

On the Greek Vocabulary of the Digest

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While consulting the Greek-English Lexicon of Liddell-Scott-Jones (henceforth LSJ), I have repeatedly noticed the absence or inadequate treatment of many Greek words and expressions found in the Digest, the Code, and the Novels. Moreover, some Greek writings in the area of Roman law, although produced before A.D. 600, the time limit set in the preface of LSJ, seem to have been omitted completely. For instance, there is no mention in the section Authors and Works either of the *Institutionum Graeca Paraphrasis* of Theophilus or of the considerable remains of Theodorus of Hermupolis. It appears that during the preparation of the present (ninth) edition no scholar had made the Greek language found in Roman law his special province. Certainly in his preface to the 1925 edition Sir Henry Stuart Jones, the editor, when surveying the various areas which had not been adequately treated in the earlier editions and had to be read and excerpted afresh, makes no mention at all of the Greek in Roman law. The preface to the 1968 supplement to LSJ also fails to take any notice of this area.

In this paper I have collected all the Greek words and expressions found in the Digest and Justinian's preface to it but absent or inadequately treated in LSJ, including the Supplement. This paper is to be followed by a similar treatment of the Greek in the Code and the Novels of Justinian.

The following abbreviations have been used:

Const. <i>Δέδωκεν</i>	Justinian's Greek preface to the Digest.
Heumann-Seckel	H. Heumann and E. Seckel, <i>Handlexikon zu den Quellen des römischen Rechts</i> , 10. Auflage (Graz 1958).
Lampe	G. W. H. Lampe, <i>A Patristic Greek Lexicon</i> (Oxford 1961–1968).
Mason	Hugh J. Mason, <i>Greek Terms for Roman Institutions. A Lexicon and Analysis</i> (Toronto 1974).
Mayser	E. Mayser, <i>Grammatik der griechischen Papyri aus der Ptolemäerzeit</i> . 2 vols. in 6 parts (Berlin and Leipzig 1926–1938). Vol. I. 2 reedited by H. Schmoll (Berlin 1970).
Preisigke	F. Preisigke and E. Kiessling, <i>Wörterbuch der griechischen Papyrusurkunden</i> , 3 vols. (Berlin 1925–1931).
Theophilus	Theophilus Antecessor, <i>Institutionum Graeca Paraphrasis</i> , 2 vols. (Berlin 1884–1897).

ἀγορά, ἡ LSJ gives only one example, from Lucian, for ἀγορὰ δικῶν, the court of law of a provincial governor. Add D. 27.1.6.2 (Modestinus libro secundo excusationum): τὰς πόλεις τὰς ἐχούσας ἀγορὰς δικῶν. For references to inscriptions see L. Robert, p. 314, n. 9 in J. des Gagniers (ed.), *Laodicée du Lycos. Le Nymphée*. (Québec and Paris 1969.)

ἀγωνόφορος This word is not in LSJ. It is found in D. 31.34.1 (Modestinus libro decimo responsorum). In his will Lucius Titius states: βούλομαι αὐτὸν παρ' ἑαυτοῦ λαβεῖν σύγκτησιν ἀγωνόφορον Κομιάνην σὺν αἷς ἔχει ἐνθήκαις πάσαις. No other occurrence of this word is attested. It ought to mean here: σύγκτησις ἢ ἀγῶνας φέρει, an unproductive or hard-to-work property. A will, however, is not a place where one can plausibly expect creative and humorous language. Prateius emended to ἀγνοφόρον, a word also absent in LSJ. ἄγνος is the Latin *vitex* (Vitex Agnus-Castus) according to Jacques André, *Lexique des termes de botanique en latin* (Paris 1956) 332. The emendation is rather plausible because *vitices* appear to have had some commercial value and, therefore, could reasonably have been bequeathed by name in a will. The Elder Pliny, *Nat.* 24.59, states that the *vitex* was, like the willow, used for wickerwork: Non multum a salice vitilium usu distat vitex . . . Now, willows are attested to have had commercial value: salice . . . puto fructuarium hactenus uti posse ne ex eo vendat . . . (D. 7.1.9.7). For the cultivation of willows see also Cato, *De Agricultura* 1.7 and 9, D. 33.7.27.5, and D. 47.7.3.3.

ἀδιάθετος LSJ lacks examples of ἐξ ἀδιαθέτου, a calque of the Latin *ab intestato*. It occurs in Justinian Const. Δέδωκεν 7: τὰς ἐξ ἀδιαθέτου καλουμένας ἀπάσας διαδοχάς . . . Other examples e.g. in the Code 1.5.15 and in the Novels 1.1.1. This Latinism has survived in Modern Greek:

ἀθροίζω In Justinian, Const. Δέθωκεν 17 this verb is used in reference to the composition or compilation of a written work: νῦν δὲ κατὰ τὴν σύνταξιν ἡθροίσται ταύτην πολὺς νόμων κρατούντων ἀριθμὸς, ἐκ βιβλίων σπανίων καὶ μόλις ἐξευρημένων . . . ὧν ἀπάντων . . . ἀναγνωσθέντων ἡθροίσθη τὰ παρόντα βιβλία.

This meaning found also *ibid.* 20: ἡ συλλογὴ τῶν νῦν ἡμῖν ἀθροισθέντων ἐγένετο νόμων . . . and 21: τὴν νομοθεσίαν ἀθροισθῆναι ταύτην ἐγκελευόμενοι . . .

There is no instance in LSJ of this usage, except, perhaps, in Euripides, *Ph.* 495: περιπλοκάς λόγων ἀθροίσας.

ἀκέραιος LSJ gives only one instance of the feminine form (Scholium to Aristophanes). It also occurs in D. 31.88.15 (Scaevola, libro tertio responsorum): βούλομαι . . . τὰς ἐμὰς οἰκίας . . . μένειν . . . ἀκεραίας . . .

ἀκριβολογέομαι LSJ gives no occurrence of this verb in the meaning “to be niggardly” or “penny-pinching”. It is found in D. 27.1.6.7 (Modestinus libro secundo excusationum): εἰ δὲ ἀκριβολογοῖντο (sc. the philosophers) περὶ τὰς οὐσίας, αὐτόθεν ἤδη φανεροὶ γενήσονται μὴ φιλοσοφοῦντες.

ἀκρόδρυα, τὰ In D. 50.16.236.1 (Gaius libro primo de verborum obligationibus) this word is applied to every sort of tree: Glandis appellatione omnis fructus continetur, ut Iavolenus ait, exemplo Graeci sermonis, apud quos omnes arborum species ἀκρόδρυα appellantur.

In LSJ the most encompassing definition given of ἀκρόδρυα is “fruit-trees in general”.

ἀλλά In LSJ ἀλλ’ οὖν by itself not recognized in apodoses; it is shown in the form ἀλλ’ οὖν . . . γε. An example occurs in a rescript of Helvius Pertinax of A.D. 193: *Εἰ καὶ μὴ πασῶν λειτουργιῶν ἀφίησιν τοὺς πατέρας ὁ τῶν τέκνων ἀριθμὸς, ἀλλ’ οὖν ἐπειδὴ ἐκκαίδεκα παῖδας ἔχειν . . . ἐδήλωσας . . .* (D. 50.6.6.2). Denniston, *The Greek Particles*, p. 444, quotes Euripides, *Ph.* 498. W. Schmid, *Der Atticismus*, I, p. 423, states that the bare ἀλλ’ οὖν occurs several times in Lucian.

ἀμάρτημα, τό In LSJ this word is not given its Roman law meaning. We read in Justinian, Const. *Δέδωκε* 8a: *Προῖόν δὲ εἰς τὸν ὑπὲρ τῶν ἐγκλημάτων λόγον καὶ ἅπαντα καταλέγον ὅποσα τῶν τε μετριοτέρων ἐστὶ ἀμαρτημάτων ἀπερ’ ἰδιωτικὰ καλοῦσιν, ὅσα τε οὐχὶ τεταγμένα προσονομάζουσι, ἀλλὰ τὴν τῶν extraordinarion αὐτοῖς ἐπιτιθέασιν ἐπωνυμίαν . . .*

As the context shows ἀμαρτήματα must here refer to delicts. This term is explicitly so defined by Theophilus in 3.13 and 4.1. In 3.13.1, p. 318.7 Theophilus subdivides the law of obligations into contracts and delicts: διαίρεσις . . . ἢ ἀπὸ συναλλάγματος . . . ἢ ἀπὸ ἀμαρτήματος. In 4.1.pr., p. 382.1–3 obligations and law suits arising from contracts are opposed to those arising from delicts: *Ἐν τῷ προλαβόντι βιβλίῳ διεξήλθομεν περὶ τῶν ἐνοχῶν τε καὶ ἀγωγῶν, αἵτινες ἀπὸ contractu τίκτονται· ἀκόλουθόν ἐστιν εἰπεῖν περὶ τῶν ἀπὸ ἀμαρτήματος ἐγειρομένων ἐνοχῶν.*

ἀναχώρησις, ἡ In Justinian, Const. *Δέδωκεν* 7d occurs a calque of the Roman law expression *cessio bonorum* (voluntary surrender

of one's property to creditors): *Καὶ . . . περὶ . . . τῆς τῶν ὄντων ἀναχωρήσεως καὶ δανειστικῆς τε κατοχῆς καὶ πράσεως . . . εἰς ἐν ἡθροισταὶ βιβλίον*. The expression *ἀναχώρησις τῶν ὄντων* not found in LSJ.

ἀνεξέταστος Of the meaning "to be left unexamined" LSJ gives no examples later than Demosthenes and Aeschines. An occurrence is found in D. 33.8.22.2 (*Scaevola libro quindecimo digestorum*): *ὅσους κατέλιπον ἐλευθέρους καὶ τὰ ληγὰτα αὐτοῖς, τούτους βούλομαι εἶναι ἀνεξετάστους*.

ἀντί Justinian, Const. *Δέδωκεν* 22 speaks of prohibited versions of the Digest: *τὸ βιβλίον ἀντὶ μηδὲ γεγραμμένου* sc. *ἔσται*. Here *ἀντί* equals "the equivalent of". In LSJ the latest occurrence given is in Aristotle.

ἀντιγραφεύς, ὁ In LSJ *ἀντιγραφεύς* not mentioned as a legal and administrative official of the emperor. Justinian, Const. *Δέδωκεν* 9 speaks of *Κωνσταντίνου . . . τοῦ . . . ἀντιγραφέως τοῦ θείου σκρινίου . . .* His duties are mentioned in A. H. M. Jones, *The Later Roman Empire*, pp. 368, 504, and 528.

Another *ἀντιγραφεύς*, apparently an official of the Senate, appears in Johannes Lydus, *De Magistratibus* 3.27: *τόν τε τῆς βουλῆς κναίστορα καὶ τοὺς λεγομένους πάλαι μὲν ἀντικλήσορας, καθ' ἡμᾶς δὲ ἀντιγραφεῖς*. This official, too, is missing in LSJ.

ἀντιγραφὴ, ἡ In the meaning "imperial rescript" only one example given in LSJ. Add D. 27.1.12.1 (*Modestinus libro tertio excusationum*): *ἐξ ἀντιγραφῆς βασιλέως*.

ἀντικλήνωρ, ὁ During the rule of the emperor Justinian (A. D. 527–565) this appellation, absent in LSJ, was applied to a certain number of teachers of Roman law. Justinian, Const. *Δέδωκεν* 9, refers to *Πατρίκιον τὸν . . . κναιστώριον καὶ ἀντικλήνωρα*. *Ibid.* 11 he entrusts the preparation of his Institutes *Θεοφίλῳ καὶ Δωροθέῳ τοῖς . . . σοφωτάτοις ἀντικλήνωρσιν . . .* This title represents the latin *antecessor*. In the Code 1.17.2.9 we read of the same Patricius: *Patricium inclutae recordationis quaestorium et antecessorem*. For other examples of a similar phonological treatment of Latin words in Greek (intrusion of nasals) see B. Meinersmann, *Die lateinischen Wörter und Namen in den griechischen Papyri* (Leipzig 1927) 106. For more detail on the name and functions of the *antecessores* see H. J. Scheltema, *L'enseignement de droit des antecessors* (Leiden 1970).

ἀντίχρησις, ἡ Only one example given in LSJ. Add D. 13.7.33 (*Marcianus, libro quarto regularum*): *Si pecuniam debitor solverit potest pigneraticia actione uti ad recipendam ἀντίχρησιν*.

ἀξιοχρέως Only one occurrence given of the adverb in LSJ (from Hesychius). Add D. 50.12.10 (Modestinus, libro primo responsorum): ἀσφαλιζομένη παρὰ τοῖς δεκαπρώτοις ἀξιοχρέως ἐπὶ τῷ τελεῖν με τὸν . . . τόκον . . .

ἀποκαθίστημι In D. 40.5.41.4 (Scaevola libro quarto responsorum) rendering of accounts is referred to: βούλομαι . . . ἐν παρακαταθήκῃ σε ἔχειν Στίχον καὶ Λάμαν τοὺς πραγματευτάς μου, οὗς ἐγὼ οὐκ ἠλευθέρωσα ἄχρι ἂν τὰς ψήφους ἀποκαταστήσωσιν . . . The expression ἀποκαταστήσαι τὰς ψήφους seems to be a calque of the Latin *rationes reddere*. This meaning of the verb not in LSJ.

ἀπολις LSJ lacks any examples of this word referring specifically to the lack or loss of Roman citizenship. Two examples occur in the Digest. In D. 32.1.1.3 (Ulpian libro primo fideicommissorum): Hi, quibus aqua et igni interdictum est, item deportati fideicommissum relinquere non possunt, quia nec testamenti faciendi ius habent, cum sint ἀπόλιδες. Only Roman citizens had the right to make a valid will.

In D. 48.19.17.1 (Marcianus libro primo institutionum): Item quidam ἀπόλιδες sunt, hoc est sine civitate: ut sunt . . . in insulam deportati, ut ea quidem quae iuris civilis sunt, non habeant . . . *Ius civilis* pertains to Roman citizens. Since those said above to be *sine civitate* lack the rights quae iuris civilis sunt, they have lost precisely Roman citizenship.

ἀποστρατεύομαι—*to be discharged from military service*. LSJ gives only one occurrence, from Appian. Add D. 27.1.8.pr. (Modestinus libro tertio excusationum): ἐντὸς . . . ἐνιαυτοῦ τοῦ ἀποστρατεύσασθαι and D. 27.1.8.1: οἱ . . . ἀτίμως ἀποστρατευσάμενοι—those dishonourably discharged.

