh: University Press, 1969), 72, 81 and 82: "in the slums, there was no distinction between a citizen and a Greek or Jew". He is probably right.

Introduction

1. A select bibliography: J.P.V.D. Balsdon, Romans and Aliens (London: Duckworth, 1979), R. Böhm, "Studien zur Civitas Romana," Aegyptus, 42 (1962), 211-36, 43 (1963), 54-67 and 278-355, 44 (1964), 206-310, H. Box, "Roman Citizenship in Laconia," JRS, 21 (1931), 200-15 and 22 (1932), 165-83, P.A. Brunt, Italian Manpower 225 B.C. - A.D. 14 (Oxford: Clarendon Press, 1971), E. Ferenczy, "Rechtshistorische Bemerkungen zur Ausdehnung des römischen Bürgerrechts und zum ius Italicum unter dem Prinzipat," ANRW, 2.14 (1982), 1017-58, C.E. Goodfellow, Roman Citizenship: A Study of its Territorial and Numerical Expansion from the Earliest Times to the Death of Augustus (Diss., Bryn Mawr College, 1935), D. Hoyos, "Civitas and Latium in Provincial Communities: Inclusion and Exclusion," RIDA, 22 (1975), 243-77, M. Humbert, Municipium et civitas sine suffragio (Paris: de Boccard, 1978), E. Kornemann, De civibus Romanis in provinciis imperii consistentibus (1892; rpt. Nendeln: Kraus Reprint, 1975), B. Levick, Roman Colonies in Southern Asia Minor (Oxford: Clarendon Press, 1967), E. Levy, "Libertas und Civitas," ZSS, 78 (1961), 142-72, G. Luraschi, "Sulle leges de civitate (Julia, Calpurnia, Plautia Papiria)," SDHI, 44 (1978), 321-70, C. Nicolet, Le métier de citoyen dans la Rome républicaine (Paris: Gallimard, 1976), C. Saumagne, Le droit latin et les cités romaines sous l'empire (Paris: Sirey, 1965), A.N. Sherwin-White, The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), and "The Roman Citizenship: A Survey of its Development into a World-Franchise," ANRW, 1.2 (1972), 23-58, L. Teutsch, "Gab es Doppelgemeinden im römischen Afrika?" RIDA, 8 (1961), 281-356, F. de Visscher, "Ius quiritium, civitas Romana et nationalité moderne," in Studi in onore di Ugo Enrico Paoli (Firenze: Le Monnier, 1955), 239-51, H. Wolff, "Civitas und Colonia Treverorum," Historia, 26 (1977), 204-42, and "Die cohors II Tungrorum milliaria equitata c(oram?) l(audata?) und die Rechtsform des ius Latii," Chiron, 6 (1976), 267-88.
2. In general, F. de Visscher, "Conubium et Civitas," RIDA, 1 (1952), 401-22 (a shorter version in Iura, 2, 1951, 140-44), and E. Volterra, "La nozione giuridica del conubium," in Studi in memoria di E. Albertario (Milan: A. Giuffrè, 1953), Vol. 2, 347-84.
3. Among others, Nicolet, Métier (1976), 49, and de Visscher, Iura (1951), 140.
4. Cf. Cic. Rep. 2.63 and Ov. Fast. 3.195.
5. Orig. 9.7.21. Since Isidorus was writing at a time when Latin status had fallen into desuetude, I think it likely that he lifted his definition from a much earlier work (probably one written before the promulgation of the Constitutio Antoniniana in A.D. 212).

6. See R.G. Austin, P. Vergili Maronis Aeneidos Liber Quartus (Oxford: Clarendon Press, 1955), 57-58. Cf. Catul. 62.57, Verg. A. 3.319 and 4.126, Stat. Theb. 7.300, Apul. Met. 5.6, and Ov. Met. 1.490. It is sometimes used for the ceremony of marriage (Verg. A. 4.168, Sen. Tro. 901, Stat. Theb. 9.615), and even to mean "husband" or "wife" (Plin. Nat. 6.19, Stat. Theb. 10.768).
7. Isidorus' etymology of conubium (Orig. 9.7.21) — conubium autem non a pupa, sed a nubendo formatum — is probably guesswork. Servius says (A. 1.73) that it comes from nubo.
8. Sherwin-White, Citizenship² (1973), 33-34, W.W. Buckland, A Textbook of Roman Law from Augustus to Justinian, 3rd ed., rev. by P. Stein (Cambridge: University Press, 1963), 114, and E. Volterra, "La conception du mariage à Rome," RIDA, 2 (1955), 372.
9. Tit.Ulp. 5.3; cf. Serv. A. 1.73: ius legitimi matrimonii. The Tituli Ulpiani is probably an early fourth century A.D. epitome of a Regularum liber singularis of Ulpian: Buckland, Textbook³ (1963), 32, J.A.C. Thomas, Textbook of Roman Law (Amsterdam: North Holland Publishing Company, 1976), 53, F. Schulz, History of Roman Legal Science (Oxford: Clarendon Press, 1946), 180. Cf. Tony Honoré, Ulpian (Oxford: Clarendon Press, 1982), 107-10, who thinks that it may not be based on any of Ulpian's works. For Ulpian's career, a matter of controversy, see Honoré, Ulpian (1982), *passim*, and R. Syme, "Fiction About Roman Jurists," ZSS, 97 (1980), 78-104, "Three Jurists," in Ronald Syme: Roman Papers, ed. E. Badian (Oxford: Clarendon Press, 1979), Vol. 2, 790-804, and "Lawyers in Government: The Case of Ulpian," PAPHS, 116 (1972), 406-09. Cf. G. Crifò, "Ulpiano: esperienza e responsabilità del giurista," ANRW, 2.15 (1976), 707-89.
10. Inst. 1.56. Text (and translation) in F. de Zulueta, The Institutes of Gaius, 2 vols. (Oxford: Clarendon Press, 1953); other texts in M. David and H.L.W. Nelson, Gai Institutionum Commentarii IV (Leiden: E.J. Brill, 1954), and E. Seckel and B. Kuebler, Gai Institutiones (Stuttgart: Teubner, 1969): The manuscript tradition is discussed briefly in Chapter I, p. 26 and n. 57. For Gaius' life and career, see Tony Honoré, Gaius (Oxford: Clarendon Press, 1962), and G. Diódsi, "Gaius: der Rechtsgelehrte," ANRW, 2.15 (1976), 605-31. ✓
11. Tit.Ulp. 5.8.
12. Cf. Cic. Top. 20 (in the absence of conubium, qui nati sunt patrem non sequuntur) and Isid. Orig. 9.7.21 (quotiens autem conubium non est, filii patrem non sequuntur).
13. So too commercium. See Sherwin-White, Citizenship² (1973), 32.

14. See pp. 11-13.
15. Cf. J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 40-43.
16. Dig. 23.2.2 (Paul) and Tit.Ulp. 5.2.
17. Twelve for girls; fourteen or puberty or both for boys. See P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 51-52.
18. Gaius Inst. 1.64.
19. Dig. 23.2.44 (Paul). The prohibition also applied to a senator's children, grandchildren and great-grandchildren.
20. Dig. 23.2.63 (Papin.), 23.2.64.1 (Call.), 23.2.67.pr. (Tryph.), 24.1.32.28 (Ulp.), and 48.5.7 (Maecian.). Cf. Corbett, Marriage (1930), 42-44, and E. Nardi, La reciproca posizione successoria dei coniugi privi di conubium (Milan: A. Giuffrè, 1938), 15-17.
21. B. Campbell, "The Marriage of Soldiers under the Empire," JRS, 68 (1978), 153-66. Cf. Chapter III, pp. 55-56. For Claudius, Dio 60.24.3.
22. Dig. 23.2.65 (Paul), 24.1.3.1 (Ulp.), 34.9.2.1 (Marc.). Cf. Appendix B, pp. 131-36.
23. Balsdon, Romans and Aliens (1979), 86. Cf. S. Treggiari, Roman Freedmen During the Late Republic (Oxford: Clarendon Press, 1969), 20-31. See also Cic. Balb. 24; Dio 56.7.6 ("speech" of Augustus), and Dion.Hal. Ant.Rom. 1.9.4.
24. Gaius Inst. 1.42-46 and Paul Sent. 4.14.4.
25. Tit.Ulp. 1.12-13. There were exceptions; Gaius gives (Inst. 1.19) filius filiave, frater sororve naturalis, alumnus, paedagogus, servus procuratoris habendi gratia, ancilla matrimonii causa, and (Inst. 1.39) pater, mater, conlactaneus.
26. Gaius Inst. 1.25-27 and 3.74-76, especially 1.26: nec ulla lege aut senatus consulto aut constitutione principali aditus illis [dediticiis] ad civitatem Romanam datur. Cf. Tit.Ulp. 1.11 and 7.4; and Suet. Aug. 40.4: ne vinctus umquam tortusve quis ullo libertatis genere civitatem adipisceretur. Dediticii could not live within one hundred miles of Rome and were forbidden to wear a toga.
27. Studies in Roman Government and Law (Oxford: B. Blackwell, 1960), 132-33.

28. Ap. 2.41: μόνους Αἰγυπτίους οἱ κύριοι νῦν Ῥωμαῖοι τῆς οἰκουμένης μεταλαμβάνειν ἡστυνοσούν πολιτείας ἀπειρήκασιν.
29. P.Gnomon 55. Text with commentary in E. Seckel and W. Schubart, eds., Der Gnomon des Idios Logos (1919; rpt. Milan: Cisalpino Goliardica, 1973).
30. Ep. 10.6.1: debuisset me ante ei Alexandrinam civitatem impetrare, deinde Romanam, quoniam esset Aegyptius. See also A.N. Sherwin-White, The Letters of Pliny (Oxford: Clarendon Press, 1966), 568-70, and R. Taubenschlag, "Citizens and Non-Citizens in the Papyri," in Scritti in onore di C. Ferrini (Milan, 1948), Vol. 3, 169.
31. Gaius and the Tituli Ulpiani call it the lex Iunia. It is given the title of lex Iunia Norbana only in Just. Inst. 1.5.3, where the reading is uncertain; cf. Sherwin-White, Citizenship² (1973), 332 n. 2.
32. The Cambridge Ancient History (Cambridge: University Press, 1934), Vol. 10, 888-89. Cf. Balsdon, Romans and Aliens (1979), 87 (17 B.C., the consulship of C. Iunius Silanus).
33. Sherwin-White, Citizenship² (1973), 332-34, and Crook, Law and Life (1967), 43-44 and 296 n. 29.
34. Gaius Inst. 3.56: olim ex iure Quiritium servos fuisse, sed auxilio praetoris in libertatis forma servari solitos; cf. Inst. 1.22.
35. Sherwin-White, Citizenship² (1973), 329; cf. Treggiari, Freedmen (1969), 29-31.
36. See Crook, Law and Life (1967), 44.
37. Tit.Ulp. 3.1. Cf. Gaius Inst. 1.28: Latini vero multis modis ad civitatem Romanam perveniunt.
38. Cf. Balsdon, Romans and Aliens (1979), 88.
39. Cf. Tit.Ulp. 3.4: iteratione fit civis Romanus, qui post Latinitatem quam acceperat, maior triginta annorum iterum iuste manumissus est ab eo, cuius ex iure Quiritium servus fuit.
40. Cf. Tit.Ulp. 3.3 (the lex Iunia).
41. The rules governing marriage between Roman citizens and Latins are discussed in Chapter I, pp. 32-34.
42. Cf. Inst. 1.80 and Tit.Ulp. 3.3.

43. Gaius Inst. 1.32a.
44. Gaius Inst. 1.32.
45. Gaius Inst. 1.31.
46. Gaius Inst. 1.32b: dicitur factum esse senatus consultum quo data est illis civitas Romana si triennium militiae expleverint. Cf. Tit.Ulp. 3.5. The date of the introduction of the new rule is discussed in David and Nelson, Gai Inst. (1954), Vol. 2, 47.
47. Gaius Inst. 1.32c. Cf. Suet. Cl. 19.2.
48. Gaius Inst. 1.33.
49. Gaius Inst. 1.34.
50. Citizenship² (1973), 329-30.
51. Sherwin-White, Citizenship² (1973), 109-10. Sulla is said to have deprived twelve Latin colonies (including Ariminum) of the ius conubii, while allowing them to retain the ius commercii (Cic. Caec. 102).
52. Liv. 41.8.9-12. See also Sherwin-White, Citizenship² (1973), 112.
53. For Spain, Plin. Nat. 3.30. Ius Latii was also granted to the Transpadani after the Social War (Asc. p. 3, App. B.Civ. 2.26; cf. Brunt, Italian Manpower, 1971, 168 and 172), to Narbonensis (by Caesar: CIL 12.1114 and 1116; cf. M.I. Henderson, "Julius Caesar and Latium in Spain," JRS, 32, 1942, 5), to Tipasa in Mauretania (by Claudius: Plin. Nat. 5.20), to various Alpine tribes (under Claudius and Nero: Tac. Ann. 15.32 and Plin. Nat. 3.135), and to "many communities" during the reign of Hadrian (SHA. Had. 21.7). Other examples in Sherwin-White, Citizenship² (1973), 348, 365, 369-70, 373-74. Grants of ius Latii (instead of the citizenship) were more common from the reign of Claudius.
54. P. 3: ut petendo magistratus civitatem Romanam adipiscerentur. See also D.W. Bradeen, "Roman Citizenship per Magistratum," CJ, 54 (1959), 221-28.
55. Quoted on p. 13. Text in ILS 6088.
56. Gaius Inst. 1.96; cf. Balsdon, Romans and Aliens (1979), 85, and Crook, Law and Life (1967), 42. Ius Latii maius was probably introduced by Hadrian; cf. Peter Garnsey, Social Status and Legal Privilege in the Roman Empire (Oxford: Clarendon Press, 1970), 266.

57. Direct enfranchisement of Latins in Dion.Hal. Ant.Rom. 3.37.4 and 7.53.5.
58. Examples of the enfranchisement of (1) individuals, (2) professions and (3) municipalities and territories include: (1) Archagathus (in 219 B.C.), the first physician who came to Rome (Plin. Nat. 29.12), Muttines (in 210 B.C.), a Carthaginian deserter (Liv. 27.5.7), the poet Archias (by the lex Plautia Papiria of 90/89 B.C.: Cic. Arch. 7), L. Cornelius Balbus (by Pompey: Cic. Balb. 6 and 38), the grandfather of Velleius Paterculus (Vell. 2.16.3), Dio Chrysostom's grandfather and mother (Or. 41.6; cf. C.P. Jones, The Roman World of Dio Chrysostom, Cambridge, Mass.: Harvard University Press, 1978, 7, and F. Millar, The Emperor in the Roman World, 31 B.C. - A.D. 337, London: Duckworth, 1977, 481-82), Ornospadus of Mauretania, who assisted Tiberius in the Dalmatian war (Tac. Ann. 6.37), Josephus (by Vespasian: Jos. Vit. 423), and Pliny the Younger's doctor (Ep. 10.5.2-3); a comprehensive list for the Republic (pre-Caesar) in E. Badian, Foreign Clientelae, 264 - 70 B.C. (Oxford: Clarendon Press, 1958), 302-08; (2) successful prosecutors (by the lex Acilia repetundarum of 121 B.C. or the lex Sempronia of 123 B.C.: see A.N. Sherwin-White, "The Lex Repetundarum and the Political Ideas of Gaius Gracchus," JRS, 72, 1982, 18-31, and "The Date of the Lex Repetundarum and its Consequences," JRS, 62, 1972, 83-99) and perhaps their patrons (by the lex Bembina of Gaius Gracchus: see H.B. Mattingly, "The Extortion Law of the Tabula Bembina," JRS, 60, 1970, 154-68), doctors and teachers (Caesar: Suet. Jul. 42.1), and a troop of Greek dancers (Nero: Suet. Ner. 12.1); (3) Arpinum (Liv. 38.36.7), the Italian socii (by the lex Iulia de civitate and the lex Plautia Papiria of 90/89 B.C.: for the lex Iulia, Cic. Arch. 7, Balb. 8 and 21, App. B.Civ. 1.53, Vell. 2.16.4, Gel. 4.4.3, and Gran.Lic. 35 (Crinitii) line 34; cf. Brunt, Italian Manpower, 1971, 91, and Sherwin-White, Citizenship², 1973, 150-51; for the lex Plautia Papiria, Cic. Arch. 7, and Schol.Bobb. (Stangl) 175 (p. 353); cf. E. Badian, "Marius' Villas: The Testimony of the Slave and the Knave," JRS, 63, 1973, 128-30), Gades (Dio 41.24.1), Rusucurru in Mauretania (Claudius: Plin. Nat. 5.20), the Lingones (Otho: Tac. Hist. 1.78); a list in Vell. 1.14.1-8. For the enfranchisement policies of Caesar, Augustus, Gaius, Claudius, Galba and Hadrian, see: (Caesar) Brunt, Italian Manpower (1971), 239, and Sherwin-White, Citizenship² (1973), 225; (Augustus) Brunt, Italian Manpower (1971), 239-40, Millar, Emperor (1977), 480, and Sherwin-White, Citizenship² (1973), 225 and 310, cf. Suet. Aug. 40.3 and Dio 56.33.3; (Gaius) Millar, Emperor (1977), 480-81, cf. Suet. Cal. 38.1 (his refusal to recognize earlier grants of the citizenship); (Claudius) G. Alföldy, "Notes sur la relation entre le droit de cité et la nomenclature dans l'empire romain," Latomus, 25 (1966), 44, Millar, Emperor (1977), 481-82, and Sherwin-White, Citizenship² (1973), 246, cf. Sen. Apoc. 3.3 (quoted in Chapter IV, n. 9); (Galba) Suet. Gal. 14.3: civitates R. raro dedit; (Hadrian) Baldson, Romans and Aliens (1979), 82. In general, Tac. Ann. 3.40 (discussing Julius Florus of the Treveri and Julius

Sacrovir of the Aedui): nobilitas ambobus et maiorum bona facta eoque Romana civitas olim data, cum id rarum nec nisi virtuti pretium esset; cf. Peter Garnsey, "Legal Privilege in the Roman Empire," in Studies in Ancient Society, ed. M.I. Finley (London: Routledge and Kegan Paul, 1974), 165 n. 86 ("a conservative upper-class-Roman view"), Jos. Ap. 2.40: ἡ δὲ Ῥωμαίων φιλευθροπία πᾶσιν οὐ μικροῦ δεῖν τῆς αὐτῶν προσηγορίας μεταδόδωκεν, οὐ μόνον ἀνδράσιν ἀλλὰ καὶ μεγάλους ἔθνεσιν ὅλους; and Rut.Namat. 1.66 (addressing Rome): urbem fecisti quod prius orbis erat.

59. So Herod Antipater (Jos. AJ. 14.137), Seleucus of Rhosos, one of Octavian's admirals, in 36/34 B.C. (Fontes Iuris Romani Antejustiniani, ed. S. Riccobono et al., 2nd ed., Florence: S.A.G. Barbèra, 1940-43, Vol. 1, no. 55; for the date, R.K. Sherk, Roman Documents from the Greek East, Baltimore: John Hopkins Press, 1969, 299), and some Egyptian veterans in 30 B.C. (FIRA², Vol. 1, no. 56) and in A.D. 88/89 (FIRA², Vol. 1, no. 76). Much disputed is the nature of the immunitas, if any, enjoyed by the Romans at Cyrene. The opposing points of view are set forth by F. de Visscher, Les édits d'Auguste découverts à Cyrène (Louvain, 1940), especially Chap. 5, and Sherwin-White, Citizenship² (1973), 304-05 and 334-36. Full bibliography in Sherk, Documents (1969), 294. In general, see F. Millar, "Empire and City, Augustus to Julian: Obligations, Excuses and Status," JRS, 73 (1983), 76-96.
60. Sherwin-White, Citizenship² (1973), 245.
61. SHA. Sev. 10.
62. Cic. Balb. 32.
63. Republican practice was probably similar.
64. Ep. 10.105. Other petitions for the citizenship in Plin. Ep. 10.5.2-3, 10.11 and 10.104, Suet. Aug. 40.3 (Livia on behalf of a Greek and Tiberius on behalf of a Gaul—both denied), Tib. 51.1 (Livia again), Gaius Inst. 1.93 and Cic. Fam. 13.36.1 (on behalf of Demetrius Megas through the agency of Dolabella). Cf. Millar, Emperor (1977), 478-80 and 483.
65. Diplomas were issued to auxiliary, naval and praetorian veterans. See Chapter III, pp. 75-88.
66. Text with commentary in A.N. Sherwin-White, "The Tabula of Banasa and the Constitutio Antoniniana," JRS, 63 (1973), 86-98. See also A.A. Schiller, "The Diplomats of the Tabula Banasitana," in Festschrift für E. Seidl (Köln: P. Hanstein, 1975), 143-60, E. Schönbauer, "Eine neue wichtige Inschrift zum Problem der Constitutio Antoniniana," Iura, 14 (1963), 71-108, E. Volterra, "La Tabula Banasitana (a proposito

di una recente pubblicazione)," BIDR, Ser. 3, 16 (1974), 407-41, and H. Wolff, Die Constitutio Antoniniana und Papyrus Gissensis 40 I (Köln, 1976), 88-94.

67. Sherwin-White, JRS (1973), 88.
68. See especially L. Mitteis' masterful Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs (1891; rpt. Hildesheim: G. Olms, 1963). See also (among others) E. Schönbauer, "Reichsrecht gegen Volksrecht?" ZSS, 51 (1931), 277-335, and "Reichsrecht, Volksrecht und Provinzialrecht," ZSS, 57 (1937), 309-55, F. de Visscher, "La condition juridique des nouveaux citoyens romains," CRAI, 1938, 24-39, L. Wenger, "Neue Diskussion zum Problem 'Reichsrecht und Volksrecht'," RIDA, 3 (1949), 521-50, V. Arangio-Ruiz, "Sul problema della doppia cittadinanza nella repubblica e nell'impero romano," in Scritti giuridici in onore di F. Carnelutti (Padova: Cedam, 1957), Vol. 4, 53-77, Schönbauer, "Munizipien und Doppelbürgerschaft im Römerreiche," Iura, 1 (1950), 124-49, R. Taubenschlag, "The Roman Authorities and the Local Law in Egypt before and after the C.A.," JJP, 5 (1951), 121-41, Schönbauer, "Deditizier, Doppelbürgerschaft und Personalitäts-Prinzip," JJP, 6 (1952), 17-72, E. Weiss, "Ein Beitrag zur Frage nach dem Doppelbürgerrecht bei Griechen und Römern vor der Constitutio Antoniniana," JJP, 7 (1953), 71-82, A.J. Marshall, "Romans under Chian Law," GRBS, 10 (1969), 255-71, Sherwin-White, JRS (1972), 86-97, and Citizenship² (1973), 154, 293-96, 301, 303-04 and 378-79, P.A. Brunt, "The Legal Issue in Cicero, Pro Balbo," CQ, 32 (1982), 143-44, and J.S. Richardson, "The Tabula Contrebiensis: Roman Law in Spain in the Early First Century B.C.," JRS, 73 (1983), 33-41.
69. Cf. Sherwin-White, Citizenship² (1973), 301 and 303-04, Brunt, CQ (1982), 143, and A. Watson, The Law of Persons in the Later Roman Republic (Oxford: Clarendon Press, 1967), 240-41.
70. Cf. Leg. 2.5. Conversely, a Roman citizen who accepted the citizenship of another state lost his Roman citizenship. He could reclaim it by returning to Rome (Cic. Balb. 28).
71. See Goodfellow, Citizenship (1935), 12 and 41-43, and Sherwin-White, Citizenship² (1973), 311.
72. FIRA², Vol. 1, no. 55. I follow here the interpretation of Sherwin-White, Citizenship² (1973), 296.
73. FIRA², Vol. 1, no. 68.
74. "La citoyenneté romaine au temps de Marc-Aurèle et de Commode d'après la Tabula Banasitana," CRAI, 1961, 319-20.

