BOOK ONE/HUMAN STATUS

2 ULPNIAN, Fideicommissa, book 4: In determining matters anew, there ought to be some clear advantage in view, so as to justify departing from a rule of law which has seemed fair since time immemorial.

3 JAVOLENUS, Letters, book 13: A benefit from the emperor, since it proceeds from his undoubtedly divine generosity, ought to be interpreted as amply as possible.

4 MODESTUS, Excuses, book 2: Later enactments are more forceful than earlier ones.

HUMAN STATUS

1 GAIUS, Institutes, book 1: All our law concerns [either] persons or things or actions.

2 HERMOGENES, Epitome of Law, book 1: Therefore, since all law is established for men's sake, we shall speak first of the status of persons and afterward of the rest [of the law], following the order of the edictum perpetuum and applying titles as nearly as possible compatible with these as the case admits.

3 GAIUS, Institutes, book 1: Certainly, the great divide in the law of persons is this: all men are either free men or slaves.

4 FLORENTINUS, Institutes, book 2: Freedom is one's natural power of doing what one pleases, save insofar as it is ruled out either by coercion or by law. 1. Slavery is an institution of the jus gentium, whereby someone is against nature made subject to the ownership of another. 2. Slaves (servi) are so-called, because generals have a custom of selling their prisoners and thereby preserving rather than killing them; and indeed they are said to be mancipia, because they are captives in the hand (manus) of their enemies.

5 MARCIAN, Institutes, book 1: Of slaves, to be sure, there is but a single condition; of free men, on the other hand, some are freeborn (ingenui) and some are freedmen. 1. People are brought under our power as slaves either by the civil law or by the jus gentium. This happens by civil law if someone over twenty years of age allows himself to be sold with a view to sharing in the price. By the jus gentium, people become slaves on being captured by enemies or by birth to a female slave. 2. The freeborn are those who are born of a free woman; it suffices that she was free at the time of birth, even though she was a slave at the time of conception. And in the converse case, if a woman conceives as a free person then gives birth as a slave, it has been decided that her child is born free (and it does not matter whether she conceived in lawful wedlock or in simple cohabitation), because the mother's calamity should not redound to the harm of the child within her. 3. Further to this, the following question has been raised: suppose a pregnant slave is manumitted, then later becomes a slave or is expelled from her civitas before she gives birth, is her offspring free or slave? The better view, however, is that he or she is born free, and that it is enough for the child in the womb to have had a free mother albeit only for some of the time between conception and birth.

6 GAIUS, Institutes, book 1: Freedmen are those who have been manumitted from lawful slavery.

7 PAUL, Shares Which Are Allowed to the Children of Condemned Prisoners, sale book: The fetus in the womb is deemed to be fully a human being, whenever the question concerns advantages accruing to him when born, even though before birth his existence is never assumed in favor of anyone else.
DE STATU HOMINUM

1 GAUSS libro primo institutionum. Omne summos dixisse ut usum aut librorum sunt aut serui. 10

2 HERMENEGILDVS libro primo in his epistolarum. Cun igitur hominum causas omnes et consentiam sint, primo ex personarum statu se posse de ceteris, ordinem edidit pertinere statum et his proximos aequos contractos applicantes titulos ut res patitur, dicentes. 40

3 GAUSS libro primo institutionum. Summa itaque dei personarum 10

4 FLORENSIBVS libro primo institutionum. Libertas est naturalis facta et 10

5 MARCIANVS libro primo institutionum. Et rescurum quidem una est conditione: 10

6 GAUSS libro primo institutionum. Libertini sunt, qui ex usque 10

7 PAXTONIUS libri singularis de portionibus, quae liberis damnatorum cons. 5

8 V. DE STATU HOMINUM R

9 SPE

10 antem ini Gauus et quidem summae de seua personarum Gauus

11 nobilem F 3 noblemem F 2 5 metatemenctam E 1 metatemenctam E 2 11 metatemenctam U [lat.ëtæ] metatec U 5 nomen U 1 3 nomen E 2 (religios fupeertam am) U, quum U [pro ostiòno


12 augiit iniunt endematione imperfecta F 34 sunt manumundi R 36 portcionibus R 10 quatera F 37 quaeratur E, nequeamque F, nequamquam R. 57
BOOK ONE/HUMAN STATUS

8 PAPIAN, Questions, book 3: The Emperor Titus Antonius rules in a rescript that the status of free people is not adversely affected by the bearing of a badly drafted instrument.

