Stewardship and Ownership of Material Goods: Discipline and Order in the Pre-Constantinian Church

Msgr. Thomas J. Harrington
STEWARDSHIP AND OWNERSHIP OF MATERIAL GOODS: DISCIPLINE AND ORDER IN THE PRE-CONSTANTINIAN CHURCH

REV. MSGR. THOMAS J. HARRINGTON, JCL*

INTRODUCTION

The third century of the Christian era was a watershed season for the church. The individual communities of adherents, clustered, for the most part, in the urban centers of the Roman Empire, exhibited exceptional growth and development. The "great church" which united and combined the disparate local congregations became literally coextensive with the imperial borders. This ecclesial development took place within a larger societal context which in its own right manifested striking ferment.

Some aspects of the growth and development of the Church and churches in the third century are quite dramatic, touching upon such matters as ecclesiastical organization and governance, doctrinal formulation and the organization of worship. Others, much more mundane in nature, pertain to the procedures adopted for conducting ordinary administrative activities, such as the collecting, processing and disbursing of monies needed for routine endeavors, or the maintaining of at least some properties for Church purposes. It is precisely in the conduct of basic ad-

* Pastor, Saint Joseph's Parish, Taunton, Mass. A.B. College of the Holy Cross; JCL Catholic University of America, School of Canon Law. The author served fifteen years as Chancellor for the Diocese of Fall River.
ministrative practices of this sort that the activities of the Church (or any other organized collectivity, for that matter) would patently impinge upon the prevailing civil law system.

Roman legal history spans, at minimum, thirteen centuries. It is clearly impossible to contemplate any comprehensive analysis of Roman law in the few brief pages which this examination of certain aspects of ecclesial development affords. However, for even a minimal understanding of certain pertinent elements in the growth process of the Christian community during the third century, it is essential to grasp the outlines of some aspects of the Roman legal system as it had evolved coincident with the contemporary burgeoning of Christian ecclesial life. This very rudimentary delineation of salient points in the civil law environment in which extraordinary Church expansion occurred is cast in specific terms relating to the reign of the Severan emperors, especially Alexander Severus.

ALEXANDER SEVERUS—LAST OF THE “SEVERI”

As the second century of the Christian era waned, the distinguished line of rulers of the Antonine dynasty ceased to occupy the imperial principate of Rome. On the pretext of addressing the anarchic situation which prevailed in Rome following the death of Commodus, the son of Marcus Aurelius, the Roman legionnaires protecting the frontier along the Danube River proclaimed and established their own military leader, Septimius Severus, as emperor in the year 195 A.D. Forty years later, troops of the cohorts deployed at the border of the empire along the Rhine River assassinated Alexander Severus, thus ending the Severan “dynasty”, if that term is not too extravagant. With the violent extinguishment of the Severan line came a fifty year period of extraordinary decline in the Roman Empire. The principate, which had its origins with

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1 Two magisterial works on Roman law and Roman history have been of particular utility in interpreting the events mentioned here: H. Jolowicz & B. Nichols, Historical Introduction to the Study of Roman Law (3d ed. 1972), and M. Rostovtzeff, The Social and Economic History of the Roman Empire (P. Fraser rev. ed. 1952). Rostovtzeff is the author of an abridged historical study, available in translation from the original Russian by J.D. Duff. J. Duff, Rome (1960). There is a helpful English language biography of Alexander Severus by R.V. Nind Hopkins. R. Nind Hopkins, The Life of Alexander Severus (1907). Very useful has been the Vademecum of Adolf Berger. A. Berger, Encyclopedic Dictionary of Roman Law (1953). Helpful surveys of Roman historical development include the ever-useful work of R. Barrow, The Romans (1961) and L. Wilkinson, The Roman Experience (1975). The textbook by M. Cary & H. Scullard, A History of Rome Down to the Reign of Constantine (3d ed. 1984) is exemplary in its category. Among the sources consulted have been the corpus of D. Cassius, Dio's Roman History (1914-1927), 9 volumes, in the Loeb Classic Library series, as well as the Vitae Imperatorum Romanorum and the Historia Augusta.
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Octavian/Augustus, literally ceased to exist. Not until the accession of Domitian in 285 A.D. did real stability return, and then only through a novel phase of imperial governance, the dominate, which brought substantial and radical new forms of governance to the empire, while retaining some of the nomenclature of the republic and earlier imperial period.²

To an altogether unprecedented degree, the caprice of the military establishment prevailed. During the half-century from 235 A.D., there were no fewer than twenty-six emperors, only one of whom died a natural death. The army made and eliminated rulers, one after another in succession. Strength, often brutal, violent strength, was the medium of exchange prevailing in the Roman world. The dismal reality of the middle decades of the third century had been anticipated in the widely (we might say "wildly") variegated heritage derived from the Severi.

Septimius Severus, who reigned from 195-211 A.D., was, by most accounts, a capable and responsible enough emperor, exhibiting flashes of competence and political skill. Like his wife, Julia Domna, who in her own right exercised considerable influence, he was of Syrian origins. Bowing to demographic realities, he opened the senatorial class to citizens from Asia Minor, Africa and Egypt. He surrounded himself with able advisors, including the celebrated jurist Papian, who had himself emigrated to Rome from Asia Minor and served as legal consultant to Septimius. Needed improvements were introduced into the Roman legal system. For example, the rigid structures governing inheritance were relaxed. However, the Emperor was clearly mindful of the ultimate basis for his imperial authority, and consequently he catered to the military, granting to the legionnaires concessions which previous emperors had been loath to convey. Thus, the right of *connubium* was given to soldiers, and, even more dramatically, non-commissioned legionnaires were allowed to exercise the *ius coire* in their own *collegia*. True to the classic vision of emperor as commander-in-chief of the army upon which he was so graphically dependent, Septimius Severus led an expedition into Britain, where, in 211 A.D., he was killed in battle.