75. JRS (1973), 93.
76. See also P.Gnomon 27-28 (Augustus' marriage laws), 33 (coemptio), 34 (military wills), and 61 (manus iniectio). Discussion in E. Seidl, Rechtsgeschichte Ägyptens als römische Provinz (Sankt Augustin: Richarz, 1973), 26-27. For sisters and aunts, Gaius Inst. 1.61 and 63. The rule forbidding marriage to a brother's daughter had been abolished in A.D. 47 so that Claudius could marry Agrippina (Gaius Inst. 1.62 and Tac. Ann. 12.5).
77. Latins evidently enjoyed some form of manus and of patria potestas. Cf. Gaius Inst. 1.55: quod ius proprium civium Romanorum est (fere enim nulli alii sunt homines, qui talem in filios suos habent potestatem, qualem nos habemus).
78. Cf. clause 23 (on the rights of patrons).
79. Cf. Inst. 1.94: enfranchised peregrines did not automatically acquire patria potestas; the rules are described in Chapter II, p. 46.
80. See also FIRA², Vol. 1, no. 55: the word ἐνυαμία appears in line 41 of the edict in which Octavian grants the citizenship to Seleucus of Rhosos. It is probably conubium cum peregrinis mulieribus, bestowed in the event of Seleucus' remarriage (the citizenship was also given to Seleucus' wife).
81. Hadrian gave the inhabitants of Antinoopolis (which he founded in A.D. 130) conubium (ἐνυαμία) with Egyptian women: see L. Mitteis and U. Wilcken, Grundzüge und Chrestomathie der Papyrskunde (1912; rpt. Hildesheim: G. Olms, 1963), no. 27. But these were Greeks, not Romans: see H.I. Bell, "Antinoopolis: A Hadrianic Foundation in Egypt," JRS, 30 (1940), 136-39.
82. Sherwin-White, Citizenship² (1973), 110.
83. Liv. 8.14.10; cf. Sherwin-White, Citizenship² (1973), 32-34 and 109-10.
84. Diod.Sic. 37.15.2: a vague reference to ὁ τῆς ἐνυαμίας νόμος (the time of the Social War). See Sherwin-White, Citizenship² (1973), 125 and n. 4.
85. R.M. Ogilvie, A Commentary on Livy Books 1-5 (Oxford: Clarendon Press, 1965), 534, labels the passage "anachronistic", since Livy records no example of intermarriage earlier than that of the Romans and Campanians mentioned at 23.4.7: conubium vetustum multas familias claras ac potentes Romanis miscuerat.
86. Claudius took this to be a reference to the enfranchisement of the Sabines (Tac. Ann. 11.24.6). Ogilvie points out (Livy, 1965, 534)

- that it could also apply to the enfranchisement of the Albans (Liv. 1.30.1) and of the Latins (Liv. 1.33.5).
87. Cf. Cic. Rep. 2.63 (quae diiunctis populis tribui solent conubia).
 88. Corbett, Marriage (1930), 24-25 and 28; Mommsen, Römisches Staatsrecht, 3rd ed. (Leipzig, 1887-88), Vol. 3, 633-34 and 715.
 89. Citizenship² (1973), 379 and n. 1.
 90. ILS 6088.
 91. Clause 22 (cf. p. 10).
 92. See n. 58.
 93. Or. 18.60 (Keil); cf. 59 and 63-64. See also SEG 2.343 and 4.30-35 (Philip V's comment on Roman generosity in enfranchising slaves).
 94. G.E.M. de Ste. Croix, The Class Struggle in the Ancient Greek World (London: Duckworth, 1981), 461 and Sherwin-White, Citizenship² (1973), 279 and 307.
 95. Hoyos, RIDA (1975), 268.
 96. Sherwin-White, Citizenship² (1973), 222.
 97. Sherwin-White, Citizenship² (1973), 427.
 98. Full bibliography in C. Sasse, "Literaturübersicht zur Constitutio Antoniniana," JJP, 14 (1962), 109-49, and 15 (1965), 329-66.
More recently, D. Weissert, "Bemerkungen zum Wortlaut des P.Giss. 40 I," Hermes, 91 (1963), 239-50, Schönbauer, Iura (1963), 71-108, J.F. Gilliam, "Dura Rosters and the Constitutio Antoniniana," Historia, 14 (1965), 74-92, C. Saumagne, "Quelques observations sur la Constitutio Antoniniana," in Mélanges offerts à J. Carcopino, ed. J. Heurgon, G. Picard, and W. Seston (Paris: Hachette, 1966), 849-61, A. Segrè, "La Costituzione Antoniniana e il diritto dei novi cives," Iura, 17 (1966), 1-26, J.H. Oliver, "Aristides, In Romam 65, No-Parallel for P.Giessen 40," PP, 23 (1968), 50-52, G. de Sensi, "Problemi della Constitutio Antoniniana," Helikon, 9 (1969), 243-64, P. Keresztes, "The Constitutio Antoniniana and the Persecutions under Caracalla," AJP, 91 (1970), 446-59, C.B. Welles, "Another Look at P.Giss. 40 I," EPap, 9 (1971), 35-54, Sherwin-White, JRS (1973), 86-98, H.J. Wieling, "Eine neuentdeckte Inschrift Gordians III und ihre Bedeutung für das Verständnis der Constitutio Antoniniana," ZSS, 91 (1974), 364-74, Wolff, Constitutio (1976), with the review by F. Millar in JRS, 67 (1977), 235. Cf. nn. 100-102.

99. Aur. Vict. Caes. 16.12; cf. Dig. 1.5.17 (Ulp.), Dio 78.9.5, August. C.D. 5.17, Sid. Apoll. Epist. 1.6.2, and Just. Nov. 78 c. 5.
100. Only F. Millar and W. Seston object, arguing in favor of A.D. 214 and 213 respectively: "The Date of the Constitutio Antoniniana," JEA, 48 (1962), 124-31; "Marius Maximus et la date de la Constitutio Antoniniana," in Mélanges offerts à J. Carcopino (Paris: Hachette, 1966), 877-88. Cf. F. Millar, A Study of Cassius Dio (Oxford: Clarendon Press, 1964), 105 n. 2 and 153 n. 7. In favor of A.D. 212: E. Condurachi, "La Costituzione Antoniniana e la sua applicazione nell'impero romano," Dacia, 2 (1958), 281-316, Gilliam, Historia (1965), 74-92 (not later than January, 213), P. Herrmann, "Überlegungen zur Datierung der Constitutio Antoniniana," Chiron, 2 (1972), 519-30, A. d'Ors Pérez-Peix, "Estudios sobre la Constitutio Antoniniana," Emerita, 11 (1943), 297-337, W. Reusch, "Zur Datierung des Papyrus Gissensis 40.I," Hermes, 67 (1932), 473-77. Attempts to date the edict by tracking the spread of the nomen Aurelius have had mixed results (see Wolff, Constitutio, 1976, 13-15). Recent scholarship is reviewed in Z. Rubin, "Further to the Dating of the Constitutio Antoniniana," Latomus, 34 (1975), 430-36.
101. See, among others, F.M. Heichelheim, "The Text of the Constitutio Antoniniana and the Three Other Decrees of the Emperor Caracalla Contained in Papyrus Gissensis 40," JEA, 26 (1941), 10-22, Sherwin-White, Citizenship² (1973), 283-84, 286-87, and 381, and Wolff, Constitutio (1976), 193-209. Millar has doubts (JEA, 1962, 127).
102. Adopted in C. Sasse, Die Constitutio Antoniniana (Wiesbaden: Harrasowitz, 1958), 12, F. de Visscher, "La Constitution Antonine et la dynastie africaine des Sévères," RIDA, 8 (1961), 230, and W. Schubart, "Zur Constitutio Antoniniana," Aegyptus, 20 (1940), 31-38. The other widely used text (with fewer restorations) is that of P.M. Meyer, which is reproduced in FIRA², Vol. 1, no. 88, and in Mitteis and Wilcken, GCP (1912), no. 377. In general, H.I. Bell, "P.Giss. 40 and the Constitutio Antoniniana," JEA, 28 (1942), 39-49, E. Kiessling, "Zur Constitutio Antoniniana," ZSS, 78 (1961), 421-29, G. de Sanctis, "La novella del papiro di Giessen 40 I," RivFC, 54 (1926), 488-500, J. Stroux, "Die Constitutio Antoniniana," Philologus, 88 (1933), 272-95, and Wolff, Constitutio (1976), 119-20.
103. Stroux (Philologus, 1933, 272-95) was the first to argue that ἐπιβουλῆς refers to Caracalla's suppression of the conspiracy led by Geta in A.D. 211/212, and that the edict was issued to celebrate his assassination and to appease the gods; cf. Welles, Epap (1971), 38, and Sasse, Constitutio (1958), 35. Dio says (78.9.5) that Caracalla had a financial motive—to increase the number of men liable to Roman taxation. He is probably right. See Millar, JEA (1962), 131, and de Ste. Croix, Class Struggle (1981), 454-55.

104. The meaning of ὄρεσθαι is discussed by Heichelheim, JEA (1941), 15 n. 1, Welles, EPap (1971), 40-41, and Wolff, Constitutio (1976), 149-55. With Sherwin-White (Citizenship², 1973, 381), I think that it refers to barbarians crossing the limes and settling in the Empire; cf. J.H. Oliver, "Free Men and Dediticii," AJP, 76 (1955), 290.
105. Sasse, Constitutio (1958), 13-14, reproduces thirteen published versions of line 9 (and a photograph of the text).
106. Citizenship² (1973), 381-83; cf. JRS (1973), 96-97.
107. H.W. Benario, "The Dediticii of the Constitutio Antoniniana," TAPA, 85 (1954), 188-96.
108. A.H.M. Jones, "Another Interpretation of the Constitutio Antoniniana," JRS, 26 (1936), 223-35, and Government and Law (1960), 130 and 134.
109. E. Bickermann, Das Edikt des Kaiser Caracalla (Berlin, 1926).
110. Millar, Dio (1964), 194.
111. Dio had an axe to grind against Caracalla and may have exaggerated his generosity in order to discredit him.
112. Dig. 1.5.17.
113. See, for example, Cod.Theod. 4.6.3 (A.D. 336).
114. ILS 2635 and 4671.
115. The same can be said of the presence of dediticii in the Empire after the Constitutio Antoniniana (e.g. ILS 9184, A.D. 232). Those who "surrendered" to Rome and were settled in the Empire could properly and interchangeably be called dediticii and (because they were non-Romans) peregrini.
116. Later restrictions on the right of intermarriage were introduced by Valentinian and Valens in A.D. 370/373 (Romans and barbarians) and by Valentinian, Theodosius and Arcadius in 388 (Christians and Jews). Other repercussions of the Constitutio Antoniniana are discussed in Jones, Government and Law (1960), 65: the distinction between honestiores and humiliores; J. Morris, "Changing Fashions in Roman Nomenclature in the Early Empire," LF, 11 (1963), 34-46: the nomen Aurelius; Sherwin-White, Citizenship² (1973), 386-87: military recruitment; Jones, Government and Law (1960), 135, Sherwin-White, ANRW (1972), 58, and F. de Visscher, "L'expansion de la cité romaine et la diffusion du droit romain," MH, 14 (1957), 164-74, and "La Constitution Antonine (212 après J.-C.) et la persistance des droits locaux," CHM, 2 (1955), 788-811: the diffusion of Roman law.

Chapter I

1. Dig. 23.2.1. The passage is discussed at length in E. Albertario, "La definizione del matrimonio secondo Modestino," in Studi in memoria di A. Albertoni (Padova: Cedam, 1935), Vol. 1, 241-56. Cf. the less grand conception of marriage in Just. Inst. 1.2.pr.: maris atque feminae coniugatio, quam nos matrimonium appellamus, hinc liberorum procreatio et educatio. On the Roman law of marriage; see especially P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), with the review by E. Volterra in BIDR, 38 (1930), 259-71, M. Falcao, Las prohibiciones matrimoniales de caracter social en el imperio romano (Pamplona: Eunsas, 1973), M. Humbert, Le remariage à Rome (Milan: A. Giuffrè, 1972), W. Kunkel, "Matrimonium," in RE, 14.2 (1930), 2259-86, R. Orestano, "La struttura giuridica del matrimonio romano," BIDR, 6 (1940), 154-402, 7 (1941), 88-133, and 15 (1952), 183-395, O. Robleda, "Sobre el matrimonio en derecho romano," SDHI, 37 (1971), 337-50, R. Villers, "Le mariage envisagé comme institution d'État dans le droit classique de Rome," ANRW, 2.14 (1982), 285-301, E. Volterra, "Matrimonio. Diritto Romano," Enciclopedia del diritto (Milan: A. Giuffrè, 1975), 727-808, and "La conception du mariage à Rome," RIDA, 2 (1955), 265-79, and A. Watson, The Law of Persons in the Later Roman Republic (Oxford: Clarendon Press, 1967), 19-76.
2. It is often impossible to reconstruct the history of a particular feature of Roman private law, because of the Justinianic redaction and reworking of so many surviving texts and the loss of so much juristic writing. The history of the Roman law of mixed marriage is, I think, an exception. At its heart was a single piece of legislation (the lex Minicia) which was in operation for at least three centuries and the terms of which are explicitly attested. And changes in the law of mixed marriage can be dated, at least in a general way (e.g. to the reign of a particular emperor).
3. In his study of the Roman law of urban lease (Landlords and Tenants in Imperial Rome, Princeton: University Press, 1980, especially at 207-08), B. Frier claims to have discovered a "balancing of interests" in the formulation and application of juristic rules: aware of the social implications of their decisions, the jurists consciously tried to balance the competing interests of the two social groups (i.e. landlords and tenants). He goes on to suggest (212-19) that his theory of "balancing of interests" could (and perhaps should) be applied to the study of other features of Roman private law. But the law of urban lease, as Frier himself notes but does not sufficiently emphasize (213), was almost certainly exceptional in that it involved the competing interests or claims of two groups of people who were (almost) of the same social standing. When other areas of Roman private law, including the law of mixed marriage, are taken into account, it is quite clear that, as A. Watson has observed (Society and Legal Change, Edinburgh:

University Press, 1977, 6), the law "does not progress in a rational way, and that the divergence between law and the needs or wishes of the people involved or the will of the leaders of the people is marked". Cf. G. Sawyer, Law in Society (Oxford: Clarendon Press, 1965), 20, where he summarizes the views of the nineteenth century lawyer Rudolf von Ihering, who, much like Frier, saw the juriconsults as "down-to-earth fellows who satisfied contemporary social demands with . . . common sense and technical skill", and 112 (his own views): "since they [the prudentes] worked in relation to the demands of specific litigants whom they saw and heard, they were conscious of changing social demands and social settings for the operation of existing laws; whether an old action should be extended or a new action be devised did not appear as an abstract intellectual exercise, but as a proposal whose application was immediately illustrated". Sawyer's thesis (and others like it) grossly misinterprets the role of the juriconsults in the judicial process, making them out to be the Roman equivalent of today's Supreme Court justices.

4. Early Republican censors are said to have asked all male citizens if they had married liberorum quaerendorum causa (Gel. 4.3.2; cf. Suet. Jul. 52.3, Tit.Ulp. 3.3, Cic. De Orat. 2.260 and Gel. 4.20.3-4); the censors occasionally fined bachelors who were of an age at which they could be expected to be married (Val.Max. 2.9.1: qui ad senectutem caelibes pervenerant).
5. See P. Jörs, Die Ehegesetze des Augustus (Marburg: N.G. Elwert, 1894), A. Astolfi, La Lex Iulia et Papia (Padova: Cedam, 1970), and P. Csillag, The Augustan Laws on Family Relations (Budapest: Akad. Kiadó, 1976).
6. Gaius Inst. 1.112 and Tit.Ulp. 9.
7. Gaius Inst. 1.113.
8. Gaius Inst. 1.111. All three types of marriage probably go back to the Twelve Tables.
9. Usus in Gaius Inst. 1.111 and Serv. G. 1.31; mancipatio in Gaius Inst. 1.137a.
10. Cf. Gaius Inst. 1.136.
11. See also Watson, Persons (1967), 21, and A.J. Marshall, "The Case of Valeria: An Inheritance Dispute in Roman Asia," CQ, 25 (1975), 82-83.
12. Tit.Ulp. 5.2; cf. E. Nardi, "I requisiti del matrimonio romano," in Scritti di diritto e di economia in onore di F. Mancaloni (Sassari, 1938), 173-83.

13. For slaves, Tit.Ulp. 5.5. The ban on marriage between Romans and barbarians was introduced by Valentinian and Valens in A.D. 370/373.
14. Dig. 23.1.9 (Ulp.), 23.2.4 (Pomp.), 23.3.74 (Hermog.), 42.5.17.1 (Ulp.); cf. Volterra, Enciclopedia (1975), 733.
15. Dig. 24.1.65 (Lab.), 36.2.30 (Lab.).
16. Gaius Inst. 1.196 and Tit.Ulp. 11.28.
17. See S. Treggiari, "Consent to Roman Marriage: Some Aspects of Law and Reality," EMC, 26 (1982), 34-44.
18. On concubinage, P.M. Meyer, Der römische Konkubinat (1895; rpt. Scientia Verlag, 1966), B. Rawson, "Roman Concubinage and other de facto Marriages," TAPA, 104 (1974), 279-305, and S. Treggiari, "Concubinae," PBSR, 49 (1981), 59-81.
19. Tit.Ulp. 5.8. Cf. Dig. 1.5.19 (Cels.): cum legitimae nuptiae factae sint, patrem liberi sequuntur.
20. Tit.Ulp. 5.1. Cf. Gaius Inst. 1.55: item in potestate nostra sunt liberi nostri quos iustis nuptiis procreavimus.
21. Cf. Gaius Inst. 1.76: si civis Romanus peregrinam cum qua ei conubium est uxorem duxerit, sicut supra quoque diximus [1.56], iustum matrimonium contrahitur, et tunc ex his qui nascitur civis Romanus est et in potestate patris erit.
22. Gaius Inst. 1.77.
23. Gaius Inst. 1.55.
24. Inferred from Dig. 38.11.1.pr. (quoted on pp. 21-22), where Ulpian speaks of iniustum matrimonium. The term appears nowhere else in the Digest (cf. 48.5.14.1: Ulp.—iniusta uxor), and some think that such unions were null. Discussion in J. Gaudemet, "Iustum Matrimonium," RIDA, 2 (1949), 309-66, E. Volterra, "Iniustum Matrimonium," in Studi in onore di G. Scherillo (Milan, 1972), Vol. 2, 441-70, and Watson, Persons (1967), 27. On the variety of ways in which the Roman lawyers expressed nullity, see Gaudemet, RIDA (1949), 314.
25. Dig. 48.5.14.1 (Ulp.); cf. Coll. 4.5.1. The quotation is of Homer Il. 9.340. Homer's line begins with ἦ μοῦνον, not οὐ μοῦνον. It may be that Ulpian was quoting from (faulty) memory. But I suspect that he changed ἦ to οὐ because the latter better suited his purpose. Ulpian could read, if not speak, Greek (he grew up in Tyre: Dig. 50.15.1.pr.; cf. Tony Honoré, Emperors and Lawyers, London: Duckworth, 1981, 38 n. 97), and he probably knew that his line does not scan.

26. Cic. Top. 20. Cf. Dig. 23.3.3 (Ulp.): dotis appellatio non refertur ad ea matrimonia, quae consistere non possunt: neque enim dos sine matrimonio esse potest. Ulpian was probably thinking of those marriages (e.g. the union of brother and sister) which were legally null, since he goes on to say: ubicumque igitur matrimonii nomen non est, nec dos est. He regularly applies the matrimonii nomen to unions which were not iusta matrimonia.
27. The rules governing bonorum possessio are described at length in B. Nicholas, An Introduction to Roman Law (Oxford: Clarendon Press, 1962), 243-46, 248-50, 254-55 and 260-61.
28. Dig. 38.11.1.pr. (Ulp.). Cf. E. Nardi, La reciproca posizione successoria dei coniugi privi di conubium (Milan: A. Giuffrè, 1938), 45 and 47-48, and O. Robleda, "Matrimonio inesistente o nulo en derecho romano," in Studi in memoria di G. Donatuti (Milan: Cisalpino Gioliardica, 1973), 1142.
29. For fideicommissa, see Chapter II, pp. 48-49.
30. Usus fructus was the right to enjoy property and to receive its produce without ownership; cf. J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 151-52.
31. A legatum per praeceptionem did not count against the legatee's share if the estate was divided (e.g. bequeathed to several children). See Gaius Inst. 2.216-23.
32. Fructus nomine is roughly "in the way of profit".
33. For example, slavery was governed by ius gentium, since all gentes had slaves. In general, P. Frezza, "Ius Gentium," RIDA, 2 (1949), 259-308.
34. Tit.Ulp. 5.8; cf. 5.9. See also Corbett, Marriage (1930), 101, Crook, Law and Life (1967), 40, Volterra, Studi Scherillo (1972), Vol. 2, 469, C. Castaldi, L'acquisto della cittadinanza e i suoi riflessi familiari nel diritto romano (Varese: Cisalpino, 1951), 176, and F. Lanfranchi, Ricerche sulle azioni di stato nella filiazione in diritto romano (Bologna: Zanichelli, 1964), 59-60.
35. Dig. 1.5.19 (Cels.).
36. Gaius Inst. 1.78.
37. Liv. 26.34.6. They were allowed to own property in Italy (Liv. 26.34.9-10).
38. Liv. 38.36.5-6.

39. Cf. A.N. Sherwin-White, The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), 211. It can be inferred that they considered legitimization and the advantages it carried in the law of inheritance to be more valuable than the political and other benefits of the citizenship.
40. Liv. 43.3.1-4. See also Sherwin-White, Citizenship² (1973), 101 and 108-09, R. Syme, Colonial Elites: Rome, Spain and the Americas (London: Oxford University Press, 1958), 11, and H. Wolff, "Zu den Bürgerrechtsverleihungen an Kinder von Auxiliaren und Legionaren," Chiron, 4 (1974), 479.
41. Gaius Inst. 1.78-79 and Tit.Ulp. 5.8. It is given the name Mensia in the manuscript of Tit.Ulp. known as Codex Vaticanus Reginae 1128; editors of Tit.Ulp. (see especially E. Seckel and B. Keubler, Iurisprudentiae Antejustinianae Reliquae, Teubner, 1908) have taken the name Minicia from Gaius Inst. 1.78, where the law is mentioned twice: in the first instance (lege Minicia), the reading is entirely conjectural, since the codex is badly damaged; in the second instance (lex Minicia), it is not a great deal more certain. See the photograph and discussion in R. Böhm, Gaiusstudien (Freiburg im Breisgau, 1968), Vol. 1, 48-61.
42. Cf. Nicholas, Roman Law (1962), 83 n. 1 (date "unknown").
43. So C. Castello, "La data della legge Minicia," in Studi in onore di V. Arangio-Ruiz (Naples, 1953), Vol. 3, 301-17, and M. David and H.L.W. Nelson, Gai Institutionum Commentarii IV (Leiden: E.J. Brill, 1954), Vol. 2, 98. Contra, G. Luraschi, "Sulla data e sui destinatari della Lex Minicia de liberis," SDHI, 42 (1976), 431-43 (62 B.C.), Volterra, Enciclopedia (1975), 778 ("posteriore alla guerra sociale o, secondo alcuni, dell'epoca di Augusto"), Watson, Persons (1967), 27-28 n. 4 (see pp. 24-25).
44. Adopted in F. de Zulueta, The Institutes of Gaius (Oxford: Clarendon Press, 1946), Vol. 1, 27.
45. So Luraschi, SDHI (1976), 431-43.
46. Persons (1967), 27-28 n. 4.
47. Sherwin-White, Citizenship² (1973), 79, 94 and 118.
48. Cic. Top. 20 (quoted on p. 21) is not proof that the lex Minicia was in effect by 44 B.C. (when Cicero sent a copy of the Topica to Trebatius: Fam. 7.19), since children born of a union for which the partners lacked conubium took their mother's status (patrem non sequuntur) iure gentium. Scholarship on Cic. Top. 20 is reviewed in Castello, Studi Arangio-Ruiz (1953), Vol. 3, 304-05.

49. Studi Arangio-Ruiz (1953), Vol. 3, 313-14.
50. Cf. n. 41.
51. T.R.S. Broughton, The Magistrates of the Roman Republic (American Philological Association, 1952), Vol. 2, 591-92.
52. See Liv. 38.50-56, Val.Max. 3.7.1, and Plut. Cat.Mai. 15.1-2; cf. Polyb. 23.14.
53. Cf. Castello, Studi Arangio-Ruiz (1953), Vol. 3, 316-17.
54. Aur.Vict. De Vir.Ill. 65.5, Flor. 2.3.4, Oros. 5.12.5; cf. Plut. C.Gracch. 13.1. He was consul in 110 B.C.
55. Broughton, Magistrates (1952), Vol. 1, 521.
56. The lex specialis mentioned by Ulpian in Dig. 1.5.24 may be the lex Minicia; see n. 62.
57. See R. Böhm, "Zur lex Minicia," ZSS, 84 (1967), 363-71, and de Zulueta, Institutes (1946), Vol. 1, 24-26. Photograph of the manuscript in Böhm, Gaiusstudien (1968), Vol. 1, 49. Other parts of the text of Gaius survive in the Antinoite fragments published by V. Arangio-Ruiz in 1933 and in the Oxyrhynchus fragments published by A.S. Hunt in 1927.
58. The codex gives cr peregrinuque or peregrinoque. Seckel and Kuebler understood civem Romanum peregrinamque and, in the next sentence, peregrin[us] civem Romanam (again cr in the codex); de Zulueta, Institutes (1946), and David and Nelson, Gai Inst. (1946) understood civem Romanam peregrinumque and peregrin[am].... civis Romanus. I prefer the text of Seckel and Kuebler because of hoc maxime casu: iure gentium, the children of a peregrine and a Roman woman were born Roman citizens.
59. Arguing that quod autem diximus recalls Gaius Inst. 1.77 (item, si civis Romana peregrino cum quo ei conubium est nupserit, peregrinus sane procreatur), Böhm proposes (ZSS, 1967, 370) si conubium sit instead of Mommsen's nisi conubium sit. But it is very unlikely that the lex Minicia decreed that children born of a marriage for which the partners possessed conubium should take the status of their "inferior" parent. See also Tit.Ulp. 5.8, where the law is applied only to unions for which the partners lack conubium.
60. Krüger here restored contracto matrimonio eum.
61. Fuit is omitted by de Zulueta, Institutes (1946), and by David and Nelson, Gai Inst. (1946).

62. Cf. Dig. 1.5.24 (Ulp.): lex naturae haec est, ut qui nascitur sine legitimo matrimonio matrem sequatur, nisi lex specialis aliud inducit. Ulpian may have had in mind the lex Minicia, a lex specialis which overturned the rule of ius gentium (lex naturae). I do not think (as some do) that the final clause has been interpolated.
63. Cf. W.W. Buckland, A Textbook of Roman Law from Augustus to Justinian, 3rd ed., rev. by P. Stein (Cambridge: University Press, 1963), 99-100, Corbett, Marriage (1930), 101, Crook, Law and Life (1967), 40, and F. Sturm, "Gaius I, 77 und das römische Kollisionsrecht," in Maiores Viginti Quinque Annis: Essays in Commemoration of the Sixth Lustrum of the Institute for Legal History of the University of Utrecht, ed. J.E. Spruit (Assen: van Gorcum, 1979), 155-66. The purpose of the lex Minicia is considered in Chapter IV, pp. 92-93.
64. There is no explicit evidence for this. It can be inferred from Gaius Inst. 1.67-71 and 1.87.
65. Gaius Inst. 1.90; cf. 1.94.
66. Cf. E. Volterra, "L'acquisto della cittadinanza romana e il matrimonio del peregrino," in Studi in onore di E. Redenti (Milan: A. Giuffrè, 1951), Vol. 2, 403-22, and "Sulla condizione dei figli dei peregrini cui veniva concessa la cittadinanza romana," in Studi in onore di A. Cicù (Milan: A. Giuffrè, 1951), Vol. 2, 645-72.
67. See Hor. Carm. 3.5.41-42 (the legend of Regulus). So too evasion of registration in the census (Gaius Inst. 1.160).
68. Dig. 24.2.1 (Paul), 49.15.8 (Paul, where post constitutum tempus is probably an interpolation), 49.15.12.4 (Tryph.), 49.15.14.1 (Pomp.), 49.15.25 (Marc.); cf. Crook, Law and Life (1967), 62, and A. Watson, "Captivitas and Matrimonium," RHD, 29 (1961), 243-59. Only Julian says (Dig. 24.2.6) that marriage was not dissolved by capture, and the passage is almost certainly interpolated (Corbett, Marriage, 1930, 212). The lawyers were prepared to make exceptions. It was decided benignius that a man could accuse his captive "wife" of adultery, but only if she had not been raped: si vim hostium passa non est (Dig. 48.5.14.7: Ulp.). If a married woman died after she had been captured, the jurists pretended that she had died nupta in order that her father could recover her dowry (Dig. 24.3.10.pr.: Pomp.). Ulpian and Julian believed that the marriage of a patron and his freedwoman ought not to be dissolved by his capture, because of the reverentia which she owed to him (Dig. 23.2.45.6).
69. Inferred from Gaius Inst. 1.82. Slavery was iuris gentium (see Nicholas, Roman Law, 1962, 55).
70. Gaius Inst. 1.160. She could be reduced to the status of a freedwoman if the owner had given his consent.