9 PAPIAN, Questions, book 81: There are many points in our law in which the condition of females is inferior to that of males.

10 ULPIAN, Sabinus, book 1: Question: with whom is a hermaphrodite comparable? I rather think each one should be ascribed to that sex which is prevalent in his or her make-up.

11 PAUL, Replies, book 18: Paul gave the opinion that a person is not deemed the lawful son of the man who begot him in the following case: he was conceived during the lifetime of his mother's father; the father being ignorant of his daughter's copulation; it was irrelevant that the birth occurred after the grandfather's death.

12 PAUL, Replies, book 19: That a child can be born fully formed in the seventh month is now a received view due to the authority of that most learned man Hippocrates. Accordingly, it is credible that a child born in the seventh month of a lawful marriage is a lawful son of the marriage.

13 HERMOCÆNIA, Epitomes of Law, book 1: Suppose that a slave is committed by his master to trial on a capital charge. Even if he is acquitted, he does not become a free man.

14 PAUL, Views, book 4: Not included in the class of children are those abnormally procreated in a shape totally different from human form, for example, if a woman brings forth some kind of monster or prodigy. But any offspring which has more than the natural number of limbs used by man may in a sense be said to be fully formed, and will therefore be counted among children.

15 TRIYPHÔMINUS, Disputationes, book 10: There was a testamentary instruction that if Arescusa should bear three children she should be free. She bore one child at the first birth, but triplets at the second. The question is whether any and if so which of the triplets is free. The condition set upon her freedom must be fulfilled by the woman. There should, however, be no doubt but that the last triplet is born free. Nor indeed has nature allowed that two babies can get out of their mother's womb at the same time with one push, so that from the uncertain order of their being born, there is no way of telling which is born in slavery and which in freedom. Therefore, from the onset of labor, the postnatal condition has the effect that the one born last comes forth out of a free woman, just as if any other condition whatever had been set for her freedom and had come to pass while she was giving birth. For example, she is manumitted subject to this condition, that she give ten thousand to the heir or to Titus, and at the very moment of her labor, she fulfills the condition by the hand of another. In that case, it must be supposed that she gave birth as a free woman.

16 ULPIAN, Disputationes, book 6: The answer would be the same, if Arescusa first bore two children and then had twins. For the point that it cannot be said that both twins are born as free born; only the second born is. So the question is one of fact rather than of law.

17 ULPIAN, Edict, book 22: Everyone in the Roman world has been made a Roman citizen as a consequence of the enactment of the Emperor Antoninus.
DE STATU HOMINUM

8 PAPINIANUS libro terio questionum. Imperator Titus Antoninus re- scripsit nona edatum liberorum ob bocorem instrumenti male concepti.

9 Idem libro trigesimo primo quesionum. In multis iuris nostri artificii de.

10 ULPNIUS libro primo ad Subianum. Quiserit: hermaphroditum qui compara? et magis post his sexu asintualum, qui in eo praeraeat.

11 PAULUS libro eoctavo decimo responserit. Paulus respondit eum, qui uidentem patre et ignoscere de constitutione filiae conceptus est, licet post mortem aut natus sit, instar filium et ex quo conceptus est esse non uideri.