The son of Septimius Severus, known to history as "Caracalla," a name derived from the hooded cloak of the Greek fashion which he preferred to the Roman toga, was, in many respects, a caricature of his fa-

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² Judgment pronounced by the authorities on the interval between 235 A.D. and 285 A.D. is universally negative. Echoing both Rostovtzeff ("one of the darkest periods in the history of the Roman Empire") and Jolowicz ("a half-century of confusion and disaster"), J. Thomas, *Textbook of Roman Law* 25 (1976), speaks of a period of "iron and rust" in which "the Principate perished in blood and strife." Id. The radical reform of the *dominate* entailed the transfer of imperial power from inherited forms to something akin to an oriental despotism, the creation of territorial divisions within the territory encompassed by the Empire, with appointment of co-regents and a complete overhaul of the administrative-bureaucratic mechanism.
ther. To insure his succession, he had his brother, Geta, slain. Violent in temperament and lascivious in his life-style, Caracalla depleted the fiscus with gaudy endeavors. Beset with paranoid fears, he created an extensive “system” for domestic surveillance and spying. The military eventually fulfilled his worst apprehensions, forming a conspiratorial cabal which plotted his assassination. The murder was actually committed by the praetorian prefect, Marcus Opelenius Macrinus, who engineered his own brief reign from 217-218 A.D. Dissatisfied with the regime of their former commandant, the praetorians, encouraged by the scheming widow of Septimius Severus, Julia Domna, and her daughters, assassinated Macrinus in 218 A.D. and proclaimed a son of Caracalla as emperor, Vaxius Avitus Bassianus by name, but known to history by the infamous appellation “Elagabalus.” This identification was derived from an oriental pagan deity, Elagabal, the “Baal of Amesa,” a patron of debauchery and lewdness to whose cult the youthful emperor was thoroughly devoted. The historian Dio Cassius provides a very graphic recital of Elagabalus’ excesses, which, beyond his personal depravity, included bizarre public spectacles entailing a symbolic pollution of the venerated Roman deities. Almost certainly insane, Elagabalus is regarded as quite probably the very worst emperor of all.

Predictably, the praetorians murdered Elagabalus during a mutiny occurring on New Year’s Day, 222 A.D., at which time another young man of the gens Severi, Alexander Severus, who had served as co-consul with his deranged adoptive relative was declared emperor by the army.

As emperor, Alexander Severus exhibited many of the better qualities of the first of the Severan line, Septimius Severus. He was well-inten-

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1 Withal, Caracalla’s reign was marked by certain extraordinary developments. Perhaps because of the heritage of his father and predecessor, there was promulgated during his rule a revolutionary constitution attributed to him by his formal name Antoninus Magnus, the so-called CONSTITUTIO ANTONINIANA, of 212 A.D. This formidable legal instrument bestowed Roman citizenship generally, though not without some exceptions, on all non-Roman subjects of the Empire. See F. SCHULZ, CLASSICAL ROMAN LAW 80-81 (1961) and references cited therein. The Constitution is not preserved in its original form, however multiple papyri sources clearly indicate its contents and implications. Effectively, the promulgation of this Constitution marked the unification of the Roman legal system, which heretofore existed in fragmented sections. Jolowicz, commenting extensively, observes that henceforth the character of the classical Roman law was substantially modified. Rome came to be, in legal practice, in realistic touch with the influences and methods of the outside world, especially the Hellenistic east; there was a dramatic decrease in the formalism and rigidity of archaic legal institutions which previously prevailed in negotiations affecting citizens; abstract legal thought was encouraged and there was increased use made in legal activity of written instruments and documents.

Caracalla also busied himself with projects for the beautification of Rome. The baths which he constructed immortalize his name to this very day! Certainly, Verdi’s opera Aida is in no other setting presented with such dramatic impact!
tioned and serious, radically different in both character and life-style from his pathological predecessor, having been sheltered from participating in the orgies of Elagabalus by two protective women, Julia Maesa, his grandmother, and Julia Mamaea, his mother. These intelligent and (it would appear) dominant and aggressive women exercised considerable influence upon Alexander in the course of his reign. Like Septimius Severus, he surrounded himself with competent and reliable advisors. The historian, Dio Cassius, was a close friend and confidant; Alexander Severus sent him from Rome to Bithynia, perhaps perceiving the danger to which so close a collaborator would be exposed in the turbulent circumstances of Rome. The celebrated Roman jurist, Ulpian, served as legal advisor to the Emperor and was appointed praetorian prefect. Dramatically indicative of the disdainful posture of the dangerous military regime which lurked barely beneath the surface of this "normalcy" was the bold murder of Ulpian by soldiers of the praetorian cohort, committed in the very presence of the Emperor and his mother in the year 228 A.D.

Alexander Severus manifested a searching, thoughtful, inquisitive nature, and, at times, a sensitive spiritual bent. Although he was content to assume the imperial responsibilities requiring him to conduct public activities associated with the official pagan cult of Rome, he privately maintained an active interest in the plethora of religious influences filtering into the imperial capital from the orient. It was the season when the cult of Mithra was burgeoning. Precisely coincident with the reign of the Severan emperors, Christianity was exhibiting a pattern of vigorous growth. Even if the sources which suggest that Alexander Severus maintained images of Abraham and Jesus in his personal lararium are unreliable, the openness of the youthful emperor to religious movements derived from new sources can hardly be questioned. When a military campaign

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4 Ulpian, like Papian, who had great influence earlier in the Severan dynasty, came to Rome from Asia Minor and introduced Hellenistic concepts. He is cited more frequently by the compilers of the Digest commissioned by Justinian than any other jurist, and fully one-third of the Digest is his work. Ulpian spoke openly of his friendly relationship with Alexander Severus. He described the Emperor as amicus meus...parsus meus, and stated that he was in eodem sensu with Alexander Severus. To Ulpian's influence is attributed the "open door" policy maintained by Alexander Severus, whereby the Emperor was habitually available to those who would approach him, even in the midst of military campaigns.

5 The chronicle of Alexander Severus's reign composed by Aelius Lampridius contained in the Vitae Imperatorum Romanorum was written in the Christian era, a full century after the facts described. Hopkins, Alexander's biographer, regards Lampridius as unreliable. H.M.D. Parker, writing in the Oxford Classical Dictionary 833 (1953), characterizes the recitals in the sources of antiquity as "historical novels." Id. Given the reticence of Jewish circles to create images, it is inconceivable that a "statue" of Abraham would grace the Emperor's private shrine. Moreover, Christian representations of Jesus which have been preserved date from a considerably later time. The chronicle does imply that the Emperor
occasioned the presence of Alexander Severus and his retinue in Asia Minor circa 231 A.D., it is certain that Julia Mamaea, his mother, arranged for the well-known contemporary Christian writer Origen to be brought to Antioch to address her, a clear indication of the interest of the Emperor’s mother in the Christian way of life.

Politically, Alexander Severus paid some deference to the Roman senate, allotting a semblance of authority to that body with the establishment of a “regency council” composed of senators, all the while carefully acknowledging the real hegemony of the army. If that gesture echoed earlier initiatives undertaken by Septimius Severus, so too does the liberal cast of Alexander Severus’ policies affecting the collegia. During his reign, the voluntary associations were first given permission to nominate defensores who could appear on courts on behalf of the collegia they represented.