71. Gaius Inst. 1.91.
72. See Crook, Law and Life (1967), 272. So too a Roman citizen who joined a Latin colony (see Cic. Caec. 97). A man who underwent capitis deminutio minima (e.g. was adopted) lost neither his freedom nor his citizenship (Gaius Inst. 1.162).
73. See Dig. 24.3.56 (Paul). The two texts (Dig. 24.1.13.1 and 48.5.20.1: both Ulpian) which suggest that marriage was not dissolved by deportatio are almost certainly interpolated; cf. Corbett, Marriage (1930), 104.
74. Crook, Law and Life (1967), 272, makes interdiction from fire and water a case of capitis deminutio maxima. But Gaius Inst. 1.161 is explicit: minor sive media est capitis deminutio cum civitas amittitur, libertas retinetur; quod accidit ei cui aqua et igni interdictum fuerit; cf. Tit. Ulp. 10.3, and Fragmenta Interpretationis Gai Institutionum Augustodunensia line 19. Interdiction from fire and water was introduced by a lex Cornelia passed by Sulla (Gaius Inst. 1.128).
75. See Cic. Dom. 47: there is no evidence that Cicero's marriage was dissolved when he suffered interdiction from fire and water in 58 B.C.
76. Ov. Tr. 2.137, 5.11.21; cf. 4.9.11. On relegatio, Crook, Law and Life (1967), 272.
77. Cf. Luraschi, SDHI (1976), 436. The lex Minicia closely resembles a law attributed to Pericles and said to have been passed in 451/450 B.C., which decreed that only two Athenian citizens could have Athenian children (Plut. Per. 37.2-5 and Arist. Ath. Pol. 26.4). The law also declared illegitimate (vόθρου) the children of a marriage contracted by an Athenian citizen and a foreigner (Ar. Av. 1649-52). Plutarch says (Per. 37) that about five thousand people were convicted of usurping the citizenship and sold into slavery. The law was suspended so that Pericles himself could enrol his illegitimate children on the phratry-lists (Plut. Per. 37), and it was not enforced through much of the Peloponnesian War (e.g. the right of intermarriage was granted to the Euboeans sometime before 405 B.C.: see Lys. 34.3; cf. W.K. Lacey, The Family in Classical Greece, London: Thames and Hudson, 1968, 105). The regulations were reiterated in 403/402 B.C. (Isae. 8.43) and harsh penalties added sometime in the early fourth century (Dem. 59.16; cf. 59.22): a foreigner convicted of living with an Athenian woman was sold into slavery and his goods confiscated; so too a foreign woman convicted of living with an Athenian man (he was fined 1,000 drachmai). The penalties were not abolished until sometime after the battle of Chaeroneia in 338 B.C. (Lacey, Family, 1968, 105). In general, K.R. Walters, "Perikles' Citizenship Law," CSCA, 14 (1983),

- 314-36, C.B. Patterson, Pericles' Citizenship Law of 451-450 B.C. (New York: Arno Press, 1981), P.J. Rhodes, A Commentary on the Aristotelian Athenaion Politeia (Oxford: Clarendon Press, 1981), 331-35, D.M. MacDowell, The Law in Classical Athens (London: Thames and Hudson, 1978), 67, 87, and 265 n. 174, E. Fantham, "Sex, Status and Survival in Hellenistic Athens: A Study of Women in New Comedy," Phoenix, 29 (1975), 47 and 49, Lacey, Family (1968), 73, 100, 104-05, and 112-13, and A.R.W. Harrison, The Law of Athens (Oxford: Clarendon Press, 1968), 25-29. See also Arist. Pol. 6.14.6 (cf. 3.5.8): states with an abundance of citizens deny the citizenship first to the children of a slave parent, then to the children of a non-citizen father (but citizen mother), and eventually accept as citizens only the children of two citizens.
78. Gaius Inst. 2.110; cf. Chapter II, p. 47.
79. So too the lex Appuleia (probably passed by L. Appuleius Saturninus in 103 or 100 B.C.) which established a form of partnership (societas) between sponsores and fidepromissores (guarantors of another's promise). See Gaius Inst. 3.122.
80. Gaius Inst. 3.122; cf. 3.121a. The lex Iulia de adulteriis of 18 B.C. forbade husbands to alienate dotal land in Italy. See Paul Sent. 2.21b.2, Just. Inst. 2.8.pr., Cod. Iust. 5.23.1. Gaius (Inst. 2.63) was not certain that the law applied only to land in Italy.
81. CIG 2222, thoroughly examined in A.J. Marshall, "Romans under Chian Law," GRBS, 10 (1967), 255-71.
82. According to Ulpian (Dig. 50.1.1.2), children born of a mixed marriage which did not involve a Roman citizen took their father's status (e.g. the son of a Campanian father and a Puteolan mother was born a Campanian). But sometimes the children of a mixed marriage were allowed (privilegio aliquo) to take their mother's status. This privilege was granted to the Ilienses, to Delphi, and, by Pompey, to the Pontici. Some jurists thought that only bastards were eligible; Celsus (and Ulpian) disagreed.
83. Inst. 1.92. Cf. R. Bierzanek, "Quelques remarques sur la statut juridique des étrangers à Rome," Iura, 13 (1962), 89-109.
84. See P.A. Brunt, "The Legal Issue in Cicero, Pro Balbo," CQ, 32 (1982), 136-47.
85. On the lex Iunia Norbana, which introduced Junian Latin status, see the Introduction, p. 4. It was probably passed during the reign of Augustus and before the lex Aelia Sentia.

86. Gaius Inst. 1.32a.
87. Gaius Inst. 1.29.
88. Gaius Inst. 1.32.
89. Gaius Inst. 1.31.
90. If a Junian Latin woman married a Junian Latin, he could obtain the citizenship for both of them.
91. See pp. 34-37 (the rules governing erroris probatio).
92. Cf. Sherwin-White, Citizenship² (1973), 333 and n. 4.
93. Gaius Inst. 1.80; cf. 1.30: si uxor Latini civis Romana est, qui ex ea nascitur, ex novo senatus consulto, quod auctore divo Hadriano factum est, civis Romanus nascitur.
94. So Corbett, Marriage (1930), 26-27, citing Tit.Ulp. 5.4: conubium habent cives Romani cum civibus Romanis: cum Latinis autem et peregrinis ita, si concessum sit. He believes that Latinis encompasses Latin colonists, Junian Latins and other Latins, and that all were lumped together in the law of mixed marriage. I think it more likely that the law separated Junian Latins from all other Latins, since Junian Latins were not free-born and because their status was regulated by special laws (the lex Iunia Norbana and the lex Aelia Sentia).
95. Gaius otherwise dates senatus consulta by naming the consuls who were in office when they were passed (e.g. Inst. 1.31) or the emperor on whose auctoritas they were enacted (e.g. Inst. 1.77: senatus consulto quod auctore divo Hadriano sacratissimo factum est). That he consistently fails to date this senatus consultum — it is mentioned six times in Inst. 1.67-75 — suggests that he did not know when it had been promulgated.
96. Gaius Inst. 1.72.
97. Dediticii were barred from acquiring the citizenship. See the Introduction, pp. 3-4 and n. 26.
98. Gaius Inst. 1.68; cf. Volterra, Studi Redenti (1951), Vol. 2, 410.
99. According to Gaius (Inst. 2.142), the child invalidated his father's will, even if he had been appointed heir or expressly disinherited in it, and whether the case was proved before or after the father's death. This rule was amended by a senatus consultum of Hadrian's reign: if the case was proved after the father's death, the child

broke his father's will only if he had been passed over, i.e. not appointed heir or disinherited (Gaius Inst. 2.143).

100. This cannot have occurred often, only when the man (or woman) had been separated from his parents at or not long after birth, or if at least one of his parents was uncertain of his (or her) own status.
101. Gaius Inst. 1.71. He mentions only Roman men who married Latin or peregrine women. But it is probably to be understood that Roman women had the same privilege. I can think of no reason why they should not have had it.
102. Gaius Inst. 1.67.
103. Cf. Inst. 1.70. It is surely more than coincidence that Gaius three times (Inst. 1.29, 1.67 and 1.70) talks of Junian Latin men marrying Roman women e lege Aelia Sentia but never of Junian Latin women marrying Roman men e lege Aelia Sentia. And it cannot be argued that in every case the converse is to be understood, for Gaius says in Inst. 1.87 that the senatus consultum operated only quibusdam casibus.
104. Gaius Inst. 1.69.
105. Gaius Inst. 1.70.
106. It was probably necessary that the child be at least one year old if the proof was furnished by someone who had believed that he was marrying e lege Aelia Sentia (e.g. a Junian Latin who married a peregrine in the belief that she was a Roman citizen). Almost two illegible lines in Veronese Codex 13 follow nihil interest cuius aetatis filius sit filiave, before the sentence concludes with si minor anniculo sit filius filiave, causa probari non potest. J.F.L. Goeschen plausibly conjectured (Gai Institutionum Commentarii Quattuor, Berlin: Reimer, 1842): nisi forte eorum aliquis, qui e lege Aelia Sentia matrimonium se contrahere putarint, erroris causam probare velit; ab hoc enim, si minor anniculo sit filius filiave, causa probari non potest (cf. de Zulueta, Institutes, 1946, Vol. 1, 22).
107. Expressly provided for in the senatus consultum are the following cases: a Roman man marries a peregrine or Latin woman in the belief that he is marrying a Roman woman; a Roman man marries a dediticia in the belief that she is a Roman citizen or a Latin; a Roman woman marries a peregrine or a dediticius in the belief that she is marrying a Roman citizen or a Latin; a Latin man marries a peregrine in the belief that he is marrying a Roman or Latin, and a Roman (man or woman) marries a Latin or a peregrine because he is mistaken about his own status.

108. Gaius Inst. 1.87. Cf. Tit.Ulp. 7.4: in potestate parentum sunt etiam hi liberi, quorum causa probata est, per errorem contracto matrimonio inter disparis condicionis personas: nam seu civis Romanus Latinam aut peregrinam vel eam quae dediticiorum numero est quasi civem Romanam per ignorantiam uxorem duxerit, sive civis Romana per errorem peregrino vel-ei qui dediticiorum numero est quasi civi Romano aut etiam quasi Latino ex lege Aelia Sentia nupta fuerit, causa probata civitas Romana datur tam liberis quam parentibus praeter eos qui dediticiorum numero sunt, et ex eo fiunt in potestate parentum liberi.
109. Gaius Inst. 1.75.
110. Inst. 1.30 and 1.80; cf. Corbett, Marriage (1930), 98.
111. Gaius Inst. 1.77..
112. This is the principal meaning of iustus ("lawful" or "legitimate"); cf. Gaius Inst. 3.72, Var: L. 5.86, Cic. Caec. 99 and Leg. 2.30, Liv. 9.10.7, 22.1.5 and 38.36.5-6 (quoted on p. 23), Sen. Med. 109, Luc. 2.379, Quint. Inst. 5.14.16, Tac. Ann. 12.7, Gel. 14.7.7 and 20.1.43, Ov. Ars 2.598, Curt. 5.9.8, Mart. 1.103.2, Dig. 5.3.31.2 (Ulp.), and, especially, Liv. 39.53.3 (hunc iusta matre familiae, illum paelice ortum esse) and Frag.Vat. 194 (one in a long list of passages which treat of exemption from service as a guardian): iusti autem an iniusti sint filii, non requiritur; multo minus in potestate necne sint, cum etiam iudicandi onere iniustos filios relevare Papinianus libro V quaestionum scribat.
113. See Chapter II, p. 50.
114. Cf. Corbett, Marriage (1930), 101.
115. Gaius Inst. 1.92; cf. p. 29.
116. I take this to mean "Roman citizens living in the provinces", not "provincials recently enfranchised". See Dem. 18.295; cf. H.G. Liddell and R. Scott, A Greek-English Lexicon, 9th ed. (Oxford: Clarendon Press, 1968), 1853 (under ὑπόχω B. 2).
117. Cf. J.G. Frazer, Pausanias' Description of Greece (London: MacMillan, 1898), Vol. 4, 410-11, who believes that the children were of Greek status because they had not been enfranchised at the same time as their fathers. But the Roman government normally enfranchised the families of men to whom it granted the citizenship (so Seleucus of Rhosos, the Zegrenses of the Tabula Banasitana, veterans of the fleet, and, for a time, auxiliary veterans; see also A.N. Sherwin-White, The Letters of Pliny, Oxford: Clarendon Press, 1966, 577). From c.

A.D. 140, children born to serving auxiliary soldiers were not awarded the citizenship when their father was discharged (cf. Chapter III, pp. 79-80). So it may be that the $\alpha\lambda\delta\epsilon\varsigma$ of Paus. 8.43.5 are veterans' children. But such an interpretation requires a great deal of reading between the lines.

118. Gaius Inst. 2.110; cf. Chapter II, p. 47.
119. So Corbett, Marriage (1930), 101 n. 4.
120. Gaius mentions (Inst. 2.110) only one exception to the rule: Roman soldiers entitled to make a military will could appoint peregrines or Latins their heirs. However the Institutiones were published c. A.D. 161, and therefore may date to the period before Antoninus' reform. And the Tituli Ulpiani may be based on Gaius' Institutiones.
121. Text with commentary in E. Seckel and W. Schubart, eds., Der Gnomon des Idios Logos (1919; rpt. Milan: Cisalpino Goliardica, 1973). In general, S. Riccobono, Das römische Reichsrecht und der Gnomon des Idios Logos (Erlangen: Palm and Enke, 1957).
122. 12, 13, 38, 48, 49, 51 and 57.
123. The Gnomon of the Idios Logos was probably drawn up originally in Latin.
124. Perhaps a noun in the genitive case has dropped out of the text.

Chapter II

1. Tit.Ulp. 5.8; cf. p. 50. See also P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 101, and J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 40.
2. On the right of appeal, see Cic. Rab.Post. 12, Plin. Ep. 10.96.4, and Act.Apost. 25.11-12 (Paul). In general, A.H.M. Jones, Studies in Roman Government and Law (Oxford: B. Blackwell, 1960), 51-65, and Peter Garnsey, "The Lex Iulia and Appeal under the Empire," JRS. 56 (1966), 167-89, and "Legal Privilege in the Roman Empire," in Studies in Ancient Society, ed. M.I. Finley (London: Routledge and Kegan Paul, 1974), 160.
3. For exemption from flogging, App. B.Civ. 2.26, Act.Apost. 22.25-29 and 23.27, and Cic. Rab.Post. 12; Cicero attributes it to a lex Porcia. Probably by the middle of the second century A.D., only honestiores (senators, equites, decurions, perhaps others) were exempt from flogging (Dig. 48.19.28.2: Call.). Torture for evidentiary purposes was normally restricted to slaves, and against it Roman citizens could exercise the right of appeal. However the torture of Roman citizens was increasingly common from the early Principate, particularly in trials for treason. Marcus Aurelius exempted eminentissimi, perfectissimi and their families (Cod.Iust. 9.41.11.pr.). The privilege was later extended to all honestiores, except in cases of treason (Dig. 48.18.10.1: Arc.Char.). In general, see Crook, Law and Life (1967), 274-75.
4. Uncommon in the case of peregrines; less so for Latins, at least before the Social War (see the Introduction, pp. 11-13). From c. 90 B.C., conubium and commercium were rarely awarded without the citizenship.
5. A.N. Sherwin-White, The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), 427, and Peter Garnsey, Social Status and Legal Privilege in the Roman Empire (Oxford: Clarendon Press, 1970), 266.
6. Dio 57.15.8 and Coll. 15.2.1; cf. Tac. Ann. 2.32.
7. Eus. Hist.Eccl. 5.1.47.
8. Mancipatio was conveyance on sale and required the presence of five Roman citizens and a libripens who held a pair of bronze scales. Grasping the object to be conveyed in one hand and a piece of bronze in the other, the transferee uttered a prescribed formula, struck the scales with the piece of bronze and then handed it to the transferor. See Gaius Inst. 1.119-22.

9. In iure cessio was a type of conveyance which required the presence of a praetor or a provincial governor (in iure). The procedure was the same as that followed in mancipatio, except that it was necessary for the praetor or governor to inquire after the intentions of the transferor and eventually to adjudge the property to the transferee. See Gaius Inst. 2.24.
10. Usucapio, which goes back to the Twelve Tables, was acquisition of ownership through possession, for two years in the case of land, for one year in the case of movables. It was required that the claimant have uninterrupted possession for the period prescribed by law, that possession had been acquired ex iusta causa and bona fide, that the property was capable of being owned (e.g. not religious or sacred land), and that it had never been acquired through theft or by force (Gaius Inst. 2.41-60). Provincial lands were not susceptible of usucapion (Gaius Inst. 2.46).
11. Gaius Inst. 2.65.
12. So too cases tried before recuperatores or outside the first milestone of Rome, even if all parties were Roman citizens (Gaius Inst. 4.103-05).
13. Gaius Inst. 4.37.
14. Cf. Inst. 3.131: alia causa est eorum nominum, quae arcaria vocantur. in his enim rei, non litterarum obligatio consistit, quippe non aliter valent, quam si numerata sit pecunia; numeratio autem pecuniae rei facit obligationem.
15. Gaius Inst. 3.133: It was a re in personam where a pre-existing debt was transformed into a new form of contract (veluti si id, quod tu ex emptionis causa aut conductionis aut societatis mihi debeas, id expensum tibi tulero: Gaius Inst. 3.129). It was a persona in personam where a debt owed to one man was assigned to another in order to discharge a debt to him (veluti si id, quod mihi Titius debet, tibi id expensum tulero, id est si Titius te pro se delegaverit mihi: Gaius Inst. 3.130). Cf. B. Nicholas, An Introduction to Roman Law (Oxford: Clarendon Press, 1962), 196.
16. Gaius Inst. 3.134.
17. Gaius Inst. 3.93.
18. See Nicholas, Roman Law (1962), 193.
19. Gaius Inst. 3.93; cf. 3.179. Stipulatio was valid if expressed in Greek (e.g. Δωσέας; Δώσω), provided that the Romans involved understood Greek. Gaius claims that it was so peculiar to Roman citizens that it could not be properly translated into Greek. But that is nonsense.

He also reports (Inst. 3.94) one exception to the rule: unde dicitur uno casu hoc verbo peregrinum quoque obligari posse, velut si imperator noster principem alicuius peregrini populi de pace ita interroget: PACEM FUTURAM SPONDES? vel ipse eodem modo interrogetur. He goes on to say: quod nimium subtiliter dictum est, quia si quid adversus pactionem fiat, non ex stipulatu agitur, sed iure belli res vindicatur.

20. Gaius Inst. 3.119. For sponsores and fidepromissores, see Chapter I, n. 79.
21. Gaius Inst. 3.154.
22. Gaius Inst. 3.154a.
23. B. Campbell (The Emperor and the Roman Army 31 BC - AD 235, Oxford: Clarendon Press, 1984, 230) goes to some trouble to show, in his view pace*D. Daube, that patria potestas applied to all Roman citizens, including the poor. But Daube's argument (Roman Law: Linguistic, Social and Philosophical Aspects, Edinburgh: University Press, 1969, 75-91), which is surely right, is not that patria potestas applied only to the upper crust or that the rules governing patria potestas (i.e. legal theory) ignored the lower orders, but that in practice, patria potestas, and, in particular, the rules governing the acquisition of property by a filiusfamilias, will have been important only to those who stood to gain or lose something by their application (e.g. a filiusfamilias whose father was wealthy). It is not that patria potestas did not apply to the poor, but that it mattered little to them.
24. Gaius Inst. 1.55; cf. Just. Inst. 1.9.2 and Plin. Ep. 10.11.2. Gaius cites an edict of Hadrian, before conceding that the Galatians believed that their children were in potestate parentum. He apparently did not know that some Latins exercised a form of patria potestas; see the lex Municipalis Salpentina, 21 (quoted in the Introduction, p. 13).
25. Gaius Inst. 1.128; cf. Tit. Ulp. 10.3.
26. See Gaius Inst. 1.87 and Dig. 1.6.3 (Gai.). They were also excluded from the official registry of births (see F. Schulz, "Roman Registers of Births and Birth Certificates," JRS, 32, 1942, 83). So too illegitimate Roman children (P. Mich. Inv. 4529 = Vol. 3, no. 169) from A.D. 4 (the lex Aelia Sentia) or A.D. 9 (the lex Papia Poppaea) at least until the reign of Marcus Aurelius: inter haec liberales causas ita munivit, ut primus iuberet apud praefectos aerarii Saturni unumquemque civium natos liberos profiteri intra tricensimum diem nomine inposito (SHA. M. Ant. 9.7); cf. Dig. 22.3.29.1 (Scaev.). Official declarations of birth were known as professiones: examples in Fontes

Iuris Romani Antejustiniani, ed. S. Riccobono et al., 2nd ed. (Florence: S.A.G. Barbèra, 1940-43), Vol. 3, nos. 1-3. The parents of illegitimate children could (and did) make unofficial declarations (testationes): examples in FIRA², Vol. 3, nos. 4-5.

27. Illegitimate sons could be adrogated but not adopted, since only those who were in potestate could be adopted (Gaius Inst. 1.99). Nothing could be done on behalf of an illegitimate daughter, because women could not be adrogated (Gaius Inst. 1.101). From the time of Constantine, if not earlier, the illegitimate children of concubines could be legitimized by subsequent marriage (Cod.Iust. 5.27).
28. Gaius Inst. 1.108. Even the children of a mixed marriage who were born Roman (i.e. of a Roman woman and a peregrine prior to the passage of the lex Minicia) could not be adrogated, since women could not adrogate (Gaius Inst. 1.104).
29. Dig. 38.16.1.4 (Ulp.); cf. Gaius Inst. 1.128 and Tit.Ulp. 10.3.
30. The child of a Latin who acquired the citizenship through ius Latii maius or ius Latii minus automatically came under his potestas (Gaius Inst. 1.95; cf. the lex Municipalis Salpensana, 22).
31. Gaius Inst. 3.20; cf. Plin. Ep. 10.11. Similarly, the child of a man who acquired the citizenship for himself and his pregnant wife, though born a Roman citizen, was not in its father's potestas. So a peregrine who petitioned for the citizenship when his wife was pregnant was well advised to request at the same time that his expected child be brought under his potestas (Gaius Inst. 1.94, citing a subscriptio of Hadrian).
32. With Crook, Law and Life (1967), 111.
33. Cf. Crook, Law and Life (1967), 45.
34. Gaius expressly disqualifies Junian Latins (Inst. 2.110). It can be inferred from Gaius Inst. 1.22-23 that Latin colonists could receive inheritances and legacies from Roman citizens; cf. Crook, Law and Life (1967), 45 and 296 n. 40.
35. Gaius Inst. 2.110; cf. Cic. Arch. 11. Dediticii were also ineligible: hi vero qui dediticiorum numero sunt nullo modo ex testamento capere possunt, non magis quam quilibet peregrinus; quin nec ipsi testamentum facere possunt secundum id quod magis placuit (Gaius Inst. 1.25; cf. Tit.Ulp. 22.2).
36. See A. Watson, The Law of Succession in the Later Roman Republic (Oxford: Clarendon Press, 1971), 26-27; for confiscation of void legacies, see Paus. 8.43.5.

37. Gaius Inst. 2.218; cf. Tit.Ulp. 22.2: dediticiorum numero heres institui non potest, quia peregrinus est, cum quo testamenti factio non est.
38. Frag.Vat. 47a. For usufruct, see Chapter I, n. 30.
39. Gaius Inst. 2.147.
40. This is the view of Corbett, Marriage (1930), 101 n. 4.
41. Cf. Chapter I, p. 39.
42. Gaius Inst. 2.285: ut ecce peregrini poterant fideicommissa capere, et fere haec fuit origo fideicommissorum.
43. Gaius Inst. 2.275.
44. Cf. Crook, Law and Life (1967), 126.
45. Just. Inst. 2.23.1.
46. Cf. Daube, Roman Law: Aspects (1969), 96-102.
47. From the reign of Augustus, trusts were administered by the consuls. From the reign of Claudius, they were regulated by the consuls, the praetores fideicommissarii and provincial governors. See Dig. 1.2.2.32 (Pomp.).
48. It is not often remarked that legal dodges like fideicommissa benefitted only those who stood to lose by the rigid application of the law, e.g. those who could not receive an inheritance or legacy of some value—the wealthy and the friends of the wealthy. So Daube (Roman Law: Aspects, 1969, 92): they were "the preserve of the well-to-do: the poor break the law, the rich get around it (or at least try to)".
49. Gaius gives several examples. The lex Voconia of 169 B.C. decreed that a woman could not be the heir of someone assessed in the census at more than 100,000 asses. But a woman could accept an inheritance from such a person if it was left to her in trust (Inst. 2.274). From the passage of the lex Iulia de maritandis ordinibus in 18 B.C., the unmarried (caelibes) could not accept inheritances or legacies. But they were entitled to receive fideicommissa (Inst. 2.286). So too orbi (the married but childless) who were forbidden by the lex Papia Poppaea of A.D. 9 to accept more than one-half of inheritances or legacies (Inst. 2.286a).
50. Gaius Inst. 2.254.