12 IUDIUM libro seno decimo responserit. Septimo meae nasce per- personetur iber esse testamento iussa, primo partu usum, secundo tres perperti: quiescendum est, an et quis eorum debet. Hac condicio libertatis adposita iam implienda mulieri si est, sed non dubitari debeat. Quia uolat ueterum naturam, nec enim naturam perspiciat uti impetu ducis infantes de uero matris excedere, ut ordine incepto ascesinum non apparet, uter in senectute liberaeque nascatur. Insequa impliibia partu existens condicio efficit, et ut libera edax quod postea nascatur, uelut si quislibet aliis condicio libertatis multiplicata adposita partatur ex existente, uel ius matrimonii sub haec condicio, si decem miles heredi Tetricus desideri, co momento quam per alium impliibi condicio, iam libera peripse receperit est.

13 HERMANNUSUS libro primo iuris iberum exscriptor. Securus in causa capitatis.

14 PAULUS libro quarto assentior. Non sunt liberi, quia contra formam humani generis consummato mor e procreasti, veluti si mulier monstratur, cum aliquis aut prolixium omnium partus autem, qui membrorum humanorum officia ampliata, aliquamuis uiderit effecta et ius liber communicoe, non sicut.

15 TACRONIUSUS libro decimo disputationem. Arscusa, si tres. 

16 ULPNIUSUS libro sexto disputationem. Iam est, et cadea. ULPNIUSUS libro sexto disputationem. Iam est, et cadea.

17 IUDIUS libro uicesimo secundo ad effectum. In urbe Romano qui sunt ex constitutientes imperatori Antonino claesi Romani effecti sunt.

FRP(VU)

1 uidentem materis patris? 
2 Henopratius de viectis radere 1.1 (sup 1. p. 643 ed. Kudn): 
3 MATER MATER MATRE. TAE BEATRITTON, INNUNC MOC NIELIOS EC FACILIBUS, DENA INNOCENS.
4 MULIER SI MONSTERUM ALIQUID AUT PRODIGIOSIS EXECUTA EST, NON QUAESTpa.
5 Apositas autem eorum liberis, qui contra formam humani generis consummato mor e procreasti, veluti si mulier monstratur, cum aliquis aut prolixium omnium partus autem, qui membrorum humanorum officia ampliata, aliquamuis uiderit effecta et ius liber communicoe, non sicut.

1 papianus R | quasionum R | titus R | uistus R | scrisipit F | triduum F | 5 quesionum F | 5 hermaphroditum F | erro- 

11 ihrenum R | cum om. F | 11 illi us om. F | 12 luisti us F | 13 fortunate inde | ut | 13 uenac | uaristepel | Ultra | 14 quiescendo | 14 quiescendo | 15 uerius | 15 dextra F | 16 normal | efinus F | 17 eissi R | 19 scito F | 20 personet per- 

1 secundum R | perferit R | 21 esse F | esse F | 22 diabae F | qui in ultima | 23 manuscript E | 24 inscriptio E | 25 lu- 

26 partibus E | ut | 27 R | 27 euicerte F | 27 adicrere F | 28 praeclarus F | 29 libro om F | 30 ari- 

30 om. F | aratuus U | 31 praesidium F | 31 quiescat F | 32 atermius R | 33 idem R | 34 liquids | 34 liquidus BS (Steph.); tommo in Rossio, in urbe Romano, in urbe Romana, quae F | quae BS | 35 imperator | 35 imperator | 36 Steph.
BOOK ONE: SUI JURIS AND ALIENI JURIS

18. Ulpian, Subius, book 27: The Emperor Hadrian in a rescript to Publicius Marcellus gave the ruling that if the child of a free woman, who has been condemned to death while pregnant, is born free, and that the practice is to keep her alive until she has given birth. But it is also the case that if a woman upon whom the interdict by fire and water has been imposed gives birth to a child conceived in lawful wedlock, the child is a Roman citizen and is in the potestas of its father.

19. Celsus, Digest, book 32: When nuptials have been carried out in the statutory form, the children follow their father; one begotten of a common law union follows the mother.