When Persian forces under King Ardashir (Artaxerxes) intruded into Roman imperial territory in the region of Mesopotamia in 230 A.D., Alexander Severus, conforming to the image of the emperor as chief military commander, led an expedition to confront the interlopers. Deploying his troops, it is said, in the classic Roman three fold formation, Alexander Severus engaged the Persians courageously enough in a pitched battle in 232 A.D. Although the Roman legions did not attain a conclusive triumph, sufficient punishment was dealt to the invaders to cause their withdrawal from Roman territory, whereupon the Emperor declared a victory which was celebrated with appropriate festivity in Rome. No sooner had the threat in the orient been neutralized, however, when increased activity by the Alemani on the Rhine frontier provoked concern. Alexander Severus proceeded to that locale, diverting to the area some of the legions from the east who had participated in the successful campaign against the Persians, intending to bolster the embattled troops on the Rhine. There was no serious engagement of the barbarians, however. A truce was struck with the Alemani, very possibly with the connivance of

had such statues, as well as those of Orpheus, Apollonius, even Cicero and Virgil, for his private devotions. Lampridius further would have us believe that Alexander Severus proposed a Christian “temple” for the city of Rome (Capitolum septimo die quum in urbe esset ascendit; templa frequentavit. Christo templum facere voluit), which seems a palpable exaggeration. Lampridius, too, alone among authors (even well-informed Christian historian Eusebius is silent on this point), alludes to the alleged favorable decision which Alexander Severus rendered to the Roman congregation of Christians in a dispute with a guild of tavernkeepers over the use of a parcel of real estate. Quum Christiani quendam locum qui publicus fuerat, occupassent contra propinarii dicerent, sibi eum deberi rescripsit, melius esse ut quomodoque illic Deus colatur, qua propinariis dedatur. LAMPRIDIUS, VITAE IMPERATORUM ROMANORUM n.49. Making allowances for some distortion of the precise details, patently Lampridius was in possession of some recollection of a tolerant posture by the Emperor in question regarding the Christian community.
Julia Mamaea, who, even in matters of military strategy, was prone to intervene in the affairs of governance. This development provoked resentment on the part of the Rhine garrison, who were already piqued by the arrival of reinforcements from the eastern legions, with whom some jealous rivalry existed. The soldiers mutinied, incensed at the negotiations undertaken with the barbarians, and assassinated Alexander Severus in 235 A.D., setting up in his place as emperor a grizzled veteran soldier, Maximinus Trax (the "Thracian").

With considerable poignancy, the events which occurred during the reign of Alexander Severus epitomize and reflect in graphic fashion the great, swirling forces and influences which were unleashed in the empire during this time of extraordinary turmoil and ferment. A decent, sensitive person in his private life, he was one in a line (if not a true dynasty) of emperors who manifested an incredible breadth of character in their deportment, ranging from pathological depravity to dignified gentility. In some sense, a reflection of the very character of the Roman populus can be discerned in these leaders. Alexander, much like Septimius Severus before him, endeavored to reconcile ingrained respect for the heritage of the republic and early principate, as evidenced by his deep respect for law and his attempt to reinvigorate the senate, with the politically realistic cultivation of favor with the army, where bald power clearly rested. Quite bravely, he attempted to shore up the creaking seams of the imperial social order which he inherited, confronting invaders forcefully where necessary and seeking to arrange peaceful coexistence with the barbarian tribes where possible. In the end, he proved unable to placate the capricious military order.

Though he never acquired the reputation for possessing a philosophical orientation akin to that of Marcus Aurelius, clearly Alexander Severus did manifest an unusual thirst for spiritual good, perhaps reflecting again in his own person a societal yearning which found expression in the extraordinary growth of the Christian community at this precise time. The vigorous expansion of the Christian way of life during the first half of the third century occurred simultaneously with a kindred phenomenon, the burgeoning of influence by and of pagan cults, that of Mithra foremost among them, emanating from the orient. Perhaps it would be no exaggeration to conclude that, like its Emperor, Roman society was seeking novel answers to the ancient questions rooted in the mysterious depths of the human psyche regarding life, its meaning, and its ultimate purpose.

INSTITUTIONS AND CONCEPTS OF THE ROMAN LEGAL SYSTEM SIGNIFICANT TO "CHURCH" CIRCA THE REIGN OF ALEXANDER SEVERUS

During the watershed third century, the emergence and the existence of the Christian community within the Mediterranean littoral were af-
fected in many crucial respects by institutions and concepts enshrined in the Roman legal system. Preliminary to any attempt to grasp certain aspects of the growth and development of local Christian congregations in Rome and the other urban areas of the empire, it is essential to touch upon several relevant topics associated with contemporary Roman civil law.6

A. Persons and Collectivities

The Roman legal notion of “person” has philological roots in the Greek term and concept prosopon (in Latin, per sonare), literally, “a mask.” It connotes the “part” or “role” one plays in life. Prescinding altogether from any modern philosophical understanding of a person as a unity possessed of self-consciousness and will, and focusing, rather, upon the specific legal implications of “personality” in the long and gradual evolutionary development to which the Roman legal system was subject, the “person” came to be regarded as the possessor of status and caput. The former characteristic referred to one’s condition within society and the latter denoted the sum of rights and duties inhering in the individual concerned.7 Variations in the precise status of residents within the territory encompassed by the empire were prolix: citizens, peregrines, Latins, freedmen and slaves (very numerous!) are but some of the categories and nuances affecting legal competence could be subtle. In the hierarchy of societal “conditions,” the full-fledged, freeborn Roman citizen enjoyed the foremost status, entailing the enjoyment of suffragium, connubium and commercium. Such a person possessed full caput and had access to the ius civile. All others, who, because of their status, had diminished “capacity” (caput), were governed by the ius honorium.8

6 In addition to works previously cited, there are some standard English language texts on Roman law and the Roman legal system which have proved to be helpful, among them, W. Buckland, A Textbook of Roman Law from Augustus to Justinian (P. Stein rev. 3d ed. 1963) and R. Sohm, A Textbook of the History and System of Roman Law (J. Ledlie trans. 3d ed. 1928). An interesting, informative work, and a readable “social-legal” study, which has proven very useful is J. Crook, Law and Life of Rome, 90 B.C.-A.D. 212, a volume in the series, Aspects of Greek and Roman Life, prepared under the general editorial supervision of H. H. Scullard (1984). Interpretations in this section are derived from such standard sources.

7 Here, particular mention must be made of a volume of special interest and value: P. Duff, Personality in Roman Private Law (1971). From the time of its original publication, this splendid study has been appreciated and acclaimed; confer the review articles by David Daube. Daube, Book Review, 34 J. Roman Stud. 125 (1944); Daube, Book Review, 33 J. Roman Stud. 86 (1944).