ἀποτίθημι For this verb LSJ lacks the meaning “to set out”, to “record”. It occurs in Justinian, Const. Δέδωκεν 7e: Ἐκεῖθεν . . . καὶ τὸν τῶν ἐνοχῶν τε καὶ τῶν ἀγωγῶν ἀπεθήμεθα τρόπον, *ibid.* in 3: τὰ τε γὰρ καλούμενα παρὰ πᾶσι πρῶτα ἐν τέσσαρσιν ἀπεθήμεθα βιβλίοις, and *ibid.* in 7c: Ἐτι δὲ καὶ τὰ περὶ νομῆς καὶ τῆς δι’ αὐτῆς κτήσεως καὶ τῶν εἰσαγουσῶν αὐτὴν αἰτιῶν εἰς ἐν ἀπεθήμεθα σύγγραμμα.

ἀποφράσσω In LSJ there is no clear example of this verb denoting figurative, non-physical obstruction. One such example occurs in D. 49.1.25 (Paulus libro vicensimo responsorum): ὕβρει δὲ καὶ βία χρῆσθαι πρὸς τοὺς ἐκκαλουμένους (sc. those appealing a decision of court) καὶ φρουρὰν στρατιωτικὴν περιυστᾶν καὶ ἀπλῶς

εἰπεῖν ἀποφράττειν αὐτοῖς τὴν δεῦρο ἄνοδον (sc. the appeal to the emperor) *ἀπαγορεύομεν* . . . This sentence comes from a letter of the emperor Severus Alexander who ruled from A.D. 222–235.

ἀρέσκω In Justinian, Const. *Δέδωκεν* 20a, we read: *Νομοθέτας . . . ἡθροίσαμεν . . . οἱ . . . καθεστᾶσιν . . . τοὺς ἔμπροσθεν ἀρέσαντες αὐτοκράτορας* . . . In LSJ the active voice of this verb with an object in the accusative not recorded after Plato.

ἀρκέω In Justinian, Const. *Δέδωκεν* 17, we read that despite the abundance of books on Roman law the courts used very few of them *ἐπείπερ οὐκ ἤρκουν πόνοις πλείοσιν*, not being able *εὔρεῖν τὰ πολλὰ τῶν χρησίμων* (sc. the law books). This construction—the active *ἀρκέω* plus the dative—in the meaning “to be a match for” attested in LSJ only for Sophocles and Thucydides.

ἀρτάω A calque from Latin not given in LSJ is found for this verb in Justinian, Const. *Δέδωκεν* 23: *ταῦτα δὲ δὴ τὰ βιβλία* (sc. the Institutes and the Digest) . . . *χώραν ἔχοντα . . . ἐπὶ τε τῶν ὕστερον συμβησομένων* (sc. law suits) *ἐπὶ τε τῶν ἐν δικαστηρίοις ἡρτημένων ἔτι* (sc. *δικῶν*) . . . The expression *δίκαι ἡρτημένοι* is clearly a literal Greek rendition of the Latin *lites pendentes*. This meaning of *ἀρτάω* occurs also in Theophilus in 1.12, p. 58.20: *ἐν τῷ μεταξὺ ἐν ἡρτημένῳ ἔσται τὰ τῆς ὑπεξουσιότητος* and in 1.12, p. 59.23.

ἀστυνομικός, ὁ In D. 43.10.1.pr. (*ἐκ τοῦ ἀστυνομικοῦ μονοβίβλου τοῦ Παπινιανοῦ*) we read: *οἱ ἀστυνομικοὶ ἐπιμελείσθωσαν τῶν κατὰ τὴν πόλιν ὁδῶν* . . . In LSJ *ἀστυνομικός* as a Roman official is not mentioned. According to Mason they were municipal aediles. Th. Mommsen on the other hand thought it likely that they were the *quattuorviri viis in urbe purgandis* (*Römisches Staatsrecht* 2.1, p. 603).

ἀσφαλίζω There is no example in LSJ of this verb signifying “to give security”. For this see D. 27.1.15.17 (Modestinus libro sexto excusationum): *Ἐάν τις χειροτονηθῇ ἐπίτροπος ὦν ἐν τῇ τοῦ πατρὸς ἐξουσίᾳ, εἴτα ὁ πατήρ μὴ βούλοιτο ὑπὲρ αὐτοῦ ἀσφαλίζεσθαι* . . . Here *ἀσφαλίζεσθαι* refers to a tutor’s guaranty that his administration of the ward’s property will not be detrimental to it (*satisfactio rem pupilli salvam fore*). Another example of the verb referring to giving security occurs in D. 50.12.10 (Modestinus libro primo responsorum): *Φιλοτιμοῦμαι καὶ καθιερῶ ἀγῶνα τετραετηρικὸν ἀπὸ μυριάδων τριῶν . . . ἀσφαλιζομένη παρὰ ποῖς δεκαπρώτοις ἀξιοχρέως ἐπὶ τῷ τελεῖν με τὸν ἐξ ἔθους τριῶν μυριάδων τόκον* . . .

αὔθις D. 50.12.10 (Modestinus libro primo responsorum): *Φιλοτιμοῦμαι καὶ καθιερῶ ἀγῶνα . . . ἀγωνοθετοῦτος καὶ προκαθεζομένου*

τοῦ ἀνδρός μου, ἐπ' αὐθις δὲ τῶν ἐξ ἐμοῦ γεννηθησομένων τέκνων . . .
The phrase ἐπ' αὐθις not given in LSJ.

ἀφήλιξ LSJ gives only one example of this word used as a legal term for a minor, from an undated papyrus. Add D. 26.5.21. pr. (Modestinus libro primo excusationum): *Εἰδέναι δεῖ τοὺς ἄρχοντας ὅτι κουράτορας ἀφήλιξι γυναικας οὐ χειροτονήσουσι*. Another example in D. 26.6.2.pr. (Modestinus libro primo excusationum): *Ἐὰν οἱ ἀφήλικες μὴ ἔχωσι τοὺς ἐκ τῶν νόμων κηδεμόνας . . .*

ἀφοσιώσις, ἡ LSJ has no example of the phrase ἀφοσιώσεως χάριν—“for the sake of form”. It occurs in D. 27.1.13.6 (Modestinus libro quarto excusationum): *διόπερ ἐὰν ἀφοσιώσεως χάριν μόνον ἐντύχη, μὴ ἐπιμείνη δὲ μετὰ ταῦτα τῇ δικαιολογίᾳ . . .*

βαθμός, ὁ LSJ gives only one example, from Dio of Prusa, of βαθμός in the meaning of a step or place in one's genealogy. Add D. 27.1.14.1 (Modestinus libro quinto excusationum): *Καὶ ὁπότεν δὲ ζητῶμεν περὶ παίδων πάτρωνος, εἰδέναι χρὴ ὅτι τὴν προσηγορίαν ταύτην οὐκ ἐν τῷ πρώτῳ βαθμῷ στήσομεν, τοῦτ' ἔστιν υἱὸν καὶ θυγατέρα, ἀλλὰ καὶ ἐγγόνους ἐξ ἑκατέρου καὶ τοὺς ἐφεξῆς*.

The term occurs also in the Novels, 118.4: *πάντας . . . κατὰ τὸν τῆς ἰδίας συγγενείας βαθμὸν εἰς τὴν ἐξ ἀδιαθέτου τῶν συγγενῶν διαδοχὴν ἐλθεῖν κελεύομεν*.

βασιλεύω Justinian, Const. *Δέδωκεν*, pr.: *τῶν πρὸ ἡμῶν βεβασιλευκότων*. No perfect given in LSJ.

βατός LSJ gives no examples of βατός with the meaning “accessible” or “possible” in a non-physical sense. It is found in Justinian, Const. *Δέδωκεν* 12: *ἡμεῖς* (sc. Justinian) *βατὸν εἶναι τὸ προᾶγμα ἐδείξαμεν*. Another example occurs in the *Life of Thucydides* of Marcellinus 35 (Oxford edition of Thucydides, § 35): *ἀσαφῶς δὲ λέγων ἀνὴρ* (sc. Thucydides) *ἐπίτηδες, ἵνα μὴ πᾶσιν εἴη βατὸς μηδὲ εὐτελὲς φαίνεται παντὶ τῷ βουλομένῳ νοοῦμενος εὐχερῶς . . .* The same meaning is found in the Novels 30.8.pr. Here Justinian seeks to prevent anyone's enrichment at public expense: *διαθήσομεν* (sc. Justinian) *ὥστε μηδενὶ τὰς τοιαύτας ἀργυρολογίας βατάς τε καὶ ἐπιδρόμους ῥαδίως γίνεσθαι*. The context, especially the adjective ἐπιδρόμους, clearly indicates that βατός here means accessible, easy, possible. LSJ wrongly translates βατάς here as “permissible”.

βεστιάριον, τὸ For this Latinism (*vestiarium*) LSJ gives no explicit source earlier than the Suda. Add D. 34.1.4.pr. (Modestinus libro decimo responsorum): *ὅσα ζώσης μου ἐλάμβανον* (sc. the slaves of the testatrix) *στοιχειῖσθαι αὐτοῖς κιβαρίον καὶ βεστιαρίου ὀνόματι*. LSJ also lacks the words ἡ βέστη (*vestis*), ὁ βεστιαρίος (*vestiarius*),

and *ὁ βεστιάριτης* (*vestiarius*), all attested in papyri. For references see S. Daris, *Il lessico latino nel greco d'Egitto* (Barcelona 1971) 34.

βῆμα, τό LSJ gives only one example of this word in reference to a Roman tribunal. Add D. 27.1.13.10 (Modestinus libro quarto excusationum): *Χρὴ δὲ μιᾷ μαρτύρασθαι πρὸ βήματος ἢ ἄλλως ἐπὶ ὑπομνημάτων*. The phrase *πρὸ βήματος* appears to be a calque of the Latin *pro tribunali*. Many other occurrences of *βῆμα* as a judge's seat or tribunal are given in Preisigke, s.v.

Another meaning of *βῆμα* not found in LSJ occurs in the Code 12.33.8.2: *κελεύει . . . τὴν . . . ἀξίαν τοῦ κόμητος τοῦ ὑψηλοῦ βήματος ἔχειν . . .* Here *βῆμα* clearly refers to rank, one meaning of the Latin *gradus*. As often in legal Greek, a new meaning has been given to a Greek word, a meaning which was hitherto possessed only by its Latin counterpart.

διακατοχή, ἡ LSJ adduces papyri only for the Roman law term *bonorum possessio*. Add Justinian, Const. *Δέδωκεν* 7: *ἄρχεται* (sc. this part of the Digest) *δὲ καλῶς ἐκ τῶν ὀνομαζομένων διακατοχῶν . . .* and 7e: *καὶ συνηγάγομεν τὸ πᾶν δὴ τοῦτο μέρος, οὐπερ ἡγεῖται τὰ περὶ τῶν διακατοχῶν . . .*

διάκρισις, ἡ see s.v. *πρᾶγμα*.

διαλλάσσω In D. 27.1.13.pr. (Modestinus libro quarto excusationum) this verb is followed by *ἀπό: ἐν ὀλίγοις γὰρ πάντῃ διαλλάττουσι οἱ κουράτορες ἀπὸ τῶν ἐπιτρόπων*. LSJ gives no example of *διαλλάσσω* in the meaning "to be different" followed by *ἀπό* governing the object from which the subject of *διαλλάσσω* differs. The same syntax, with the verb *διαφέρω*, is found in Theophilus 1.2.4, p. 9.18: *τὸ δὲ χυδαῖον πλῆθος τοῦ δήμου τούτῳ διενήνοχε ᾧ διενήνοχε γένος ἀπὸ εἶδους*. This use of *διαφέρω* with *ἀπό* not in LSJ.

διευθύνω LSJ gives only one example, from Philo, of the meaning to keep a straight road or course. Add D. 27.1.10.3 (Modestinus libro tertio excusationum): *Ἐνιαυτὸς δὲ συνημμένων ἡμερῶν ἐξετασθήσεται, ἐξ ὅτου τις ἐπανήλθεν εὐθεῖαν ὁδὸν εὐθύνων ἢ διευθύνειν γε ὀφείλων . . .* In Philo (*De Agricultura* 177) the road is figurative: *χαλεπὸν . . . πρὸς εὐσέβειαν ἀπταιστως διευθύνειν τὸν δρόμον*.

δικαιοφανής LSJ gives only one occurrence of this adjective, from a scholiast to Thucydides. Add D. 27.1.15.11 (Modestinus libro sexto excusationum): *ἄλλα τινα τοιαῦτα* (sc. possible grounds for dispensation from a tutorship) *λέγει καθ' ἑαυτὰ μὲν ἐντελῇ τὴν βοήθειαν μὴ παρέχοντα, τῇ δὲ πρὸς ἄλληλα κοινωνία ὄντα δικαιοφανῇ* (having appearance of justice).

ἐγγονος, ὁ LSJ lacks the clear meaning “grandchildren” for this word. It occurs in D. 27.1.14.2 (Modestinus libro quinto excusationum): *καὶ ὁπόταν δὲ ζητῶμεν περὶ παίδων πάτρωνος, εἰδέναι χρὴ ὅτι τὴν προσηγορίαν ταύτην οὐκ ἐν τῷ πρώτῳ βαθμῷ στήσομεν, τοῦτ' ἔστιν υἱὸν καὶ θυγατέρα, ἀλλὰ καὶ ἐγγόνους ἐξ ἑκατέρου καὶ τοὺς ἐφεξῆς*. The same meaning is also found in the Code 1.3.41.2: *χειροτονεῖσθαι ἱερέας οἷς οὐκ ἔστιν οὔτε τέκνα οὔτε ἐγγονοὶ* and *ibid.* 6.4.4.10: *εἰ μὲν εἴησαν παῖδες ἢ ἐγγονοὶ . . . ἄρρενες ἢ θήλειαι . . .*

ἐγκατέχω In D. 27.1.4.pr. (Modestinus libro secundo excusationum) this verb occurs in the meaning “to be subject to, to be exposed to, to be caught up in”: *εἰ γὰρ τὴν τάξει τετάρτην* (sc. tutorship; one simultaneously holding three tutorships was legally excused from further ones) *ὑποδέχεται τις ὡς τῇ δυνάμει τρίτην, ἀδίκου τῆς ἐπὶ τῇ τρίτῃ ἐκκλήτου* (appeal) *ἀποφανθείσης τέσσαροι χρεαίαις ἐγκατασχέσεται παρὰ τοὺς νόμους*.