20. Ulpian, Subius, book 32: A person who has become insane is held to retain his previous status and dignity, and also his position as a magistrate and his power, just as he retains ownership of his own property.

21. Modestinus, Rules, book 7: A free man who sells himself and is later manumitted does not then revert to the status which he had when he sold himself; he acquires the condition of a freedman.

22. Modestinus, Replies, book 12: Herennius Modestinus gave the opinion that the child born of a slave-woman is free born if her labor occurred at a time when, according to a condition of a gift, she ought to have been manumitted, since by rights she should then have been free.

23. Modestinus, Encyclopaedia, book 1: People who cannot identify their father are said to have been conceived at large, as are indeed those who can identify their father but have one whom they could not lawfully have. They are also called bastard, spurii, from the Greek word spouos, being bastards by conception.

24. Ulpian, Subius, book 27: This is a law of nature; that a child born without lawful wedlock belongs to his mother unless a special statute provides otherwise.

25. Ulpian, Lex Julia et Papia, book 1: We must accept that someone is free born if there is a judicial decision to that effect, even though he is actually a freedman. For the judgment of a court (res judicata) is deemed true.

26. Julian, Digest, book 89: For almost all purposes of civil law, children in utero are considered as existent beings. Even hereditates legittima revert to them; and if a pregnant woman is taken prisoner by enemies, the child to be born has the right of postliminium, and accordingly follows the rank of his father or (as the case may be) his mother. Moreover, if a pregnant slave-woman is stolen, then although it is a purchaser in good faith who has possession of her when she gives birth, the child to be born is deemed stolen property and not subject to usucapio. By analogy to all this, it is also the case that a freedman, so long as a son of his patron might possibly be born, is subject to the régime which applies to those who have patrons.

27. Ulpian, Opinions, book 5: A patron could not even by adoption make a freeborn individual of a person who confesses himself to be a freedman.

6

THOSE WHO ARE SUI JURIS

AND THOSE WHO ARE ALIENI JURIS

1. Gaius, Institutes, book 1: There follows another division within the law of persons: some persons are sui juris, others are within the jurisdiction of someone else. Let us, therefore, see who are subject to another's jurisdiction (alieni juris). If we ascert
VI.

DE HOC QUi SuI IURIS SuNT

18 1 Dux libro ulcensimo septimo ad Saladinum. Imperator Hadrianus [B. 46, 1, 14, Ep. 4, 10 S'] Publico Marcello reciperit liberum, quae praegna ultima supplicio damnata est, liberum parere et solutum esse sese accipit, dum partum ederet. sed 1 si ei, quae ex iustis nuptiis concept, aqua et igni interdicit, eum Bessarum partum et in potestate patris.
20 1 Ulpius libro trigesimo octavo ad Sablium. Qui furere coepit, [B. 46, 1, 16, Ep. 4, 17 S'] et statum et dignitatem in qua futi et magistratum et potestatem ulterior retrahere, siet ret suae dominis retinat.
21 1 Miomereu libro septimo regularum. Homo liber, qui se vendidit, medium esse non E ad eum statum restituit, quod se abdicavit, sed efficitur libertatis conditionis.
22 1 Eum libro duodecimo responsorum. Hierennius Miomereus respondit, si B. 46, 1, 17 E eo tempore calix est annulla, quod secundum legem donationis medium esse debuit, cum ex constitutione libera fuerit, ingenuum ex ea natum.
23 1 Idem libro primo pandectarum. Ulgo concepti visu qui patri de E. [B. 46, 1, 18 E] monstrare non possit, vel qui possum qui, sed eas habere, quem habere non licet qui et spiritu appetitur nuptiia sine corpore.
24 1 Ulpius libro ulcensimo septimo ad Sablium. Lex naturae hase est, ut [B. 46, 1, 19 S'] qui nascitur sine legito matrimonio matrem sequitur, nisi lex specialis aliquid instituit.
25 1 Idem libro primo ad legem Julianum et Papiam. Ingenuum accipere debere a E. [B. 46, 1, 20 E] etiam cum, de quo sententia lata est, quamvis fuerit libertinus: quia non in ducit pro actuato accipitur.
26 1 Iulianus libro sessagesimo novo digestorum. Qui in utero sunt, [B. 46, 1, 21, Ep. 4, 2, 6 S'] in toto parte infra calix illud intelligatur in renum natura esse non et legitime hereditates his restitutur: et si praegnae mulier ab hostibus capta sit, id quod, cum erit port- lindite habit, iter patria et matris conditionem sequitur: praecedet et alii.
BOOK ONE / SUI JURIS AND ALIENI JURIS