8 The ius civile, which governed those with an undiminished caput, citizens (cives), was essentially a primitive system of law, based upon the so-called “Twelve Tables” of Roman antiquity, rooted in standard, rather rigid forms of procedure and ancient custom. “Private Roman law,” regulating the negotiations involving citizens would have been the principal
Collectivities, consisting of a plurality of "persons" or individuals, did exist in Roman society and in order for such entities to participate in the activities of a society which was organized on a system of law depending upon status and caput, it was necessary for a mode of "personality" to be devised to govern such bodies. Over time, there emerged the concept of the "juristic personality." While it would be grievously erroneous to imagine that modern legal theories of "legal personality" were in place in Roman times, there were features analogous to contemporary civil law structures to regulate collectivities which did emerge in the Roman system.

Approaching the matter in a logical fashion, note can be made of the "special collectivities" which came to be identified with public concerns affecting governance. The oldest and in many respects the most significant such collectivity was the Populus Romani, which had a variable membership consisting of the Roman citizens (cives Romani) who were understood to possess and control "common property" (res publicae). This entity had its own treasury (the aerarium populi Romani, or, more simply, the aerarium). This "public" collectivity had, understandably, a comprehensive caput; it could acquire and dispose of land and chattels (including slaves), make contracts, be creditor or debtor and be appointed or instituted heir in a will. Emerging with the passage of time from this venerable "public collectivity," there came to be recognized a special legal personality identified, in imperial times, with the head of state, at the time of Alexander Severus, technically, the princeps. In certain aspects, the public juristic personality associated with the head of state can be understood as being analogous to the modern legal entity known as "corporation sole." The princeps was understood as enjoying competence to dispose of the funds (not lands) which were destined for public purposes.

Component of the ius civile. By contrast, the ius honorarium was a more flexible institution which gradually evolved to enable the legal system, especially during the republic and early principate, to keep pace with economic and social developments and the constantly increasing contact with foreign peoples of diminished formal caput. See J. Crook, supra note 6, at 24f. The crux of the ius honorarium was the edict prepared by the magistrate(s), with specific indications of the precise circumstances in which relief would be granted by means of a legal action or some other remedy (if sought), and in what circumstances relief would be denied. One of the most appealing and informative elucidations of the institution of the magistrate's edict is found in an intriguing volume, B. Frier, The Rise of the Roman Jurists: Studies in Cicero's Pro Caecina (1985). The author presents a lucid and comprehensive study of the Roman legal system by means of an analysis of a single lawsuit adjudicated in 69 B.C. Chapter two on the "Urban Praetor" is without parallel in providing clear information on the ius honorarium. While offering detailed and helpful descriptive material on the institution of the edict, Frier in no wise demeans the ius civile. "Private law," he writes, "was recognized as an important part of Rome's cultural patrimony, reaching back to the Twelve Tables; and it was seen as the concrete embodiment of those equitable standards upon which (later) social interrelationships were constructed." Id. at 239.
These funds were maintained in a public treasury known as the fiscus (literally a "basket," and more particularly, a "money basket"), and passed, on the death of the princeps, not to his heirs at civil law, but to his successor in the imperial office.

For geographic subdivisions other than the city of Rome itself, foremost among these being, clearly, other cities, an analogous type of public collectivity of "civic corporation" emerged, the municipium. Title to the common property (res communes) was vested in the municipes, from whose number responsible stewards, the members of the comitia, directed the "municipal" activities. The typical municipium had a caput which was considerably diminished from that of the Populus Romani or the princeps, with restrictions generally prevailing in regard to heredity, usufruct and other aspects of law.

The special "public" collectivities functioned in accord with "public" law, which differed in significant respects from the "private" law, which governed individual persons and other collectivities.

The "private associations" formed a numerous group of collectivities in Roman society, the collegia. The precise legal basis for the collegia was contained in a Lex Iulia dating from the time of either Julius Caesar or Augustus (scholars generally favor the latter), which, unfortunately, has not been preserved in any coherent textual form. Countless papyri and inscriptions have survived, however, containing a great deal of pertinent information about this legislative monument. The promoters of each such corporation, each "private association," the constitutores, would formulate a "lex" delineating the rights and obligations affecting the corporation and its membership. These "by-laws," to use an analogous modern term for which there is no Roman law equivalent, were bereft of enforcement at civil law and were entirely contingent upon the good will of the members. Such corporate bodies customarily maintained an arca for the common funds and assets. A magister or paterfamilias was elected or appointed to coordinate the activities of the corporation and this party, or sometimes a sanctioned delegate, served as the agent for the collegium in external negotiations.

It was absolutely essential, for the legitimacy of their existence, that the colleqii secure the permission (concessio) of the public authorities. Although the Latin text is corrupt and contains blatant and confusing errors of grammar and syntax, there is a fragmentary reference from the third book of the treatise of Gaius on the "Provincial Edict" which is informative in this regard, included in the Digest of Justinian:

All persons are forbidden to form societies, corporations or similar bodies, for this is regulated by laws, decrees of the senate and constitutions of the emperors. Associations of this sort are authorized in a limited number of instances, as, for example, the concession to form a corporation is given to those engaged jointly in the collection of taxes, or associated together in
working gold, silver and salt mines. There are also certain colleges in Rome whose organization has been confirmed by decrees of the senate and/or constitutions of the emperors, as, for example, that of the bakers and some others, such as that of shipowners, which also are existing in the provinces. When persons are allowed to form colleges or societies or other bodies of this kind by whatever name, they are like the public corporations, entitled to have common property, a common treasury and an agent (or syndic) whose actions bind the corporation, just as in the case of the public corporation.

The text from Gaius would suggest that authorization for collegia was seldom given. In fact, while many private associations were formed and authorized, the strict necessity of official sanction was jealously guarded by civil authorities. Eventually, the senate conceded to the princeps the competence to grant official concessio to collegia (conceivably, the emperors simply assumed the power), but whether by senatus consulta or constitutiones principi, permission was required and public officials were extremely cautious in conveying formal sanction to collegia.

The reason for the exquisite care which officials manifested in granting permission for the existence of private associations is rooted in the ius coeundi which would be conveyed to and enjoyed by the collegia licita. When members of a private association came together for periodic meetings (the ius coeundi), they could easily utilize such gatherings for political activities. It frequently occurred in the more turbulent moments of Roman history that seemingly harmless meetings of the members of a private club or group were actually thinly-disguised occasions for disgruntled parties to convene for concocting schemes to upheave the social order. It was precisely in this vein that Cicero inveighed with great vigor and with stunning linguistic artistry against Catullus and his cohorts in the celebrated “Cataline Orations.” Much earlier in Roman history, circa 186 B.C., the senate revoked the authorization previously given to the collegium of the devotees of Bacchus in reaction to the excesses of the Bacchanalia which disturbed public order and offended public morality.