ἔθος, τό LSJ lists no instance of ἐξ ἔθους in the sense “prevailing, customary”. It occurs in D. 50.12.10 (Modestinus libro primo responsorum): *ἀσφαλιζομένη* (sc. giving security) *παρὰ τοῖς δεκαπρώτοις ἀξιοχρέως ἐπὶ τῷ τελεῖν με τὸν ἐξ ἔθους τριῶν μυριάδων τόκον . . .*

ἐκνίκησις, ἡ Only one example, from the Novels, is given in LSJ. Add Justinian, Const. *Δέδωκεν* 5: *τὸ δὲ ἐφεξῆς τοῦ συγγράμματος ὁκτὼ βιβλίοις ἄλλοις ἐναπεθήμεθα ἐν οἷς ἐστὶ . . . καὶ ἡ περὶ τῶν ἐκνικήσεων ἐπερώτησις . . .* This is one of the most striking calques in the Greek legal language. Its constituents point to its meaning, the prepositional prefix ἐκ corresponding to the Latin *e* and the *νίκησις* (*νικῶ*) to *victio* (*vinco*). In Roman law *ἐκνίκησις-evictio* usually refers to the loss to a third party through a judicial decision of something which one has bought or otherwise acquired from someone else. This calque survives in Modern Greek legal language.

ἐκτείνω In D. 27.1.2.8 (Modestinus libro secundo excusationum) this verb has the meaning “encompass, pertain to, extend to”: *ἡ προσηγορία . . . καὶ ἐπὶ τοὺς ἐγγόνους ἐκτείνεται*. This meaning is not found in LSJ. This use seems to be another instance of the Greek word being given a meaning in Roman law previously possessed only by its Latin counterpart, in this case the Latin *extendo*. For Latin see e.g. D. 14.1.1.20: *in peculiaribus mercibus voluntatem extendere ad solidi obligationem* and Gaius 4.37: *eam actionem etiam ad peregrinum extendi . . .* Another example in Greek is found in the commentary of Athanasius to the Novels (G. E.

Heimbach, *Anecdota* (Leipzig 1838) p. 22 to Novel 76: τὴν . . . διάταξιν κελεύει ἢ παροῦσα διάταξις εἰς τὰ πρὸ αὐτῆς μὴ ἐκτείνεσθαι facta . . .

ἐκτίνω In D. 19. 2. 49. pr. (Modestinus in libro sexto excusationum) ἐκτίνω has a meaning not given in LSJ: Οἱ ἐπίτροποι γενομένοι ἢ κουράτορες πρὶν ἐκτίσαι τὰ τῆς κηδεμονίας μισθωταὶ Καίσαρος γενέσθαι κωλύονται. Here ἐκτίσαι seems to represent the Latin *rationem reddere*. The fuller expression ἐκτίσαι τὰ τῆς κληρονομίας corresponds to the Latin *tutelam reddere*—to render accounts for one's tutorship—found e.g. in D. 5. 1. 2. 3: Nam et divus Pius Plotiano Celso rescripsit eum qui tutelae reddendae causa Romam erat a se evocatus . . . and in D. 27. 3. 21: non tutela reddita sed nominis pretium solutum videtur.

ἐλευθερία, ἡ LSJ has only one example of ἐλευθερία, and that from a papyrus, in the meaning *manumissio* or freeing of a slave or one *in mancipio*. Add Justinian, Const. Δέδωκε 7b: περὶ τῆς ὁποιασοῦν ἐλευθερίας . . . ἢ τῶν ὑπὲρ ταύτης ἀγώνων. It is found in Theophilus 1. 12. 6, p. 60. 23: αὐτεξούσιον δὲ τὸν παῖδα ποιοῦσι γ' emancipationes καὶ γ' ἐλευθερίαι.

ἐμβατευτικός The form ἐμβατευτικός, not given in LSJ, is found in D. 27. 9. 3. 4 (Ulpianus libro trigesimo quinto ad edictum): Si ius ἐμφυτευτικὸν vel ἐμβατευτικὸν habeat pupillus, videamus an distrahi hoc a tutoribus possit. Et magis non posse, quamvis ius praedii potius sit. The exact legal meaning of *ius ἐμβατευτικόν*, variously interpreted by scholars, still remains to be established to everyone's satisfaction. Because of its association in the present context with the terms *ius praedii* (law of servitudes) and the *ius ἐμφυτευτικόν* one would assume that the *ius ἐμβατευτικόν* here must refer to the right of a *superficiarius*, his right to use what is on the surface (*superficies*) of another's land. This seems to be the opinion of S. Solazzi, *SDHI* 13–14 (1947–48) 309: il *ius ἐμβατευτικόν* sarà analogo a superficie ma *ius praedii* vuol proprio riferirsi alla servitù. Dissenting opinion is expressed by H. Vogt, *Das Erbbaurecht des klassischen römischen Rechts* (Marburg 1950) 97: Ob mit dem *ius ἐμβατευτικόν* ein Erbbaurecht gemeint ist, ist sehr bestritten und unwahrscheinlich. Another instance of ἐμβατευτικός occurs in Leontius Hierosolymitanus (6th cent. A.D.) in the sense attacker or invader: ἀθάνατος . . . ὁ εὐρετῆς τῆς κακίας . . . καὶ τῶν καρδιῶν ἡμῶν αὐτῶν ἐμβατευτικός (Migne 86. 1505 C).

ἐμφυτευτικός Only one example is found in LSJ. Add D. 27. 9. 3. 4 (text above s.v. ἐμβατευτικός). It is thought by some that

because of its occurrence in a text of Ulpian (died A. D. 223) the *ius emphyteutikon* here is too early to refer to the civil-law institution of emphyteusis and must be a provincial institution. (So P. Bonfante, *Corso di diritto romano*, v. 3, "Diritti reali" (Milan 1972) 161, n. 1).

ἐναποτίθημι Only one example, from Procopius of Gaza, is given in LSJ in the sense of placing or including in a written work. Add Justinian, Const. *Δέδωκεν* 5: τὸ δὲ ἐφεξῆς τοῦ συγγράμματος μέρος . . . ὁκτὼ βιβλίοις ἄλλοις ἐναπεθέμεθα.

ἐνβάσις, ἡ (= ἔμβασις) It is so spelled in Mommsen's text of the Digest. We read in D. 32.100.3 (Iavolenus libro secundo ex posterioribus Labeonis): Cui Corinthia vasa legata essent, ἐνβάσεις quoquo eorum vasorum collocandorum causa paratas deberi Trebatius respondit. There is nothing appropriate in LSJ. Two lines down these ἐνβάσεις are referred to as βάσεις. Therefore, the meaning of ἐνβάσις ought to be "a stand, a pedestal". Mommsen proposed to emend to aeneas βάσεις.

ἐνοχή, ἡ Only one example given in LSJ in the sense of obligation. Add Justinian, Const. *Δέδωκεν* 7e: ἐκεῖθεν . . . καὶ τὸν τῶν ἐνοχῶν καὶ τῶν ἀγωγῶν ἀπεθέμεθα τρόπον. A definition of ἐνοχή is given by Theophilus 3.13.pr., p. 317.17: ἐνοχή ἐστὶ δεσμός δικαίον, δι' οὗ τις ἀναγκάζεται καταβαλεῖν τὸ ἐποφειλόμενον κατὰ τοὺς τῆς ἡμετέρας πολιτείας νόμους.

ἔξεστι D. 27.1.13.5 (Modestinus libro quarto excusationum) illustrates a use of the participle ἐξόν not found in LSJ: μὴ ἐλευθεροῦσθαι αὐτόν (sc. a prospective tutor applying for an exemption from tutorship) οἱ θειότατοι Σεβήρος καὶ Ἀντωνῖνος δηλοῦσιν ἐν διατάξει κελεύσαντες μὴ κρατεῖσθαι τὸν εἰς τὸν τόπον αὐτοῦ χειροτονηθέντα, ὡς οὐκ ἐξόν δεδομένον εἰς τόπον ὄντος ἐπιτρόπου. Here the impersonal neuter participle ἐξόν is used with an understood ἐστὶ, to form a periphrastic construction: given in the place of an existing tutor *in a manner that was not legal* (ὡς οὐκ ἐξόν <ἦν>). The earliest instance of this construction may be found in Isaeus 6.50: ἡ δὲ . . . δούλη . . . ἐτόλμησεν . . . καὶ εἰσελθεῖν εἰς τὸ ἱερόν καὶ ἰδεῖν αὐτὴν οὐκ ἐξόν <sc. ἦν> αὐτῇ. Although emended by Bekker to ἐξῆν, ἐξόν is here the reading of the mss. An example from 215 B.C. on papyrus is recorded by E. Mayser, 2.1, § 41, p. 223: μηδὲ ἐξόν (sc. ἔστω – Mayser's supplement). Other instances are found in Lucian, *Asinus* 16: καὶ πολλάκις προσέπταιον, καὶ οὐκ ἦν ἐξόν καταπεσεῖν and Eusebius, *Hist. Eccl.* 4.15.27: ὁ δὲ ἔφη μὴ εἶναι ἐξόν αὐτῷ (sc. to let loose a lion on Polycarp). For occurrences in the New Testament Greek see

F. Blass, A. Debrunner, F. Rehkopf, *Grammatik des neutestamentlichen Griechisch* (Göttingen 1975) § 127, p. 105, n. 3.

ἐξκουσατίων, ἡ There is no example in LSJ of this Latinism which occurs in D. 27.1.13.pr. (Modestinus libro quarto excusationum): ἐν ὀλίγοις γὰρ πάντῃ διαλλάττουσιν οἱ κουράτορες ἀπὸ τῶν ἐπιτρόπων. κατὰ μέντοι τῶν ψήφων τῶν ἐκβαλλουσῶν αὐτοῖς τὰς ἐξκουσατίονας ἄδειαν ἔξουσιν ἐκκαλεῖσθαι. The ἐξκουσατίονες refer here to those grounds on which one was excused from serving as a tutor. (On these see *RE* VII A, 2 (1948) s.v. Tutela, 1540–1542.)

LSJ also lacks the verbal form of this term, found e.g. in the Code 6.4.4.20a: τοῦ πρώτου . . . καλουμένου ἐξκουσατεύοντος ἑαυτὸν ὁ μετὰ ταῦτα ἐκαλεῖτο (when the first prospective tutor excused himself the next in line was called to serve).

Also lacking in LSJ is the form ἐξκουσᾶτος: κομίζεσθαι προφάσει τῶν καλουμένων ἐξκουσάτων χρήματα ὑπὲρ . . . ἐργαστηρίων (Novels 59.2).

ἐξουσία, ἡ LSJ has no example of ἐξουσία in the Roman meaning *patria potestas*. For examples see D. 26.3.1.1 (Modestinus libro sexto excusationum): πατὴρ γὰρ νόμιμος ἢ ἐγγόνις, οὗς ἔχει ἐν ἐξουσίᾳ, ὁρθῶς δίδωσιν ἐπίτροπον . . . *ibid.*: πατὴρ νόμιμος τῷ μὴ ὄντι ἐν ἐξουσίᾳ ἢ θυγατρί . . .

ἐπανάληψις, ἡ This word is used in the sense “recapture” in Justinian, Const. Δέδωκεν pr.: μετὰ . . . τὴν τῆς ὀνομαστοσύνης Καρχηδόνης ἐπανάληψιν . . . This meaning is not given in LSJ. Several examples given in Lampe, the earliest from Gregory of Nyssa and John Chrysostom.

ἐπιχαρπία, ἡ see s.v. χερῆσις.

ἐπιρρίπτω In D. 26.5.21.6 (Modestinus libro primo excusationum) this verb is used in the figurative sense “to thrust oneself forward, to grasp for”: Διὰ παντὸς δὲ μάλιστα τοῦτο παρατηρεῖτωσαν οἱ ἄρχοντες μὴ χειροτονεῖν τοὺς βουλομένους ἐπιρρίπτειν ἑαυτούς . . . (sc. in order to become tutors). This sense is not found in LSJ.

ἐπίτιμος No adverb listed in LSJ. It occurs in D. 27.1.8.pr. (Modestinus libro tertio excusationum): οἱ πάλαι στρατιῶται οἱ ἐπιτίμως (honourably) πληρώσαντες τὸν τῆς στρατείας χρόνον. Another example in D. 27.1.8.6: ἐπιτίμως . . . αὐτοῦ ἀπολυθέντος — on his honourable discharge. For some occurrences in inscriptions see L. and J. Robert, *La Carie* II (Paris 1954) 319–320.

ἐπίτροπος, ὁ Only one example is given in LSJ for the meaning “guardian” under the Roman empire. Add D. 19.2.49. pr. (Modestinus libro sexto excusationum): Οἱ ἐπίτροποι γενόμενοι ἢ κουρά-

τορες . . . and D. 27.1.13.pr. (Modestinus libro quarto excusationum): *Εἰδέναι χρὴ ὅτι οὔτε οἱ χειροτονηθέντες ἐπίτροποι οὔτε οἱ κατὰ διαθήκην δοθέντες ἐκκαλεῖσθαι ἀνάγκην ἔχουσιν* . . . See also the Code 4.21.16.2: *εἰ δὲ ἐπίτροπός ἐστιν ἢ κουράτωρ* . . . In all these examples *ἐπίτροπος* is specifically the tutor in Roman law of those *sui iuris* and under the age of puberty.

ἐστία, ἡ In D. 27.1.12.1 (Modestinus libro tertio excusationum) *ἐστία* has the meaning household or residence: *ἀπολύονται τῆς φροντίδος (are released from tutorship) . . . οἱ τὴν ἐστίαν ἀλλαχοῦ μεταθεῖναι τυχόντες ἐξ ἀντιγραφῆς βασιλέως* . . . The closest prose example in LSJ goes back as far as Herodotus. The meaning house or home is found in Pindar and in tragedy. Apparently an Ionic and poetic term has here entered legal prose. Several examples are also found in the papyri of the 4th and 5th cent. A.D. (see Preisigke s.v.).

εὐγενής This term is frequently found in Roman law in the meaning freeborn, never a slave. No examples of this meaning are given in LSJ. In D. 27.1.1.4 (Modestinus libro primo excusationum): *Ἀπελευθερικοῖς ὀρφανοῖς εὐγενεῖς οὐ δώσουσι οἱ ἄρχοντες ἐπιτρόπους ἢ κουράτορας* . . . Free men can be free-born or former slaves: *ἐπὶ δὲ τῶν ἐλευθέρων πολλὰς εὐρίσκομεν διαφορὰς, ἣ γὰρ εὐγενεῖς εἰσιν ἢ ἀπελεύθεροι* (Theophilus 1.3.5, p. 19, 24).

This meaning of *εὐγενής* can also be expressed by *εὐ γίννομαι*: *τὰς δὲ εἰς τοὺς εὐ γεγονότας τάς τε εἰς τοὺς ἀπελευθέρους φερομένας (sc. διακατοχάς) . . .* (Justinian, Const. *Δέδωκεν* 7).

εὐθύνω No example is given in LSJ of this verb used intransitively with an internal object. This use is found in D. 27.1.10.3 (text above s.v. *διενθύνω*). This use is also found in Philo 2.54.15 (Cohn-Wendland): *εὐθύνει τὴν ἀτραπὸν τοῦ παντός βίου* and in 2.90.22: *τὴν μέσσην ὁδὸν εὐθύνειν βουλόμεθα τε καὶ εὐχόμεθα*.