who these persons are, then at the same time we know who are sui juris. So let us take a view of those who are in another person's potestas. 1. Slaves, then, are in the potestas of their master, this form of potestas being power in virtue of the ius gentium. For we can observe that equally among all nations masters have had the power of life or death over their slaves. And whatever acquisitions are made through a slave are acquisitions of the master's. 2. But at the present time no men who are subject to Roman rule are permitted to treat their slaves with a severity which is excessive and without statutory cause shown. For under an enactment of the deified Antoninus it is obligatory that he who has killed his own slave without due cause be punished not less severely than one who has killed another's slave. But even too great cruelty of masters is restrained by an enactment of the same emperor.

2. ULPNIAN, Duties of Proconsul, book 8: If a master savages his slave or forces him into committing some indecency and foul malpractice, the functions of the governor are declared in the rescript addressed by the deified Pius to Aelius Marcianus, proconsul of Baetica. Here are the terms of the rescript: "The power of masters over their slaves certainly ought not to be infringed and there must be no derogation from any man's legal rights. But it is in the interest of masters that those who make just complaint be not denied relief against brutality or starvation or intolerable wrongdoing. Therefore, judicially examine those who have fled the household of Julius Sabinus to take refuge at the statue and if you find it proven that they have been treated more harshly than in fair or have been subjected to infamous wrongdoing, then issue an order for their safe subject to the condition that they shall not come back under the power of their present master. And if he should practice fraudulent evasion of my determination (on this point), let him understand that I shall bring more severe retribution on the deed."

The deified Hadrian also once ordered the relegation of one Umbricius, a lady of Baetica, for the five-year census period on the ground that she had for the most trifling reasons subjected her serving women to appalling treatment.

3. CAIUS, Institutes, book 1: Also in our potestas are our children whom we have begotten in lawful wedlock. This right over our children is peculiar to Roman citizens.

4. ULPNIAN, Institutes, book 1: For of Roman citizens some are heads of households (patres familiarum), some are sons-in-power (filii familiarum), some are female heads of households (matres familiarum), and some are daughters-in-power (filiae familiarum). Heads of households are those who are in their own power (potestas), whether they are over or under the age of puberty; female heads of households are in like case; sons-in-power and daughters are persons who are in someone else's power. For whoever is born of me and my wife is in my power: likewise, whoever is born of my son and his wife, that is, my grandson or granddaughter, is by the same token in my power, and my great-grandson and great-granddaughter, and so on down the generations.

5. ULPNIAN, Sabinius, book 26: When a grandfather dies, his grandchildren through his son normally fall within the power of that son, that is, of their own father; in the same way also, great grandchildren and so on either come into the power of that son, if he is alive and has remained within the family, or they come into the power of that ancestor who is above them within the potestas. This rule applies not only in the case of natural children but also in the case of adoptive ones.
I 6 1—5