* The original text reads as follows:

Neque societas neque collegium neque huiusmodi corpus passim omnibus habere conceditur: nam et legibus et senatus consultis et principalibus constitutionibus ea res coercetur. paucis admodum in causis concessa sunt huiusmodi corpora: ut ecce vectigalium publicorum sociis permissum est corpus habere vel aurifodinarum vel argentifodinarum et salinarum. Item collegia Romae certa sunt, quorum corpus senatus consultis atque constitutionibus principalibus confirmatum est, veluti pistorum et quorundum aliorum, et naviculariorum, qui et in provinciis sunt. Quibus autem permissum est corpus habere collegii societatis sive cuiusque alterius eorum nomine, proprium est ad exemplum rei publicae habere res communes, arcum communes, et actorem sive syndicum, per quem tanquam in re publica quod committer ager et fierique oportat agatur fiat.

Dig. 3.4.1.
Much after Cicero’s time, there is a record of an exchange of correspondence between Trajan and Pliny, the governor of Bithynia, circa 111-113 A.D. After a particularly disastrous fire in Nicomedia, Pliny wrote to the Emperor, favorably transmitting to Trajan’s attention a request by a group of blacksmiths to form a collegium to serve as a fire brigade. Trajan rejected the request and the tenor of his response is remarkably vigorous. Under no circumstances would the ius coeundi be granted to any group in Bithynia, and assuredly not to any group of residents in Nicomedia, lest such opportunities arise for the fomenting of political unrest. The Emperor had apparently sought counsel from the senate in this regard, deriving from that august body a strong confirmation of his negative posture in regard to the proposal.10

Even where authorized, the private associations did not enjoy the full caput of the Roman citizen; certain rights and privileges were withheld. The right to inherit, for example, could not be enjoyed by persona incerta and thus for a collegium to be hereditas iacent, special (and most unusual) authorization would have been required to be clearly spelled out in the formal “charter.”

Although official sanction had to be obtained by a formal process and notwithstanding the anxiety of civil authorities to extend the ius coeundi to private associations, a great number of such collegia did, nonetheless, exist. Three distinct categories are generally identified:

(1) “Professional corporations,” the associations of “guilds” composed of mechanics, artisans of various crafts, merchants, shipowners, bakers, etc.;

(2) “Burial corporations,” the collegia tenuiorum, which existed in order to provide members with decent funerals; and

(3) “Sacred Corporations,” devoted to religious worship.

Within the general category of “professional corporations,” several

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10 The cited examples are derived from P. Duff, supra note 7, at 105-06, 113-15. Perhaps Trajan’s patent discomfort at the prospect of having a fire brigade established in Bithynia was well founded. In American political history, frequently enough the volunteer fire companies were “hotbeds” of activism quite unrelated to fire suppression. “Tammany Hall” of 19th century New York City was originally a volunteer fire company, and it spawned the infamous “Boss” Tweed and his political henchmen! The absence of a fire brigade in Nicomedia came, eventually, to assume an unusual significance. On the very eve of the officially-declared persecution of the Christian community in 303 A.D., the emperor, Diocletian, and his duce, Galerius, stood on the balcony of the imperial palace at Nicomedia and discussed the possibility of torching a building used by the local Christian congregation which was located within eyesight of the palace. They demurred from ordering the burning of this structure lest a conflagration occur. Instead, they ordered the praetorians to dismantle the building with hooks and chains, which was accomplished the following morning. See Lactantius, De Mort. Persecut. ch.12; PL 7, § 2, at 213-14.
special groups are appropriately noted. There was a collegium of the civil magistrates and various collegia for the priests (at least four are mentioned in the sources: the pontifices, the VII viri epulones, the XV viri sacris faciundis and the collegium of the augers). When, acting in an official capacity, an official, magistrate or priest, associated with any of the professional corporations associated with civil governance or religious cult, participated in any transaction, invariably, the negotiation was regarded as a matter of "public" and not "private" law.

Regarding the sacred corporations (some of which, having special reference to certain of the cults, came to be known as sodalitates), the prevailing legal theory was that title to temples, vessels, vestments and victims did not reside with the collegia. Rather, such items were understood as "belonging" to the populus, or in some rare, anomalous situations, to the deity. By special legislation of early imperial times, a few deities could be instituted heredes. However, even in such rare cases, title to property accruing by way of inheritance to the god was vested in the state and was administered not by the priests but by the magistrates.

Charters issued for the "sacred corporations" did provide a rare privilege to such groups. Whereas, in accord with the habitual reluctance of civil authorities to extend the ius coeundi to "private associations," most of the collegia were authorized to convene but one time per month, with perhaps one or two other special annual festive assemblies conceded, for strictly religious purposes, the sacred corporations often received permission to meet with greater frequency.

B. Things—Ownership and Possession

To judge from the Institutes of Gaius and of Justinian, a "thing" in Roman law is whatever can be assessed in terms of money, that which can be evaluated in monetary terms. In developed Roman jurisprudence, the law of things encompassed property, succession and obligations. The concept of res as an "economic asset" was one of broad historical development; eventually, incorporeal "things" were recognized to have a kindred "reality" (the word itself derives from res) to corporeal.

Various and sundry categories were devised for distinguishing "things," taking into consideration physical conditions and legal circumstances (analogous to the status and caput of a "person"). One classification, germane to this consideration, distinguished two basic kinds of things emerging from the connection or association of the tangible items

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11 In addition to the sources previously cited, of particular interest in this specific regard is a good overview of the relevant Roman legal developments found in A. Watson, The Law of Property in the Later Roman Republic (1968). This volume, and J. Crook, supra note 6, at chs. 4-5, have been useful in preparing the interpretations in this section.
in question with "sacred" or "secular" spheres: res divini iuris and res humani iuris. A special category of things pertained to the state, rather more akin to "sacred" things than "secular," viz., res publicae. While negotiations involving secular things, those denoted res humani iuris, were regulated, depending upon circumstances extraneous to the nature of the specific goods or property, by either the ius civile or the ius honorarium, any commercial transaction or negotiation involving "sacred" or "public" goods was invariably governed by "public law." Thus, the theft of a res sacra was called sacrilegium, not furtum; the theft of a thing belonging to the state was called peculatus, not furtum.