εὐθύς In the meaning as soon as, immediately upon, *εὐθύς* is not given in LSJ after the 4th cent. B.C. Add D. 27.1.6.8 (Modestinus libro secundo excusationum): *ὁ θειότατος πατήρ μου παρελθὼν εὐθύς ἐπὶ τὴν ἀρχὴν διατάγματι τὰς ὑπαρχούσας τιμὰς καὶ ἀτελείας ἐβεβαίωσε* . . .

εὐσέβεια, ἡ No example given in LSJ of its use as an honorific appellation or title. See Justinian, Const. *Δέδωκεν* 1: *τὸ τῆς ἡμετέρας εὐσεβείας ἐπώνυμον συντεθείκαμεν βιβλίον*. The Latin counterpart of *εὐσέβεια* in this meaning is *pietas*, e.g. in the Code 1.1.8.1: *Quam (sc. the city of Rome) esse omnium vere ecclesiarum caput . . . pietatis vestrae (this refers to the emperor Justinian) reverentissimi testantur affatus*. Several examples of the honorific use of *εὐσέβεια*

are given also in Lampe. Frequently applied to the emperor it is also encountered there with reference to a monk and to a bishop. In legal sources the use of *pietas* as a title begins with Diocletian (Heumann-Seckel, s. v. *pietas*).

ἡδικτον, τό (also *ἔδικτον* and *ἰδικτον*) This Greek borrowing of the Latin edict (imperial, praetorian or of the aediles) is not given in LSJ. It occurs in Justinian, Const. *Δέδωκεν* 5: *ἔστι δὲ καὶ αἰδελικιον ἡδικτον* and 21: *ὅπερ καὶ πρόσθεν ἐπὶ τῆς τοῦ ἡδικτου γέγονεν νομεθεσίας . . .*

The form *ἔδικτον* also occurs, for instance in the Code 1.5.18.1 (time of Justinian): *θείοις ἔδικοις*. An earlier example of *ἡδικτον* occurs in D.H. 5.73.1 and of *ἔδικτον* in Plut. *Marc.* 24 (312) (I owe these two examples to Mason). From the 6th cent. A.D. on examples of the spelling *ἰδικτον* are given in Lampe.

θάλψις, ἡ In LSJ the sense “cherishing” is given only once, in a 6th cent. A.D. papyrus. Add Justinian, Const. *Δέδωκεν* 1: *ἐκ τῆς ἐνδιδομένης ἡμῖν παρὰ τοῦ δεσπότου θεοῦ καὶ σωτῆρος ἡμῶν Ἰησοῦ Χριστοῦ γνώσεώς τε καὶ θάλψεως . . .*

ἰνκόλας, ὁ In one of its meanings in Latin, *incola* refers to a resident alien and is opposed to a *civis*. Cicero records that the statue of Jupiter in Syracuse was revered by citizens, resident aliens, and visitors alike: *quod cives atque incolae colere, advenae non solum visere verum etiam venerari solebant*. (*In Verrem* 4.130.) In Greek this meaning, not registered in LSJ, occurs twice in the Digest, in D. 27.1.13.12 (Modestinus libro quarto excusationum): *τὸν μὴ ὑποκείμενον τῇ δικαιοδοσίᾳ* (sc. the jurisdiction of a local magistrate) . . . *οἷον τὸν μῆτε πολίτην μῆτε ἰνκόλαν . . .*, and in D. 50.1.35 (Modestinus libro primo excusationum): *Εἰδέναι χρὴ ὅτι ὁ ἐν ἀγρῷ καταμένων ἰνκόλας οὐ νομίζεται*. A Roman law definition of *incola* is found in D. 50.16.239.2 (Pomponius libro singulari enchiridii): *Incola est qui aliqua regione domicilium suum contulit quem Graeci πάροικον appellant*.

καδουκος In Roman law this term refers to testamentary dispositions made in favour of persons who according to certain statutes were incapable of acquiring under a will; it also refers to the inheritance itself or a legacy involved in such a will. Not given in LSJ it occurs in Justinian, Const. *Δέδωκεν* 6b: *Ἐν οἷς* (sc. *βιβλοῖς*) *οὐδὲν ὑπὲρ τῶν πάλαι καδούκων ἡμῖν εἴρηται . . .* The accent of the nominative case cannot be established from this solitary occurrence.

κάλιξ, ὁ or ἡ In D. 27.1.10.pr. we read: *οἱ τὰς ἀπὸ κάλιγος στρατείας . . . στρατευσάμενοι* (i.e. the common soldiers, so called

because of the *caliga*, their soldier's boot). This genitive should give the nominative *κάλιξ*.

The stem in *γ* is attested also from Leontius *Das Leben des heiligen Johannes des Barmherzigen von Alexandria*, ed. H. Gelzer, (Freiburg and Leipzig 1893) 84.14: ἀπὸ καλίγων πατριαρχῆς χειροτονηθεῖς.

The nominative *κάλιξ* is also postulated for the form *καλίκων* by S. Lauffer (ed.), *Diokletians Preisedikt* (Berlin 1971) 246 and M. Giaccherio (ed.), *Edictum Diocletiani et Collegarum de pretiis rerum venalium* (Genova 1974) 257 (*καλίκων* occurs in section 9.5, 5a, 6 and 10 of the Edict). The nominative *κάλιξ* is given also in *Corpus Glossariorum Latinorum*, (edd. G. Loewe and G. Goetz) II, p. 337. LSJ, however, accents the form found in Diocletian's Price-edict as *καλικῶν* and postulates a nominative *κάλικα*. Although the accentuation *καλικῶν* cannot be excluded, appearing, it seems, in some versions of the Diocletian Edict (see Lauffer's edition, *app. crit.* to 9.5, 6, 10 and note on p. 246), the nominative of this form is more likely to be *καλίκη*, since it is attested in Lampe as occurring in *Constitutiones Studitanae* 38 (M. 99.1720B). Finally, there is also a nominative *καλίγη* given in Lampe as occurring in Ephraem Syrus — (ob. A. D. 373) 1.42C (edition of J. S. Assemani).

καλκουλάτωρ, ὁ Not given in LSJ this word occurs in D. 27.1.15.5 (Modestinus libro sexto excusationum): μηδὲ λιβραρίους μηδὲ καλκουλάτορας, οὓς διαψηφιστὰς λέγομεν, ἔχειν ἀλειτουργησίαν λέγουσιν . . . Both in LSJ and Lampe *διαψηφιστής* appears to be an accountant. In Diocletian's Price-Edict (for editions see s.v. *κάλιξ*) the form *καλκουλάτωρ* appears: *καλκουλάτορι ὑπὲρ ἐκάστον παιδός* (7.67). Here *καλκουλάτωρ* appears to mean "teacher", no doubt of arithmetic. For this function see H.-I. Marrou, *Histoire de l'éducation dans l'antiquité* (Paris 1965) 397 and 599, n. 13.

κατάστασις, ἡ No example given in LSJ of the Roman law meaning "personal status". See D. 27.1.6.18 (Modestinus libro secundo excusationum): Ἐτι ἀπολύεται ἐπιτροπῆς, ὅπῃ ἀμφισβήτησιν τις τῷ ὀρφανῷ περὶ τῆς καταστάσεως κινή . . . This meaning is found also in Theophilus, e.g. in 1.5, p. 22.1: τὸν ἐν ἀγνοίᾳ τῆς οἰκείας δουλεύοντα καταστάσεως . . . See also the Code 6.4.4.23: εἴτε ἔμειναν συγγενεῖς εἴτε ἔπαθον καταστάσεως ἐναλλαγὴν . . .

κατέχω In LSJ no example is given of *κατέχομαι* in the sense "to be under a legal obligation", the Latin *obligatum esse*. This use is found in D. 20.1.34.1 (Scaevola libro vicesimo septimo digestorum): οἶδας γὰρ ἀκριβῶς, ὅτι καὶ ἡ ταβέρνα καὶ οἱ δοῦλοί μου οὐδενὶ

κατέχονται ἢ σοί . . . The context of the entire section 34 shows that the shop and the slaves are being offered as a pledge (*pignus*) to a creditor. The Latin equivalent of the *κατέχονται . . . σοί* is given a few lines down (D. 20.1.34.2): *quaesitum est an corpora pecuniae . . . obligata creditori pignoris esse coeperint*. The *κατέχομαι* plus the dative, then, seems to be a calque of the Latin *obligatum esse alicui*.

The same construction is found also in the Code 6.34.4 (dated A.D. 479): *ἐάν τις κωλύσῃ τινὰ διαθέσθαι* (to make a will) . . . *κατέχεται τῷ ζημιωθέντι προφάσει τῆς κωλύσεως* . . .

κανσάριος This Latinism not found in LSJ. It is found in D. 27.1.8.5 (Modestinus libro tertio excusationum): *Οὔτοι* (sc. the *vigiles* or *νυκτοφύλακες*) . . . *ἐὰν ἐντίμως ἀπολυθῶσιν* (be honourably discharged) . . . *ἢ διὰ νόσον καλουμένην κανσαρίαν ἄφεισιν λάβωσιν* (*ἔστιν γὰρ καὶ αὐτὴ ἐντιμος*) . . . The *κανσάρια ἄφεις* is here clearly a copy of the Latin *causaria missio*, a discharge for a good reason.

In an inscription the noun *κανσάριοι* refers to gladiators discharged because of ill health (L. Robert, *Hellenica* 5 (Paris 1948) No. 320, p. 92).

κεφάλαιον, τὸ In D. 27.1.10.6 (Modestinus libro tertio excusationum) this word occurs in the meaning “cases, occurrences, subject matter”: *Ὀμοίως καὶ εἰς τὸν τόπον ἐκείνου τοῦ ἐπιτρόπου, ὃν μετὰ ταῦτα συγκάθεδρον ἑαυτῷ τις ἀπήγαγεν, δοθήσεται κουράτωρ, ὥς φησιν διάταξις τοῦ θειοτάτου Σεβήρου· ἣν ὀρθῶς ἐφαρμόζων πᾶσιν τοῖς ὁμοίοις κεφαλαίοις κουράτορα δίδοσθαι ἐρεῖ εἰς τὸν τόπον τῶν χρόνου ἀνάπανσιν λαμβανόντων*. Examples of the meaning “topic, subject” are also found in Lampe. In LSJ this exact meaning not given, the closest being “chapter, section”.

κηδεμών, ὁ and **κηδεμονία**, ἡ In LSJ there is only one instance given of *κηδεμών* in the Roman law meaning “legal guardian”. Moreover, this entry does not state whether the *κηδεμών* here is a tutor or a curator or a generic term encompassing both. No example at all is given of *κηδεμονία* in the above meanings. The following examples illustrate the use of both *κηδεμών* and *κηδεμονία*. We read in D. 26.6.2. pr. (Modestinus libro septimo differentiarum): *ἐὰν οἱ ἀφήλικες μὴ ἔχωσι τοὺς ἐκ τῶν νόμων κηδεμόνας, ἐὰν μὲν ἐπιτρόπων δέωνται διὰ τὴν ἡλικίαν, δύνανται αἰτῆσαι αὐτοῖς ἐπιτρόπους κατασταθῆναι οἱ . . . συγγενεῖς . . .* This passage deals with the *κηδεμόνες* of one class of under-age (*ἀφήλικες*) Romans, those who are young enough to require tutors (*ἐπίτροποι*). In the latter

part of this section, in D. 26.6.2.4 the other, older, group of Romans under the age of 25 is being mentioned: ταῦτα μὲν περὶ ἐπιτρόπων. κουράτορας δὲ ἑαυτοῖς αἰτήσουσιν οἱ ἀφήλικες . . . δι' ἑαυτῶν.

Here, then, the term *κηδεμόνες* encompasses both types of guardians for those under 25, the tutors (*ἐπίτροποι*) and the curators (*κουράτορες*). However, in 26.6.2.1 *κηδεμών* is used interchangeably with *ἐπίτροπος*: εἰσὶ δὲ τινες, οἷς ἐπάναγκές ἐστιν αἰτεῖν ἐπιτρόπους, οἷον μήτηρ καὶ ἀπελεύθεροι· ἐκ τούτων γὰρ αἱ μὲν ζημιοῦνται, οἱ δὲ καὶ κολάζονται, ἐὰν μὴ αἰτήσωσι τοὺς ἐκ τῶν νόμων κηδεμόνας.

The term *κηδεμών* is used in the wider sense in Roman law also in Theophilus 1.24. pr. p. 85.4: νῦν εἰπωμεν γενικόν τινα λόγον ἐπὶ πάντων τῶν κηδεμόνων ἐκτεινόμενον. πᾶς ἐπίτροπος καὶ πᾶς κουράτωρ . . . He also offers the wider meaning of *κηδεμονία*: <τῶν> ἐπιτρόπων καὶ κουρατόρων . . . ἕκαστος excusationi καλούμενος ἐπὶ τὴν κηδεμονίαν κεχερῆσθαι δύναται (1.25. pr. p. 87.20). This wider meaning of *κηδεμονία* also occurs in the Digest: οἱ ἐπίτροποι γενόμενοι ἢ κουράτορες πρὶν ἐκτίσαι τὰ τῆς κηδεμονίας (D. 19.2.49. pr., Modestinus libro sexto excusationum) and in the Code 1.4.30. pr.: θεσπίζομεν ταῖς κηδεμονίαις τῶν νέων εἴτε τῆς πρώτης εἴτε τῆς δευτέρας εἰεν ἡλικίας . . .

The simultaneous use of *κηδεμονία* in the wider and *κηδεμών* in a narrower sense is found in the Novels 72.2: εἴ τις ἤδη τῆς κηδεμονίας ἐχόμενος ὑμεύθυνον αὐτῷ κτήσαιο τὸν νέον . . . μηκέτι μόνον αὐτὸν εἶναι πιστὸν πρὸς τὴν τῶν ἀνέβων ἢ τῶν νέων κηδεμονίαν ἀλλὰ παραξέγγυσθαι ἐπίτροπον ἕτερον ἢ κηδεμόνα . . . The term *κηδεμονία* here encompasses the *κηδεμονία* of both the *ἀνηβοι* (tutorship) and of the *νέοι* (curatorship). At the end of this passage, however, *κηδεμών* is opposed to *ἐπίτροπος* and must have the narrower meaning *curator* (sc. τῶν νέων). This narrower sense is attested also for *κηδεμονία*, e.g. in the Novels 72.3: ἐπιτροπῆς ἢ κηδεμονίας . . .

To sum up, *κηδεμών* and *κηδεμονία* are used both as more general terms, subsuming under them both the tutorship and the curatorship, and in the narrower sense “curatorship”. The term *κηδεμών* has, in the Digest, also the narrower meaning *ἐπίτροπος* (tutor). The various Greek terms in Modestinus referring to the guardianship of the young are discussed by J. Altmann, *SDHI* 21 (1955) 1–73.