DE HOS QUI SUI IURIS SINT

quake iliae personae sunt, simul intellectuosus quae su iuris sunt. displiciamus itaque de 1
bis, qua2 in illa potestate sunt. Iguran in potestate3 sunt serva dominorum (quae quidem 2
potestas iuris gerendae est quod apud omnes pereaque gestae animadvertere possessa dona 3
minis in servos uti necesse potestatem suae) et quodamque per servum adquiri, id 4
dominico adquiritur. Sed hoc tempore nullis hominibus, qui sub imperio Romanum sunt, 5
libet supra modum et sine causa legibus cognita in servos suos venire, nam ex constitu- 6
tione diu3 Antoninis qui sine causa sororum eorum occiderit, nos minus panis 7
inbetur, quam qui aliam aerummar inoccidit. sed et maior 2 apertitas dominorum eiusdem principii 8
constituta e se curset.

2 Ulpianus libro octavo de officio proconsulis. Si Col. 3, 2, 4, 1, 2, 15, 17, 11, S* 9
dominus in servos suascerit ut ad impudicitiam turpemque violacionem compellat, quae 6
sint partes praesentis, ex rescripto dii Fl. ad Sebastum Marcellum, proconsulem Baetis- 7
cum rescripti urbae hanc sunt: Dominorum quae potestatem in suis servis habebat esse oportet nec eisquam hominem suum suum detribuit: sed dominorum 8
interesse, ut auxilium contra saeculum uel humanum uel intolerabilem iniuriae damememt 9
qui jus esse deprecaverat. Ideoque cognoscere de quaevis eorum, qui ex familia filii Sabini 10
ad statuam convertent, et si uel durius habetur quae aequum est uel inane iniuria 11
sensus cognoscere, uendi inhe sia, ut in potestate domini non retractaretur. qui si uere 12
'constituentiam fraudem fecerit, seiet me ad misum secuturam exsequtorum.' diius etiam Ha- 13
drianus Umbrianum quamdam matronam in quinquaginta relegavit, quod ex lenisimis 14
causis ancilia atrociissime tractasset.

3 Gaius libro primo institutionum. Item in potestate nostra sunt libri Col. 1, 6, 6, 8, 11, 2* 15
nostri, quae ex iusta surplus procerescerimus: quod igitur primum diurnum Romanorum est.

4 Ulpianus libro primo institutionum. Nam eum Romanorum qui in Col. 3, 1, 4, 5, S* 16
patres familiarium, alii filii familiarium, quoad matres familiarium, quoad filias famil- 17
liarum. patres familiarium sunt, qui sunt suae potestatis esse pecuniae esse impuberos: 18
simili modo matres familiarium: filii familiarium et filiae, quae sunt in alia potestate, 19
qua qui ex me et uxor mea nascatur, in mea potestate est: Item qui ex filio Col. 1, 3, 9, 5 20
mutex ex uxor eius nascitur, id est aegros mentis et nepotis, saepe in mea sunt potestate, et 21
proxemos et prosopites et descendentes.

5 Indem libro trigésimo sexto ad Sabiniun. Nepotes ex filio mortuo auo recidere solent S* 22
in fili potestatem, hoc est patris sui: similis modo et prosopotes et descenden uel in fili- 23
potestate11, si uxor et in familia maneat, uel in eius parentes, qui autem eos in potestate est. 24
et hoc non tantum in naturalibus, verum in adoptibis quoque iuris est. FP(VU)

1 sint as prius displicianus de illis qui Gaius * in potestate itaque Gaius 2 nec eis il- 25
ibus Romanis nec ubi aliis hominibus, qui sub imperio populi Romani sunt Gaius * legi- 26
bus cognita om Gaius 3 diu in saeculis et saeculis imperatoris Gaius * tenoni Gaius 4 quoque 27
om Gaius * per eiusdem principi constitutionem Gaius * sub titulo er dominorum 28
saeculorum Coll. 5 quae iusta surplus procerescerimus Gaius 1 potestatem (Infud.)