With the passage of time, gradual developments sharpened the legal distinctions, conceptual and real, affecting sacred things: res sacra were dedicated to the gods "above;" res religiosa were dedicated to the gods "below," generally in association with burial and funereal customs. Under certain circumstances, secular things could become "sacred" by "dedication," which eventually assumed a formal character, entailing a ceremony conducted in the presence of a civil magistrate. Once a thing was "dedicated" in this fashion, having assumed a sacred character, it was subject to res divini iuris. Things in this category became, like public things, ineligible for transactions of sale or purchase: res commercium non est or extra commercium. A well-known text in the Digest identifies the Campus Martius as a place sacra et religiosa and thus akin to public property, not an apt object for commercial transaction.1

Lest any semblance of impropriety regarding transactions arise, public officials, in regard to items belonging to the state, and the tutors and magisters of the sacral collegia, in regard to res divini iuris, were strictly accountable in law for their actions. When, as circumstances would occasionally warrant, disposition by sale of res sacra or things belonging to the state (items in the fiscus or aerarium, for example) became useful or necessary, a legal process for accomplishing the reversion of the res extra commercium was available in public law, whereby the process of "dedication" could be reversed. Thus, a record has been retained of a legal enactment in 58 B.C. when the priests of the Temple of Jove in Rome were permitted to sell certain items which had been dedicated to the god. In this instance, there was a formal procedure involving a declaration on the part of the responsible sacral stewards conducted in the presence of the aediles.13 The ultimate rationale for such procedural safeguards was to diminish the potentially disruptive impact of cupidity or venality on the part of governmental administrators or the stewards of sacred things associated

11 DIG. 18.1.6. "Sed Celsus filius ait . . . te emere non posse . . . sacra et religiosa loca aut quorum commercium non sit, ut publica, quae non in pecunia populi, sed in publico usu habeantur, ut est campus Martius." Id.

12 The case is reported by A. WATSON, supra note 11, at 9-10.
with religious cult.

Of all "things" in commercium, land came to manifest the most pervasive import. In the development of societal organizations throughout Roman history, landed property is regarded as the preponderant element or influence. The concepts of "ownership" and "possession" are especially relevant in questions pertaining to land.

In the notion of "ownership" (dominium) in developed Roman law are vestiges of a primitive, amorphous conception of the position of the paterfamilias. The roots of dominium can be traced to the unrestricted power (potestas) exercised by the authoritative figure who possessed control in manu and in potestate over persons and things; a rather chilling delineation of that power is reflected in the trilogy of Latin words which came to reflect its nature: utendi, fruendi and abutendi. One possessed of an undiminished caput, as an owner having dominium, had an unrestricted right of control over a physical thing and could claim it regardless of where it was or by whom it was possessed. The strongest legal actions recognized in Roman law, mancipatio, for example, or vindicatio, were available to the one possessed of so-called "Quirian ownership" (dominium ex iure Quirinium).

The scope of the ius civile was relatively limited vis-à-vis the entire population of the territories encompassed by the empire for much of the long period of Roman law development, certainly until the time of the constitutio Antoniana of 212 A.D. Yet, commercial, economic and social developments and advances did occur. The more flexible ius honorarium was devised to regulate commercial life, among other concerns in in-

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14 R. SOHM, supra note 6, at 1-2. Hence, those imbued with the spirit of classical Roman law might well appreciate the thoughts expressed by the fictional patriarch, Gerald O'Hara, speaking to his daughter of the familial plantation in Margaret Mitchell's novel, Gone With the Wind:

"Do you stand there, Scarlett O'Hara, and tell me that Tara—that land—doesn't amount to anything?" Scarlett nodded obstinately. Her heart was too sore to care whether or not she put her father in a temper. "Land is the only thing in the world that amounts to anything," he shouted, his thick, short arms making wide gestures of indignation, "for 'tis the only thing in this world that lasts, and don't you be forgetting it! 'Tis the only thing worth working for, worth fighting for—worth dying for."

M. MITCHELL, GONE WITH THE WIND 23 (1936).

16 See J. THOMAS, supra note 2, at 133-34, among other sources, regarding the link between the potestas of the paterfamilias and dominium.

18 The classic legal actions are fascinating to recall; rigid formalism prevailed for centuries. Archaic, symbolic gestures and props were employed. In mancipatio, formal transfer of dominium, use was made of a scale and weights, all in the presence of a stipulated number of qualified witnesses, before whom, precise language was utilized. One invoking vindicatio would actually touch the property or chattel (which could be a human being?) with a symbolic rod in making the claim to dominium ex iure Quirinium evoked by stipulated verbal formulae.
stances where the *ius civile* could not be adduced. If the *ius civile* focused upon the theoretical sovereignty of one enjoying "ownership" (*dominium*) over a thing, in effect envisioning a "*legal relationship*" between a person and a *res*, the "*honorary law*" of the magistrates' edict pertained, by contrast, to the "*factual relationship*," to wit, the control exercised by a person over a thing, very often expressed in terms of "*possession*" (*possessio*). Encompassing many commercial activities extending well beyond the narrow parameters of "Quirian ownership," *possessio* became a central, basic concept, serving, in the view of some authorities, to a considerable extent as the "common denominator" of the developed law of property.\(^{17}\) As a consequence of this development, a veritable galaxy of alternative commercial transactions was added to the classic transactions of sale recognized in the *ius civile*, e.g., *emptio* and *venditio*. These alternative transactions allowed stable *possessio* to be conveyed to someone other than the legal owner of property, with whom technical *dominium* would continue to reside. Here can be mentioned *usufructus*, *servitus* ("*usus*") and such long-term and/or perpetual leasing arrangements as *emphyteusis*, *ius perpetuum* and *superficies*. An entire category of edictal actions was made available, the so-called "*possessory interdicts*," to provide a measure of the requisite stability of *bona fide* and "*possession*" needed for adequate commercial growth and development. It became the practice of the magistrates to offer sufficient protection to "*possessors*" of things by fictitious actions akin to *vindicatio*. "*Honorary law*" and the "*possessory interdicts*" could be utilized to facilitate transactions where recourse to the rigidity and formalism of the *ius civile* was omitted, though generally applicable for the convenience of the contractants; thus, a thing which, by reason of the transaction and the parties who consummated it, should have been transferred by *mancipatio* (*res mancipi*) might be conveyed in a more informal fashion. Stability was enjoyed by a recipient, the "*possessor*," under the protection of the *ius honorarium*. Roman law tended to recognize the acquisition of *dominium* by means and reason of *usucapio* (an institute akin to Anglo-Saxon "*adverse possession*," but of more striking features) in relatively short time spans. Thus, while the transaction was protected by "*honorary law*," it was possible to conceive of a "*ripening ownership*" emerging.