κληρονομέω and **κληρονόμος** In Roman wills an heir's share of the estate is commonly expressed by adding after the term “heir” the preposition *ex* followed by the appropriate share. For instance see D. 5.3.10.1: Itaque qui ex asse vel ex parte heres est . . . and D. 36.1.80.7: Gaio Seio ex semisse, Titia ex quadrante et aliis ex

reliquis portionibus heredibus institutis . . . The same idiom came to be used in legal Greek to express an heir's share in an inheritance. LSJ, however, gives no examples. An example occurs in D. 34.4.30.1 (Scaevola libro vicesimo digestorum): Ἐὰν Σεία ἡ σύντροφός μου κληρονόμος μὴ γένηται ἐξ οὗ γέγραφα αὐτὴν μέρους . . . Specific shares are mentioned in the Code 1.2.25. pr. (A.D. 530): ἐν πολλαῖς ἤδη διαθήκαις εὗρομεν τοιαύτας ἐνστάσεις, καθ' ἃς ἡ ἐξ ὀλοκλήρου τις ἔγραψε τὸν δεσπότην ἡμῶν Χριστὸν κληρονόμον . . . ἡ αὐτὸν τὸν δεσπότην ἡμῶν Ἰησοῦν Χριστὸν ἐξ ἡμισείας ἢ ἐξ ἑτέρων ἀνίσων μερῶν . . .

Examples of this expression are also found in Preisigke.

κουρατορεύω LSJ gives no passive forms of this verb. Add D. 27.1.15.3 (Modestinus libro sexto excusationum): οἱ ἐπιτροπενόμενοι ἢ κουρατορευόμενοι . . .

κρατέω In D. 27.1.13.5 (Modestinus libro quarto excusationum) we read: μὴ ἐλευθεροῦσθαι αὐτὸν (sc. an improperly released tutor) οἱ θειότατοι Σεβήρος καὶ Ἀντωνῖνος δηλοῦσιν ἐν διατάξει κελεύσαντες μὴ κρατεῖσθαι τὸν εἰς τόπον αὐτοῦ χειροτονηθέντα . . . In the light of the context, κρατεῖσθαι ought to mean here something like “not to be confirmed” or “not to be retained”. No close enough meaning seems to occur in LSJ. A parallel appears to occur in the Basilica 41.1.35.4 (Scheltema-van der Wal): Ὅτε δοῦλος ἐπὶ τὸ ἐλευθερωθῆναι ληγατεύεται καὶ ἄλλο τι μετ' αὐτοῦ, ὅλος μὲν ὁ δοῦλος διὰ τὴν ἐλευθερίαν ἐκδικεῖται καὶ ἀπαιτεῖται, ἀπὸ δὲ τοῦ ληγάτου τὸ ὑπὲρ ἐκατέρου τρίτον κρατεῖται. Here τὸ τρίτον κρατεῖται refers to the retention of the third part of the legacy in accordance with the Lex Falcidia. In the Basilica 41.1.1.8 (Scheltema-van der Wal) the verb παρακρατεῖσθαι is used to express the same rule: Εἰ μὲν μετὰ μικρὸν διάστημα χρόνον δέδωκε (sc. the heir to a legatee) τὸ κελλαρικόν (food, provisions, the latin *penus*) ἐστὶ ἐν ληγάτῳ καὶ παρακρατεῖται ἐξ αὐτοῦ ὁ Φαλκίδιος. Here παρακρατεῖται, as did κρατεῖται above, appears to mean “is retained” “is held back”. The meaning “retain” of παρακρατέω is given in LSJ. In the Digest passage, then, κρατεῖσθαι could be taken as a synonym of παρακρατεῖσθαι and have the meaning “to be retained”. The emperors ordered in their edict that the tutor appointed as a substitute not be retained.

κρύπτη, ἡ (accented by some κρυπτή) In D. 43.17.3.7 this word appears to refer to the underground part of a house, a cellar: ait Labeo videri non ab eo aedes possideri, qui κρύπτας possideret, sed ab eo, cuius aedes supra κρύπτας esset. Only one example of this word is given in LSJ and that in the meaning crypt or vault. However, the context here clearly points to the meaning “cellar”.

Also, R. Renehan, *Greek Lexicographical Notes* (Göttingen 1975) 127, s.v. *κρυπτή*, points out that the meaning “cellar” appears to be meant in the Gospel of Luke 11.33: *οὐδείς λύχνον ἄψας εἰς κρύπτην τίθησιν*. J. P. Meincke, too, takes the *κρύπτη* in the Digest in the meaning “cellar” SZ 88 (1971) 161.

κωδικίλλος, ὁ (also accented *κωδικίλλος*) Not found in LSJ, this noun refers in the Digest to a codicil of a will, the Latin *codicilli*. It occurs in D. 26.3.1.1 (Modestinus libro sexto excusationum): *ἐὰν ἐν κωδικίλλοις μὴ βεβαιωθείσι δῶ ἐπίτροπον* (sc. ὁ πατήρ) and in D. 34.1.4. pr. (Modestinus libro decimo responso-rum): *Τοῖς τε ἀπελευθέροις . . . οὗς ζῶσα ἐν τῇ διαθήκῃ ἐν τε τῷ κωδικίλλῳ ἡλευθέρωσα . . .*

The masculine gender of the word is supported by Lampe (s.v. *κωδικέλλος*), by the plural *κωδικίλλους* in Preisigke (6th cent. A.D.), and in B. Meinersmann, *Die lateinischen Wörter und Namen in den griechischen Papyri* (Leipzig 1927) 31. The form *κωδικέλλος* is found in Epictetus 3.7.30: *Καῖσάρ μοι κωδικέλλον ἔργαπεν*, in Lampe and, in Roman law sources, in the Code 6.48.8 (A.D. 528–529): *ἐν τῇ διαθήκῃ . . . ἢ ἐν κωδικέλλοις ἢ καὶ ἀγράφως . . .* It is also found in later Byzantine authors and in Modern Greek. The accent, where it can be established, appears to be proparoxytone except for a 6th cent. papyrus in Preisigke (P. Masp. 151, 53, 63) which has the accentuation *κωδικίλλον*.

A nominative form *τὸ κωδικίλλον* is given by S. Daris, *Il lessico latino nel greco d'Egitto* (Barcelona 1971) 65. His source is P.Oxy. 20.2283.11. However, the editors of this volume accent this form *κωδικίλλοῦν* (taken as a misprint for *κωδικίλλοῦν*) and state that it is a verb. On the strength of this occurrence LSJ lists it as the verb *κωδικίλλω*. In truth, the context in the papyrus is insufficiently preserved to establish the exact syntax and meaning of this form. It certainly does not allow to establish the nominative *κωδικίλλον*.

λαργιτίων, ἡ LSJ gives only one example. Add Justinian, Const. *Δέδωκεν* 9: *Κωνσταντίνου τοῦ μεγαλοπρεπεστάτου κόμητος τῶν θείων λαργιτιόνων*. The *θεῖαι λαργιτίονες* refer to Justinian's imperial treasury, the Latin *sacrae largitiones*. On it see A. H. M. Jones, *The Later Roman Empire* 284–602 (Oxford 1964) 427ff. It is mentioned also in the Code 11.41.7 (A.D. 457–467): *Μηδεὶς πορνο-βοσκέτω τοῦ λοιποῦ μηδὲ πόρος ἐντεῦθεν ταῖς λαργιτίοσιν εἰσαγέσθω*. This word is also spelled *λαργιτίωνες* and *λαργιτιώνων* in examples in Lampe.

λεγατάριος and **ληγατάριος**, ὁ Equivalent to the Latin *legatarius*, a legatee, this word is not given in LSJ. It occurs in D. 26.6.2.3 (Modestinus libro primo excusationum): Ἐὰν μέντοι τις ἢ δανιστῆς ἢ λεγατάριος . . . The form *ληγατάριος* occurs in the Code e.g. in 6.4.4.18a (A.D. 531): τὸ περισσὸν ὑπὲρ τὸ τετραούγκιον διδόντωνσαν τοῖς ληγαταρίοις καὶ fideicommissariis . . . and in the Novels 1.1.4: ἐπὶ ληγαταρίους καὶ φιδεῖκομμισσαρίους . . .

λεγεωνάριος, **λεγιονάριος**, **ληγιωνάριος**, **λεγιωνάριος**, ὁ Only the form *λεγιονάριος* is found in LSJ (from inscriptions). D. 27.1.8.6 (Modestinus libro tertia excusationum) offers *λεγεωνάριος*. The forms *ληγιωνάριος* and *λεγιωνάριος* occur in papyri (see Preisigke).

ληγάτον and **ληγᾶτον**, τό Only one example is given in LSJ, with the accentuation *ληγᾶτον*. This is the accentuation offered by Preisigke. The paroxytone occurs in D. 33.8.23.2 (Scaevola libro quinto decimo digestorum): ὅσους κατέλιπον ἐλευθέρους καὶ τὰ ληγάτα αὐτοῖς . . . and in the Code, e.g. in 1.3.25. pr.: εἰ καὶ ληγάτον ἢ fideicommisson καταλειφθείη . . . This term, the Latin *legatum*, occurs frequently both in the Code and in the Novels.

λήξις, ἡ In Const. Δέδωκεν 18 Justinian refers to the emperor Hadrian as ὁ τῆς εὐσεβοῦς λήξεως. The same expression is frequently applied to past emperors in the Code, e.g. in 1.3.52.4 and 5 (A.D. 531) Θεοδοσίου καὶ Οὐαλεντινιανοῦ τῶν τῆς εὐσεβοῦς λήξεως and Ἀρκαδίου καὶ Ὀνωρίου τῶν τῆς εὐσεβοῦς λήξεως. So also in 1.5.18.4 (of Justin), 4.35.24 (of Anastasius), and 5.4.29.8 (of Justin). It is generally, and plausibly, assumed that in such and similar phrases referring to the dead *λήξις* means “lot”, “portion” and is related to *λαγχάνω* rather than to *λήγω*. This results especially from expressions in which *λήξις* cannot possibly mean “end” or “death”. Such an expression occurs, for instance, in Aristides, 30.11 (Keil), where it is said of the recently dead Fronto: μεταστάντος τάνδρός εἰς τὴν καλλίω τε καὶ θεοφιλεστέραν λήξιν . . . Here clearly Fronto’s lot after his death (τὴν καλλίω λήξιν) is opposed, by implication, to another *λήξις*, no doubt his sojourn on earth. In this opposition *λήξις* cannot possibly be associated with *λήγω*. The opposition between the two lots or destinies (rather than deaths) is found also in Himerius, 9.10 (Colonna). Here Himerius refers to gods and to men as follows: οὐδαμῇ θέμις τὴν ἄνω λήξιν τῇ κάτω κίρνασθαι. One’s lot or sojourn in the realm above is mentioned by Himerius also in 10.15 (Colonna): ψυχὴ πᾶσα ἄρτι σχισθεῖσα τῆς ἄνω λήξεως . . . In these Himerian examples *λήξις* again must be derived from *λαγχάνω* rather than from *λήγω*. The departure from one’s lot on this earth

is mentioned also in Theophylactus Sim. 1.1.1, p.38.22 (de Boor): *Ὅτε τὸν αὐτοκράτορα Τιβέριον τῆς ἐντεῦθεν ἔδει λοιπὸν μεταβήσεσθαι λήξεως . . .* In Lampe, too, examples of *λήξις* with reference to the departed are grouped under *λήξις-λαγχάνω*.

In view of this constant association of *λήξις* with *λαγχάνω* in expressions describing the dead I feel that in LSJ in the entry *λήξις* (B) (from *λήγω*) the section 1.2 (*λήξις* as death or decease) ought to be removed and its contents placed under *λήξις* (A) (from *λαγχάνω*). The example found in LSJ comes from P.Masp. 19.6: *θεῖος τύπος τοῦ τῆς θείας λήξεως Λέοντος*. The phrase *θεία λήξις* belongs with the similar uses of *λήξις* adduced above and indicates that *λήξις* here must be associated with *λαγχάνω*. The incorrect classification of this *λήξις* in LSJ seems to have arisen under the influence of Preisigke who mistakenly placed his examples of the expression *τῆς θείας λήξεως*, including the example of LSJ, under *λήξις-λήγω*.

μάγιστρος and **μαγίστρος**, **ὁ** Only one example of this word occurs in LSJ. Add Justinian, Const. *Δέδωκεν* 9: *Τριβωνιανοῦ, τοῦ ἐνδοξοτάτου καὶ σοφωτάτου μαγίστρου*. The nominative accent of this word is listed as proparoxytone in Lampe. In the 4 examples in Preisigke one is accented *μαγίστρος*, the other three *μάγιστρος* and the heading of the entry *μαγίστρος*. In the printed edition, however, of these papyri (*BGU* 917.1, 405.3, 456.3, and 1092.3) all four occurrences are in the masculine genitive *μαγίστρου*, and thus worthless for determining the place of the accent in the nominative. In the inscription adduced in LSJ, too, (*BGU* 927.5) the word occurs in the genitive singular. That the accent in papyri might be proparoxytone is indicated by the *Papyri from Panopolis* (ed. T. C. Skeat) (Chester Beatty Monographs No.10) (Dublin 1964) Papyrus 1.140 where *μάγιστρέ μο[v]* is written by the editor.

μαρτύρομαι There is no example in LSJ in the meaning “to testify, to give testimony”. It occurs in D. 27.1.13.8 (Modestinus libro quarto excusationum): *Εἰδέναι δὲ δεῖ, ὅτι οὐκ ἀπόχρη τὸ προσελθεῖν τῷ δικάζοντι, ἀλλὰ δεῖ αὐτὸν καὶ περὶ τοῦ εἵδους τῆς ἀφέσεως μαρτύρασθαι, καὶ εἰ πολλὰ ἔχει πρὸς ἄφεσιν δίκαια, πάντα ὀνομάσαι*. Several occurrences are given also in Preisigke.

μεταβολή, ἡ No instance given in LSJ of the meaning “translation”. It occurs in D. 27.1.1.2 (Modestinus libro primo excusationum): *Ποιήσομαι δὲ ὡς ἂν οἷός τε ὦ τὴν περὶ τούτων* (sc. legal reasons for refusing tutorship) *διδασκαλίαν σαφῇ, ἀφηγούμενος τὰ*

νόμιμα τῇ τῶν Ἑλλήνων φωνῇ, εἰ καὶ οἶδα δύσφραστα εἶναι αὐτὰ νομιζόμενα πρὸς τὰς τοιαύτας μεταβολάς.