51. P.Gnomon 18; cf. Crook, Law and Life (1967), 127. Property left to peregrines in trust was confiscated by the imperial treasury (Gaius Inst. 2.285).
52. The poor, surely the bulk of the population, did not make wills. See Daube, Roman Law: Aspects (1969), 72 and 75: they had little or nothing to bequeath, and could not afford to hire a lawyer to draw up a will. He shrewdly observes (72): "why or how would the poor chaps who slept under the bridges of the Tiber make a will?".
53. This is the classical law of intestate succession. In the earlier system, based on two clauses in the Twelve Tables, possession of the estate was given first to sui heredes, then to the nearest agnates; and then to the members of the gens to which the owner of the estate had belonged (gentiles). Details in Nicholas, Roman Law (1962), 246-51.
54. See Frag.Vat. 194 and the other passages cited in Chapter I, n. 112. I assume that filiae is to be understood in fili.
55. Gaius Inst. 1.67-75. The rules are discussed in Chapter I, pp. 34-37.
56. Details in Chapter III, pp. 54-62.
57. On the recruitment of Roman citizens into the auxilia, increasingly common from the time of Trajan, see especially A. Birley, The People of Roman Britain (London: B.T. Batsford, 1979), 91, and B. Dobson and J.C. Mann, "The Roman Army in Britain and Britons in the Roman Army," Britannia, 4 (1973), 195.
58. Gaius Inst. 2.110.
59. Ulpian says (Dig. 29.1.1.pr.) that Nerva plenissimam indulgentiam in milites contulit; cf. A. Guarino, "Sull'origine del testamento dei militari nel diritto romano," RIL, 72 (1939), 3-4, and Campbell, Emperor and Army (1984), 211.
60. Cf. Gaius Inst. 2.109: sed haec diligens observatio in ordinandis testamentis militibus propter nimiam imperitiam constitutionibus principum remissa est.
61. Since soldiers could not marry during active service (probably until the reign of Septimius Severus), children born to them were illegitimate. Cf. Chapter III, pp. 54-62.
62. Crook, Law and Life (1967), 107. The inheritance rights of illegitimate children are expounded at great length in Cod.Iust. 5.27. The terms of the senatus consultum Tertullianum and senatus consultum Orfitianum

(both of the second century A.D.), which regulated the inheritance rights of illegitimate children in their mother's estate, are examined in M. Meinhart, Die Senatusconsulta Tertullianum und Orfitianum in ihrer Bedeutung für das klassische römische Erbrecht (Wien: Böhlau, 1967).

63. First read as $\Sigma\mu\mu\mu\epsilon$ by U. Wilcken (BGU 140), corrected by A.S. Hunt.
64. BGU 140. Commentary in (among others) J.H. Jung, "Das Eherecht der römischen Soldaten," ANRW, 2.14 (1982), 307-08, E. Sander, "Das Recht des römischen Soldaten," RhM, 101 (1958), 157 and 164, A. Segrè, "Il diritto dei militari peregrini nell'esercito romano," RPAA, 17 (1940-41), 174, and "A proposito di peregrini che prestavano servizio nelle legioni romane," Aegyptus, 9 (1928), 307, and H. Wolff, "Zu den Bürgerrechtsverleihungen an Kinder von Auxiliaren und Legionaren," Chiron, 4 (1974), 493. Campbell (Emperor and Army, 1984, 285) thinks that Hadrian himself may have dictated the letter.
65. So I understand τοῦς πρὸς [γ]ένους συγγενέου.
66. Details in Chapter III, pp. 77-81. From about A.D. 140, the children of auxiliaries were not awarded the citizenship when their father was discharged.
67. Cf. M.P. Arnaud-Lindet, "Remarques sur l'octroi de la civitas et du conubium dans les diplômes militaires," REL, 55 (1977), 302.

Chapter III

1. Here, and throughout this chapter, I use the term "soldier" to describe an "ordinary" soldier (miles).
2. So, for example, G.R. Watson, The Roman Soldier (London: Thames and Hudson, 1969), 135 (quoted on p. 72). Cf. B. Campbell, "The Marriage of Soldiers under the Empire," JRS, 68 (1978), 154.
3. So, for example, A.W. van Buren, "Some Families Formed by Roman Soldiers and Veterans," in Hommages à Albert Grenier, ed. M. Renard (Collection Latomus, Vol. 58, 1962), 1565, and M. Roxan, "The Distribution of Roman Military Diplomas," Epigraphische Studien, 12 (1981), 270.
4. Cf. P.Cattaoui, col. 4, and col. 5, 1-26; text in L. Mitteis and U. Wilcken, Grundzüge und Chrestomathie der Papyruskunde (1912; rpt. Hildesheim: G. Olms, 1963), no. 372.
5. Cf. Campbell, JRS (1978), 153. So too Octavius Valens, an Alexandrian, in P.Cattaoui, col. 4, 16-22 and col. 5, 1-26, and Isidorus, also known as Iulius Martialis, in P.Cattaoui, col. 4, 1-15.
6. Cf. Campbell, JRS (1978), 153.
7. See Plin. Ep. 6.31.4-6, Tac. Hist. 1.48 and 4.5; cf. Epict. Ench. 3.22.79. Suetonius reports (Aug. 24.1) that Augustus exacted strict military discipline and only with great reluctance allowed his legati to visit their wives during the winter months; cf. P.Guonon III. See also M. Mirković, "Die römische Soldatenehe und der 'Soldatenstand'," ZPE, 40 (1980), 261, H.M.D. Parker, The Roman Legions (1928; rpt. Cambridge: W. Heffer and Sons, 1958), 238, and E. Sander, "Das Recht des römischen Soldaten," RhM, 101 (1958), 153. On the marriage rights of navarchs, see C.G. Starr, The Roman Imperial Navy, 2nd ed. (New York: Barnes and Noble, 1960), 49 n. 49.
8. The ban was much less rigorously enforced in Numidia (CIL 8): 51.3 % (82 of 160) of the Numidian officers are attested with wives and/or children, in comparison to 27.8 % (47 of 169) of the milites.
9. Dig. 23.2.63 (Papin.); cf. 23.2.65 (Paul).
10. See Appendix A.
11. Caelibes could not accept inheritances or legacies (Gaius Inst. 2.286).

12. So P.A. Brunt, Italian Manpower 225 B.C. - A.D. 14 (Oxford: Clarendon Press, 1971), 247, Campbell, JRS (1978), 154, and The Emperor and the Roman Army 31 BC - AD 235 (Oxford: Clarendon Press, 1984), 302, and J.E.G. Whitehorne, "Ovid, A.A. 1.101-132, and Soldiers' Marriages," LCM, 4 (1979), 157-58.
13. Caes. Civ. 3.110.2.
14. For example, Campbell, JRS (1978), 158.
15. So Peter Garnsey, "Septimius Severus and the Marriage of Soldiers," CSCA, 3 (1970), 46: "it was assumed that military discipline would suffer and the effectiveness of the army be impaired, if soldiers while under arms were allowed to form permanent relationships with women". See also Watson, Soldier (1969), 134-35.
16. Since soldiers could not lawfully marry, children born to them were illegitimate. The legal rights and disabilities of soldiers' children are discussed in Chapter II, pp. 51-53.
17. BGU 140.
18. CSCA (1970), 46.
19. Cf. Campbell, JRS (1978), 156.
20. Among others, Brunt, Italian Manpower (1971), 247, Campbell, JRS (1978), 153, and Emperor and Army (1984), 302, G.L. Cheesman, The Auxilia of the Roman Imperial Army (1914; rpt. Hildesheim: G. Olms, 1971), 119, P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 41, R. MacMullen, Soldier and Civilian in the Later Roman Empire (Cambridge, Mass.: Harvard University Press, 1963), 126, Parker, Legions (1928), 237, and Watson, Soldier (1969), 137.
21. Dio, the only surviving contemporary source for the reign of Septimius Severus, does not record any changes in the marriage rights of soldiers. But his account of Severus' reign survives only in the incomplete epitome of Xiphilinus. Herodian is more forthcoming. He reports (3.8.5) that one of the privileges granted to soldiers by Severus after the defeat of Clodius Albinus in A.D. 197 was the right γυναῖξιν συνοικεῖν. Some take the phrase to mean "to live with women" (i.e. cohabitation); others render it as "to marry women". Those who favor the latter view cite Herodian's remark that Severus gave soldiers many privileges which they had not previously enjoyed. (ἀλλὰ τε πολλὰ συνεχώρησεν ἃ μὴ πρότερον εἶχον), infer that the right γυναῖξιν συνοικεῖν was first conferred by Severus, and point out that some soldiers lived with women prior to the reign of Severus. However it is by no means certain that they had the right to do so. And it is not safe to assume that Severus would not have awarded soldiers the

right to do something which they were already doing. Equally unhelpful is Tert. De Exhortatione Castitatis 12.1. Writing probably within a decade of A.D. 197, he places soldiers among the ranks of the celibate. But he may have been writing of the state of affairs prior to A.D. 197.

22. MacMullen argues (Soldier and Civilian, 1963, 126-27) that structural changes and the presence of bracelets, beads and other trinkets in legionary bases of the third century A.D. show that married quarters were established in the bases after Severus had lifted the ban on soldiers' marriages. But others believe that the evidence which shows soldiers' families living inside legionary bases dates to the fourth century A.D. (see, for example, Cheesman, Auxilia, 1914, 119, and Watson, Soldier, 1969, 140). More importantly, the presence of women and children in legionary bases is also attested in the second century A.D., i.e. prior to Severus' putative edict (at Bar Hill and Newstead: see P. Salway, The Frontier People of Roman Britain, Cambridge: University Press, 1965, 160-64, and J. Curle, "Roman and Native Remains in Caledonia," JRS, 3, 1913, 104). And even if the introduction of family quarters does date to shortly after the reign of Severus, it does not prove that soldiers were granted anything other than the right of cohabitation.
23. CSCA (1970), 45.
24. Dig. 23.2.45.6 (Ulp.), 24.1.1 (Gai.), 29.1.8 (Marcel.), 29.1.9.1 (Ulp.), 29.1.28 (Ulp.), 29.1.41.1 (Tryph.), 49.17.9 (Ulp.), and 49.17.16.pr. (Papin.).
25. Just. Inst. 2.12.pr. and Tit. Ulp. 20.10.
26. So too Watson, Soldier (1969), 210. For promissa used to describe the status of dowry during marriage (i.e. promised but not yet paid), see Dig. 23.3.35 (Ulp.).
27. Cf. Garnsey, CSCA (1970), 49-50. In any case, the filius familias of the first sentence may be an officer (i.e. entitled to marry).
28. Dig. 23.2.45.3 (Ulp.), 24.1.32.8 (Ulp.), 29.1.7 (Ulp.), 29.1.8 (Marcel.), 29.1.9 (Ulp.), 29.1.15.5 (Ulp.), 29.1.28 (Ulp.), 49.17.6 (Ulp.), and Cod. Iust. 6.21.3.1 and 9.9.15; cf. J. Lesquier, L'armée romaine d'Égypte d'Auguste à Dioclétien (Cairo: L'Institut Français d'Archéologie Orientale, 1918), 262-79. Campbell (JRS, 1978, 163) takes Dig. 48.5.12.pr. (Papin.) as proof that soldiers could marry: miles, qui cum adultero uxoris suae pactus est, solvi sacramento deportarique debet. He believes that adultery could occur only in iustum matrimonium. But even an iniusta uxor could be prosecuted for adultery (Dig. 48.5.14.1: Ulp.).

29. Duxerit is needed in order to make grammatical sense of licet non in matrimonium. Perhaps matrimonium is a solecism.
30. JRS (1978), 161-62.
31. Paul Sent. 2.19.5; cf. Corbett, Marriage (1990), 50. There is nothing to show that the soldier's niece was married, and adultery could occur only in matrimonium (whether iustum or iniustum).
32. Pace Garnsey, CSCA (1970), 50, I cannot believe that Papinian used matrimonium "nontechnically".
33. Cf. Campbell, JRS (1978), 162-63.
34. Three later texts attest the abolition of the marriage ban: Cod.Iust. 6.21.15 (A.D. 334), Cod.Theod. 7.1.3 (A.D. 349), and Cod.Iust. 5.4.21 (A.D. 426).
35. Cf. Campbell, JRS (1978), 159.
36. For example, Garnsey, CSCA (1970), 50-51.
37. CIL 16 nos. 138 (A.D. 213/17), 152 (A.D. 247), and 154 (A.D. 249/50).
38. CIL 16 nos. 139 (A.D. 221), 140 (A.D. 222), 142 (A.D. 225), 143 (A.D. 226), 145 (A.D. 233), 147 (A.D. 243), 148 (A.D. 244), 149 (A.D. 245), 150 (A.D. 246), 151 (A.D. 246), 153 (A.D. 248), 155 (A.D. 254), and 156 (A.D. 298).
39. CIL 16 nos. 144 (A.D. 230) and 146 (A.D. 237).
40. Les cohortes prétoriennes (Paris: de Boccard, 1938), 296.
41. See Roxan, Ep.Stud. (1981), 272-73.
42. Cf. Campbell, JRS (1978), 154.
43. "Tombstones and Roman Family Relations in the Principate: Civilians, Soldiers and Slaves," JRS, 74 (1984), 152-53. They used the following sources:

Rome: Equites Singulares: CIL 6 (all)

Rome: Other Soldiers: CIL 6.1 (four of every ten)

Britain: The Roman Inscriptions of Britain, ed. R.G.

Collingwood and P.R. Wright (all) & JRS, "Roman Britain",

Vols. 44 (1954) to 59 (1969), and Britannia, "Epigraphy",

Vols. 1 (1970) to 12 (1981) (all)

Noricum: CIL 3.2, Inscriptiones Asiae, Provinciae Europae

Graecarum, Illyrici Latinae, ed. Th. Mommsen (1873),

Hofmann (1905), and Schöber (1923) (all)

- Pannonias: CIL 3.1-2, Hofmann (1905) and Schober (1923) (all)
- Spain: CIL 2.1 and Supplement, Inscriptiones Hispaniae Latinae, ed. A. Hübner (1879 and 1892), J. Vives, Inscriptiones Latinas de la España romana (1971), and Hispania Antiqua Epigraphica, nos. 1-2 (1950-1969) (all)
44. See R. MacMullen, "The Legion as a Society," Historia, 33 (1984), 442-43.
45. Cf. Saller and Shaw, JRS (1984), 128.
46. From Saller and Shaw, JRS (1984), 147-49. They used the following sources:
- Rome: Senators and Equites: CIL 6 (all) and ILS (all)
 - Rome: Lower Orders: CIL 6 (one of every fifty: 10245-29675)
 - Britain: The Roman Inscriptions of Britain, ed. R.G. Collingwood and R.P. Wright (1965) (all); JRS, "Roman Britain", Vols. 44 (1954) to 59 (1969), and Britannia, "Epigraphy", Vols. 1 (1970) to 12 (1981) (all)
 - Noricum: CIL 3.2, Inscriptiones Asiae, Provinciarum Europae Graecarum, Illyrici Latinae, ed. Th. Mommsen (1873) (all)
 - Spain: CIL 2.1 and Supplement, Inscriptiones Hispaniae Latinae, ed. A. Hübner (1879 and 1892) (all)
47. JRS (1984), 143-44.
48. See R. Cagnat, L'armée romaine d'Afrique et l'occupation militaire de l'Afrique sous les empereurs, 2nd ed. (Paris: T. Leroux, 1913), 441-519.
49. See also J.C. Mann, Legionary Recruitment and Veteran Settlement During the Principate (London: Institute of Archaeology, 1983), 25-26 (Germania Inferior) and 28-29 (Germania Superior).
50. Saller and Shaw do not seem to be aware that soldiers were forbidden to marry.
51. See E.W.B. Fentress, Numidia and the Roman Army: Social, Military and Economic Aspects of the Frontier Zone (Oxford: BAR International Series 53, 1979), 108-09.
52. Either from the Lippe route on the Upper Weser southwards through the Wetterau to the Lower Main or westwards along the Main and its tributaries: see C.M. Wells, The German Policy of Augustus (Oxford:

- Clarendon Press, 1972), 96-97 (description and plan of the site, 138-48). See also D. Baatz, Neue Untersuchungen am römischen Legionslager in Mainz-Mogontiacum (Berlin: Mann, 1962), 68-73. In general, V. Kronmayer, Beiträge zur Sozialgeschichte des römischen Mainz (Frankfurt-am-Main: Lang, 1983).
53. On castris, see Cheesman, Auxilia (1914), 119, Parker, Legions (1928), 237, and H.T. Rowell, "The Honesta Missio from the Numeri of the Roman Imperial Army," YCS, 6 (1939), 86. A list of North African inscriptions attesting castris is given in Mirković, ZPE (1980), 266 n. 24. They were normally assigned to the tribus Pollia; cf. F. Vittinghoff, "Die rechtliche Stellung der canabae legionis und die Herkunftsangabe castris," Chiron, 1 (1971), 308. It appears that those who were not born with the citizenship could acquire it by enlisting in the legions: see Brunt, Italian Manpower (1971), 241, and J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 42.
 54. So Cheesman, Auxilia (1914), 120-21, E. Birley, Roman Britain and the Roman Army (Kendal: Titus Wilson and Sons, 1953), 140, and van Buren, Hommages Grenier (1962), 1564-70.
 55. See R. MacMullen, "The Epigraphic Habit in the Roman Empire," AJP, 103 (1982), 242-45.
 56. "Wives" and children are not recorded on the diplomas issued after c. A.D. 140, when their wording was altered; see pp. 79-80.
 57. Ep.Stud. (1981), 277.
 58. "Some Roman Elements in Roman Egypt," ICS, 3 (1978), 119 and n. 22.
 59. Of the 44 issued from A.D. 54 to 117, 10 record "wives" and children, 4 children only, and 30 neither; of the 22 issued from 117 to c. 140, 5 record "wives" and children, 1 a "wife" only, 8 children only, and 8 neither.
 60. BGU 140 (quoted in Chapter II, pp. 52-53).
 61. Soldier (1969), 135. Cf. Campbell, JRS (1978), 154: "most soldiers probably formed liaisons with women of peregrine status".
 62. Cf. MacMullen, Soldier and Civilian (1963), 121, and F.F. Abbott and A.C. Johnson, Municipal Administration in the Roman Empire (1926; rpt. New York: Russell and Russell, 1968), 13-14. For a list of the sites of canabae, see MacMullen, Soldier and Civilian (1963), 122, Salway, Frontier People (1965), 10, and (by province) E. Kornemann, De civibus Romanis in provinciis imperii consistentibus (1892; rpt. Nendeln: Kraus Reprint, 1975), 87-91. In general, A. Mócsy, "Das

- territorium legionis und die canabae in Pannonien," AArchHung, 3 (1953), 179-99.
63. Cf. H. Wolff, "Zum Erkenntniswert von Namenstatistiken für die römische Bürgerrechtspolitik der Kaiserzeit," in Studien zur antiken Sozialgeschichte: Festschrift F. Vittinghoff (Köln: Böhlau, 1980), 243-44.
 64. Since many of the women in the provinces who possessed the citizenship had probably acquired it through manumission or descent from manumitted slaves (see A.J. Marshall, "Roman Women and the Provinces," AncSoc, 6, 1975, 117), many of the Roman "wives" of the soldiers attested were probably libertinae or of freed stock.
 65. On civilian diplomata, reportedly issued only by Julius Caesar, Augustus and Nero (to some Greek dancers: Suet. Ner. 12.1), see A.N. Sherwin-White, "The Tabula of Banasa and the Constitutio Antoniniana," JRS, 63 (1973), 90-91, and F. Millar, The Emperor in the Roman World, 31 B.C. - A.D. 337 (London: Duckworth, 1977), 480-81; cf. the Introduction, pp. 8-9.
 66. Gaius Inst. 1.32b; cf. Tit.Ulp. 3.5.
 67. ILS 1989; cf. CIL 16 nos. 7-11. See also M.P. Arnaud-Lindet, "Remarques sur l'octroi de la civitas et du conubium dans les diplômes militaires," REL, 55 (1977), 283 n. 4, and H.F. Miller, "Legio I Adiutrix," G&R, Ser. 2, 28 (1981), 76-77.
 68. ILS 9059.
 69. Cf. A. Degrassi, "Il papiro 1026 della società italiana e i diplomi militari romani," Aegyptus, 10 (1929), 243, and A.N. Sherwin-White, The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), 331-32 n. 3. On peregrines serving in the legions, Brunt, Italian Manpower (1971), 241, G. Forni, Il reclutamento della legioni da Augusto a Diocleziano (Milan: Bocca, 1953), 103-05, J.C. Mann, "The Frontiers of the Principate," ANRW, 2.1 (1974), 515, and Parker, Legions (1928), 181-82.
 70. Emperor and Army (1984); 442.
 71. See n. 53.
 72. Fontes Iuris Romani Antejustiniani, ed. S. Riccobono et al., 2nd ed. (Florence: S.A.G. Barbèra, 1940-43), Vol. 1, no. 56, also in Mitteis and Wilcken, GCP (1912), no. 462. Cf. P.Fouad 21 (A.D. 63) and Brunt, Italian Manpower (1971), 248.

73. FIRA², Vol. 1, no. 76.
74. Emperor and Army (1984), 443.
75. So, for example, Rowell, YCS (1939), 82, and Roxan, Ep.Stud. (1981), 267-68.
76. Cf. Brunt, Italian Manpower (1971), 243.
77. So CIL 16 nos. 1-6. See also S. Dušanić, "The Issue of Military Diplomata under Claudius and Nero," ZPE, 47 (1982), 149-71, and "A Military Diploma of A.D. 65," Germania, 56 (1978), 461-75.
78. A list of these diplomas is given in Roxan, Ep.Stud. (1981), 266-67; cf. J.C. Mann, "A Note on the Numeri," Hermes, 82 (1954), 501-06. See also Tac. Hist. 3.47 on the granting of the citizenship, for unspecified reasons, to a royal auxiliary cohort in Pontus.
79. CIL 16 no. 132; cf. nos. 25, 60, 68, 114 and 160. On the origin of the granting of diplomas to veterans, see J.C. Mann, "The Development of Auxiliary and Fleet Diplomas," Epigraphische Studien, 9 (1972), 234.
80. As of 1977; a list of these diplomas and of their find-spots is given in Roxan, Ep.Stud. (1981), 279-82 (she also supplies a map plotting their find-spots). Of all the extant auxiliary diplomas, 19 % date to the first century A.D., 47 % to the years from 101 to 140, and 34 % to the period after 141.
81. The same formula appears on diplomas issued to auxiliary veterans who were Roman citizens when they were discharged (i.e. had acquired the citizenship before or during service). Examples in M. Roxan, Roman Military Diplomas 1954-1977 (London: Institute of Archaeology, 1978), nos. 14, 30, 38, 44, 53 and 64 (a man born castris).
82. In general, G. Alföldy, "Zur Beurteilung der Militärdiplome der Auxiliarsoldaten," Historia, 17 (1968), 215-27, Arnaud-Lindet, REL (1977), 282-309, K. Kraft, "Zum Bürgerrecht der Soldatenkinder," Historia, 10 (1961), 120-26, H. Nesselhauf, "Das Bürgerrecht der Soldatenkinder," Historia, 8 (1959), 434-42, A. Segrè, "Il diritto dei militari peregrini nell'esercito romano," RPAA, 17 (1940-41), 169-70, and E. Volterra, "L'acquisto della cittadinanza romana e il matrimonio del peregrino," in Studi in onore di E. Redenti (Milan: A. Giuffrè, 1951), Vol. 2, 417-19.
83. The rules governing the eligibility of witnesses are discussed by Dušanić, ZPE (1982), 149-50; and J. Morris and M. Roxan, "The Witnesses to Roman Military Diplomata," AArchSlov, 28 (1977), 299-301.

84. Gaius inserted quibusdam probably because legionaries were not awarded diplomas and therefore did not receive conubium cum Latinis peregrinisve.
85. Cf. Sherwin-White, Citizenship² (1973), 268.
86. CIL 6.37181. Sextus Marius Priscus was legatus pro praetore in Cilicia between A.D. 74 and 79 (CIG 4270-71), and consularis legatus pro praetore in Pannonia in A.D. 98 (see RE, 14.2, 1836-37). Nothing much is known of Cn. Pinarius Aemilius Cicatricula.
87. CIL 16 nos. 68 and 114; Roxan, Diplomas (1978), nos. 17, 27 and 28.
88. Not remarked by Rowell, YCS (1939), 84-85, or Roxan, Ep.Stud. (1981), 267.
89. CIL 16 no. 177, which uses the old formula, dates to November 26, A.D. 140; the first readable diploma without the usual phraseology (CIL 16 no. 90) dates to February 23, A.D. 144. Cf. Kraft, Historia (1961), who relies on some very fragmentary diplomas in calculating that the change in wording dates to between February 15 and December 13, A.D. 140. See also Arnaud-Lindet, REL (1977), 289 (between A.D. 144 and 146), and Roxan, Ep.Stud. (1981), 268, and Diplomas (1978), 65 n. 6 (c. 140). In general, Peter Garnsey, Social Status and Legal Privilege in the Roman Empire (Oxford: Clarendon Press, 1970), 250, Watson, Soldier (1969), 136-37, and H. Wolff, "Zu den Bürgerrechtsverleihungen an Kinder von Auxiliaren und Legionaren," Chiron, 4 (1974), 481.
90. From c. A.D. 144, probably because of the growing number of citizens serving in the auxilia, the diplomas distinguish between veterans who possessed the citizenship and those who did not (qui eorum non haberent).
91. The latest extant auxiliary diploma which attests a "wife" or child is Roxan, Diplomas (1978), no. 40; for the date, see Roxan, Ep.Stud. (1981), 279 n. 39 (correcting the date given in Diplomas, 1978, 65 n. 6).
92. Mitteis and Wilcken, GCP (1912), no. 459; cf. the ~~explicitus~~ of A.D. 140 in Mitteis and Wilcken, GCP (1912), no. 458.
93. Zur Rekrutierung der Alen und Kohorten an Rhein und Donau (Bern: Francke, 1951), 117-21. So too Campbell, Emperor and Army (1984), 444.
94. Chiron (1974), 490-96.

95. ANRW (1974), 516-17; see also Sherwin-White, Citizenship² (1973), 273-74, and Watson, Soldier (1969), 136-37. Arnaud-Lindet (REL, 1977, 302) is wrong in thinking that Roman citizens in the auxilia were not granted conubium when they were discharged.
96. Details in Roxan, Ep.Stud. (1981), 278.
97. Ep.Stud. (1981), 278. For Hadrian, BGU 140 (quoted in Chapter II, pp. 52-53).
98. The latest extant auxiliary diploma (Roxan, Diplomas, 1978, no. 69) dates to November, A.D. 186. But with Roxan (Ep.Stud., 1981, 266), I see no reason why auxiliary diplomata should not have been issued at least until the Constitutio Antoniniana (A.D. 212).
99. So, for example, CIL 16 no. 75 (A.D. 129). Extant fleet diplomas number in total forty, and range in date from A.D. 52 (CIL 16 no. 1) to 250 (CIL 16 no. 154).
100. The earliest such diploma is CIL 16 no. 45 (A.D. 99).
101. See, for example, CIL 16 no. 100 (A.D. 152).
102. Citizenship² (1973), 274.
103. Provided that the veteran could supply proof of the relationship: quas secum concessa consuetudine vixisse probaverint. In most cases, I imagine, the proof will have been the testimony of witnesses—neighbors and fellow sailors.
104. The last of the fleet diplomas of the old type is CIL 16 no. 100 (A.D. 152); the earliest of the type which uses the new formula is CIL 16 no. 122 (A.D. 166).
105. Navy² (1960), 91-92.
106. Soldier (1969), 138.
107. REL (1977), 296.
108. P.Mich. Inv. 4703 (= Vol. 7, no. 442).
109. "A Sailor's Marriage Certificate in Diploma Form," PAPhS, 81 (1939), 581-90, and P.Mich. Inv. 4703 (1947).
110. Cf. Quint. Inst. 5.11.32.
111. Starr also cites (Navy², 1960, 104 n. 101) a dozen inscriptions in CIL (6.3109; 10.3380, 3425, 3547, 3563, 3596, cf. 3635; 11.52, 66,

80; "probably" 10.3388, 3627) on which the children of serving sailors and of sailors who died in service are attested with their father's and not their mother's nomen, something which he takes to be evidence of legitimate birth and hence as proof that the sailors' unions were valid. However none of the inscriptions can be dated and there is nothing which shows that the children were born during service and not prior to enlistment.