C. Miscellany: Heredity, Money, Loans

Developed Roman law governing heredity appears to have derived its remote origins in prehistoric practice, whereby the Roman *heres* succeeded to the head of a *gens* or "*house*," in which capacity he possessed a kind of public sovereignty over the *gens*, assuming not only assets but

\(^{17}\) *See*, *e.g.*, E. Levy, *West Roman Vulgar Law* 61 (1951).
also (unlimited) liabilities. With the gradual evolution of the legal system, *hereditas*, “inheritance,” came to acquire a two-fold connotation, evoking both the fact of “succession” and the actual estate of the deceased party. Elaborate regulations emerged to govern succession and the distribution of the *bona defuncti* in instances when a valid will had been provided (“testate” succession) and when no enforceable testamentary document had been executed (“intestate” succession).\(^8\)

The exemplary form of a valid will (which did admit of some exceptions, including, for example, a less formal procedure which was adopted in the context of military mobilizations and expeditions\(^9\)) mirrored the extraordinary formalism of archaic legal practice: the *testamentum per aes et librum* entailed the use of bronze and balance in the presence of witnesses, effectively constituting a *quasi-mancipatio* executed, not *inter vivos*, but *mortis causa*. A “trustee” or “executor” (to make use of analogous modern terms) emerged from this procedure, the *familiae emptor*. In essence, the testator, in his will, would “institute” the heir(s). Roman hereditary law was decidedly opposed to “entailing,” that is, to tying up property in ways that could not be undone by a successor. If entailing is the essence of a “feudal” system for the management of property, classic Roman legal philosophy is entirely opposed to feudalism. It was determined that each generation must have an unimpaired right to make its own dispositions and decisions regarding the estate.\(^{20}\)

Partly because of the extraordinary procedural formalism of the *iure civile* governing heredity and partly to obviate the strong bias in the classical legal system promoting the absolute discretion of the heir, alternatives to testamentary succession developed. Constitutional legislation and customary law emerged regarding “donations.” The expedient of the *fideicommissa* evolved, allowing the testator to bind an agent to carry out his directives even after death. Certain flexibility in matters concerning inheritance characterized “praetorian law,” especially in the so-called “possessory interdicts” which came to be included in the edict. By the time of the Severan line, dissatisfaction with the received legal system governing heredity and recourse to alternative expedients were so widespread that both Septimius Severus and Alexander Severus sponsored imperial legislation to modify the legal structures. Nonetheless, civil ca-

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\(^{18}\) In addition to the previously cited sources, mention can here be appropriately made of other helpful guides for understanding the complex matter of heredity and inheritance in Roman law. Confer in this regard P. Bonfante, *Institutioni di Diritto Romano* (rev. 9th ed. 1932) and P. Girard, *Manuel Elementaire de Droit Romain* (7th ed. 1923).

\(^9\) “All over the camp, there was much signing and sealing of wills,” reported Julius Caesar, hearkening to the evening prior to the Roman legions’ first large-scale encounter with the Germanic leader Ariovistus and his forces near Mulhouse in the eastern portion of the present day Alsace near the Rhine, 58 B.C. *Caesar’s Gallic War* 165 (Walker rev. ed. 1935).

\(^{20}\) A point emphasized by J. Crook, *supra* note 6, at 122.
pacity (*caput*) remained indispensable; to make or witness a will or to be instituted as an heir, one had to possess *commercium*. Except for rare, exceptional cases, *persona incerta* (virtually all *collegia*) were incompetent with regard to the formal legal framework governing heredity and the principal alternative expedients for disposing of property and goods *mortis causa*.21

Theoretically, money was simply a medium of exchange in the official purview of Roman law. A loan of money was an affair of good will.22

Originally, banks would offer the service of “safekeeping” for money, and would seal the actual deposit in bags or chests; the self-same coins which had been deposited would eventually be returned. Only late in the imperial period was the concept of the “irregular” deposit introduced, wherein the bank would use coins deposited in commercial transactions and return, upon demand, a like amount of (different) coins to the depositor. Conceptually, the loan process envisioned a tangible item: the loan of a specific item for use, a spade, for example, was called *commodatum* and, after use, the precise item was returned. The loan of a fungible, such as a bottle of wine, was called *mutuum* and it was expected that repayment would be made “in kind.” Such transactions could involve money, but Roman law did not recognize usury in theory; in essence, a loan, even of money, was considered “gratuitous.” In fact, however, usury was practiced, albeit totally outside the legal system. If the usurer was regarded with a measure of distaste, there are indications that upright citizens were not loathe to engage in procedures for borrowing or loaning money at a rate of interest. Circa 62 B.C., Cicero himself reported, rather gleefully, the availability of “plenty of money at six percent!”

**ALEXANDER SEVERUS, ROMAN LAW AND THE CHRISTIAN CHURCH**

Modern historians have been very kind, perhaps unduly so, in at least some portrayals of the “five great emperors” who ruled during the “golden age” of the Roman principate, 96-180 A.D.23 By contrast, the judgments rendered on the Severan emperors has tended, as noted above, to be rather harsh and critical. However, while it is true that the Roman

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22 J. Crook, *supra* note 6, at 209. This source has been of particular help in this specific concern See also W. Buckland, *supra* note 6, at 462-65.
23 The emperors included in this category are the last of the Flavians, Nerva, Trajan and Hadrian, and, from the Antonine dynasty, Antoninus Pius and Marcus Aurelius. Edward Gibbon, in his celebrated work, *The History of the Decline and Fall of the Roman Empire*, has lyrically described the interval, 96-180 A.D., as was “the period in the history of the world during which the conditions of the human race was [sic] most happy and prosperous.” 1 E. Gibbon, *The History of the Decline and Fall of the Roman Empire* 78 (J.B. Bury ed. 1896).
pre-constantinian church

Empire experienced a half-century of painful, radical transition following the assassination of Alexander Severus, it is apparent that seeds of dissolution had long-since been sown in the principate, well before the accession of Septimius Severus. Some of the Severi were dissolute, even deranged, rulers; others, however, such as Septimius and certainly Alexander, were essentially decent individuals. It would appear to be an arguably more secure historical posture to envision the societal upheaval which occurred in the middle decades of the third century as being virtually inevitable.

By the time Alexander Severus was killed by mutinous soldiers, the principate, which had its origins over 200 years earlier in the subtle evolutionary program which Octavian/Augustus introduced into Roman society, had effectively run its course. With increasing dissatisfaction festering in society, most markedly, though not exclusively, in the military establishment, the imperial system had lost much of its claim to legitimacy with the general populous. As initiated by Octavian/Augustus, the principate had gradually curtailed the three constitutive and constitutional elements of the Roman Republic: the people, the senate and the magistrates. What Mommsen has called a "legally permanent revolution" perdured for some two centuries. The imperium of the proconsuls and the potestas of the tribunes had gradually become focused in the princeps, from whom this concentration of authority within society was perceived to emanate and by whom it was exercised. The appearances of the republican procedures were retained in the principate; thus the emperor was never baldly identified as sole legislator, per se, yet by the latter decades of the second century, imperial edicts, decrees and epistles had become a principal source of the ius vigens. Interpreting this development from a "latin" perspective the jurist Gaius, about 160 A.D., speculated that the imperium exercised by the princeps was derived from law; some sixty years later, Ulpian, viewing the matter from a perspective rooted in Hellenistic legal/philosophical principles and perhaps adducing some vestige of Greek democracy, would suggest that it was the people themselves who put the imperium into the emperor's hands.