μετουσία, ἡ Justinian, Const. Δέδωκεν 20a, writes: εἰ γάρ τις τῶν οὐχὶ τοῖς παλαιοῖς νομοθέταις γνωριζομένων ἐστίν, τούτῳ δὲ τῆς πρὸς τοῦτο τὸ βιβλίον μετουσίας ἀπηγορεύσαμεν. No example given in LSJ of μετουσία followed by πρὸς with the accusative. This construction occurs also in the Code 1.3.43. pr.: μηδεμίαν μετουσίαν πρὸς ἀλλήλους . . . ἔχειν αὐτούς.

ναυφράγιον, τὸ No examples given in LSJ. One occurs in D. 14.2.9 (Volusius Maecianus ex lege Rhodia): Κύριε βασιλεῦ Ἀντωνῖνε, ναυφράγιον ποιήσαντες ἐν τῇ Ἰταλίᾳ διηρηπάγημεν ὑπὸ . . . τῶν τὰς Κυκλάδας νήσους οἰκούντων. A second example is given in Lampe (*Homiliae Clementinae* 12.10, third-fourth cent. A.D.). This phrase is clearly a calque of the common Latin expression *navfragium facere* (see *OLD* for examples).

ναυφύλαξ, ὁ In LSJ given only from Aristophanes and from the Suda. Add D. 4.9.1.3 (Ulpianus libro quarto decimo ad edictum): qui custodiae gratia navibus praeponuntur, ut ναυφύλακες . . .

νέασις, ἡ LSJ lists no occurrence for the meaning found in D. 50.16.30.3 (Gaius libro septimo ad edictum provinciale): Novalis est terra praecisa, quae anno cessavit, quam Graeci νέασιν vocant. The meaning of the only other example given, from Theophrastus, is “the breaking-up of fallow land”. In the Digest example νέασις represents the result of the breaking-up.

νόμιμος In the phrases νόμιμος ἐπίτροπος and νόμιμος κληρονομία the term νόμιμος has a specific Roman law meaning not given in LSJ. In the case of a tutor, νόμιμος refers to the *tutor legitimus*, a man who becomes a tutor because he is the closest agnate to the orphan. It occurs in D. 27.1.10.7 (Modestinus libro tertio excusationum): ὁμοίός ἐστι . . . καὶ ὁ νόμιμος ἐπίτροπος . . . This νόμιμος ἐπίτροπος is opposed to the testamentary tutor mentioned in the previous two sentences: Ἐὰν ἀπελεύθερος δοθῇ ἀφῆλιξ ὑπὸ πάτρωνος ἐπίτροπος τοῖς τέκνοις αὐτοῦ . . .

In the phrase νόμιμος κληρονομία, νόμιμος refers to the Latin *legitimus* in the phrase *legitima hereditas*, an inheritance in accordance with civil law on intestacy. Not given in LSJ it occurs in D. 26.6.2.1 (Modestinus libro primo excusationum): ἡ μὲν γὰρ μήτηρ ἐξελαύνεται τῆς τοῦ παιδὸς νομίμου κληρονομίας, ὥς οὐσα ἀναξία λαβεῖν κληρον νόμιμον, μὴ φροντίσασα αὐτῷ κατασταθῆναι ἐπίτροπον . . . Νόμιμος in the expression κληρὸς νόμιμος in the above Greek sentence refers to the share (κληρὸς) which in an inheritance one would

receive on intestacy in accordance with civil law, the Latin *legitima portio*.

νόμισμα, τό In a will adduced in D. 40.4.60 (Scaevola libro vicensimo quarto digestorum) *νόμισμα* clearly refers to a certain denomination of money: *Εὔδονι βούλομαι δοθῆναι νομίσματα χίλια . . .* In LSJ only the meanings “current coin, pieces of money, the name of a coin” occur. The denomination meant here was, no doubt, the Roman *aureus*, in Greek *χρυσοῦς*, which is equated with the *νόμισμα* by Cassius Dio: *χρυσοῦν γὰρ δὴ καὶ ἐγὼ τὸ νόμισμα τὸ τὰς πέντε καὶ εἴκοσι δραχμὰς δυνάμενον κατὰ τὸ ἐπιχώριον ὀνομάζω* (55.12.4–5). Since Cassius Dio was a near-contemporary of the jurist Cervidius Scaevola (for their chronology see *PIR*² C492 and C681) the term *νόμισμα* found in their writings should refer to a coin of the same denomination. There seems to be no reason to suspect interpolation in our text of the will.

ξυληγός In LSJ this adjective given two terminations only. The feminine form is found in D. 32.55.5 (Ulpianus libro vicesimo quinto ad Sabinum): *naves ξυληγὰς appellant, quae haec ἀπὸ τῶν ἐλῶν deducunt*.

ὀλιγωρέω LSJ does not list the construction *ὀλιγωρέω πρὸς τι*. It occurs in D. 27.1.13.1 (Modestinus libro quarto excusationum): *τῷ ἰδίῳ κινδύνῳ αὐτὸν ὀλιγωρεῖν πρὸς τὸ μηδὲ καταλείπεσθαι αὐτῷ τινα ὁδὸν πρὸς παραίτησιν*. Several examples are given in Lampe, the earliest in Clement of Alexandria (ob. ante A.D. 215).

ὀλισθαίνω No examples occur in LSJ in the sense “to totter, to be dilapidated” (of a building). One is found in Justinian, Const. *Δέδωκεν 7a: βιβλίον . . . τὰ περὶ τῆς τῶν ὀλισθαινόντων τε καὶ καταφερομένων οἰκημάτων ἀσφαλείας . . . νομοθετοῦν*.

ὀλόκληρος LSJ gives no example of this adjective used as a noun. One occurs in D. 27.1.1.2 (Modestinus libro primo excusationum): *ἵνα . . . τὸ ὀλόκληρον τοῖς δεομένοις . . . παρασχόμεθα*.

ὁμόταφος The only meaning given in LSJ is “buried together”. This meaning does not fit D. 47.22.4 (Gaius libro quarto ad legem duodecim tabularum): *ἐὰν δὲ δῆμος ἢ φράτορες ἢ ἱερῶν ὀργίων ἢ ναῦται ἢ σύσσιτοι ἢ ὁμόταφοι ἢ θιασῶται ἢ ἐπὶ λείαν οἰχόμενοι ἢ εἰς ἐμπορίαν, ὅτι ἂν τούτων διαθῶνται πρὸς ἀλλήλους, κύριον εἶναι, ἐὰν μὴ ἀπαγορεύσῃ δημόσια γράμματα*. This law deals with the legal relationships of the members of the above-named associations. If the *ὁμόταφοι* were already dead and buried, Solon, to whom the above legislation is attributed by Gaius, would no doubt have allowed them complete freedom in their intra-group legal relationships.

F. Poland, *Geschichte des griechischen Vereinswesens* (Leipzig 1909) 56, reasonably suggested that the *δμόταφοι* were members of a burial association.

τὰ ὄντα LSJ has only one example, from Demosthenes, in the meaning “property, fortune”. Ad Justinian, Const. *Δέδωκεν* 7d: *περὶ . . . τῆς τῶν ὄντων ἀναχωρήσεως* (the Latin *cessio bonorum*). Preisigke lists examples from the 6th cent. A. D.

ὁρατίων, ἡ No instances are given in LSJ. It occurs in D. 27. 1.1.4 (Modestinus libro primo excusationum): *ἀπελευθερικοῖς γὰρ ἀπελευθέρους μόνους δεῖν δίδοσθαι . . . θείου Μάρκου ὁρατίων κέλευει*.

With respect to legislation the term *ὁρατίων* (*oratio* in Latin) referred in the period of Marcus Aurelius to a legislative proposal of an emperor, usually read to the assembled senate by his quaestor. If passed by the senate it became law. (See Mason Hammond, *The Antonine Monarchy* (Rome 1959) 334–336.)

ὁρύσσω In the meaning “dig into, excavate” with a direct object, this verb is not given in LSJ after Aristotle. Add D. 43. 10.1.2 (*Ἐκ τοῦ ἀστυνομικοῦ μονοβίβλου τοῦ Παπινιανοῦ*): *Ἐπιμελείσθωσαν δὲ ὅπως μηδεὶς ὁρύσσει τὰς ὁδοὺς μηδὲ χωννῇ μηδὲ κτίσει εἰς τὰς ὁδοὺς μηδέν*.

ὁσία, ἡ The phrase *ὁσίας χάριν* is not attested in LSJ. It occurs in D. 26.6.2.1 (Modestinus libro primo excusationum): *ἐὰν . . . ὁσίας χάριν* (for the sake of mere form) *αἰτήσῃ τὸν ἀφεθῆναι δυνάμενον . . .* LSJ lists *ὁσίας ἑκατι* and *ὁσίας ἔνεκα* from the dramatists of the fifth and the fourth cent. B.C.

παιδογραφία, ἡ Not in LSJ, this word is found in D. 27.1.2.1 (Modestinus libro secundo excusationum): *Ἡ . . . ἡλικία δείκνυται ἢ ἐκ παιδογραφῶν ἢ ἐξ ἐτέρων ἀποδείξεων νομίμων*. The context indicates that we have here a reference to registers of birth. Virtually the same term is used in P. Flor. 57.70: *Γραφὴ παίδων τῶν εἰσκρινομένων εἰς τὸ εἰσιὼν ξ (ἔτος) Αὐτοκράτορος Καίσαρος Μάρκου Αὐρηλίου . . . καὶ Αὐτοκράτορος Καίσαρος Λουκίου . . .* On the Roman registers of birth see Max Kaser, *Das römische Privatrecht. Erster Abschnitt*, Second edit. (München 1971) § 64. II. 1, p. 273.

παλαιστρατιώτης, ὁ—*a veteran* Only one example is given in LSJ. Add D. 27.1.8. pr., 8 and 10 (Modestinus libro tertio excusationum): *οἱ πάλαι στρατιῶται, ὁ πάλαι στρατιώτης*, and *οἱ πάλαι στρατιῶται*. L. Robert, *Hellenica* II (Paris 1946) 126, upon referring to inscriptions, is of the opinion that in this concept *πάλαι* ought to be written together with *στρατιώτης*.

παλάτιον, τό The only meaning given in LSJ is the Palatine Hill. Under the Roman empire the meaning of this word was extended to refer to the emperor's court or residence wherever it might be found. An example occurs in Justinian, Const. *Δέδωκεν* pr.: *Τριβωνιανῶ τῷ ἐνδοξοτάτῳ μαγίστρῳ καὶ ἀπὸ κναιστόρων τοῦ θείου ἡμῶν παλατίου . . . πρὸς τὴν ὅλην ὑπουργίαν χρησάμενοι . . .* Justinian's court and residence were in Constantinopolis. See also the Code 1.15.2.1 (A.D. 527): *τὸν ἐνδοξότατον κοαίστωρα τοῦ θείου ἡμῶν παλατίου . . .* An explicit definition of the new, extended meaning is given in Cassius Dio: *καλεῖται δὲ τὰ βασιλεία παλάτιον . . .* *κἂν ἄλλοθί που ὁ αὐτοκράτωρ καταλύῃ, τὴν τοῦ παλατίου ἐπικλήσιν ἢ καταγωγὴ αὐτοῦ ἴσχει* (53.16.5–6). Many additional examples are to be found in Lampe.

πανήγυρις, ἡ No example given in LSJ of the meaning “market, market days”. It is found in Justinian, Const. *Δέδωκεν* 8c: *ὅποσα δὲ ὑπὲρ . . . πανηγύρεων . . . ἐνομοθέτηται*. The right to hold these *nundinae* was dispensed by the emperor: *Nundinis impetratis a principe non utendo qui meruit decennii tempore usum amittit* (D. 50.11.1).

παραγράψιμος This word appears in LSJ only once, from Sextus Empiricus, and not in its technical legal sense. Add D. 27.1.13.6 (Modestinus libro quarto excusationum): *Ἀπόχρη δὲ ἐντὸς τῆς προθεσμίας ἐντυχεῖν μόνον . . . ἐὰν γὰρ μετὰ ταῦτα μὴ ἐκὼν ἀπολειφθῇ, οὐκ ἔσται παραγράψιμος*. If one was *παραγράψιμος* it meant that he was barred from seeking a legal remedy because a time limit had been exceeded. (The Latin *praescriptio temporis*.)

παραιτέομαι For the meaning “to demand exemption” LSJ gives no example of the absolute use of *παραιτέομαι*. It is found in D. 26.5.21.2 (Modestinus libro primo excusationum): *Ἀλλὰ κἂν τις ἀπὸ γονέων κωλυθῇ ἐπιτροπεύειν, τοῦτον οὐτε χειροτονεῖσθαι προσήκει· κἂν χειροτονηθῇ μὴ παραιτήσεται* (i.e. even if such a man, when appointed to be a tutor, does not ask to be exempted), *κωλύεσθαι αὐτὸν ἐπιτροπεύειν . . .*

παράλογον, τό The phrase *ἐκ παραλόγου*—“unexpectedly”—is not attested in LSJ. It occurs in D. 1.3.3 (Pomponius libro vicen-simo quinto ad Sabinum): *Iura constitui oportet, ut dixit Theophrastus, in his, quae ἐπὶ τὸ πλεῖστον accidunt, non quae ἐκ παραλόγου*. It may very well represent Theophrastus' own words. He is the only author for whom the similar expression *ἐν παραλόγῳ* is attested in LSJ.

παρασκευάζω In Justinian, Const. *Δέδωκεν* 24 we read: Ἀπαντες τοίνυν οἱ εὐκλεέστατοι τῆς ἡμετέρας πολιτείας ἄρχοντες τὴν θείαν ἡμῶν ταύτην δεχόμενοι διάταξιν χρῆσθαι τοῖς προειρημένοις ἡμῶν νόμοις ἕκαστος ἐν τῷ καθ' ἑαυτὸν παρασκευάσει δικαστηρίῳ. In LSJ there is not true example of the intransitive use of the active voice.

παρατατικώς There are no examples in LSJ of *παρατατικῶς* in the meaning “loosely, approximately”. One example occurs in D. 38.7.1 (Iulianus libro vicensimo septimo digestorum): Haec verba edicti “tum quem ei heredem esse oporteret, si intestatus mortuus esset” *παρατατικῶς* et cum quodam temporis spatio accipiuntur . . . Another example occurs in D. 42.4.2.4 (Ulpianus libro quinto ad edictum): Haec verba “defenderetur” *παρατατικῶς* scripta sunt, ut neque sufficiat umquam defendisse, si non daret defensio, neque obsit, si nunc offeratur. The same notion is expressed in the Digest also by the phrase ἐν πλάτει, e.g. in D. 13.3.3 and 46.3.13.