112. Oxford Latin Dictionary, ed. P.W. Glare (Oxford: Clarendon Press, 1982), 422-23.
113. Used by the lawyers to denote sexual intercourse with an unmarried woman, virgin or boy of the upper classes (Dig. 25.7.3: Marc., 48.5.14.2: Ulp., 48.5.35: Modest., Paul Sent. 2.26.12, Cod.Iust. 9.9.22 and 28). Consuetudo linked with stuprum: Eutr. 6.22 (Caesar and Cleopatra), Dig. 48.5.35.pr. (Modest.); (homosexual) Just. Epit. 8.6.6 (Philip and Alexander, brother of Olympias), SHA. Alex. Sev. 34.4 (Elagabalus and some young boys whom Alexander ordered to be deported), Suet. Otho 2.2 (Nero and Otho); (adultery) Curt. 4.10.31 (Alexander and the wife of Darius); (incest) Suet. Cal. 24.1 (Caligula and his three sisters). Consuetudo without stuprum could be adultery: Suet. Cl. 1.1 (Augustus and Livia); cf. Cic. Scaur. 9 and Suet. Tit. 10.2.
114. Quint. Inst. 5.11.34: si turpis dominae consuetudo cum servo, turpis domino cum ancilla.
115. Dig. 45.1.121.1 (Papin.).
116. Just. Epit. 12.4.2 (the soldiers of Alexander captivated by the consuetudo of their Persian captives), Suet. Tib. 7.2 (Tiberius and Vipsania Agrippina). Cf. Amp. 30.3, Apul. Met. 5.9, Just. Inst. 1.10.13, Liv. 27.15.10 and 39.9.6, Petr. 80, Suet. Ner. 35.1, Ter. An. 439, Hec. 404 and Ph. 161; (sexual) Sal. Cat. 23.3, Serv. Ecl. 5.20; (animals) Col. 6.37.8.
117. Used with veterem, here something like "long-standing".
118. The final clause is an interpolation.
119. Concubinage was cohabitation in which one of the partners, almost always the woman, was of lower social status: a freedwoman, a prostitute, an actress, a waitress. Few of the sailors' "wives" attested on epitaphs and diplomas appear to have been freedwomen or, to use the lawyers' phrase, "women of low repute" (cf. Dig. 23.2.41 - Marc.: quae turpiter viverent), and their "husbands" were attached to the least prestigious branch of the armed forces, recruited largely in the backwaters of the Pannonias, Dalmatia, Egypt and North Africa. On naval recruitment, Starr, Navy² (1960), 74-77.

120. With Campbell, Emperor and Army (1984), 444.
121. The earliest is CIL 16 no. 25; the latest is Roxan, Diplomas (1978), no. 78.
122. See Roxan, Ep.Stud. (1981), 272-73.
123. See Arnaud-Lindet, REL (1977), 307-08; cf. Dušanić, ZPE (1982), 149 n. 2.
124. Cf. Roxan, Ep.Stud. (1981), 273. Much the same can be said of the two diplomas issued to equites singulares in A.D. 230 (CIL 16 no. 144) and 237 (CIL 16 no. 146). Almost identical to the auxiliary diplomata issued prior to c. A.D. 140, they award the citizenship to the veterans and to their children born during service, and give the veterans conubium with peregrine women.
125. CIL 16 no. 95 (A.D. 148); cf. CIL 6.37183.
126. See A. Watson, The Law of Persons in the Later Roman Republic (Oxford: Clarendon Press, 1967), 77-82.
127. "Un'osservazione in tema di tollere liberos," in Festschrift F. Schulz (Weimar: Böhlau, 1951), Vol. 1, 388-98.
128. So Watson, Persons (1967), 79.
129. Gaius Inst. 1.56.
130. Emperor and Army (1984), 440-42.
131. Persons (1967), 80.
132. An estimate: J.P.V.D. Balsdon, Romans and Aliens (London: Duckworth, 1979), 86.
133. See Tac. Ann. 14.27 (quoted on p. 65).
134. Cf. G.E.M. de Ste. Croix, The Class Struggle in the Ancient Greek World (London: Duckworth, 1981), 461.
135. Details in Sherwin-White, JRS (1973), 91.
136. Cf. the more cautious approach of Roxan, Ep.Stud. (1981), 265: "their possession did not necessarily fully satisfy the authorities that honorable discharge had in fact been received". Discharge was either honesta (quae emeritis stipendiis vel ante ab imperatore indulgetur), causaria (quae propter valetudinem laboribus militiae

solvit) or ignominiosa (quotiens is qui mittit addidit nominatim ignominiae causa se mittere): Dig. 3.2.2.2 (Ulp.).

137. Cf. Balsdon, Romans and Aliens (1979), 96.
138. This is of course not true of veterans who remarried, since the diplomas gave them conubium only with the first women whom they married post missionem.
139. The numbers of the other fifteen inscriptions can be found in Appendix D.
140. Of the 163 veterans attested on the Numidian epitaphs, 47 are identified as legionary veterans, 4 as auxiliary veterans, 2 as praetorian veterans, and 1 as a veteran of the numeri. I counted the praetorian veterans as legionary veterans, and the veteran of the numeri as a veteran of the auxilia. The other 109 veterans, identified only as veterani, I distributed in a ratio of 23 legionary veterans to 1 auxiliary veteran, which is the ratio of attested legionaries to attested auxiliaries.
141. The numbers of the other fifty-nine inscriptions can be found in Appendix D.
142. See Chapter V, pp. 124-25.
143. The Numidian evidence is collected and discussed in Fentress, Numidia (1979), 150-60; cf. B.H. Warmington, "The Municipal Patrons of Roman North Africa," PBSR, 22 (1954), 40-55. In general, Forni, Reclutamento (1953), 42-44, and MacMullen, Soldier and Civilian (1963), 103-11 (103: "prominent, influential and sought after as magistrates, senators, patrons and sons-in-law").
144. Dig. 49.18 (de veteranis), especially 49.18.3 (Marc.).

Chapter IV

1. The rules governing inheritance of the Athenian citizenship are discussed in Chapter I, n. 77.
2. See A.N. Sherwin-White, The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), 251-74, from whom I have stolen the phrase "flood tide".
3. Cf. J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 7.
4. Cf. Chapter I, pp. 25-26.
5. For the lex Iulia and the lex Plautia Papiria, see the Introduction, n. 58.
6. Cic. Arch. 10 and Balb. 52, and Schol.Bobb. 175 (p. 353 Stangl); Val.Max. 3.4.5 is (rightly) rejected by P.A. Brunt ("The Legal Issue in Cicero, Pro Balbo," CQ, 32, 1982, 145) as a "tissue of falsehoods". In general, see Brunt, CQ (1982), 136 and 145, and Italian Manpower 225 B.C. - A.D. 14 (Oxford: Clarendon Press, 1971), 208, Crook, Law and Life (1967), 46, and, with caution, V. Angelini, "Riflessioni sull'orazione pro L. Cornelio Balbo," Athenaeum, 58 (1980), 360-70. On the lex Licinia Mucia of 95 B.C., which set up a quaestio to try cases of usurpation of the citizenship, see Asc. p. 67 C, Cic. Balb. 48 and Off. 3.47; see also E. Badian, "Quaestiones Variae," Historia, 18 (1969), 489-90, Brunt, CQ (1982), 146, and M. Reinhold, "Usurpation of Status and Status Symbols in the Roman Empire," Historia, 20 (1971), 278.
7. Cf. A.H.M. Jones, Studies in Roman Government and Law (Oxford: B. Blackwell, 1960), 140.
8. Ann. 3.40 (quoted in the Introduction, n. 58). Dionysius of Halicarnassus protested against (Ant.Rom. 4.24) the granting of the citizenship to freed persons, but chiefly because he believed that many of the slaves so rewarded were undeserving (i.e. of bad character).
9. Apoc. 3.3: sed Clotho "ego mehercules" inquit "pusillum temporis adicere illi [Claudius] volebam, dum hos pauculos, qui supersunt, civitate donaret (constituerat enim omnes Graecos, Gallos, Hispanos, Britannos togatos videre), sed quoniam placet aliquos peregrinos in semen relinqui et tu ita iubes fieri, fiat".
10. Cf. G. Williams, The Third Book of Horace's Odes (Oxford: Clarendon Press, 1969), 64.

11. C. Suetoni Tranquilli Divus Augustus (Cambridge: University Press, 1896), 48.
12. Cf. Dio 49.41.2: Antony intended to show up Octavian, the adopted son of Caesar. That the union of Antony and Cleopatra (on which see Appendix C) was not so charitably regarded was largely because of her reported despotism and allegedly enervating influence upon Antony, not because of the mixed status of their relationship.
13. Gaius Inst. 1.57.
14. Cf. 2.56, where he pokes fun at Gallus, governor of Libya, whose wife had a reputation for greed and easy virtue among the Libyan tribes (gentibus in Libycis).
15. Con. 2.7.exc.
16. Flac. 9-10, 12, and 24 (Greeks, at least those of Asia Minor).
17. Cf. Ach.Tat. Leuc. et Cleit. 1.11.1-2.
18. Of course he should have said that it was his daughter (not himself) who lacked conubium cum externo.
19. See Cic. Balb. 24.
20. Cic. Balb. 6 and 38.
21. Jos. AJ. 14.137.
22. Fontes Iuris Romani Antejustiniani, ed. S. Riccobono et al., 2nd ed. (Florence: S.A.G. Barbèra, 1940-43), Vol. 1, no. 55.
23. Tac. Ann. 1.55 and 58 (in contrast to Arminius: insignem perfidia).
24. Tac. Ann. 6.37.
25. See E. Badian, Foreign Clientelae, 264 - 70 B.C. (Oxford: Clarendon Press, 1958), 259-61 and 281-82. For the lex Gellia Cornelia, see Chapter I, p. 25.
26. Cf. F. Millar, The Emperor in the Roman World, 31 B.C. - A.D. 337 (London: Duckworth, 1977), 480-84.
27. These requirements were introduced by the lex Aelia Sentia of A.D. 4 (Tit.Ulp. 1.12-13).
28. Cf. Sherwin-White, Citizenship² (1973), 324.

29. Cf. S. Treggiari, Roman Freedmen During the Late Republic (Oxford: Clarendon Press, 1969), 20-31. The lex Fufia Caninia limited the number of slaves who could be freed testamento. Details in the Introduction, p. 3.
30. Sherwin-White, Citizenship² (1973), 324: "the will itself with its legacies and manumissions only takes effect when the praetor grants the Roman form of probate — bonorum possessionem secundum tabulas"; cf. Gaius Inst. 3.34. A. Watson has indicated to me that, in his view, "a will could be, and was, validly made and put into force without any involvement of the state from the mid-fifth century B.C.". I cannot believe that the state established no means of enforcing the lex Fufia Caninia of 2 B.C., which limited the number of slaves who could be freed testamento, or the lex Iulia de vicesima hereditatum of A.D. 6, which imposed a five percent estate duty upon inheritances.
31. Treggiari, Freedmen (1969), 67-68.
32. Lex Coloniae Genetivae Iuliae (Charter of Urso) 105 (in FIRA², Vol. 1, no. 21); cf. Sherwin-White, Citizenship² (1973), 326.
33. Cf. J.P.V.D. Balsdon, Romans and Aliens (London: Duckworth, 1979), 92.
34. Dig. 23.2.44 (Paul).
35. Balsdon, Romans and Aliens (1979), 93.
36. For the date, see the Introduction, p. 4.
37. The list is taken from Tit.Ulp. 3.1.
38. Gaius Inst. 1.29 (details in the Introduction, pp. 5-6).
39. Tit.Ulp. 3.4; cf. Plin. Ep. 7.16 (discussed in the Introduction, p. 5).
40. By the lex Visellia of A.D. 23 (Gaius Inst. 1.32b). The term of service required was (apparently) later reduced to three years.
41. Gaius Inst. 1.32c; cf. Suet. Cl. 19.2 (an edict of Claudius).
42. Gaius Inst. 1.33 (an enactment of Nero).
43. Gaius Inst. 1.34 (from the reign of Trajan).
44. Since the lex Minicia (probably) applied only to marriages, a peregrine could have Roman children by a Roman woman if he did not marry her (i.e. iure gentium). But few Roman women will have chosen to forgo marriage so that their children would have the citizenship; cf. Chapter I, p. 28 and n. 39.

Chapter V

1. Cf. J. Crook, Law and Life of Rome (London: Thames and Hudson, 1967), 10-11. See also G. Sawyer, Law in Society (Oxford: Clarendon Press, 1964), 60 and 152, and D.N. Schiff, "Law as a Social Phenomenon," in Sociological Approaches to Law, ed. A. Podgórecki and C.J. Whelan (New York: St. Martin's Press, 1981), 155-66.
2. See, for example, P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 99-102, and C.E. Goodfellow, Roman Citizenship: A Study of its Territorial and Numerical Expansion from the Earliest Times to the Death of Augustus (Diss., Bryn Mawr College, 1935), 50.
3. A.N. Sherwin-White (The Letters of Pliny, Oxford: Clarendon Press, 1966, 715) takes Plin. Ep. 10.106 to be evidence of intermarriage. Pliny asks Trajan to grant the citizenship to the daughter of P. Accius Aquila, centurion of an auxiliary cohort (centurio cohortis sextae equestris). Sherwin-White makes him out to be a Roman citizen, and believes that his daughter did not have the citizenship because he had married a peregrine woman ("as was possible in auxiliary service") or because she was "simply an illegitimate peregrine". But Aquila's possession of the tria nomina is not proof that he was a Roman citizen (see pp. 111-13). And I do not think it significant that he appears not to have requested that he too be given the citizenship (cf. the somewhat muddled note of E.G. Hardy, C. Plinii Secundi Epistulae ad Traianum imperatorem cum eiusdem responsis, London: MacMillan, 1889, 221-22). The enfranchisement of an auxiliary soldier would have anticipated the awarding of the most important privilege which accompanied honorable discharge, and Aquila or Pliny (or both) must have realized that Trajan might be unwilling to set such a precedent. And while it is true that the enfranchisement of Aquila's daughter anticipated another of the privileges conferred upon discharged auxiliaries (i.e. the citizenship for the veterans' children), there may have been exceptional and mitigating circumstances which prompted Aquila to make the request and Trajan to grant it (a planned marriage to a Roman citizen? a legacy left to her by a Roman citizen?), and which, though they do not receive notice in the terse exchange of letters (Trajan's reply in Ep. 10.107), were perhaps set forth in the libellus which Aquila sent to Trajan (ut mitterem tibi libellum per quem indulgentiam pro statu filiae). In short, Aquila's status is uncertain. It is also arguable (as Sherwin-White saw, but for the wrong reason) whether Aquila's daughter was illegitimate. She will have been born illegitimate (i.e. illegitimate in Roman law) if either (but not both) of her parents was non-Roman, i.e. if Aquila was a Roman citizen and his wife non-Roman or Aquila non-Roman and his wife a citizen. But she will not have been illegitimate if born of a lawful peregrine union, i.e. if Aquila and

his wife were both peregrines and legally married. And while Sherwin-White is wrong in thinking that auxiliaries were allowed to marry (see Chapter III, pp. 54-55), it appears that the ban on soldiers' marriages did not apply to centurions (see Chapter III, p. 55). The girl could be the legitimate offspring of the lawful union of two peregrines.

4. This is often true even of their own marriages. Josephus, for example, reveals (Vit. 423 and 425) that he married a Jewish woman living on Crete shortly after he had been granted the citizenship by Vespasian. He claims (Vit. 427) that her parents were very distinguished (γενέων εὐχεστέρων), but says nothing about her citizenship status. I think it likely that she was a peregrine.
5. On the union of Antony and Cleopatra, see Appendix C.
6. See RE, "Antonia", no. 112. R.D. Sullivan, "Dynasts in Pontus," ANRW, 2.7.2 (1980), 920, thinks that she may have been Antony's daughter by an eastern queen or princess.
7. Dio 44.53.6; cf. 46.38.6 and 46.52.2.
8. App. B.Civ. 5.93. They may have married.
9. So R. Syme, The Roman Revolution (Oxford: Clarendon Press, 1939), 262 n. 6, and G.W. Bowersock, Augustus and the Greek World (Oxford: Clarendon Press, 1965), 59 and 87.
10. "De titulo reginae Pythodoridis Smyrnaeo," Ephem.Epig., 1 (1872), 270-72. Also in favor of the marriage: H.R. Baldus, "Die Daten von Münzprägung und Tod der Königin Pythodoris von Pontus," Chiron, 13 (1983), 537, G.H. MacMurdy, Vassal-Queens and Some Contemporary Women in the Roman Empire (Baltimore: John Hopkins Press, 1937), 31; Sullivan, ANRW (1980), 920, and "Papyri Reflecting the Eastern Dynastic Network," ANRW, 2.8 (1977), 920 and n. 48, and Syme, Roman Revolution (1939), 262.
11. "De regina Pythodoride et de Pythodoride iuniore," Ephem.Epig., 9 (1903), 691-93. Also not convinced are D. Magie, Roman Rule in Asia Minor to the End of the Third Century after Christ (Princeton, N.J.: University Press, 1950), Vol. 2, 1130-31 n. 61 ("exceedingly doubtful"), Bowersock, Augustus: Greek World (1965), 8 n. 4 (laconically: "the view of Mommsen must be rejected"), and D. Braund, Rome and the Friendly King (New York: St. Martin's Press, 1984), 48 n. 16 (the connection is "quite uncertain").
12. Pompéy's proposed marriage to Cato's niece (Plut. Pomp. 44.2-3 and Cat.Mi. 30.2-4); his marriage to Cornelia, daughter of Q. Metellus

Scipio, cos. 52 B.C. (Syme, Roman Revolution, 1939, 40); the marriages of Servilia's daughters (by D. Silanus) to C. Cassius Longinus (Caesar's assassin), M. Aemilius Lepidus (the triumvir), and P. Servilius Isauricus, praetor in 54 (Syme, Roman Revolution, 1939, 69); the union of Octavian and Scribonia (Suet. Aug. 62.2); the marriage of Marcella the Elder, daughter of Octavian's sister Octavia, to M. Vipsanius Agrippa, and of Marcella the Younger to Paullus Aemilius Lepidus, censor in 22 (Syme, Roman Revolution, 1939, 378).

13. Brit.Mus.Cat.: Lycon. Isaur. Cil., 123-24.
14. The same can be said of Antonia Tryphaena (cf. n. 16), wife of Cotys, king of Thrace, perhaps also of M. Antonius Zeno, priest of Laodicea under Claudius and Nero (Brit.Mus.Cat.: Phryg., 324; cf. Goodfellow, Citizenship, 1935, 99), and of the second century A.D. sophist M. Antonius Polemon (IGRR 4.1431, Brit.Mus.Cat.: Ionia, 277, Philostr. VS. 1.25).
15. Pythodoris and Polemon probably married shortly after he had divorced Dynamis, queen of Bosphorus, in 14 B.C. (Dio 54.24.6). See M. Rostovtzeff, "Queen-Dynamis of Bosphorus," JHS, 39 (1919), 88-109; cf. Magie, Asia Minor (1950), 1341 n. 32, who thinks that he may have been married to Pythodoris before he married Dynamis. Polemon was probably a Roman citizen from 40/39 B.C. when he helped to defend Laodicea against the Parthians (cf. Dio 53.25.1: a "friend and ally" of Rome). Zeno, the younger son of Pythodoris and Polemon (Strab. 12.3.37), was made King of Armenia by Germanicus (Tac. Ann. 2.56). Pythodoris later married (c. A.D. 1/2) Archelaus, king of Cappadocia, who had been placed on the throne by Antony (Dio 49.32.3, Strab. 12.2.11). Once defended by Tiberius (Dio 57.17.3, Suet. Tib. 8), he was summoned to Rome in A.D. 15 and detained until his death (Suet. Tib. 37.4). Pythodoris probably died in A.D. 22 or 23. Cf. Magie, Asia Minor (1950), 1386 n. 50, and Baldus, Chiron (1983), 537-43.
16. So W.W. Tarn and M.P. Charlesworth, "The War of the East Against the West," in The Cambridge Ancient History (Cambridge: University Press, 1934), Vol. 10, 78. Magie (Asia Minor, 1950, 495 and 549) makes him out to be only a relative of the royal family of Pontus, not the son of Pythodoris, perhaps to be identified with the Polemon who is said (Jos. AJ. 20.145) to have been priest-king of Olba in Cilicia, and who married Berenice, daughter of Agrippa I. However Polemon of Olba is attested with the nomen Iulius in P.Lond. 1178; cf. R.D. Sullivan, "King Marcus Antonius Polemo," NC, Ser. 7, 19 (1979), 6-20. He is even less likely to be Polemon, son of Cotys, king of Thrace, and of Antonia Tryphaena (for their other two sons, Rhometalces and Rhescuporis, see Tac. Ann. 2.64 and Vell. 2.129.1),

who is probably the daughter of Pythodoris and Polemon not named by Strabo (12.3.37); cf. Magie, Asia Minor (1950), 486 and 513.

17. So too Goodfellow, Citizenship (1935), 98.
18. Cic. Frac. 52.
19. Strab. 14.1.42.
20. See Syme, Roman Revolution (1939), 262, and Magie, Asia Minor (1950), 257.
21. Cic. Balb. 19 and 32.
22. Plut. Ant. 87, Dio 51.15.6, Suet. Aug. 17.5, Strab. 17.3.7. For the date, see D. Braund, "Anth.Pal. 9.235: Juba II, Cleopatra Selene and the Course of the Nile," CQ, 34 (1984), 175 and n. 2, and MacMurdy, Vassal-Queens (1937), 53.
23. His son, later king of Mauretania, was named C. Iulius Ptolemaeus (CIL 8.21093, 21095 and 6.20409). A number of his freedwomen are attested with the nomen Iulia (CIL 8.9344, 9346-47 and 21086-88). See also Braund, Friendly King (1984), 45.
24. I believe that her mother was a peregrine and that she was therefore born peregrine (e lege Minicia). Cf. Appendix C, p. 138 and n. 9.
25. Fontes Iuris Romani Antejustiniani, ed. S. Riccobono et al., 2nd ed. (Florence: S.A.G. Barbèra, 1940-43), Vol. 1, no. 55. Cf. Braund, Friendly King (1984), 46 n. 2.
26. Cleopatra Selene's two brothers, Alexander Helios and Ptolemy Philadelphus, are not known to have married.
27. Jos. AJ. 20.141-44, Act.Apost. 24.24.
28. PIR², Vol. 3, no. 196.
29. The identity of his third wife is unknown.
30. I cannot discover whether Drusilla and Felix had any children. His son Antonius Agrippa, who, together with his own wife, died in the eruption of Vesuvius, is probably the child of Drusilla Iudaea (PIR², Vol. 1, no. 809). Felix also had a daughter named Antonia Clementiana (PIR², Vol. 1, no. 889). Her mother could be any of Felix's three wives.

31. J.M. Carter (Suetonius: Divus Augustus, Bristol: Bristol Classical Press, 1982, 183) understands Suetonius to mean that Augustus offered to betroth Julia to Cotiso. But despondeo (M. Antonius scribit, primum eum Antonio filio suo despondisse Iuliam, dein Cotisoni Getarum regi) usually, and always in Suetonius (cf. Cl. 27.1 and 27.2, Jul. 1.1 and Otho 1.3), denotes betrothal, not an offer of it.
32. E.S. Shuckburgh (C. Suetoni Tranquilli Divus Augustus, Cambridge: University Press, 1896, 48) accepts the story and dates the incident to 35 B.C. (the Illyrian war); Carter (Suetonius, 1982, 183) thinks that it "may be true".
33. See Syme, Roman Revolution (1939), 378-79. It can be inferred that the story was not demonstrably false.
34. In general, J.P.V.D. Balsdon, Romans and Aliens (London: Duckworth, 1979), 137.
35. So Magie, Asia Minor (1950), 1554 n. 44, W. Reusch, Der historische Wert der Caracallavita in den Scriptorum Historiae Augustae (1931; rpt. Aalen, 1963), 47 (the story does not appear in the SHA.), and J. Vogt, "Zu Pausanias und Caracalla," Historia, 18 (1969), 299-308.
36. See N.C. Debevoise, A Political History of Parthia (Chicago, 1938), 265, Magie, Asia Minor (1950), 1554 n. 44, and D. Timpe, "Ein Heiratsplan Kaiser Caracallas," Hermes, 95 (1967), 470-95.
37. Cf. P.A. Brunt, Italian Manpower 225 B.C. - A.D. 14 (Oxford: Clarendon Press, 1971), 206. The Senate eventually decided to settle the men at Carteia (ad Oceanum), to confer upon it the status of a Latin colony, and, for some reason, to call it the "colony of freedmen" (colonia libertinorum).
38. Tac. Hist. 3.32-33.
39. Polyb. 3.40.
40. Verg. Ecl. 9.28.
41. Conubium often denotes intermarriage or an instance of it (except in juristic texts, where it always denotes the right of intermarriage). Cf. Liv. 23.4.7, Curt. 8.4.25, and (especially) Tac. Ger. 4.1 (Germaniae populos nullis aliis aliarum nationum conubiis interfectos). See also Tac. Hist. 4.65 (quoted on p. 108).
42. Cf. Liv. 21.56.9 and 37.46.9-10: it had suffered heavily in the war against Hannibal.