1 intelligimus 4 in iterius F + adquiritur id4 ad P* 6 impert F (suppt. f) 8 P-or 7 29
modus P* T remo no F (suppt. F) porchi F 5 eius- 30
dom eius P* 11 uxorom Coll. 12 sunt 31
PUV adare aelium, uxorom Coll. 13 uettiae FVP, 32
viventes (missae postea coll. m. est.) U, betaeus 33
Coll. (Borol.) 13 manifestator Coll. sunt 34
hace P* in servos suis PU Coll. (Borol). 14 uxor 35
om P* 11 est in FPU 'ad omnes F 36
infamilii inammata Coll. (Borol.) 15 uniusri 37
F=PV Coll. (Borol), uxorri F=U, uendere ubi 38
unanimi Inst. 1 inbeta F (suppt. f), 39
inbet Coll. (Borol.) in potestatem Coll. (Borol.)
BOOK ONE: ADOPTIONS AND EMANCIPATIONS

6 ULPIAN, Sabinus, book 9: Our definition of son is he who is born of a man and his wife. But if we suppose that a husband has been away for a spell, let us say, ten years, and has on his return found a year old boy in his house, we agree with Julian's opinion that this child is not the son of the husband. Julian, on the other hand, says that we should not listen to someone who has stayed constantly with his wife but who refuses to recognize the child as his own. But on this my opinion, which Scaevola also holds, is that a child born in a man's house even with full knowledge of the neighbors is not that man's son if it is proved that the husband for some time has not slept with his wife because of the onset of an infirmity or for any other reason or if the state of health of the head of the household (pater familias) was such that he had become impotent.

7 ULPIAN, Sabinus, book 28: If some penalty has been inflicted on a father (who is a son-in-power) whereby he loses his citizenship or is penalized enslaved, there is no doubt that the grandson succeeds to the position of that son.

8 ULPIAN, Sabinus, book 29: Though a man be insane, his children are nevertheless in his power. The same, indeed, goes for all parents who have children in power. For since the right of power over one's family has been established by received custom and since no one can resign his power, save if children have left the family in those cases determined by usage, it is utterly indubitable that the people were speaking about remain in power. Accordingly, he will not only have in his power those children whom he begot before his madness but also any who were conceived before, but born during, his period of madness. But what if while he is mad his wife conceives by his agency? The question is whether in this case the son is born into his power. Well, although a madman is not able to take a woman as his wife, yet he is able to retain his married status. And since this is the case, he shall have that son in his power. Further, if the wife becomes mad, the child conceived by her before her insanity is born in power. But also the child conceived during her insanity, her husband being not mad, is undoubtedly born in power, because the marriage remains in force. But even if both man and wife were to be insane at the time of intercourse and she were then to conceive, the offspring would be born in the father's power as if the last traces of free will remained alive in them when insane. For since the marriage stands when one or other is mad, it stands when both are.

9 POMPONIUS, Quintus Mucius, book 18: The son-of-a-family (filius familias) is deemed to be a head of household (pater familias) for purposes of state, for example, in order that he may act as a magistratus or may be appointed a tutor.

10 ULPIAN, Lex Julia et Poppia, book 4: If a judge has ordained that nurture or aliment ought to be forthcoming, it must be said that it remains an open question as to the truth of the matter whether this be this man's lawful son or not. For, indeed, an action of assistance raises no presumption as to the truth of the matter.

11 MODESTINUS, Encyclopaedia, book 1: Illegitimate or emancipated sons cannot be brought back into paternal power against their will.

ADoptions and Emancipations and the other Forms of Release from Power

1 MODESTINUS, Institutes, book 1: Sons-in-power can be made such not only by nature but also by forms of adoption. The term "adoption" denotes a genus, which is divided into two species, of which one is called by the same word "adoption," the other adrogatio. Sons-in-power are subject to adoption; people who are sui juris, to adrogatio.