παράτιτλον, τό LSJ gives only one occurrence of this word. Add Justinian, Const. *Δέδωκεν* 21: ἅπασιν ὁμοίως ἀπαγορεύομεν τὸ . . . τούτων δὴ τῶν νόμων ὑπομνήματα γράφειν, πλὴν . . . εἴ τι κατὰ τὴν τῶν ὀνομαζομένων παρατίτλων ὡς εἰκὸς προσγράψαι βουλευθεῖεν χρεῖαν. The meaning given in LSJ of this term is: explanatory note appended to a statute. However, a recent study has come to the conclusion that the paratitla were simply marginal *scholia* or notes. (H. J. Scheltema, “Das Kommentarverbot Justinians”, *Tijdschrift voor Rechtsgeschiedenis* 45 (1977) 307–331, esp. 319–324).

περίοδος, ἡ LSJ does not offer the meaning “circuitous, round-about” with reference to a road or a journey. It occurs in D. 27.1.10.3–4 (Modestinus libro tertio excusationum): Ἐνιαυτός δὲ συννημένων ἡμερῶν ἐξετασθήσεται, ἐξ ὅτου τις ἐπανῆλθεν εὐθεῖαν ὁδὸν εὐθύων ἢ διευθύνειν γε ὀφείλων, οὐχὶ τὴν ἐκ περιόδων. Instances of Plato’s use of *περίοδος* in a metaphorical sense of dialectical detour or circuitous way of investigation have been pointed out by Robert Renehan, *Greek Lexicographical Notes* (Göttingen 1975) 164.

πούς, ὁ With respect to the phrase κατὰ πόδα LSJ does not mention its use in connection with translations. In Justinian, Const. *Δέδωκεν* 21, Justinian, while prohibiting the writing of ὑπομνήματα to the Digest, permits *inter alia* τῇ κατὰ πόδα καλουμένη χρήσασθαι τῶν νόμων ἐρμηνεία . . . At present the consensus seems to be that the phrase *ἐρμηνεία κατὰ πόδα* refers to a type of translation in which above each word of a Latin legal text were written one or more Greek equivalents. This procedure was more an aid to comprehen-

sion than it was a continuous translation. The expression *κατὰ πόδα* could also be applied to the same kind of glossing of a Greek text intended for Latin-speaking students. On this see H. J. Scheltema, *L'enseignement de droit des antécédents* (Leiden 1970) 15, 32–35, and 52–53. For a discussion and refutation of earlier interpretations of *ἐρμηνεία κατὰ πόδα* see N. van der Wal, *Les commentaires grecs du Code de Justinien* (The Hague 1953) 49–63.

πρᾶγμα, τό Justinian states in Const. *Δέδωκεν* 7d: *καὶ εἴ τί γε ὅλως περὶ . . . τῆς τῶν πραγμάτων διακρίσεως τε καὶ κηδεμονίας* (sc. *ἐστὶ*) *καὶ τοῦ μή τι παθεῖν τοὺς δανείζοντας βλάβος, καὶ τοῦτο ὁμοίως εἰς ἐν ἡθροιστῶν βιβλίον*. The expression *τῶν πραγμάτων διάκρισις* renders the Roman law term *separatio bonorum*. If the heir of an inheritance was suspected of being heavily in debt (*heres suspectus*) then creditors with claims against the inheritance could ask the praetor that the heir's property be legally separated from the estate he had inherited. This *beneficium separationis* served to prevent the creditors of the heir from trying to satisfy their claims from the inheritance. Such a *separatio bonorum* could also be requested by a slave of the testator who had freed him and instituted him as *heres necessarius* of an insolvent estate. The term *πρᾶγμα*, then, in the phrase *τῶν πραγμάτων διάκρισις* refers to the Latin term *bona* or one's assets. LSJ gives only one example of a similar meaning and that from a quotation from Hippocrates in Erotian. The entire phrase, too, being a technical law term, requires an entry.

πριμίπιλον, τό LSJ lacks any examples of this term, which designates the office of the *primipilus*, the senior centurion of a Roman legion. It occurs in 27.1.8.12 (Modestinus libro tertio excusationum): *πριμιπιλάριοι δὲ οὗτοι νομίζονται οἱ διανόσαντες τὸ πριμίπιλον*. Another example occurs in D. 27.1.10.5 (*ibid.*): *ὁ πριμίπιλον διανόσας . . .* The Latin equivalent of *πριμίπιλον* was *primipilatus* (e.g. in the Code 12.62.1, dated A.D. 253–260).

In the papyri and on ostraca *πριμίπιλον* also designates a tax. For occurrences see J. G. Tait and C. Préaux, *Greek Ostraca in the Bodleian Library at Oxford*, II (London 1955) No. 2065, p. 359 (fourth cent. A.D.) and H. Kortenbeutel, "Steuerlisten römischer Zeit aus Theadelphia", *Ägyptische Urkunden aus den staatlichen Museen zu Berlin. Griechische Urkunden*, IX. Band (Berlin 1937) P. 1894.73, p. 93 and 105 (A.D. 157). In his note on p. 105 Kortenbeutel also gives references to other occurrences of this term. A definition of the tax *πριμίπιλον* seems to be given in Du Cange's

Glossarium ad scriptores mediae et infirmæ graecitatis (Lyon 1688): *πριμίπιλον ἔστι τὸ τοῖς πρώτοις ἀκοντισταῖς διδόμενον σιτηρέσιον, ἵνα διανεῖμῃ τοῦτο αὐτοῖς*. According to Du Cange this definition is taken from Theodorus Hermopolites lib. 9, tit. 19. Hoping to find more information about the *πριμίπιλον* in the immediate context of this definition I searched for it in the published writings of Theodorus but without success. A short definition is also found in C. Labbé's *Veteres glossae verborum iuris* (Stephanus, *Thesaurus graecae linguae*, v. 8): *πριμιπίλουμ* (sic)—*στρατιωτικὴ ἀννόνα*.

πρόληψις, ἡ This term is absent in LSJ in the sense “presumption of law”. It occurs in Justinian, Const. *Δέδωκεν* 5: *εἴτα ἐπηγάγομεν τούτοις . . . καὶ τὰ περὶ συμβολαίων τε καὶ παρόδον μαρτύρων καὶ ἀποδείξεων τε καὶ προλήψεων εἰς βιβλίον ἓν . . .* See also Theophilus 3.20.8, p. 348.10: *Ἐπὶ τῶν ἐπερωτήσεων τῶν ἐγγνητῶν ἰστέον ἔστι ὅτι ὁπερδήποτε εἶη γεγραμμένον ὥς γενόμενον προλήψει γεγενῆθαι δοκεῖ*.

πρός In LSJ there are no examples of *πρός* as an adverb in the meaning “besides, over and above” later than Plato and Demosthenes. Add Justinian, Const. *Δέδωκεν* 6: *τὰ δὲ δὴ περὶ διαθηκῶν καὶ πρὸς γε ληγάτων καὶ φιδεικομμίσεων ἅπαντα συνηγάγομεν εἰς ἑννέα βιβλίων ἀριθμόν . . .*

προσαναμείγνυμι Only one example of this verb found in LSJ. Add Justinian, Const. *Δέδωκεν* 8a: *προσαναμέμικται γὰρ αὐτοῖς . . .*

προσαναπλέκω To the sole example in LSJ add Justinian, Const. *Δέδωκεν* 7: *προσανεπλέξαμεν δὲ αὐτοῖς καὶ τὰς ἐξ ἀδιαθέτου καλονμένας ἀπάσας διαδοχὰς . . .*

προσαποτιννύω LSJ only recognizes forms derived from *προσαποτίνω*. Enter D. 50.9.6 (Scaevola libro primo digestorum): *ἐάν τις ἔξω τοῦ συνεδρίου δικάσῃται, τοῦ τε συνεδρίου εἰργέσθω καὶ προσαποτιννύτω δραχμὰς χιλίας*.

προσήκω The neuter *προσῆκον* followed by a finite form of *εἰμί* is not mentioned in LSJ. It occurs in Justinian, Const. *Δέδωκεν* 18: *εἴ τι παρὰ τὸ διατεταγμένον ἀνακύψειν, προσῆκόν ἔστι τοὺς ἐν ἀρχαῖς τοῦτο πειρᾶσθαι διαιρεῖν καὶ θεραπεύειν . . .* See also the Code 1.4.34.4 (A.D. 534): *προσῆκον γὰρ ἔστιν αὐτοῖς νηστεῖαις τε καὶ ἀγνείαις καὶ ταῖς ἀσκήσεσι . . . καὶ ταῖς ὑπὲρ πάντων σχολάζειν εὐχαῖς . . .* Other occurrences are found in inscriptions and in the papyri. An example occurs already in Demosthenes 3.24: *ὑπήκουε δ' ὁ ταύτην τὴν χώραν ἔχων αὐτοῖς* (sc. the Athenians) *βασιλεύς* (sc. the Persian King), *ὥσπερ ἔστι προσῆκον βάρβαρον Ἑλλήσι . . .* Another example of this

construction in the Digest was adduced in this article s.v. *ἔξεστι*. For a book-length treatment see G. Björck, *Ἡν διδάσκων, Die periphrastischen Konstruktionen im Griechischen* (Uppsala 1940).

σίγλα, ἡ Among Justinian's several prohibitions against the improper treatment of the Digest one warns against the use of abbreviations: *Αὐτῆς ταύτης ἐπικειμένης τῆς ποιῆς καὶ κατὰ τῶν σημείους τισὶν ἐν τῇ γραφῇ χρωμένων, ἅπερ σίγλας (σίγγλας F) καλοῦσιν . . . ἀλλὰ μὴ δι' ὅλου τούς τε ἀριθμοὺς τὰ τε ὀνόματα τῶν πάλαι σοφῶν τὴν τε ὅλην νομοθεσίαν γραφόντων*. (Const. *Δέδωκεν* 22). In LSJ the only meaning given for this word is ear-ring. In Latin the prohibition against the use of abbreviations is expressed by the phrase *per siglorum obscuritates* (Justinian, Const. Tanta 22 and the Code 1.17.2.22). Justinian's prohibition is found again in the Basilica 2.6.20 (Scheltema-van der Wal): *κελεύει δὲ (sc. Justinian) μὴ διὰ σίγλων τὸ ὕφος τοῦ νόμου γράφεσθαι, δι' ὧν ἀντινομίαι πολλαὶ εἰσάγονται*. The accentuation here points to a nominative *σίγλος* or *σίγλον*. The quantity of the *ι* appears to be short because in Preisigke (P.Masp. 340B, 77) the accusative of the word in the meaning ear-ring is accented *σίγλαν*.

σκήπτρον, τό In LSJ the plural of this word in the sense "royalty, kingly power" etc. is attested only for Herodotus and fifth-century tragedy. Add Justinian, Const. *Δέδωκεν* 23: *ἡ τρίτη τῆς οἰκουμένης μοῖρα, τὴν ὅλην Λιβύην φαμέν, τοῖς ἡμετέροις προστέθεται σκήπτροις . . .* and the Suda, s.v. *Ὀνωρία*: *ἀδελφὴ Βαλεντιανοῦ ἦτις καὶ αὐτὴ τῶν βασιλικῶν εἶχετο σκήπτρων*.

στοιχέω We read in D. 34.1.4. pr. (Modestinus libro decimo responsorum): *τοῖς τε ἀπελευθέροις ταῖς τε ἀπελευθέραις, οὓς ζῶσα ἐν τε τῇ διαθήκῃ ἐν τε τῇ τῷ κωδικίλλῳ ἡλευθέρωσα ἢ ἐλευθερώσω, δοθῆναι βούλομαι τὰ ἐν Χίοις μου χωρία, ἐπὶ τῷ καὶ ὅσα ζώσης μου ἐλάβανον στοιχεῖσθαι αὐτοῖς κιβαρίον καὶ βεστιαρίον ὀνόματι*. The Latin translation gives *suppetant* for *στοιχεῖσθαι*. This seems to be the only meaning appropriate to the context. However, the meaning *suppetere*—to be available for one's needs, to be present—is not among the ones given in LSJ.

στοχάζομαι LSJ gives only one instance, from Hero, for the meaning "have regard to". Add Justinian, Const. *Δέδωκεν* 13: *τοῖς τῆς ἀνθρωπίνης ἐστοχασμένοις φύσεως οὐκ ἔξω δικαίας ἀπολογίας οὐδὲ τοῦτο δόξειεν εἶναι*.

σύγκτησις, ἡ Only one occurrence of this word is given in LSJ. It is taken from J. Keil and A. v. Premmerstein, *Bericht über eine dritte Reise in Lydien*, (Denkschrift der kaiserlichen Akademie der

Wissenschaften in Wien, Phil.-Hist. Klasse. 57. Band, 1. Abh.) (Wien 1914) No. 84, p. 67. The meaning attributed to it by Keil and Premierstein and picked up by LSJ is “joint possession”. However, there is not enough left of the stone to allow to establish this, or any, meaning for this word from the context. The editors must have made their decision on the basis of a gloss and/or by interpreting the word in isolation. In G. Loewe and G. Goetz, *Corpus Glossariorum Latinorum* II (Leipzig 1888) 111, *compossessio* is glossed as *σύγκτησις*. However, the exact meaning of *compossessio* is not certain, since this is the only certain occurrence of this word. The meaning “joint ownership” does not seem to fit too well the examples in the Digest. The first one is found in D. 31.34.1 (Modestinus libro decimo responsorum): *Lucius Titius in testamento suo ita cavit: Ὀκταβιάνη Στρατονίκη τῇ γλυκντάτῃ μου θυγατρὶ χαίρειν. Βούλομαι αὐτὴν παρ’ ἐαυτῆς λαβεῖν χωρίον Γάζαν σὺν ταῖς ἐνθήκαις αὐτοῦ πάσαις. Ὀκταβιάνῳ Αλεξάνδρῳ τῷ γλυκντάτῳ μου νύῳ. Ἐξαίρετον βούλομαι αὐτὸν παρ’ ἐαυτοῦ λαβεῖν σύγκτησιν ἀγωνόφορον* (see my note on this word) *Κομιάνῃ σὺν αἷς ἔχει ἐνθήκαις πάσαις*.

The others are found in D. 34.30.1 (Scaevola libro primo digestorum): *Titia . . . Pamphilo liberto suo praedia per fideicommissum dedit, in quibus et σύγκτησιν praediorum quae appellabatur circa Colonen . . . postea . . . ita est locuta: . . . ἐὰν Σεῖα ἢ σύντροφος μου κληρονόμος μὴ γένηται, ἐξ οὗ γέγραφα αὐτὴν μέρους, βούλομαι αὐτῇ δοθῆναι τὴν σύγκτησιν τὴν περὶ Κολώνην*. The other two occurrences (*ibid.*) read: “σύγκτησιν circa Colonen” and “σύγκτησιν quae est circa Colonen”.

