

[Accueil](#)[Revenir à l'accueil](#)[CollectionBoite\\_028 | Ultimes papiers.CollectionBoite\\_028-2-chem | Pile - Ensemble. 1° médecins ; 2° Antiques \(notes diverses sur la sexualité dans l'Antiquité\). Dite `pile I` \[annotation de D. Defert\] Item](#)[J. A. Cook, Law and Life in Rome](#)

## J. A. Cook, Law and Life in Rome

**Auteur : Foucault, Michel**

### Présentation de la fiche

Coteb028\_f0275

SourceBoite\_028-2-chem | Pile - Ensemble. 1° médecins ; 2° Antiques (notes diverses sur la sexualité dans l'Antiquité). Dite `pile I` [annotation de D. Defert]

LangueFrançais

TypeFicheLecture

RelationNumérisation d'un manuscrit original consultable à la BnF, département des Manuscrits, cote NAF 28730

### Références éditoriales

Éditeuréquipe FFL (projet ANR *Fiches de lecture de Michel Foucault*) ; projet EMAN (Thalim, CNRS-ENS-Sorbonne nouvelle).

Droits

- Image : Avec l'autorisation des ayants droit de Michel Foucault. Tous droits réservés pour la réutilisation des images.
- Notice : équipe FFL ; projet EMAN (Thalim, CNRS-ENS-Sorbonne nouvelle). Licence Creative Commons Attribution - Partage à l'Identique 3.0 (CC BY-SA 3.0 FR).

Notice créée par [équipe FFL](#) Notice créée le 22/03/2021 Dernière modification le 23/04/2021

qualification—one feature of the Roman family is anomalous in relation to what we think of as the standard 'nuclear family'; the authority of the head of family over his descendants lasted not merely until they grew up and married and formed their own conjugal groups but (unless deliberately broken by certain legal procedures) until the day he died. This very odd lifelong familial authority is usually supposed to be a survival from a time when the Romans lived in 'extended' families.<sup>2</sup> However that may be, its continued existence in an age when people certainly did not live in 'extended' families was responsible for some curious features of Roman family law.

With the one further proviso that Roman law did not interfere with the internal structure of the peregrine family, and that what follows is about the families of Roman citizens, we can examine Roman family law more closely.

The family begins with marriage,<sup>3</sup> to understand which it is important (but not easy) for the reader to make a clean break with all the Christian notions of marriage. To the Romans marriage was an honourable estate, for the purpose of concordant life together and the begetting of children;<sup>4</sup> many a tomb inscription testifies to a *bene concordans matrimonium*. But it was not sacramental, not 'holy' matrimony; it was not thought to be maintained or sanctioned by anything beyond the will of those who were parties to it—or their heads of families. The opposite of *iustae nuptiae* was not 'living in sin'.

The status requirement of *iustae nuptiae*, *conubium*, has been explained in Chapter II. There were certain other requirements. First, there existed certain statutory bars to marriage between people who would not otherwise have lacked *conubium*. (a) By an Augustan statute, senators and their sons could not have *iustae nuptiae* with freedwomen or other women of undignified condition; Paulus quotes a section of the statute,<sup>5</sup> mentioning specifically freedwomen and actresses (which included prostitutes) and showing that the law applied vice versa to women of senatorial rank and men of low condition. (b) Ordinary soldiers could not, until the time of Septimius Severus, marry during their

J.A. Crook 274  
Law and Life of  
Rome  
 6-12-1967