If, as the principate developed, it was the army which was a formidable (and increasingly independent and aggressive) instrumentality for enforcing the subtle revolution in Roman society, the emergence of a

Sources previously cited have been helpful in the preparation of observations and conclusions in this section, especially H. Jołowicz & B. Nichols, supra note 1. Of particular utility in specific reference to ecclesiastical history and in drawing conclusions relating to the Christian church has been an essay article by George LaPiana. LaPiana, The Roman Church at the End of the Second Century—The Episcopate of Victor, the Latinization of the Roman Church, the Easter Controversy, Consolidation of Power and Doctrinal Development, the Catacomb of Callistus, 18 HARV. THEOLOGICAL REV. 201 (1925).
trained, professional, paid civil service which replaced the system of magistrates was of significant importance, as well. The imperial territories were “managed” by the legates, prefects and procurators who served by imperial appointment. A seldom-acknowledged but significant management technique, the administrative procedure of cognitio, was habitually exercised by the civil servants who utilized what was ultimately imperial authority in powers of investigation and compulsion. The celebrated extant correspondence between Trajan and Pliny during the time, circa 111-113 A.D., when the latter was administering Bithynia, is a graphic and instructive example of the scope and range of this phenomenon and may reflect its apogee.

More to the point for these reflections, the Roman legal system groaned under the intolerable burden, and perhaps impossible task, of maintaining even a facade of relevance in the face of the rapidly changing societal circumstances of the era of the Severi. A number of significant initiatives affecting the administration of justice were introduced under the auspices of the Severan emperors. The “fiction” of maintaining dual legal systems, one for citizens, the ius civile, and another, the ius honorarium, for the numerous residents of the empire who did not enjoy that formal status, was finally ended, for all intents and purposes, with the constitutio Antoniana promulgated by Caracalla (though likely inspired by his father and predecessor, Septimius Severus). Both Septimius Severus and Alexander Severus tinkered with the legal underpinnings affecting heredity in efforts to modernize and streamline the law governing inheritance. In a marked departure from prevailing custom, the ius coeundi was extended, albeit to soldiers. Hellenistic influences mitigating the excessive rigidity and formalism of the received “Roman” legal system found vigorous expression in the works of Papian, Paulus, and Ulpian, influential jurists who were closely affiliated with the Severan emperors. In the end, even these initiatives and developments were ineffectual in allaying widespread disaffection in society.

Precisely coincident with the extraordinary ferment in the social and civil-legal spheres in the empire, there was a dramatic, watershed season of growth and development in Christian circles. Of all the local groups forming the communities of adherents to Christianity which sprang up around the entire Mediterranean littoral, especially in the cities, during the first full century of vigorous missionary outreach, none matched the vitality of the congregation in the imperial capital, Rome. The “Roman ecclesia” became a veritable “laboratory of Christian life and ecclesiastical policy” in the years of the Severan dynasty. Salient points in the developmental process affecting the congregation at Rome in this interval include the emergence of a monarchial episcopate, overwhelming all other, rival forms for internal governance, the devising of effective measures for addressing and eliminating the more divisive forms of doctrinal
deviance, the restructuring of ecclesiastical administration to achieve in an efficacious manner the formulation of coherent policies and the implementation of effective strategies to attain recognized goals, and the emergence of the Latin language for ecclesial life and worship in place of the hitherto prevalent Greek. Moreover, the Roman Church displayed no reluctance or hesitancy about moving to impose its policies, structures and traditions elsewhere. A rather strong bond was fashioned between the Christian congregation in Rome and that existing in Carthage in the province of Africa. The liaison merged in this ecclesial axis across the western Mediterranean appears to have been of significant importance in bolstering resistance to syncretistic tendencies arising in other prominent Christian centers, Antioch and Alexandria foremost among them, which might have imperiled univocal Christian systems of governance, belief and worship.

A new attitude of tolerance, unofficial but real, suggested in developments occurring during the reign of Commodus and especially noteworthy in the demeanor of Alexander Severus, developed toward Christianity. Other oriental religious influences were burgeoning contemporaneously. The army was swept by the cult of Mithra, which became especially popular with the members of the legions posted in Asia Minor, the very troops who had fought under Alexander Severus in the relatively successful campaign against the Persians. A measure of tolerance on the part of the princeps in this regard was patently indicated. As regards the Christian community, even allowing for a measure of exaggeration in the sources, the chronicles of Alexander Severus' reign sustain the conclusion that the Emperor (and his influential mother) exhibited considerable open-mindedness. Withal, this tolerant personal disposition of Alexander Severus did not manifest or translate itself into any practical adjustment touching the civil-legal debility affecting the Christian congregations.

Against the background, sketched here in bare outline, of Roman legal institutions pertaining to persons and collectivities, to things and their ownership and/or possession, to heredity and to other related concerns, the Christian communities were confronted with insoluble debilities. In the purview of civil law, even as modified in the disparate initiatives undertaken by the Severi, all temporal activities of the Christian ecclesiae were extra-legal and informal at best, illegal at worst. At civil law, the Christian collectivities remained collegia illicita, devoid of legal standing, deprived of any caput. The Christian communities did not enjoy and could not attain the ius coeundi. They were without the capacity or competence to be instituted as heirs. The Church, as collectivity, could neither gain nor aspire to ownership (dominium) or legal possession (possessio) of property.

Notwithstanding these difficulties, the ecclesial communities of the third century did manage to develop viable means for undertaking useful
and necessary administrative endeavors, acquiring, using and disposing of
temporal goods in reasonably efficient, if extra-legal, ways. Collections of
hard currency were received from adherents, processed and expended in
charitable activities. Responsible stewards were surfaced for administ-
ring such funds. On occasion, wealthy individual members of the congrega-
tions would present substantial philanthropic gifts. Some ecclesial under-
takings required property, such as cemeteries for burial and buildings for
worship and instruction. While frequently, adequately endowed individ-
ual Christians accommodated such activities in privately owned struc-
tures, it appears that, during the third century, such properties actually
came under the control, if not strict legal “ownership,” of the ecclesiasti-
cal congregations, at Rome and elsewhere in the “great church.” The
emergence of appropriate administrative structures to conduct the stew-
ardship of temporal goods at this stage in ecclesiastical history is a fasci-
nating story. Frequently enough, dynamic, charismatic individual Chris-
tian leaders assumed significant roles in the process; often, mundane
administrative developments occurred in an overall context of ferment
within the Church communities encompassing far more significant mat-
ters of doctrine and discipline. Because of the role of exceptional Chris-
tians who assumed leadership of the churches in times of persecution,
heresy and liturgical and disciplinary innovation, the more prosaic initia-
tives touching upon stewardship and administration of temporal goods
have been overshadowed, forgotten, or at best, taken for granted.