The bequests in both these wills are in the form of legacies. Although in the Roman-law legacy *per damnationem* the testator could leave a legacy of a thing which did not belong to him it seems unlikely that precisely in these two wills, in which these types of legacies are not the point at issue, the testators should be bequeathing to a legatee something of which they are not the sole owners. A meaning more suitable for *σύγκτησις* in these passages is indicated, I think, in a letter of the emperor Julian to Evagrius the rhetor (*Ep.* 46; *Ep.* 4 in the Budé edition). In this letter Julian writes: *Συγκτησείδιον μικρὸν ἀγρῶν τεττάρων δοθέντων ἐμοὶ παρὰ τῆς τήθης ἐν τῇ Βιθυνίᾳ τῇ σῇ διαθέσει δῶρον δίδωμι . . .* Here quite clearly the little *σύγκτησις* is said to consist of either four fields or four farms, the meaning “farm” for *ἀγρός* being found both in LSJ and in Lampe. Now in D. 34.30.1, too, *σύγκτησις* was followed by a word in the genitive denoting land or farms: Pamphilo . . . praedia

dedit, in quibus et *σύγκτησιν* praediorum quae appellabatur circa Colonen . . . Therefore, in this Digest passage, the phrase *σύγκτησις* praediorum must refer, as in Julian's letter, to an agglomeration of property made up of more than one field or farm. This meaning fits well also the *σύγκτησις* mentioned in D. 31.34.1. A similar meaning is attested also for the verb *συγκτάομαι* (Aristides 26.24 Keil): *εἴ τις ιδιώτης συγκτήσαιο μὲν γῆν πολλήν καὶ ἀγαθήν, πρὶν δὲ λαβεῖν ἀπ' αὐτῆς τοὺς καρποὺς τελευτήσειεν* . . .

To sum up, the meaning of *σύγκτησις* in its occurrences in the Digest must be "a property established out of several fields or farms, an agglomeration of several fields or farms". Whether this meaning also fits the Keil-Premenstein inscription cannot be established on the available evidence.

Another meaning of *σύγκτησις* found in the glossators (*op. cit.* p. 440) is *saltus*, a meaning omitted in LSJ. *Saltus* may have the meaning "estate, property", for instance in D. 19.1.52. pr. where a *fundus* is a part of a *saltus*: *saltus in quo . . . fundus est*. *Saltus* will hardly have the meaning "forest" or "pasture" here. In D. 3.5.26. pr. we read: *frater in saltu communi habenti habitationes paternas ampla aedificia aedificaverat*. Ample dwellings would more likely be built on an estate than in a forest or a pasture. Dictionaries give several other examples of *saltus* under the heading "estate". However, while fitting the other examples of *σύγκτησις saltus* in the meaning "estate" does not seem to be suitable for the expression '*σύγκτησις praediorum*'. We would, then, have a descriptive genitive without an adjective modifying *saltus* (estate). Such bare genitives of description are very rare and mostly late (E. Löfstedt, *Syntactica* I (Lund 1942) 281, n. 3). As an example of a partitive genitive *saltus praediorum* seems equally strange.

It seems to me that the phrase *σύγκτησις praediorum* is interpreted most naturally if *σύγκτησις* is considered to have a verbal connotation, to be the noun equivalent of the verb *συγκτάομαι* in the sense of accumulation, of acquiring several objects. Then *praediorum* can be interpreted as an objective genitive. This interpretation is also appropriate for the other occurrences of *σύγκτησις* in the Digest.

συμπολιτεύω In Justinian, Const. *Δέδωκεν* 23 this term has the meaning "to be of equal validity, to have the same legal force": *ταῦτα δὲ δὴ τὰ βιβλία, τὰ τε τῶν Institution τὰ τε τῶν Digeston . . . κρατεῖν θεσπίζομεν . . . εἰς τὸν λοιπὸν ἅπαντα . . . χρόνον . . . ταῖς βασιλικαῖς συμπολιτενόμενα διατάξουσιν*. This precise meaning is not given in LSJ.

συνβετερανός For the meaning *conveteranus* LSJ has an entry under *συνβετερανός* and under *συνουετερανός*. From D. 21.1.8.6 (Modestinus libro tertio excusationum) add *συνβετερανός*.

συνίστημι In the meaning “to prove, to establish the veracity” LSJ offers two occurrences in the active voice but both from the same author, Philodemus. Add D. 27.1.13.7 (Modestinus libro quarto excusationum): *Ἐὰν γὰρ τις διὰ νόσον ἢ δι’ ἄλλην ἀνάγκην . . . ἐμπροθέσμως μὴ δύνηται ἐντυχεῖν, συγγνώμης τυγχάνειν οὗ τὴν πίστιν ἥρκει συστήσαι καὶ ἐξ αὐτοῦ τοῦ φύσει δικαίου . . .* Two earlier occurrences, in 167–134 B.C. and in 116 B.C., of *συνίστημι* in this meaning are given by E. Mayser, 2.3, § 155, I. a, p. 45. Several examples are also found in Lampe.

ταβέρνα, ἡ No examples of this Latin word in Greek are found in LSJ. One occurs in D. 20.1.34.1 (Scaevola libro vicesimo septimo digestorum): *ἡ ταβέρνα καὶ οἱ δοῦλοι . . .* Another example occurs in *Acta Apostolorum* 28.15: *κακέϊθεν οἱ ἀδελφοὶ ἀκούσαντες τὰ περὶ ἡμῶν ἦλθαν εἰς ἀπάντησιν ἡμῖν ἄχρι Ἀππίου φόρου καὶ Τριῶν ταβερνῶν . . .*

τοσοῦτος For the phrase *ἐν τοσούτῳ*—in the meantime—both examples in LSJ are early, from Thucydides and Aristophanes. Add D. 27.1.10.7 (Modestinus libro tertio excusationum): *ἀτελεύθερος . . . ἕως μὲν ἀφῆλιξ ἦ, οὐκ ἐνοχλήσεται (sc. will not have to be a tutor)· ἐν τοσούτῳ δὲ ἕτερος εἰς τόπον αὐτοῦ χειροτονηθήσεται κηδεμών.*

ὕπευθυνος LSJ has no examples of the Roman law meaning *obligatum esse alicui*. It occurs in D. 27.1.1.4 (Modestinus libro primo excusationum): *ἐὰν δὲ δοθῇ (sc. one freedman as a tutor of another), ὁ θειότατος Σεβήρος τῶν ἀφηλίκων προνοούμενος ὑπεύθυνον αὐτὸν εἶναι τῇ ἐπιτροπῇ . . . ἀντέγραψεν.* This expression seems to be a calque from Latin, e.g. of D. 50.4.18.11: *certa pecunia camelariis dari debet ut solo corporis ministerio obligentur*. The same construction occurs also in D. 38.1.43: *operis obligatus (sc. libertus) militiae nomen non sine inuria patroni dabit*. For another Greek equivalent of *obligatum esse alicui* see s.v. *κατέχω*.

φιδεικόμμισσον, τό LSJ has the adjective *φιδεικομμισσάριος* only. See Justinian, Const. *Δέδωκεν* 6: *Τὰ δὲ δὴ περὶ διαθηκῶν καὶ πρὸς γε ληγάτων καὶ φιδεικομμίσσων . . .*

In the Code all examples are of the spelling *φιδικόμμισσον* (1.5.18.3 and 6.48.1 and 3).

φροντιστής, ὁ Only one example in the sense *procurator* given in LSJ. Add D. 26.6.2.5 (Modestinus libro primo excusationum): *κουράτορας δὲ ἐαυτοῖς αἰτήσουσιν οἱ ἀφήλικες, ἐὰν μὲν παρῶσι, δι’ ἐαυτῶν· ἐὰν δὲ ἀποδημῇ τις αὐτῶν, αἰτήσῃ διὰ φροντιστοῦ.*

χαμᾶθεν LSJ gives no example of χαμᾶθεν in the Roman law sense *de plano*. The term *de plano* refers to a legal officer's (e.g. the praetor's) taking legal notice or giving a legal order not in court but rather informally, possibly on unilateral demand, without investigating the situation (as opposed to *causa cognita*). Χαμᾶθεν represents the Greek calque of the Latin *de plano*. It occurs in D. 27.1.13.10–11 (Modestinus libro quarto excusationum) where the formal notification of a judge (πρὸ βήματος) is opposed to informal notification (χαμᾶθεν): (One who wants to appeal his appointment to tutorship within the legal time limit) *χρῆ* (sc. appellans) . . . μαρτύρασθαι πρὸ βήματος ἢ ἄλλως ἐπὶ ὑπομνημάτων (sc. *apud acta*)· δύναται δὲ καὶ βιβλίδια ἐπιδοῦναι χαμᾶθεν . . . In the Basilica 38.1.13 (Scheltema-van der Wal) this requirement has been cast in somewhat different language: Ἐμπροθέσμως δὲ εἰ μὴ προσέλθῃ καὶ εἴπῃ τὸ εἶδος ἢ πάντα ὅσα ἔχει τῆς ἀφέσεως ἐπὶ βήματος ἢ διὰ λιβέλλον ἐξ ἐπιπέδου . . . πρὸ βήματος has been replaced by ἐπὶ βήματος, βιβλίδια by λίβελλος and χαμᾶθεν by ἐξ ἐπιπέδου.

χείρ, ἡ No examples are given in LSJ of χείρ in the Roman law meaning *manus* or *potestas* of the *pater familias*. One occurs in D. 27.1.8.7–8 (Modestinus libro tertio excusationum): Ἦδη δὲ καὶ στρατιώτου ἀφήλικος κουράτωρ δοθήσεται ὁ πάλαι στρατιώτης, δηλαδή ἐὰν ὁ πατὴρ αὐτοῦ ἀποθάνῃ· ἐὰν δὲ καὶ οὗτοι ἀπὸ χειρὸς ἀπολυθῶσι, ὁμοίως. See also *ibid.* 11: Καὶ οὐδὲν διαφέρει, πῶς δεήσονται οἱ παῖδες τοῦ συνστρατιώτου ἐπιτρόπου ἢ κουράτορος, πότερον ἀπὸ χειρὸς ἀπολυθέντες ἢ τοῦ πατρὸς ἀποθανόντος. The Greek phrase ἀπὸ χειρὸς ἀπολυθῆναι is modelled on the corresponding Latin expressions for the release from the *potestas* of the *pater familias* such as *de manu missio*, *sua manu demittere filios*, *manu paterna liberatus* etc. (see Heumann-Seckel, s. v. *manus*). Χείρ is attested in this sense also in the case of slaves: ἐφ' ὅσον τις ἐστὶν ἐν τῇ δουλείᾳ τῇ χειρὶ καὶ ἐξουσία ὑπόκειται τῇ ἡμετέρᾳ . . . (Theophilus 1.5. pr., p. 22.6).

χρῆσις καὶ ἐπικαρπία There are no examples in LSJ of *χρῆσις καὶ ἐπικαρπία* or of *χρῆσις* or *ἐπικαρπία* in isolation in the Roman law meaning *ususfructus*. LSJ applies the meaning “usufruct” to an example from D.H. 3.58: βασιλεὺς . . . Ταρκύνιος . . . τριετὴ χρόνον ἀποστερήσας τοὺς Οὐδιεντανοὺς τῶν ἐκ τῆς σφετέρᾳ γῆς ἐπικαρπιῶν . . . It is quite evident that the ἐπικαρπία here refer to crops or produce of the entire community and have nothing to do with *ususfructus* in the technical sense. An example of the latter meaning is found in D. 31.34.7 (Modestinus libro decimo responsorum): Titia . . . decedens codicillis ita cavit: Γάιον Σείον τὸν ἄνδρα

μον παρακατίθεμαί σοι, ὦ θύγατερ. ὃ βούλομαι δοθῆναι εἰς βίον χρῆσιν καὶ ἐπικαρπίαν μετοχὴν (a share) κώμης Νακλήνων . . . χρῆσις καὶ ἐπικαρπία is clearly identified with *ususfructus* in Novels 18.3: ταῖς μὲν γὰρ γυναιξὶ πάντα κατέλιπον τῶν ἐαυτῶν πραγμάτων τὸν οὐσοφρουκτον, τοῖς δὲ παισὶ τὴν δεσποτείαν γυμνήν. A few lines down Justinian deplores such wills and orders that in addition to the bare ownership of their legitimate inheritance the children should also receive its *ususfructus*: Οὐκ ἐξέσται τοίνυν τὸ λοιπὸν οὐδενὶ παντελῶς παῖδας ἔχοντι τοιοῦτό τι πράττειν, ἀλλὰ πάντως αὐτοῖς τοῦ νομίμου τούτου μέρους, ὅπερ νῦν ἀφωρίσαμεν, καὶ τὴν χρῆσιν καὶ τὴν ἐπικαρπίαν πρὸς τῇ δεσποτείᾳ καταλιμπανέτω . . . See also Theophilus 2.1.9, p. 99.19: *usúfructos* δέ ἐστι δίκαιόν τι φανεροῖς τρόποις συνιστάμενον, νῶ καταλαμβανόμενον, ὃ ποιεῖ με κατὰ τῆς ἐτέρου δεσποτείας ἔχειν χρῆσιν καὶ ἐπικαρπίαν.

A Note on *munus*, *munus fungi* in Early Latin

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Munus is a specific type of *donum*¹), from which it is to be distinguished by its obligatory character, implied by its root *mei-*, which denotes “exchange”²). Once the recipient accepted the *munus* (“exchange-gift”), he was under a burden of obligation (*onus*) to make a due return³), whether in kind (*donum*) or by a service (*officium*)⁴). There is no real support for Pinsent’s claim⁵) that in

¹) Ulp. Dig. 50.16.194: *inter donum et munus hoc interest, quod inter genus et speciem . . .*

²) See Ernout-Meillet, D.E.U.⁴ 422; cf. Paul. Fest. p. 140 Müll.

³) For the concept of burdening obligation associated with *munus* see L. R. Palmer, ‘The Concept of Social Obligation in Indo-European’ in *Hommages à Max Niedermann* (Collection Latomus, Vol. XXIII (1956), pp. 258–69. The three meanings of *munus* are combined in Paul. Dig. 50.16.18: *munus tribus modis dicitur: uno donum . . . altero onus . . . tertio officium*. Palmer’s view is rejected by G. Williams (CQ, 9 (1959), pp. 155ff.) but see N. Zagagi, *Tradition and Originality in Plautus: Studies of the Amatory Motifs in Plautine Comedy* (Hypomnemata, 62; Göttingen, 1980), p. 119 n. 47.

⁴) On the binding moral obligation associated with the institution of gift in antiquity see M. I. Finley, *The World of Odysseus* (London, 1956), pp. 68ff., 105ff., 134ff.; *idem*, ‘Marriage, Sale and Gift in the Homeric World’, *Seminar, An Annual Extraordinary Number of the Jurist*, 12 (1954), pp. 7ff.; É. Ben-