43. Suet. Jul. 24.2; cf. Brunt, Italian Manpower (1971), 168 and 172.
44. See the Introduction, p.7.
45. Neither fratres nor liberos is a happy choice. No German could have a Roman brother, unless only one of them had been enfranchised or unless they were step-brothers (i.e. one born to Roman parents, the other to German parents or to a union of mixed status). And no German could have a Roman child (e lege Minicia, the child of a German father or mother was born German).
46. For conubium, see n. 41. Of the thirty-four marriages attested on the epitaphs of Colonia Agrippinensium in CIL 13, four (11.8 %) appear to be of mixed status (8290, 8307, 8340, 8374).
47. Cf. A.N. Sherwin-White, Roman Society and Roman Law in the New Testament (Oxford: Clarendon Press, 1963), 178-79.
48. See Gaius Inst. 2.110; cf. Chapter II, pp. 47-48.
49. For the date, and in general, see J.H. Oliver, "The Ruling Power: A Study of the Roman Empire in the Second Century after Christ through the Roman Oration of Aelius Aristides," TAPA, 43, pt. 4 (1953), 871-1003.
50. Or. 18.102 (Keil).
51. Cf. R. Klein, Die Romrede des Aelius Aristides (Darmstadt: Wissenschaftliche Buchgesellschaft, 1983), 117 n. 137, and Oliver, TAPA (1953), 947.
52. Oliver (TAPA, 1953, 926) rightly retains ἡ καὶ ὁμόφυλον against those who reject it as a gloss on πολιτικόν.
53. For example, Goodfellow, Citizenship (1935), 50 and 56, and J. Hatzfeld, Les trafiquants italiens dans l'Orient hellénique (1919; rpt. New York: Arno Press, 1975), 294.
54. Cf. IG 12², no. 258, cited by Hatzfeld, Traffiquants (1919), 294: M. Granius C.f. Carbo and Theodora, daughter of Meinophilos; CIG 4822-24, cited by R. Taubenschlag, The Law of Greco-Roman Egypt in the Light of the Papyri, 2nd ed. (Warsaw: Państwowe Wydawnictwo Naukowe, 1955), 106: Cornelius Pollio and Philous, a son named Soter.
55. Law of Greco-Roman Egypt² (1955), 106 and 108.
56. Cited by Taubenschlag (Law of Greco-Roman Egypt², 1955, 106) as P.Oxy. 237.

57. Cf. P.Lond. 407 (A.D. 168): Sarapion and Amatia Prisca; P.Oxy. 506 (A.D. 143): Herodes and Caecilia Pollia have a son named Sarapion; P.Oxy. 1719 (A.D. 204): Zoilos and Ailia Primiana have two children, Zoilos and Sosia; BCU 581 (A.D. 133): Socrates is the son of C. Valerius Chairemonianos; BCU 846 (second century A.D.): Antonius Longus, an auxiliary soldier, is the son of Nilous; BCU 1662 (A.D. 182): M. Valerius Turbo has a daughter named Kyrilla; P.Ryl. 150 (A.D. 40): Sophos is the son of M. Saturninus; P.Ryl. 188 (early second century A.D.): Lucius Fabius has a son named Onesous.

58. See H. Box, "Roman Citizenship in Laconia," JRS, 21 (1931), 200, Braund, Friendly King (1984), 46 n. 2, Brunt, Italian Manpower (1971), 207, A. Mócsy, "Das Namensverbot des Kaisers Claudius (Suet. Claud. 25,3)," Klio, 52 (1970), 288, J. Morris, "Changing Fashions in Roman Nomenclature in the Early Empire," LF, 11 (1963), 46, H. Solin, "Onomastica ed epigrafia. Riflessioni sull'esegesi onomastica delle iscrizioni romane," QUCC, 18 (1974), 105-32, and H. Wolff, "Zum Erkenntniswert von Namenstatistiken für die römische Bürgerrechtspolitik der Kaiserzeit," in Studien zur antiken Sozialgeschichte: Festschrift F. Vittinghoff (Köln: Böhlau, 1980), 243-44. But cf. G. Alföldy, "Notes sur la relation entre le droit de cité et la nomenclature dans l'empire romain," Latomus, 25 (1966), 37; Crook, Law and Life (1967), 48, and J.F. Gilliam, "Dura Rosters and the Constitutio Antoniniana," Historia, 14 (1965), 81. The names of the three Junian Latins left to Pliny in the will of his friend Valerius Paulinus (Ep. 10.104) were C. Valerius Astraeus, C. Valerius Dionysius and C. Valerius Aper.

59. See especially Brunt, Italian Manpower (1971), 208; cf. Mócsy, Klio (1970), 291-92, and Wolff, Festschrift Vittinghoff (1980), 249-50 n. 3.

60. Suet. Cl. 25.3; cf. Paul Sent. 5.25.11. Dig. 48.10.13.pr. (Papin: falsi nominis vel cognominis adseveratio poena falsi coercetur) probably refers to the adoption of a false identity.

61. Italian Manpower (1971), 208.

62. A. Birley, The People of Roman Britain (London: B.T. Batsford, 1979), 11. On Egyptians adopting Latin (or Greek) names, see J.F. Oates, "Philadelphia in the Fayum during the Roman Empire," Atti dell'XI Congresso Internazionale di Papirologia (Milan, 1965), 453-58, and E. Seidl, Rechtsgeschichte Ägyptens als römische Provinz (Sankt Augustin: Richarz, 1973), 130.

63. Cf. Mócsy, Klio (1970), 288.

64. See M. Roxan, "The Distribution of Roman Military Diplomas," Epigraphische Studien, 12 (1981), 285.

65. Liv. 34.42.5-6. See also J. Briscoe, A Commentary on Livy Books 34-37 (Oxford: Clarendon Press, 1981), 115-16. Valerius Maximus preserves an improbable tale (3.4.5) in which M. Perpenna, father of the consul (130 B.C.) of the same name, is convicted of usurping the citizenship. See P.A. Brunt, "The Legal Issue in Cicero, Pro Balbo," CQ, 32 (1982), 145 ("a tissue of falsehoods"). But see also M. Reinhold, "Usurpation of Status and Status Symbols in the Roman Empire," Historia, 20 (1971), 278, who believes it.
66. Cic. Balb. 48. See also E. Badian, "Quaestiones Variarum," Historia, 18 (1969), 489-90, Brunt, CQ (1982), 146, and Reinhold, Historia (1971), 278.
67. Cic. Balb. 48 and Off. 3.47.
68. Asc. p. 67 C.
69. For the date, see Crook, Law and Life (1967), 46.
70. Cic. Att. 4.18.4.
71. Cic. Arch. 5.
72. Cic. Balb. 52, Arch. 10, Schol.Bobb. 175 (p. 353 Stangl); cf. Brunt, CQ (1982), 136.
73. Suet. Cl. 25.3.
74. CIL 5.5050 (= ILS 206).
75. Non-citizens were forbidden to wear a toga: see Dig. 49.14.32 (Marc.) and Plin. Ep. 4.11.3. On the sale of the citizenship during the reign of Claudius (allegedly by the emperor himself, his wife and his freedmen), see Dio 60.17.6-8; cf. Tac. Ann. 14.50 and Act.Apost. 22.28: Claudius Lysias admits to Paul that he had purchased it for a large sum (see also Sherwin-White, Society and Law: New Testament, 1963, 154-56). The sale of the citizenship is also attributed to P. Sulpicius Rufus, friend and ally of Marius (Plut. Sull. 8.1), and to Antony (Dio 44.53.3).
76. P.Gnomon 43.
77. P.Gnomon 56.
78. P.Gnomon 53.
79. See Sherwin-White, Society and Law: New Testament (1963), 156-57.

80. Cf. P.R.C. Weaver, Familia Caesaris: A Social Study of the Emperor's Freedmen and Slaves (Cambridge: University Press, 1972), 24-41.
81. See J.E. Sandys, An Introduction to Latin Epigraphy, 2nd ed. (Cambridge: University Press, 1927), 215.
82. So Brunt, Italian Manpower (1971), 208, Sherwin-White, Society and Law: New Testament (1963), 156-57, and R. Taubenschlag, "Citizens and Non-Citizens in the Papyri," in Scritti in onore di C. Ferrini (Milan, 1948), Vol. 3, 168. Women were excluded from the tribes, since they were not entitled to vote.
83. See A.E. Gordon, Illustrated Introduction to Latin Epigraphy (Berkeley: University of California Press, 1983), 24, and Sandys, Epigraphy² (1927), 209-10.
84. At least some of the libertini and libertinae attested on inscriptions and in papyri could be Junian Latins. See Brunt, Italian Manpower (1971), 207; cf. Plut. Pomp. 24.5 and Plin. Ep. 10.104.
85. Cf. Gordon, Epigraphy (1983), 23-24, and Sandys, Epigraphy² (1927), 208.
86. In the same way that possession of a Latin name is not proof of Roman status, possession of a non-Latin name is not proof of non-Roman status. See Mócsy, Klio (1970), 288.
87. This is the most shaky criterion. I cannot determine whether the Roman citizens of some regions occasionally (or even regularly) identified themselves on inscriptions by using only their nomina (or cognomina). And since the cost of inscriptions probably varied according to their length, many poor Romans may have chosen to omit their praenomina and nomina or cognomina.
88. Since CIL is somewhat out of date, and in some ways not representative of the entire corpus of Latin inscriptions (especially of epitaphs), I intend to study the epitaphs collected in more recent publications.
89. I counted as marriages four betrothals attested on Numidian epitaphs (CIL 8.2857, 3065, 3485, and 4318).
90. That most of the men and almost all of the women are in one of the "probable" categories is because of the criteria which I used in distinguishing between citizens and non-citizens (see pp. 113-15). For example, I classified all freed men and women as "probable" Roman citizens, because some of those attested may have been Junian Latins. Similarly, I classified all legionaries as "probable" Roman citizens, though very few were non-citizens.

91. Athenian epitaphs might furnish comparative data. The rules governing inheritance of the Athenian citizenship, introduced in 451/450 B.C. (perhaps by Pericles) and not abrogated until 338, were almost identical to those laid down by the lex Minicia. The Athenian regulations are discussed briefly in Chapter I, n. 77.
92. For example, Goodfellow, Citizenship (1935), 14.
93. See A.N. Sherwin-White; The Roman Citizenship, 2nd ed. (Oxford: Clarendon Press, 1973), 268-71.
94. Sherwin-White, Citizenship² (1973), 269-70.
95. See F.F. Abbott and A.C. Johnson, Municipal Administration in the Roman Empire (1928; rpt. New York: Russell and Russell, 1968), 13-14.
96. Cf. G.A. Carter and J.L. Leon, "Intermarriage in the U.S.: An Overview of Theory and Research," Marriage and Family Review, 5 (1982), 4-5. See also P.A. Brunt, "The Romanization of the Local Ruling Classes in the Roman Empire," in Assimilation et Résistance à la Culture Greco-Romaine dans la Monde Ancien: Travaux de VI^e Congrès International d'Etudes Classiques (Madrid, 1974), 166-70, on the role of the citizenship in Romanization.

Appendix A

1. On equestrian officers, see E. Birley, "The Equestrian Officers of the Roman Army," DUJ, 43 (1951), 8-19.
2. Officium with some form of the verb gero is used several times in the Digest for the functions of civilian officials: once with actores (49.17.46.7: Hermog.), once with curatores (50.8.4: Papin.), and twice with provincial officials whose duties are not specified (23.2.57 and 34.9.2.1: both Marc.). But though rarely employed in a military context, it is not inappropriate here. Equestrian officers normally served for only a few years, and ceased to be officers as soon as their successors arrived in camp. See Dig. 29.1.20 (Julian.) and 29.1.21 (Afric.).
3. Unlike some, I see no reason to suspect the passage of interpolation. And even if the phrase ratio potentatus has been added to the text of Papinian by a later hand, it may not be an erroneous interpretation of the purpose of the ban. The arguments for and against interpolation are set forth in E. Volterra, "Sull'unione coniugale del funzionario della provincia," in Festschrift für E. Seidl (Köln, 1975), 172-73.
4. Details in Chapter I, pp. 20-22.
5. See, for example, 23.1.15 (Modest.), 23.2.35 (Papin.), and 24.1.8 (Gai.).
6. Perhaps best rendered as "considered" or "held", a not uncommon meaning in juristic texts. It does not mean "appear" or "seem", and does not imply uncertainty or confusion. The infinitive is to be understood as governed by a verb such as puto or respondeo which has not survived the cut and paste methods of Tribonian and the five other commissioners responsible for editing the Digest. For Tribonian and his methods, see Tony Honoré, Tribonian (London: Duckworth, 1981), 139-86.
7. S.P. Scott, trans., The Civil Law (1932; rpt. New York, AMS Press, 1973).
8. Paul's use of officium does not indicate that he was thinking only of public officials. As Dig. 23.2.63 shows, officium applies equally well to the duties of equestrian officers (cf. Dig. 49.16.12.1, where Macer uses it for the functions of tribuni militum). Paul probably had in mind all those who exercised an officium in the provinces (i.e. civilian and military officials). Cf. Appendix B, p. 133.
9. See Tony Honoré, Emperors and Lawyers (London: Duckworth, 1981),

- 15-17 and 57-59. Papinian served as praetorian prefect from A.D. 205 to 211, when he was executed on the orders of Caracalla (SHA. Sev. 21.8 and Ant.Car. 8; cf. Ant.Car. 4.1-2 and Ant.Get. 6.3). Paul, a member of the consilium of Severus and later of Caracalla, is said (SHA. Pesc.Nig. 7.4) to have been praetorian prefect under Alexander Severus. But the tale is mendacious: see R. Syme, "Fiction About Roman Jurists," ZSS, 97 (1980), 78-104, and "Three Jurists," in Ronald Syme: Roman Papers, ed. E. Badian (Oxford: Clarendon Press, 1979), Vol. 2, 790-804.
10. Potentatus is an odd word. It appears nowhere else in the Digest and very infrequently in pre-ecclesiastical Latin: Caesar (Gal. 1.31.4) puts it in the mouth of the Gallic chieftain Diviciacus in describing the struggle between two tribes for "dominion" (potentatus); Livy uses it (26.38.7) in narrating the contest for "preeminence" (potentatus) between Dasius and Blattius, the two leading citizens of the Italian town Salapia during the Second Punic war. Its appearance in later juristic texts, particularly the Novellae, and in Christian literature is of no help in arriving at a definition more precise than "power" or "influence".
 11. The rule was introduced in a senatus consultum promulgated by Marcus Aurelius and Commodus (A.D. 177-80). In general, Dig. 23.2.59 (Paul), 23.2.60 (Paul), 23.2.64 (Call.), 23.2.66 (Paul), 23.2.67 (Tryph.), 24.1.32.28 (Ulp.), 30.128 (Marc.), 48.5.7 (Marc.), and Frag.Vat. 202. Details in P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 44-47.
 12. Dig. 23.2.38.pr. (Paul), 24.1.3.1 (Ulp.), and 34.9.2.1 (Marc.); see also Appendix B.
 13. Cod.Iust. 5.7.1 (A.D. 380).
 14. Cf. A. Dell'Oro, "Il divieto del matrimonio fra funzionario romano e donna della provincia," in Studi in onore di B. Biondi (Milan: A. Giuffrè, 1965), Vol. 2, 533-34. See also Appendix B.
 15. See, for example, the five decrees prohibiting marriage to a sister-in-law promulgated in A.D. 355 (Cod.Theod. 3.12.2), 393 (Cod.Iust. 5.5.5), 415 (Cod.Theod. 3.12.4), 475 (Cod.Iust. 5.5.8) and 478 (Cod.Iust. 5.5.9).
 16. The upshot of the regulations was that any equestrian officer could marry a woman of his native province (i.e. whether or not he served in patria sua).
 17. Cf. Dig. 23.2.38.1 (Paul): a provincial official was not forbidden to marry a woman of his province if he had been betrothed to her prior to taking office (veteram sponsam in provincia, qua quis administrat, uxorem ducere potest).

Appendix B

1. In general, A. Dell'Oro, "Il divieto del matrimonio fra funzionario romano e donna della provincia," in Studi in onore di B. Biondi (Milan: A. Giuffrè, 1965), Vol. 2, 525-40, N. Duyvendak, "Restraining Regulations for Roman Officials in the Roman Provinces," in Symbolae ad Ius et Historiam Antiquitatis Pertinentes Julio Christiano van Oven Dedicatae, ed. M. David, B.A. van Groningen and E.M. Meijers (Leiden: E.J. Brill, 1946), 333-48, R. Orestano, "La dote nei matrimoni contra mandata," in Studi di storia e diritto in memoria di G. Bonolis (Milan: A. Giuffrè, 1942), Vol. 1, 49-54, and E. Volterra, "Sull'unione coniugale del funzionario della provincia," in Festschrift für E. Seidl (Köln, 1975), 169-78.
2. Dig. 23.2.38.pr. (Paul). The section beginning with ita scilicet has been interpolated: arrae sponsaliciae (betrothal gifts) do not appear in Roman law until the time of Justinian. Cf. Orestano, Studi Bonolis (1942), Vol. 1, 11 n. 19, and P.E. Corbett, The Roman Law of Marriage (Oxford: Clarendon Press, 1930), 8 n. 6 and 18.
3. Dig. 25.7.5 (Paul). A provincial official could consent to the marriage of his daughter (Dig. 23.2.38.2: Paul), but not to that of his son (Dig. 23.2.57: Marc.: qui in provincia officium aliquid gerit, prohibetur etiam consentire filio suo uxorem ducenti). Cf. Corbett, Marriage (1930), 43.
4. Cf. Dig. 34.9.2.1 (Marc.).
5. Cf. Duyvendak, Symbolae van Oven (1946), 335, and Corbett, Marriage (1930), 42.
6. So Corbett, Marriage (1930), 42, Duyvendak, Symbolae van Oven (1946), 335, J. Gaudemet, "Testum Matrimonium," RIDA, 2 (1949), 341 n. 119, and E. Nardi, La reciproca posizione successoria dei coniugi privi di conubium (Milan: A. Giuffrè, 1938), 15-17. Cf. W. Kunkel, "Matrimonium," RE, 14.2 (1930), 2268.
7. The actio rerum amotarum was a substitute for the actio furti, which could not be brought against a husband or wife in honorem matrimonii (Dig. 25.2.2: Gai.).
8. Dig. 34.9.2.1 (Marc.), citing a rescript of Severus and Caracalla. See also E. Nardi, I casi di indegnità nel diritto successorio romano (Milan: A. Giuffrè, 1937), 93-96.
9. Dig. 24.1.3.1 (Ulp.), quoted on p. 132. See also Dell'Oro, Studi Biondi (1965), Vol. 2, 540, and Volterra, Festschrift Seidl (1975), 177.

10. Readily inferred from Dig. 23.2.38.1 (Paul): *veterem sponsam in provincia, qua quis administrat, uxorem ducere potest et dos data non fit caduca.*
11. Dig. 23.2.61 (Papin.).
12. See Gaius Inst. 1.64 (incestuous marriages, which were also null).
13. Paul was probably writing in response to a private query. Jurists' responsa were not legally binding in the time of Severus (i.e. when Paul wrote). But their pronouncements on the state of the law were authoritative and few judges will have been inclined or able to ignore the opinion of as eminent a jurist as Paul. See B. Nicholas, An Introduction to Roman Law (Oxford: Clarendon Press, 1962), 31-32. See also Cod.Iust. 5.4.6 (A.D. 239), where Gordian gives his approval to Paul's opinion.
14. Dig. 23.2.65.1. See Dell'Oro, Studi Biondi (1965), Vol. 2, 528 and n. 17, 532, 536, and 538, Orestano, Studi Bonolis (1942), Vol. 1, 6 and 8-9, and E. Volterra, "Iniustum Matrimonium," in Studi in onore di G. Scherillo (Milan, 1972), Vol. 2, 458. The rule also applied to equestrian officers who married contra interdictum (see Appendix A).
15. Studi Biondi (1965), Vol. 2, 530-31.
16. Tac. Ann. 3.33.
17. Tac. Ann. 3.34 (sic Caecinae sententia elusa est). In general, see A.J. Marshall, "Tacitus and the Governor's Lady: A Note on Annals iii 33-4," G&R, 22 (1975), 11-18, M.T. Raepsaet-Charlier, "Epouses et familles de magistrats dans les provinces romaines aux deux premiers siècles de l'empire," Historia, 31 (1982), 56-69, and E. Volterra, "Una discussione nel senato romano sotto Tiberio," in Studi in onore di G. Grosso (Torino: G. Giappichelli, 1968), Vol. 2, 1-10. See also Sen. Helv. 19.6, where he warmly praises governors' wives who bar provincials from their homes. For governors' wives travelling with their husbands, see Act.Apost. 24.24, Dio 59.18.4, Mart. 2.56, Matthew 27.19, Plin. Ep. 10.120, Suet. Cal. 25.2, Tac. Ag. 29.1 and Ann. 15.10. For daughters, Tac. Ag. 6.3 and 45.4.
18. Tacitus' says (Ann. 4.19) that they were guilty. Silius committed suicide before he could be convicted; Sosia Gallia was banished.
19. Tac. Ann. 4.20. Cf. Dig. 1.16.4.2 (Ulp.): *proficisci autem proconsulem melius quidem est sine uxore: sed et cum uxore potest, dummodo sciat senatum Cotta et Messala consulibus censuisse futurum, ut si quid uxores eorum qui ad officia proficiscuntur deliquerint, ab ipsis ratio et vindicta exigatur.*

20. Josephus reports (AJ. 20.141-44) that Drusilla Iudaea, daughter of Agrippa I, married M. Antonius Felix, the brother of Pallas, while Felix was procurator of Judaea (between c. A.D. 52 and c. 60). However their marriage does not prove that all provincial officials had the right to take native wives as late as the reign of Claudius. They were not entitled to the exemption for couples who had been betrothed before the man took office (Dig. 23.2.38.1): she was married to a man named Azizus when Felix began to take an interest in her. But his standing at the imperial court (and his brother's influence) may have helped them to avoid the rigorous application of the law. See also A.J. Marshall, "Roman Women and the Provinces," AncSoc, 6 (1975), 116 n. 37.
21. Cf. Marshall, AncSoc (1975), 116: "to protect provincial women from abuse of the governor's authority".
22. The rule was probably introduced by a lex Calpurnia of 149 B.C. (perhaps named after L. Calpurnius Piso Frugi). See M. Crawford, The Roman Republic (Hassocks, Sussex: The Harvester Press, 1978), 81; cf. W.S. Ferguson, "The Lex Calpurnia of 149 B.C.," JRS, 11 (1921), 86-100.
23. Similarly, soldiers could not buy land in the province in which they served (P.Gnomon 111; cf. Dig. 49.16.13: Macer).
24. Dig. 18.1.46. The last sentence is an interpolation.
25. Dig. 49.14.46.2 (Hermog.).
26. Zonar. 12.3 (= Dio 71.31). The law was passed shortly after a rebellion in Syria instigated by its native governor.
27. Paul Sent. 5.12.5. See also Duyvendak, Symbolae van Oven (1946), 335.
28. Cod.Iust. 5.7.1 (A.D. 380).

Appendix C

1. Perhaps most vigorously by M. Grant, Cleopatra (London: Weidenfeld and Nicolson, 1972), 186; cf. From Imperium to Auctoritas (Cambridge: University Press, 1946), 370 ("perhaps married"). See also J.M. Carter, The Battle of Actium (London: Hamish Hamilton, 1970), 154 and 157, and R. Syme, The Roman Revolution (Oxford: Clarendon Press, 1939), 280 and n. 3 (both doubtful).
2. In favor of marriage: A. Bouché-Leclercq, Histoire des Lagides (1904; rpt. Brussels, 1960), Vol. 2, 252-53, H. Buchheim, Die Orientpolitik des Triumvirn M. Antonius (Heidelberg: Carl Winter, 1960), 121 n. 213, D. Magie, Roman Rule in Asia Minor to the End of the Third Century after Christ (Princeton, N.J.: University Press, 1950), 486-87 and 1287 n. 29, E. Meyer, Caesars Monarchie und das Principat des Pompejus, 3rd ed. (1922; rpt. Stuttgart: Cotta'sche Buchhandlung Nachf., 1963), 526, T. Rice-Holmes, The Architect of the Roman Empire (Oxford: Clarendon Press, 1928), Vol. 1, 227-31, and W.W. Tarn and M.P. Charlesworth, "The War of the East Against the West," in The Cambridge Ancient History (Cambridge: University Press, 1934), Vol. 10, 66.
3. Pace Grant, Cleopatra (1972), 186, I cannot see how Oros. 6.19.4 reveals anything about the status of the union: qua elatus pecunia denuntiari bellum Caesari atque Octaviae, sorori Caesaris, uxori suae, repudium indici iussit et Cleopatram sibi ex Alexandria occurrere imperavit.
4. Cleopatra (1972), 186.
5. Cf. A. Watson, The Law of Persons in the Later Roman Republic (Oxford: Clarendon Press, 1967), 53-54.
6. Eus. Chron. 162^f (Helm) assigns the divorce to 33 B.C., Liv. Per. 132 and Dio 50.3.2 to 32, Eutr. 7.6.1 to c. 36.
7. Cleopatra (1972), 186.
8. Cf. Rice-Holmes, Architect (1928), Vol. 1, 227-31.
9. So too Syme, Roman Revolution (1939), 280 n. 3. There is no evidence that she was ever awarded the citizenship.
10. Cleopatra (1972), 186; cf. Carter, Actium (1970), 157, and Syme, Roman Revolution (1939), 280 n. 3.
11. See Chapter I, pp. 20-22.