2 GAIUS, Institutes, book 1: Adoption in the generic sense occurs in two ways: either
DE ADOPTIONIBUS

6 IUDEX LIBRO NONO AD SABINUM. Filium eum definitum, qui ex uro et urore eius nascitur. S
sed si spumans auloeae matritium nerbi gratis per decemnum, recessum annum inuenisse
daessisus, quod nobis Iuliam sententia buns non esse maris filium, non B. 3. 1. 6
namem ferendum Iulianus sit cum, qui cum uxor se addixisse mosstus solum filium
agnoscere quis non nunm. sed ubi nuptias, quod et Secundula probat, si constet marium
aliquamqui cum uxor e non censimiam specie iniustitiae interioperiatur non ait causa,
vel si ea uelludine tier pater familias fuit ut generare non posset, bine, qui in domino natus est, locet
uicinis scientibus, filium non esse.

7 IUDEX LIBRO UNIESMO QUARTO AD SABINUM. Si qua poena pater fuerit affectus, B. 3. 1. 7 S
ut vel eiustatem amittat vel servus poenea efficiatur, eino in one homo fili loco succedit. 29

8 IUDEX LIBRO UNIESIMO SEXTO AD SABINUM. Patre furoso liberi nihilominus in B. 3. 1. 8 S
patris sui potestate sunt: ilium et in omnibus est parentibus, qui habent liberos in potestate.
nam cum ius potestatis moribus sit sequentia non posset desinere quis habere in potestate,
stit exierit liber quibus caelibus solet, nequequam dubitandum est remanere eos in potestate.
quando non solum eos liberos in potestate habebit, quis autem fureum gemit.
25
nam cum ilium et si ilium fuerum conceptum in fureo editi sunt, sed et si fuerit aggregata
uoce uxor concipiat, ille uxor am in potestate eius nascatur filius: nam furoso lietus B. 4. 4. 18
uoce nuncuro non posset, retinere tamen matrimonium potest: quod cum ita se habet, in
potestate filium habebit, praeinde et si furoso sit uxor, ex ea autem conceptus in potestate
nascetur; et in furore eius conceptus ab eo qui non fuerat sine dubio in potestate 25
nascetur, quia retinetur matrimonium. sed et si ambo in fureo agant et uxor et maritius
et tunc conceptus, partis in potestate patris nascetur, quasi voluntatis reliquis in furoso
1 manentibus: nam cum consentiat matrimonium altero uirente, consistat et utroque. Adeo
autem retinet ilia potestas patr. furoso, ut et adquiratur illa commodum eius, quod filius
adquireat.

9 FOMENTORIUS LIBRO SEXTO DECIMO AD QUINTUM MAXIMUM. Filiae familias in publicis B. 8. 1. 9 E
causis loco patris familias habentur, ut sui et magistratum gerant, ut tuor detur.

10 ULPNIUS LIBRO QUARTO AD JURISMA ET PAPIAM. Si illeus nutriti vel ali B. 3. 1. 10 E
oporete pronuntianerit, dictionem est de ueritate quaecondum, filius sit ea non: nonque anim
alimentorum causa ueritat facit praedilectionem.

11 MODESTORII LIBRO PRIMO PREDICTARUM. Institit filii naturess vel emancipati B. 3. 1. 11 E
non redintegrut in patriam potestatem.

VII.

R DE ADOPTIONIBUS ET EMANCIPATIONIBUS ET ALIUS SPE
MODIS QUIBUS POTESTAS SOLUTUR R

1 MODESTORIO LIBRO SECUNDO REGULARUM. Filiae familias non soliui natura, uterum B. 5. 1. 6 R
et adoptionem faciant. Quod adoptionem nominis est quidem generale, in duas autem species B 33
distinguunt, quarum altera adoptio similiter diiutur, altera advogato, adoptatam fili familias,
adrogatam quae sui ius sunt.

2 GAHUS LIBRO PRIMO INSTITUTIONUM. Generalis enim adoptio dicitur B. 1. 8. 9. B. 3. 1. 9 S
LR (locuplet ut 22 a patriis) P(V)U

1 quis?