12. "Zu Sueton, Divus Augustus 69,2. M. Anton und Kleopatra," Hermes, 95 (1967), 496-99; followed by J.M. Carter, Suetonius: Divus Augustus (Bristol: Bristol Classical Press, 1982), 191.
13. Cleopatra (1972), 186.
14. Cf. Kraft, Hermes (1967), 498-99.
15. The translation is that of C.M. Wells, The Roman Empire (Fontana Paperbacks, 1984), 25.
16. Cleopatra (1972), 186. He does not note the reticence of Josephus (AJ. 15.93: Antony drugged and bewitched; BJ. 1.359: Antony debilitated by love) or of Velleius Paterculus (2.82.4: Antony in love, no mention of marriage).
17. Cleopatra (1972), 186. He says that the phrase is used by Terence (An. 146) to denote "domestic association with a foreign concubine". But Terence uses peregrina pro uxore, which is hardly the same as uxoris loco. There is a parallel in Ter. Hau. 104: amicam ut habeas prope iam in uxoris loco. See also Suet. Ves. 3, where Vespasian is said to have treated Caenis, freedwoman and amanuensis of Antonia, paene iustae uxoris loco. Cf. Cic. De Orat. 1.183 (concubinae locum).
18. Cf. Plut. Ant. 53.5: Octavia is Antony's γαμετή and Cleopatra his ἐρωμένη. Plutarch is reporting what was said by Cleopatra's agents, who wanted to contrast Antony's wife (γαμετή = cold and dull?) with his passionate lover (ἐρωμένη).
19. Cf. Per. 130.
20. Cf. Plut. Ant. 31.2, where Octavia is Antony's wife and Cleopatra his mistress. Since Plutarch elsewhere (Comp. Dem. et Ant. 4.1) attests the marriage of Antony and Cleopatra, he must be writing of the state of affairs prior to their marriage.
21. P. Lederer, "Two Unpublished Greek Coins," NC, 18 (1938), 66.
22. Cf. Rice-Holmes, Architect (1928), Vol. 1, 227-31, who dates the marriage to 32 B.C.
23. E.S. Shuckburgh, C. Suetoni Tranquilli Divus Augustus (Cambridge: University Press, 1896), 132, dates the letter to 32 B.C. on the grounds that Antony could not have called Cleopatra his uxor until after he had divorced Octavia, an event which he places in 32, citing Dio 50.5 (an error for Dio 50.3.2). But Antony will not have had legal niceties uppermost in mind when choosing his words. Cf. Liv. Per. 132, where the divorce is assigned to 32 B.C., but also Eus. Chron. 162^f (Helm), who gives 33, and Eutr. 7.6.1, where it takes

place c. 36. Oros. 6.19.4, quoted in n. 3, is too compressed to be of any value.

24. E lege Minicia, their three children — Cleopatra Selene, Alexander Helios and Ptolemy Philadelphus — were born peregrines. On the marriage of Cleopatra Selene to Juba II, king of Mauretania, see Chapter V, p. 104.

Bibliography

- Abbott, F.F. and Johnson, A.C. Municipal Administration in the Roman Empire. 1928; rpt. New York: Russell and Russell, 1968.
- Albertario, E. "La definizione del matrimonio secondo Modestino." In Studi in memoria di A. Albertoni. Padova: Cedam, 1935. Vol. 1, 241-56.
- Alexander, M.C. "Praemia in the Quaestiones of the Late Republic." CPh, 80 (1985), 20-32.
- Alföldy, G. "Zur Beurteilung der Militärdiplome der Auxiliarsoldaten." Historia, 17 (1968), 215-27.
- _____. "Notes sur la relation entre le droit de cité et la nomenclature dans l'empire romain." Latomus, 25 (1966), 37-57.
- Angelini, V. "Riflessioni sull'orazione pro L. Cornelio Balbo." Athenaeum, 58 (1980), 360-70.
- Arangio-Ruiz, V. Review of C. Sasse, Die Constitutio Antoniniana. BIDR, Ser. 3, 1 (1959), 312-16.
- _____. "Sul problema della doppia cittadinanza nella repubblica e nell'impero romano." In Scritti giuridici in onore di F. Carnelutti. Padova: Cedam, 1957. Vol. 4, 53-77.
- _____. Frammenti di Gaio. Firenze: Ariani, 1933.
- _____. "L'origine del testamentum militis e la sua posizione nel diritto romano classico." BIDR, 18 (1906), 157-96.
- Arnaud-Lindet, M.P. "Remarques sur l'octroi de la civitas et du conubium dans les diplômes militaires." REL, 55 (1977), 282-309.
- Baatz, D. Neue Untersuchungen am römischen Legionslager in Mainz-Mogontiacum. Berlin: Mann, 1962.
- Badian, E. "Marius' Villas: The Testimony of the Slave and the Knave." JRS, 63 (1973), 121-32.
- _____. "Quaestiones Variae." Historia, 18 (1969), 447-91.
- _____. Foreign Clientelae, 264 - 70 B.C. Oxford: Clarendon Press, 1958.

- Baldus, H.R. "Die Daten von Münzprägung und Tod der Königin Pythodoris von Pontus." Chiron, 13 (1983), 537-43.
- Balsdon, J.P.V.D. Romans and Aliens. London: Duckworth, 1979.
- Bell, H.I. "P.Giss. 40 and the Constitutio Antoniniana." JEA, 28 (1942), 39-49.
- _____. "Antinoopolis: A Hadrianic Foundation in Egypt." JRS, 30 (1940), 133-47.
- _____. "A Latin Registration of Birth." JRS, 27 (1937), 30-36.
- Benario, H.W. "The Dediticii of the Constitutio Antoniniana." TAPA, 85 (1954), 188-96.
- Bernhardt, R. "Immunität und Abgabepflichtigkeit bei römischen Kolonien und Munizipien in den Provinzen." Historia, 31 (1982), 343-52.
- Bickermann, E. Das Edikt des Kaiser Caracalla. Berlin, 1926.
- Bierzanek, R. "Quelques remarques sur la statut juridique des étrangers à Rome." Iura, 13 (1962), 89-109.
- Birley, A.R. The People of Roman Britain. London: B.T. Batsford, 1979.
- _____. "VI Victrix in Britain," In Soldier and Civilian in Roman Yorkshire, ed. R.M. Butler. Leicester University Press, 1971. 97-106.
- Birley, E. "Law in Roman Britain." ANRW, 2.13 (1980), 609-25.
- _____. Roman Britain and the Roman Army. Kendal: Titus Wilson and Sons, 1953.
- _____. "The Equestrian Officers of the Roman Army." DUJ, 43 (1951), 8-19.
- Black, D. The Behavior of Law. New York: Academic Press, 1976.
- Blockley, R.C. "Roman-Barbarian Marriages in the Late Empire." Florilegium, 4 (1982), 63-79.
- Böhm, R. Gaiusstudien. Freiburg im Breisgau, 1968.
- _____. "Zur lex Minicia." ZSS, 84 (1967), 363-71.
- _____. "Studien zur Civitas Romana." Aegyptus, 42 (1962), 211-36, 43 (1963), 54-67 and 278-355, 44 (1964), 206-310.

- Bouché-Leclercq, A. Histoire des Lagides. 4 vols. 1904; rpt. Brussels, 1960.
- Bowersock, G.W. Augustus and the Greek World. Oxford: Clarendon Press, 1965.
- Box, H. "Roman Citizenship in Laconia." JRS, 21 (1931), 200-15, 22 (1932), 165-83.
- Bradeen, D.W. "Roman Citizenship per Magistratum." CJ, 54 (1959), 221-28.
- Brand, C.E. Roman Military Law. Austin: University of Texas Press, 1968.
- Braund, D. Rome and the Friendly King. New York: St. Martin's Press, 1984.
- _____. "Anth.Pal. 9.235: Juba II, Cleopatra Selene and the Course of the Nile." CQ, 34 (1984), 175-78.
- Broughton, T.R.S. The Magistrates of the Roman Republic. 2 vols. American Philological Association, 1952.
- _____. "Roman Asia Minor." In An Economic Survey of Ancient Rome, ed. Tenney Frank. John Hopkins Press, 1938. Vol. 4, 499-916.
- Brunt, P.A. "The Legal Issue in Cicero, Pro Balbo." CQ, 32 (1982), 136-47.
- _____. "The Romanization of the Local Ruling Classes in the Roman Empire." In Assimilation et Résistance à la Culture Greco-Romaine dans la Monde Ancien: Travaux de VI^e Congrès International d'Etudes Classiques. Madrid, 1974. 161-73.
- _____. Italian Manpower 225 B.C. - A.D. 14. Oxford: Clarendon Press, 1971.
- Buchheim, H. Die Orientpolitik des Triumvirn M. Antonius. Heidelberg: Carl Winter, 1960.
- Buckland, W.W. A Textbook of Roman Law from Augustus to Justinian. 3rd ed., rev. by P. Stein. Cambridge: University Press, 1963.
- Buren, A.W. van. "Some Families Formed by Roman Soldiers and Veterans." In Hommages à Albert Grenier, ed. M. Renard. Collection Latomus, Vol. 58, 1962. 1564-70.
- Bush, A.C. Studies in Roman Social Structure. University Press of America, 1982.

- Cagnat, R. L'armée romaine d'Afrique et l'occupation militaire de l'Afrique sous les empereurs. 2nd ed. Paris: T. Leroux, 1913.
- Campbell, B. The Emperor and the Roman Army 31 BC - AD 235. Oxford: Clarendon Press, 1984.
- _____. "The Marriage of Soldiers under the Empire." JRS, 68 (1978), 153-66.
- Cardascia, G. "La distinction entre honestiores et humiliores et la droit matrimonial." In Studi in memoria di E. Albertario. Milan: A. Giuffrè, 1953. Vol. 2, 653-67.
- Carter, G.A. and Leon, J.L. "Intermarriage in the U.S.: An Overview of Theory and Research." Marriage and Family Review, 5 (1982), 3-15.
- Carter, J.M. The Battle of Actium. London: Hamish Hamilton, 1970.
- Castello, C. Studi sul diritto familiare e gentilizio romano. Rome: L'Erma di Bretschneider, 1972.
- _____. "La data della legge Minicia." In Studi in onore di V. Arangio-Ruiz. Naples, 1953. Vol. 3, 301-17.
- _____. L'acquisto della cittadinanza e i suoi riflessi familiari nel diritto romano. Varese: Cisalpino, 1951.
- Cheesman, G.L. The Auxilia of the Roman Imperial Army. 1914; rpt. Hildesheim: G. Olms, 1971.
- Cimma, M.R. Reges socii et amici populi Romani. Milan: A. Giuffrè, 1976.
- Condurachi, E. "La Costituzione Antoniniana e la sua applicazione nell'impero romano." Dacia, 2 (1958), 281-316.
- Corbett, P.E. The Roman Law of Marriage. Oxford: Clarendon Press, 1930.
- Crawford, M. The Roman Republic. Hassocks, Sussex: The Harvester Press, 1978.
- Crifò, G. "Ulpiano: esperienza e responsabilità del giurista." ANRW, 2.15 (1976), 707-89.
- Crook, J. Law and Life of Rome. London: Thames and Hudson, 1967.
- _____. Consilium Principis. Cambridge: University Press, 1955.
- Csillag, P. The Augustan Laws on Family Relations. Budapest: Akad. Kiadó, 1976.

- Curle, J. "Roman and Native Remains in Caledonia." JRS, 3 (1913), 99-115.
- Daube, D. Roman Law: Linguistic, Social and Philosophical Aspects. Edinburgh: University Press, 1969.
- Davies, J.K. "Athenian Citizenship: The Descent Group and the Alternatives." CJ, 73 (1977), 105-21.
- Debevoise, N.C. A Political History of Parthia. Chicago, 1938.
- De Francisci, P. "Ancora intorno alla Costituzione Antoniniana." BIDR, Ser. 3, 4 (1962), 1-18.
- Degrassi, A. "Il papiro 1026 della società italiana e i diplomi militari, romani." Aegyptus, 10 (1929), 242-54.
- Dell'Oro, A. "Il divieto del matrimonio fra funzionario romano e donna della provincia." In Studi in onore di B. Biondi. Milan: A. Giuffrè, 1965. Vol. 2, 525-40.
- De Martino, F. Diritto privato e società romana. Rome: Editori Riuniti, 1982.
- Dessau, H. "De regina Pythodoride et de Pythodoride iunior." Ephem. Epig., 9 (1913), 691-96.
- Di Marzo, S. Lezioni sul matrimonio romano. 1919; rpt. Rome: L'Erma di Bretschneider, 1972.
- Diódsi, G. "Gaius: der Rechtsgelehrte." ANRW, 2.15 (1976), 605-31.
- Dobson, B. and Mann, J.C. "The Roman Army in Britain and Britons in the Roman Army." Britannia, 4 (1973), 191-205.
- Durry, M. "Sur le mariage romain." RIDA, 3 (1956), 227-43.
- _____. Les cohortes prétoriennes. Paris: de Boccard, 1938.
- Dušanić, S. "The Issue of Military Diplomata under Claudius and Nero." ZPE, 47 (1982), 149-71.
- _____. "A Military Diploma of A.D. 65." Germania, 56 (1978), 461-75.
- Dušanić, S. and Vasić, M.R. "An Upper Moesian Diploma of A.D. 96." Chiron, 7 (1977), 291-304.
- Duyvendak, N. Restraining Regulations for Roman Officials in the Roman Provinces." In Symbolae ad Ius et Historiam Antiquitatis Pertinentes Julio Christiano van Oven Dedicatae, ed. M. David, B.A. van Groningen and E.M. Meijers. Leiden: E.J. Brill, 1946. 333-48.

Falcao, M. Las prohibiciones matrimoniales de caracter social en el imperio romano. Pamplona: Eunsu, 1973.

Falk Moore, S. Law as Process: An Anthropological Approach. London: Routledge and Kegan Paul, 1978.

Fantham, E. "Sex, Status and Survival in Hellenistic Athens: A Study of Women in New Comedy." Phoenix, 29 (1975), 44-74.

Fentress, E.W.B. Numidia and the Roman Army: Social, Military and Economic Aspects of the Frontier Zone. Oxford: BAR International Series 53, 1979.

Ferenczy, E. "Rechtshistorische Bemerkungen zur Ausdehnung des römischen Bürgerrechts und zum ius Italicum unter dem Prinzipat." ANRW, 2.14 (1982), 1017-58.

Ferguson, W.S. "The Lex Calpurnia of 149 B.C." JRS, 11 (1921), 86-100.

Fernández Fernández, A. "Derechos y deberes de los ciudadanos." Eclís, 22 (1978), 423-38.

Forni, G. Il reclutamento delle legioni da Augusto a Diocleziano. Milan: Bocca, 1953.

Frassinetti, P. "Gli scritti matrimoniali di Seneca e Tertulliano." RIL, 88 (1955), 151-88.

Frezza, P. "Ius Gentium." RIDA, 2.1 (1949), 259-308.

Frier, B. Landlords and Tenants in Imperial Rome. Princeton, N.J.: Princeton University Press, 1980.

Garnsey, Peter. "Legal Privilege in the Roman Empire." In Studies in Ancient Society, ed. M.I. Finley. London: Routledge and Kegan Paul, 1974. 141-65.

_____. Social Status and Legal Privilege in the Roman Empire. Oxford: Clarendon Press, 1970.

_____. "Septimius Severus and the Marriage of Soldiers." CSCA, 3 (1970), 45-53.

_____. "The Lex Iulia and Appeal under the Empire." JRS, 56 (1966), 167-89.

Gaudemet, J. "L'étranger dans la monde romain." StudClas, 7 (1965), 37-47.

_____. "Iustum Matrimonium." RIDA, 2. (1949), 309-66.

Gilliam, J.F. "Some Roman Elements in Roman Egypt." ICS, 3 (1978), 115-31.

_____. "Dura Rosters and the Constitutio Antoniniana." Historia, 14 (1965), 74-92.

Giuffrè, V. "Papiniano. Fra tradizione ed innovazione." ANRW, 2.15 (1976), 632-66.

Goodfellow, C.E. Roman Citizenship: A Study of its Territorial and Numerical Expansion from the Earliest Times to the Death of Augustus. Diss., Bryn Mawr College, 1935.

Goody, J. The Development of the Family and Marriage in Europe. Cambridge: University Press, 1983.

Grant, M. Cleopatra. London: Weidenfeld and Nicolson, 1972.

_____. From Imperium to Auctoritas. Cambridge: University Press, 1946.

Guarino, A. "Sull'origine del testamento dei militari nel diritto romano." RIL, 72 (1939), 355-67.

Hannick, J.M. "Droit de cité et mariages mixtes dans la Grèce classique. A propos de quelques textes d'Aristote (Pol. 1275b, 1278a, 1319b)." AC, 45 (1976), 133-48.

Harrison, A.R.W. The Law of Athens. Oxford: Clarendon Press, 1968.

Hart, H.L.A. The Concept of Law. Oxford: Clarendon Press, 1961.

Hatzfeld, J. Les trafiquants italiens dans l'Orient hellénique. 1919; rpt. New York: Arno Press, 1975.

Heichelheim, F.M. "The Text of the Constitutio Antoniniana and the Three Other Decrees of the Emperor Caracalla Contained in Papyrus Gissensis 40." JEA, 26 (1941), 10-22.

Heinen, H. "Zwei neue römische Soldatengrabsteine aus Ägypten." ZPE, 38 (1980), 115-24.

Henderson, M.I. "Julius Caesar and Latium in Spain." JRS, 32 (1942), 1-13.

Herrmann, P. "Überlegungen zur Datierung der Constitutio Antoniniana." Chiron, 2 (1972), 519-30.

Holder, P.A. The Roman Army in Britain. New York: St. Martin's Press, 1982.

- _____. Studies in the Auxilia of the Roman Army from Augustus to Trajan. Oxford: BAR, 1980.
- Honoré, Tony. Ulpian. Oxford: Clarendon Press, 1982.
- _____. Emperors and Lawyers. London: Duckworth, 1981.
- _____. "Some Suggestions for the Study of Interpolations." RHD, 49 (1981), 225-49.
- _____. "Imperial Rescripts A.D. 195-305: Authorship and Authenticity." JRS, 69 (1979), 51-64.
- _____. Tribonian. London: Duckworth, 1978.
- _____. Justinian's Digest: Work in Progress. Oxford: Clarendon Press, 1971.
- _____. Gaius. Oxford: Clarendon Press, 1962.
- Hoyos, D. "Civitas and Latium in Provincial Communities: Inclusion and Exclusion." RFDA, 22 (1975), 243-77.
- Humbert, M. Municipium et civitas sine suffragio. Paris: de Boccard, 1978.
- _____. Le remariage à Rome. Milan: A. Giuffrè, 1972.
- Jones, A.H.M. "Rome and the Provincial Cities." RHD, 39 (1971), 513-51.
- _____. Studies in Roman Government and Law. Oxford: B. Blackwell, 1960.
- _____. "Another Interpretation of the Constitutio Antoniniana." JRS, 26 (1936), 223-35.
- Jones, C.P. The Roman World of Dio Chrysostom. Cambridge, Mass.: Harvard University Press, 1978.
- Jung, J.H. "Das Eherecht der römischen Soldaten." ANRW, 2.14 (1982), 302-46.
- Kajanto, I. "The Significance of Non-Latin Cognomina." Latomus, 27 (1968), 517-34.
- Kaser, M. "Zur Geschichte der capitis deminutio." Iura, 3 (1952), 48-89.
- Kelly, J.M. Roman Litigation. Oxford: Clarendon Press, 1966.

Keresztes, P. "The Constitutio Antoniniana and the Persecutions under Caracalla." AJP, 91 (1970), 446-59.

Kiessling, E. "Zur Constitutio Antoniniana." ZSS, 78 (1961), 421-29.

Klein, R. Die Romrede des Aelius Aristides. Darmstadt: Wissenschaftliche Buchgesellschaft, 1983.

Kornemann, E. De civibus Romanis in provinciis imperii consistentibus. 1892; rpt. Nendeln: Klaus Reprint, 1975.

Kraft, K. "Zu Sueton, Divus Augustus 69,2. M. Anton und Kleopatra." Hermes, 95 (1967), 496-99.

_____. "Zum Bürgerrecht der Soldatenkinder." Historia, 10 (1961), 120-26.

_____. Zur Rekrutierung der Alen und Kohorten an Rhein und Donau. Bern: Francke, 1951.

Kronmayer, V. Beiträge zur Sozialgeschichte des römischen Mainz. Frankfurt am Main: Lang, 1983.

Kunkel, W. "Matrimonium." RE, 14.2 (1930), 2259-86.

Lacey, W.K. The Family in Classical Greece. London: Thames and Hudson, 1968.

Lanfranchi, F. Ricerche sulle azioni di stato nella filiazione in diritto romano. Bologna: Zanichelli, 1964.

_____. Ricerche sul valore giuridico delle dichiarazioni di nascita in diritto romano. Bologna: Zanichelli, 1951.

_____. "Le definizioni e il concetto del matrimonio nei retori romani." SDHI, 2 (1936), 148-57.

La Piana, G. "Foreign Groups in Rome during the First Centuries of the Empire." HThR, 20 (1927), 183-403.

Lederer, P. "Two Unpublished Greek Coins." NC, 18 (1938), 65-79.

Lenel, O. Paligenesia Iuris Civilis. 2 vols. 1889; rpt. Graz: Akademische Druck - u. Verlagsanstalt, 1960.

Lesquier, J. L'armée romaine d'Égypte d'Auguste à Dioclétien. Cairo: L'Institut Français d'Archéologie Orientale, 1918.

_____. "Le mariage des soldats romains." CRAI, 1917, 227-36.

Levick, B. Roman Colonies in Southern Asia Minor. Oxford: Clarendon Press, 1967.

Levy, E. "Libertas und Civitas." ZSS, 78 (1961), 142-72.

Lewis, N. Life in Egypt under Roman Rule. Oxford: Clarendon Press, 1983.

_____. "The Imperial Apokrima." RIDA, 25 (1978), 261-78.

Liebs, D. "Juristen als Sekretäre des römischen Kaisers." ZSS, 100 (1983), 485-509.

_____. "Römische Provinzialjurisprudenz." ANRW, 2.15 (1976), 288-362.

Longo, G.E. "'Common Law Marriage' statunitense e matrimonio romano: prospettive di una comparazione." In Studi in onore di Edoardo Volterra. Milan: A. Giuffrè, 1971. Vol. 3, 247-62.

_____. "Presunzione di matrimonio." In Studi in onore di Ugo Enrico Paoli. Firenze: Le Monnier, 1955. 485-88.

_____. "Affectio maritalis." BIDR, N.S. 5 (1939), 119-41.

Luraschi, G. "Sulle leges de civitate (Iulia, Calpurnia, Plautia Papiria)." SDHI, 44 (1978), 321-70.

_____. "Sulla data e sui destinatari della Lex Minicia de liberis." SDHI, 42 (1976), 431-43.

MacDowell, D.M. The Law in Classical Athens. London: Thames and Hudson, 1978.

_____. "Bastards as Athenian Citizens." CQ, 26 (1976), 88-91.

MacMullen, R. "The Legion as a Society." Historia, 33 (1984), 440-56.

_____. "The Epigraphic Habit in the Roman Empire." AJP, 103 (1982), 233-46.

_____. Roman Social Relations 50 B.C. to A.D. 284. New Haven and London: Yale University Press, 1974.

_____. Enemies of the Roman Order: Treason, Unrest and Alienation in the Empire. Cambridge, Mass.: Harvard University Press, 1966.

_____. Soldier and Civilian in the Later Roman Empire. Cambridge, Mass.: Harvard University Press, 1963.

MacMurdy, G.H. Vassal-Queens and Some Contemporary Women in the Roman Empire. Baltimore: John Hopkins Press, 1937.

Magie, D. Roman Rule in Asia Minor to the End of the Third Century after Christ. 2 vols. Princeton, N.J.: Princeton University Press, 1950.

Mahboubi, M. "Les élites municipales de la Numidie; deux groupes: étrangers à la cité et vétérans." ANRW, 2.10.2 (1982), 673-81.

Mann, J.C. Legionary Recruitment and Veteran Settlement During the Principate. London: Institute of Archaeology, 1983.

_____. "The Frontiers of the Principate." ANRW, 2.1 (1974), 508-33.

_____. "The Development of Auxiliary and Fleet Diplomas." Epigraphische Studien, 9 (1972), 233-41.

_____. "A Note on the Numeri." Hermes, 82 (1954), 501-06.

Marshall, A.J. "Roman Women and the Provinces." AncSoc, 6 (1975), 109-27.

_____. "Tacitus and the Governor's Lady: A Note on Annals iii 33-4." G&R, 22 (1975), 11-18.

_____. "The Case of Valeria: An Inheritance Dispute in Roman Asia." CQ, 25 (1975), 82-87.

Maschi, C.A. "La conclusione della giurisprudenza classica all'età dei Severi. Iulius Paulus." ANRW, 2.15 (1976), 667-707.

Mattingly, H.B. "The Extortion Law of the Tabula Bembina." JRS, 60 (1970), 154-68.

Maxfield, V.A. "The Ala Britannica, Dona and Peregrini." ZPE, 52 (1983), 141-50.

Meinhart, M. Die Senatusconsulta Tertullianum und Orfitianum in ihrer Bedeutung für das klassische römische Erbrecht. Wien: Böhlau, 1967.

Meyer, E. Caesars Monarchie und das Principat des Pompejus. 3rd ed. 1922; rpt. Stuttgart: Cotta'sche Buchhandlung Nachf., 1963.

Meyer, P.M. "Zur Constitutio Antoniniana." ZSS, 46 (1926), 264-67.

_____. Juristische Papyri. Erklärung von Urkunden zur Einführung in die juristische Papyruskunde. 1920; rpt. Chicago: Ares, 1976.

_____. "Papyrus Cattaoui, Kommentar." APF, 3 (1906), 67-105.

- _____. Der römische Konkubinat. 1895; rpt.. Scientia Verlag, 1966.
- Millar, F. "Empire and City, Augustus to Julian: Obligations, Excuses and Status." JRS, 73 (1983), 76-96.
- _____. The Emperor in the Roman World, 31 B.C. - A.D. 337. London: Duckworth, 1977.
- _____. Review of H. Wolff, Die Constitutio Antoniniana und Papyrus Gissensis 40.1. JRS, 67 (1977), 235.
- _____. A Study of Cassius Dio. Oxford: Clarendon Press, 1964.
- _____. "The Date of the Constitutio Antoniniana." JEA, 48 (1962), 124-31.
- Miller, H.F. "Legio I Adiutrix." G&R, 28 (1981), 73-79.
- Mirković, M. "Die römische Soldatenehe und der 'Soldatenstand'." ZPE, 40 (1980), 259-71.
- Mitteis, L. Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs. 1891; rpt. Hildesheim: G. Olms, 1963.
- Mitteis, L. and Wilcken, U. Grundzüge und Chrestomathie der Papyruskunde. 4 vols. 1912; rpt. Hildesheim: G. Olms, 1963.
- Mócsy, A. "Die Novocomenses von Cäsar und die fingierte Heimatsangabe der Soldaten." Oikumene, 1 (1976), 125-30.
- _____. "Das Namensverbot des Kaisers Claudius (Suet. Claud. 25,3)." Klio, 52 (1970), 287-94.
- _____. "Das territorium legionis und die canabae in Pannonien." AArchHung, 3 (1953), 179-99.
- Momigliano, A. Studies in Historiography. London: Weidenfeld and Nicolson, 1966.
- Mommsen, Th. Römisches Staatsrecht. 3rd ed. 3 vols. Leipzig, 1887-88.
- _____. "Die Heimathsvermerke der Legionarier und Auxiliarier." Hermes, 19 (1884), 23-38.
- _____. "Schweizer Nachstudien." Hermes, 16 (1881), 445-94.
- _____. "Privilegia militum veteranorumque de civitate et conubio." Ephem.Epig. 4 (1881), 495-515.

_____. "De titulo reginae Pythodoridis Smyrnaeo." Ephem.Epig., 1 (1872), 270-76.

Montevecchi, O. "Quaedam de civibus Romanis in Aegypto ante Constitutionem Antoninianam." RIL, 84 (1951), 279-88.

Morris, J. "Changing Fashions in Roman Nomenclature in the Early Empire." LF, 11 (1963), 34-46.

Morris, J. and Roxan, M. "The Witnesses to Roman Military Diplomata." AArchSlov, 28 (1977), 299-331.

Nardi, E. La reciproca posizione successoria dei coniugi privi di conubium. Milan: A. Giuffrè, 1938.

_____. "I requisiti del matrimonio romano." In Scritti di diritto e di economia in onore di F. Mancaloni. Sassari, 1938. 173-83.

_____. I casi di indegnità nel diritto successorio romano. Milan: A. Giuffrè, 1937.

Nelson, H.L.W. Überlieferung, Aufbau und Stil von Gai Institutiones. Leiden: E.J. Brill, 1981.

Nesselhauf, H. "Das Bürgerrecht der Soldatenkinder." Historia, 8 (1959), 434-42.

Nicholas, B. An Introduction to Roman Law. Oxford: Clarendon Press, 1962.

Nicolet, C. Le métier de citoyen dans la Rome républicaine. Paris: Gallimard, 1976.

Nörr, D. "Zur Reskriptionspraxis in der hohen Prinzipatszeit." ZSS, 98 (1981), 1-46.

Oates, J.F. "Philadelphia in the Fayum during the Roman Empire." Atti dell'XI Congresso Internazionale di Papirologia. Milan, 1965. 451-74.

Oliver, J.H. "Text of the Tabula Banasitana, A.D. 177." AJP, 93 (1972), 336-40.

_____. "Aristides, In Romam 65, No Parallel for P.Giessen 40." PP, 23 (1968), 50-52.

_____. "Free Men and Dediticii." AJP, 76 (1955), 279-97.

_____. "The Ruling Power: A Study of the Roman Empire in the Second Century after Christ through the Roman Oration of Aelius Aristides." TAPA, 43, pt.4 (1953), 871-1003. --

- Orestano, R. "La struttura giuridica del matrimonio romano." BIDR, 6 (1940), 154-402, 7 (1941), 88-133, 15 (1952), 185-395.
- _____. "La dote nei matrimoni contra mandata." In Studi di storia e diritto in memoria di G. Bonolis. Milan: A. Giuffrè, 1942. Vol. 1, 5-54.
- Ors Pérez-Peix, A. d'. "Estudios sobre la Constitutio Antoniniana." Emerita, 11 (1943), 297-337.
- Oven, J.C. van. Review of C. Sasse, Die Constitutio Antoniniana. RHD, 26 (1958), 470-75.
- Overbeck, B. "Das erste Militärdiplom aus der Provinz Asia." Chiron, 11 (1981), 265-76.
- Parker, H.M.D. The Roman Legions. 1928; rpt. Cambridge: W. Heffer and Sons, 1958.
- _____. "On Cicero, Pro Balbo 21,48." CR, 52 (1938), 8-9.
- Patterson, C.B. Pericles' Citizenship Law of 451-450 B.C. New York: Arno Press, 1981.
- Petolescu, C.C. "Un fragment de diplôme militaire de Tibiscum." Dacia, 27 (1983), 193-94.
- Piso, I. and Benea, D. "Das Militärdiplom von Drobeta." ZPE, 56 (1984), 263-95.
- Podgórecki, A. Law and Society. London: Routledge and Kegan Paul, 1974.
- Polay, E. "Der status civitatis, der Ursprung und die Berufe der in den siebenbürgischen Wachstafeln vorkommenden Personen." JJP, 16-17 (1971), 71-83.
- _____. "Die Zeichen der Wechselwirkungen zwischen dem römischen Reichsrecht und dem Peregrinenrecht im Urkundenmaterial der siebenbürgischen Wachstafeln." ZSS, 79 (1962), 51-85.
- Pringsheim, F. "Zu 'Reichsrecht und Volksrecht'." JJP, 7 (1953), 163-68.
- Pugliese, G. "Sui rapporti fra diritto e società in Roma." In Studi in onore di G. Scherillo. Milan, 1972. Vol. 1, 19-28.
- Raepsaet-Charlier, M.T. "Épouses et familles de magistrats dans les provinces romaines aux deux premiers siècles de l'empire." Historia, 31 (1982), 56-69.

- Rawson, B. "Roman Concubinage and other de facto Marriages." TAPA, 104 (1974), 279-305.
- Reinhold, M. "Usurpation of Status and Status Symbols in the Roman Empire." Historia, 20 (1971), 275-302.
- Reusch, W. "Zur Datierung des Papyrus Gissensis 40 I." Hermes, 67 (1932), 473-77.
- _____. Der historische Wert der Caracallavita in den Scriptorum Historiae Augustae. 1931; rpt. Aalen, 1963.
- Rhodes, P.J. A Commentary on the Aristotelian Athenaion Politeia. Oxford: Clarendon Press, 1981.
- _____. "Bastards as Athenian Citizens." CQ, 28 (1978), 89-92.
- Riccobono, S. Das römische Reichsrecht und der Gnomon des Idios Logos. Erlangen: Palm and Enke, 1957.
- Rice-Holmes, T. The Architect of the Roman Empire. 2 vols. Oxford: Clarendon Press, 1928.
- Richardson, J.S. "The Tabula Contrebiensis: Roman Law in Spain in the Early First Century B.C." JRS, 73 (1983), 33-41.
- Richmond, I.A., ed. Roman and Native in North Britain. Edinburgh: Thomas Nelson and Sons, 1958.
- Robertis, F.M. de. La condizione sociale e gli impedimenti al matrimonio nel basso impero. Bari, 1939.
- Robleda, O. "Matrimonio inexistente o nulo en derecho romano." In Studi in memoria di G. Donatuti. Milan: Cisalpino Coliardica, 1973: 1131-55.
- _____. "Sobre el matrimonio en derecho romano." SDHI, 37 (1971), 337-50.
- _____. El matrimonio en derecho romano. Esencia, requisitos de validez, efectos, disolubilidad. Rome: Univ. Gregoriana, 1970.
- Romanelli, P. "Constitutio Antoniniana." Romanitas, 4 (1962), 29-41.
- Rostovtzeff, M. "Queen Dynamis of Bosphorus." JHS, 39 (1919), 88-109.
- Rowell, H.T. "The Honesta Missio from the Numeri of the Roman Imperial Army." YCS, 6 (1939), 73-108.
- Roxan, M. "The Distribution of Roman Military Diplomas." Epigraphische Studien, 12 (1981), 265-86.

- _____. Roman Military Diplomas 1954-1977. London: Institute of Archaeology, 1978.
- Rubin, Z. "Further to the Dating of the Constitutio Antoniniana." Latomus, 34 (1975), 430-36.
- Saddington, D.B. The Development of the Roman Auxiliary Forces from Caesar to Vespasian. University of Zimbabwe, 1982.
- _____. "The Development of the Roman Auxiliary Forces from Augustus to Trajan." ANRW, 2.3 (1975), 176-201.
- Saletta, V. L'evoluzione della civitas nella res publica romana. Rome: Modelgraf, 1959.
- Saller, R. and Shaw, B.D. "Tombstones and Roman Family Relations in the Principate: Civilians, Soldiers and Slaves." JRS, 74 (1984), 124-56.
- Salway, P. The Frontier People of Roman Britain. Cambridge: University Press, 1965.
- Sanctis, G. de. "La novella del papiro di Giessen 40 I." RivFC, 54 (1926), 488-500.
- Sander, E. "Das Recht des römischen Soldaten." RhM, 101 (1958), 152-234.
- Sanders, H.A. "A Sailor's Marriage Certificate in Diploma Form." PAPhS, 81 (1939), 581-90.
- _____. "A Latin Marriage Contract." TAPA, 69 (1938), 104-16.
- _____. "A Birth Certificate of the Year 145 A.D." AJA, 32 (1928), 309-29.
- _____. "The Birth Certificate of a Roman Citizen." CPh, 22 (1927), 409-13.
- Sandys, J.E. An Introduction to Latin Epigraphy. 2nd ed. Cambridge: University Press, 1927.
- Sasse, C. "Literaturübersicht zur Constitutio Antoniniana." JJP, 14 (1962), 104-49, 15 (1965), 329-66.
- _____. Die Constitutio Antoniniana. Wiesbaden: Harrassowitz, 1958.
- Saumagne, C. "Quelques observations sur la Constitutio Antoniniana." In Mélanges offerts à J. Carcopino, ed. J. Heurgon, G. Picard and W. Seston. Paris: Hachette, 1966. 849-61.

_____. Le droit latin et les cités romaines sous l'empire. Paris: Sirey, 1965.

Sawer, G. Law in Society. Oxford: Clarendon Press, 1964.

Schiff, D.N. "Law as a Social Phenomenon." In Sociological Approaches to Law, ed. A. Podgórecki and C.J. Whelan. New York: St. Martin's Press, 1981. 151-66.

Schiller, A.A. Roman Law: Mechanisms of Development. The Hague: Mouton, 1978.

_____. "The Diplomatics of the Tabula Banasitana." In Festschrift für E. Seidl. Köln: P. Hanstein, 1975. 143-60.

_____. "A Definition of Jurists' Law." In Symbolae Iuridicae et Historicae Martino David Dedicatae, ed. J.A. Ankum, R. Feenstra and W.F. Leemans. Leiden: E.J. Brill, 1968. Vol. 1, 181-200.

_____. "Bureaucracy and the Roman Law." The Jurist (Seminar), 7 (1949), 26-48.

Schönbauer, E. "Eine neue wichtige Inschrift zum Problem der Constitutio Antoniniana." Iura, 14 (1963), 71-108.

_____. "Neue Rechtsquellen zum Constitutio Antoniniana-Problem." Eos, 48.1 (1956), 473-98.

_____. "Deditizier, Doppelbürgerschaft und Personalitäts-Prinzip." JJP, 6 (1952), 17-72.

_____. "Munizipien und Doppelbürgerschaft im Römerreiche." Iura, 1 (1950), 124-49.

_____. "Wortlaut und Sinn der Constitutio Antoniniana." Atti del Congresso Internazionale di Diritto Romano, 4 (1948), 103-38.

_____. "Rechtshistorische Urkundenstudien. Die Inschrift von Rhosos und die Constitutio Antoniniana." APF, 13 (1939), 177-209.

_____. "Reichsrecht, Volksrecht und Provinzialrecht." ZSS, 57 (1937), 309-55.

_____. "Reichsrecht gegen Volksrecht?" ZSS, 51 (1931), 277-335.

Schubart, W. "Zur Constitutio Antoniniana." Aegyptus, 20 (1940), 31-38.

Schulz, F. Classical Roman Law. Oxford: Clarendon Press, 1951.

_____. History of Roman Legal Science. Oxford: Clarendon Press, 1946.

_____. "Roman Registers of Births and Birth Certificates." JRS, 32 (1942), 79-91, 33 (1943); 55-64.

_____. Die Epitome Ulpiani des Codex Vaticanus Reginae 1128. Bonn: Marcus, 1926.

Segrè, A. "La Costituzione Antoniniana e il diritto dei novi cives." Iura, 17 (1966), 1-26.

_____. "L'applicazione del diritto romano nelle provincie orientali dell'impero dopo la Costituzione Antoniniana." Rivista Italiana per le Scienze Giuridiche, 2 (1948), 419-28.

_____. "Il diritto dei militari peregrini-nell'esercito romano." RPAA, 17 (1940-41), 167-82.

_____. "A proposito di peregrini che prestavano servizio nelle legioni romane." Aegyptus, 9 (1928), 303-08.

_____. "La Costituzione Antoniniana." RFIC, 54 (1926), 471-87.

Seidl, E. Rechtsgeschichte Ägyptens als römische Provinz. Sankt Augustin: Richarz, 1973.

Sensi, G. de. "Problemi della Constitutio Antoniniana." Helikon, 9 (1969), 243-64.

Seston, W. "Marius Maximus et la date de la Constitutio Antoniniana." In Mélanges offerts à J. Carcopino, ed. J. Heurgon, G. Picard and W. Seston. Paris: Hachette, 1966. 877-88.

_____. "Les vétérans sans diplômes des légions romaines." RPh, Ser. 3, 7 (1933), 375-95.

Seston, W. and Euzennat, M. "Un dossier de la chancellerie romaine, la Tabula Banasitana." CRAI, 1971, 468-90.

_____. "La citoyenneté romaine au temps de Marc-Aurèle et de Commode d'après la Tabula Banasitana." CRAI, 1961, 317-24.

Shaw, B.D. "Latin Funerary Epigraphy and Family Life in the Later Roman Empire." Historia, 33 (1984), 457-97.

_____. "Fear and Loathing: The Nomad Menace and North Africa." In Roman Africa: The Vanier Lectures 1980, ed. C.M. Wells. Ottawa: University of Ottawa Press, 1982. 29-50.

Sherk, R.K. Roman Documents from the Greek East. Baltimore: John Hopkins Press, 1969.

Sherman, C.L. "The Constitutio Antoniniana in the Light of the Papyrus Toῦ 'Ιδίου Αἰῶνος." TAPA, 59 (1928), 33-47.

Sherwin-White, A.N. Roman Foreign Policy in the East 168 B.C. to A.D. 1. Norman: University of Oklahoma Press, 1983.

_____. "The Lex Repetundarum and the Political Ideas of Gaius Gracchus." JRS, 72 (1982), 18-31.

_____. The Roman Citizenship. 2nd ed. Oxford: Clarendon Press, 1973.

_____. "The Tabula of Banasa and the Constitutio Antoniniana." JRS, 63 (1973), 86-98.

_____. "The Roman Citizenship: A Survey of its Development into a World-Franchise." ANRW, 1.2 (1972), 23-58.

_____. "The Date of the Lex Repetundarum and its Consequences." JRS, 62 (1972), 83-99.

_____. Racial Prejudice in Imperial Rome. Cambridge: University Press, 1967.

_____. The Letters of Pliny. Oxford: Clarendon Press, 1966.

_____. Roman Society and Roman Law in the New Testament. Oxford: Clarendon Press, 1963.

Sirks, A.J.B. "Informal Manumission and the Lex Iunia." RIDA, 28 (1981), 247-76.

Solin, H. "Onomastica ed epigrafia. Riflessioni sull'esegesi onomastica delle iscrizioni romane." QUCC, 18 (1974), 105-32.

Speidel, M.P. "The Rise of Ethnic Units in the Roman Imperial Army." ANRW, 2.3 (1975), 202-31.

Starr, C.G. The Roman Imperial Navy, 31 B.C. - A.D. 324. 2nd ed. New York: Barnes and Noble, 1960.

Ste. Croix, G.E.M. de. The Class Struggle in the Ancient Greek World. London: Duckworth, 1981.

Stein, P. Regulae Iuris: From Juristic Rules to Legal Maxims. Edinburgh: University Press, 1966.

- Stroux, J. "Die Constitutio Antoniniana." Philologus, 88 (1933), 272-95.
- Sturm, F. "Gaius I, 77 und das römische Kollisionsrecht." In Maiores Viginti Quinque Annis: Essays in Commemoration of the Sixth Lustrum of the Institute for Legal History of the University of Utrecht, ed. J.E. Spruit. Assen: van Gorcum, 1979. 155-66.
- Sullivan, R.D. "Dynasts in Pontus." ANRW, 2.7.2 (1980), 913-30.
- _____. "King Marcus Antonius Polemo." NC, Ser. 7, 19 (1979), 6-20.
- _____. "Papyri Reflecting the Eastern Dynastic Network." ANRW, 2.8 (1977), 908-38.
- Syme, R. "The Marriage of Rubellius Blandus." AJP, 103 (1982), 62-85.
- _____. "Princesses and Others in Tacitus." G&R, 28 (1981), 40-53.
- _____. "Fiction About Roman Jurists." ZSS, 97 (1980), 78-104.
- _____. "Three Jurists." In Ronald Syme: Roman Papers, ed. E. Badian. Oxford: Clarendon Press, 1979. Vol. 2, 790-804.
- _____. "Lawyers in Government: The Case of Ulpian." PAPHS, 116 (1972), 406-09.
- _____. Colonial Elites: Rome, Spain and the Americas. London: Oxford University Press, 1958.
- _____. The Roman Revolution. Oxford: Clarendon Press, 1939.
- Tarn, W.W. and Charlesworth, M.P. "The War of the East Against the West." In The Cambridge Ancient History. Cambridge: University Press, 1934. Vol. 10, 66-89.
- Taubenschlag, R. The Law of Greco-Roman Egypt in the Light of the Papyri. 2nd ed. Warsaw: Państwowe Wydawnictwo Naukowe, 1955.
- _____. "The Roman Authorities and the Local Law in Egypt before and after the C.A." JJP, 5 (1951), 121-41.
- _____. "Citizens and Non-Citizens in the Papyri." In Scritti in onore di C. Ferrini. Milan, 1948. Vol. 3, 166-73.
- _____. "Der Einfluss der Provinzialrechte auf des römische Privatrecht." Atti del Congresso Internazionale di Diritto Romano, 1 (1934), 284-315.
- _____. "Le droit local dans les Digesta et Responsa de Cervidius Scaevola." Bulletin de l'Académie Polonaise des Sciences et Lettres, 1919-20, 45-55.

Teutsch, L. "Gab es Doppelgemeinden im römischen Afrika?" RIDA, 8 (1961), 281-356.

Thomas, J.A.C. Textbook of Roman Law. Amsterdam: North Holland Publishing Company, 1976.

_____. The Institutes of Justinian. Amsterdam: North Holland Publishing Company, 1975.

Thompson, L.A. "Some Observations on Personal Nomenclature in Roman Africa." Nigeria and the Classics, 10 (1967-68), 45-58.

Timpe, D. "Ein Heiratsplan Kaiser Caracallas." Hermes, 95 (1967), 470-95.

Treggiari, S. "Consent to Roman Marriage: Some Aspects of Law and Reality." EMC, 26 (1982), 34-44.

_____. "Concubinae." PBSR, 49 (1981), 59-81.

_____. Roman Freedmen During the Late Republic. Oxford: Clarendon Press, 1969.

Vago, S. Law and Society. Englewood Cliffs, N.J.: Prentice-Hall, 1981.

Villers, R. "Le mariage envisagé comme institution d'État dans le droit classique de Rome." ANRW, 2.14 (1982), 285-301.

Visscher, F. de. "La Constitution Antonine et la dynastie africaine des Sévères." RIDA, 8 (1961), 229-42.

_____. "L'expansion de la cité romaine et la diffusion du droit romain." MH, 14 (1957), 164-74.

_____. "La dualité des droits de cité et la mutatio civitatis." In Studi in onore di P. Francisci. Milan, 1956. Vol. 1, 37-62.

_____. "Ius quiritium, civitas Romana et nationalité moderne." In Studi in onore di Ugo Enrico Paoli. Firenze: Le Monnier, 1955. 239-51.

_____. "La Constitution Antonine (212 après J.-C.) et la persistance des droits locaux." CHM, 2 (1955), 788-811.

_____. "Conubium et Civitas." RIDA, 1 (1952), 401-22.

_____. "Conubium et Civitas." Iura, 2 (1951), 140-44.

_____. Les édits d'Auguste découverts à Cyrène. Louvain, 1940.

_____. "La condition juridique des nouveaux citoyens romains." CRAI, 1938, 24-39.

Viton, P.A. "On the Affiliations of the Severan Jurists." SDHI, 46 (1980), 507-11.

Vittinghoff, F. "Die rechtliche Stellung der canabae legionis und die Herkunftsangabe castris." Chiron, 1 (1971), 299-318.

_____. Römische Kolonisation und Bürgerrechtspolitik unter Caesar und Augustus. Wiesbaden: Steiner, 1952.

Vogt, J. "Zu Pausanias und Caracalla." Historia, 18 (1969), 299-308.

Volterra, E. "Precisazioni in tema di matrimonio classico." BIDR, 17 (1975), 245-70.

_____. "Sull'unione coniugale del funzionario della provincia." In Festschrift für E. Seidl. Köln, 1975. 169-75.

_____. "Matrimonio. Diritto Romano." Enciclopedia del diritto. Milan: A. Giuffrè, 1975. 727-808.

_____. "La Tabula Banasitana (a proposito di una recente pubblicazione)." BIDR, 16 (1974), 407-41.

_____. "Iniustum Matrimonium." In Studi in onore di G. Scherillo. Milan, 1972. Vol. 2, 441-70.

_____. "Una discussione nel senato romano sotto Tiberio." In Studi in onore di G. Grosso. Torino: G. Giappichelli, 1968. Vol. 2, 1-10.

_____. "Manomissioni di schiavi compiute da peregrini." In Studi in onore di P. Francisci. Milan: A. Giuffrè, 1956. Vol. 4, 73-105.

_____. "La conception du mariage à Rome." RIDA, 2 (1955), 365-79.

_____. "Manomissione e cittadinanza." In Studi in onore di Ugo Enrico Paoli. Firenze: Le Monnier, 1955. 695-716.

_____. "La nozione giuridica del conubium." In Studi in memoria di E. Albertario. Milan: A. Giuffrè, 1953. Vol. 2, 347-84.

_____. "L'acquisto della cittadinanza romana e il matrimonio del peregrino." In Studi in onore di E. Redenti. Milan: A. Giuffrè, 1951. Vol. 2, 403-22.

_____. "Sulla condizione dei figli dei peregrini cui veniva concessa la cittadinanza romana." In Studi in onore di A. Cicù. Milan: A. Giuffrè, 1951. Vol. 2, 645-72.

_____. "Un'osservazione in tema di tollere liberos." In Festschrift F. Schulz. Weimar: Böhlau, 1951. Vol. 1, 388-98.

_____. "Quelques observations sur le mariage des filiifamilias." RIDA, 1 (1948), 213-42.

_____. La conception du mariage d'après les juristes romains. Padova: La Garangola, 1940.

_____. "L'efficacia delle costituzioni imperiali emanate per le provincie e l'istituto dell'expositio." In Studi di storia e diritto in onore di E. Besta. Milan: A. Giuffrè, 1937. Vol. 1, 447-77.

_____. "Un'osservazione in tema di impedimenti matrimoniali." In Studi in memoria di A. Albertoni. Padova: Cedam, 1935. Vol. 1, 399-422.

_____. Review of P.E. Corbett, The Roman Law of Marriage. BIDR, 38 (1930), 259-71.

Walters, K.R. "Perikles' Citizenship Law." CSCA, 14 (1983), 314-36.

Warmington, B.H. "The Municipal Patrons of Roman North Africa." PBSR, 22 (1954), 40-55.

Watson, A. Society and Legal Change. Edinburgh: University Press, 1977.

_____. The Nature of Law. Edinburgh: University Press, 1977.

_____. Legal Transplants: An Approach to Comparative Law. Edinburgh: Scottish Academic Press, 1974.

_____. Law Making in the Later Roman Republic. Oxford: Clarendon Press, 1974.

_____. The Law of Succession in the Later Roman Republic. Oxford: Clarendon Press, 1971.

_____. The Law of Property in the Later Roman Republic. Oxford: Clarendon Press, 1968.

_____. The Law of Persons in the Later Roman Republic. Oxford: Clarendon Press, 1967.

_____. "Captivitas and Matrimonium." RHD, 29 (1961), 243-59.

Watson, G.R. The Roman Soldier. London: Thames and Hudson, 1969.

Weaver, P.R.C. Familia Caesaris: A Social Study of the Emperor's Freedmen and Slaves. Cambridge: University Press, 1972.

Weiss, E. "Ein Beitrag zur Frage nach dem Doppelbürgerrecht bei Griechen und Römern vor der Constitutio Antoniniana." JJP, 7 (1953), 71-82.

_____. "Professio und Testatio nach der lex Aelia Sentia und der lex Papia Poppaea." BIDR, 10-11 (1949), 316-26.

Weissert, D. "Bemerkungen zum Wortlaut des P.Giss. 40 I." Hermes, 91 (1963), 239-50.

Welles, C.B. "Another Look at P.Giss. 40 I." EPap, 9 (1971), 35-54.

Wells, C.M. The Roman Empire. Fontana Paperbacks, 1984.

_____. The German Policy of Augustus. Oxford: Clarendon Press, 1972.

Wenger, L. Die Quellen des römischen Rechts. Wien: A. Holzhausen, 1953.

_____. "Neue Diskussion zum Problem 'Reichsrecht und Volksrecht'." RIDA, 3 (1949), 521-50.

Whitehorne, J.E.G. "Ovid, A.A. 1.101-32, and Soldiers' Marriages." LCM, 4 (1979), 157-58.

Wieling, H.J. "Eine neuentdeckte Inschrift Gordians III und ihre Bedeutung für das Verständnis der Constitutio Antoniniana." ZSS, 91 (1974), 364-74.

Wilhelm, A. "Die Constitutio Antoniniana." AJA, 38 (1934), 178-80.

Williams, G. "Some Aspects of Roman Marriage Ceremonies and Ideals." JRS, 48 (1958), 16-29.

Williams, W. "The Publication of Imperial Subscripts." ZPE, 40 (1980), 283-94.

Wolff, H. "Zum Erkenntniswert von Namenstatistiken für die römische Bürgerrechtspolitik der Kaiserzeit." In Studien zur antiken Sozialgeschichte: Festschrift F. Vittinghoff. Köln: Böhlau, 1980. 229-55.

_____. "Civitas und Colonia Treverorum." Historia, 26 (1977), 204-42.

_____. "Die cohors II Tungrorum milliaria equitata c(oram?) l(audata?) und die Rechtsform des ius Latii." Chiron, 6 (1976), 267-88.

_____. Die Constitutio Antoniniana und Papyrus Gissensis 40 I. Köln, 1976.

_____. "Zu den Bürgerrechtsverleihungen an Kinder von Auxiliaren und Legionaren." Chiron, 4 (1974), 479-510.

Wolff, H.J. "Le droit provincial dans la province romaine d'Arabie." RIDA, 23 (1976), 271-90.