PERSONS OF DISCOURSE AND THE RHETORIC OF INCLUSION IN THE INSTITUTES OF GAIUS

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ABSTRACT

Gaius' Institutes were designed to provide an introductory overview for students embarking on the study of Roman law—a function which, in its original form and in Justinian's adaptation, it has continued to perform to this day, as well as engaging the attentions of specialists. This study is directed towards one aspect of Gaius' pedagogical method: the manipulation of persons of discourse in the text, by means of which the gulf is bridged between teacher and student, adept and initiate, elder and junior. In reference to the study of the law as conducted in the text, first and second persons of discourse are combined so as to create the effect of a common undertaking. With reference to the operation of the law as described in the text, they are partly separated, but in such a way as to show writer and reader operating on equal terms within the legally regulated spheres of social and economic activity. In neither aspect of the text is the envisioned reader—presumably a very young man—isolated from either the intellectual or the practical activity of the writer and his peers.

Introduction

The contribution of Gaius' Institutes to the study of Roman law is well recognized in modern times, as it was also in later antiquity, forming the basis of first-year instruction in authorized schools of law from at least the fifth century, and the basis as well for the Institutes of Justinian which would occupy the same place in the curriculum of the schools of law from the time of that emperor's general codification of the law in the early sixth century.1 Modern scholarship acknowledges also that the work had its inception in the educational process, being, by general agreement, based on a series of lectures designed to orient first-year students to the overall scope and general operation of Roman law.2 This study is addressed to the

2. Schulz (note 1) 159–61.
Institutes as an example of ancient didactic, rather than to the information it offers concerning the rules of Roman law, and is intended as a modest appreciation of one aspect of the rhetorical strategy of the author in this pedagogical work: the manipulation of the persons of discourse whereby the reader is involved, along with the writer, not only in the study but also in the operation of the law.

The third person of discourse predominates in Gaius' Institutes, as it does in most expository prose: the text speaks in terms of how the law works, how interactions are managed, what is done, what people do. But it is noticeable even on a casual reading that the first and second persons of discourse—in verb forms, pronouns, and possessive adjectives—are constantly met with in this text, lending a sense of personal involvement, not to say chumminess, to what is otherwise a highly technical handbook. These first- and second-person referents in the Institutes occur on three levels of discourse: firstly, what I shall call the authorial level, where 'we' produce utterances relating to our engagement in the study of the law; secondly, on the substantive level, where 'we', or 'you' and 'I', are shown to organize our lives and our activities in accordance with the law; thirdly, on the level of quoted formulae, where 'you' and 'I' address each other in co-operative or competitive legal actions. In what follows, I shall first trace Gaius' deployment of the persons of discourse on these three levels, and then offer some comment on the rhetorical and pedagogical effects of this aspect of the author's style.

First and Second Persons of Discourse in Gaius' Institutes

Authorial Level

In Gaius' Institutes, references to the process of teaching and study there engaged in appear almost exclusively in the first person plural, where the

3. For stylistic analyses of other aspects of Gaius' writings, directed in this case mostly towards establishing his place in the history of Roman law and legal writing, see Honoré (note 1) xiii-xvii, 23-24, and passim; see also, for more recent comment and bibliography, O. Stanojevic, Gaius Noster, Studia Amstellodamena 18 (Amsterdam 1989).

4. The terms of this study are to some extent informed by modern studies of narrative, such as the analytical models of Genette and Bal employed by Irene F. de Jong, Narrators and Focalizers: The Presentation of the Story in the Iliad (Amsterdam 1987). Terminology employed in such studies, developed in connection with the study of fiction, is not entirely transferable to the study of didactic, and I have therefore attempted to present and discuss my material in more conventional terms. Among other things, I have not attempted to make a consistent distinction between author and narrator, using the term 'writer' to refer to both. Context will make it clear that this discussion is concerned mostly with the writer represented in the text, rather than with the little-known historical personage.

sense is sometimes exclusive (the editorial ‘we’, referring to the writer alone), more often inclusive (referring to reader and writer), and sometimes ambiguous (capable of being understood as referring either to the writer alone, or to the reader and writer).

At its first appearance, the first person plural appears as the voice of the writer, laying out in the future tense his intention to describe the laws of Rome, both those shared with other nations and those specific to Rome: 1

At its next appearance, the first person plural occurs in the present subjunctive, strongly implying the involvement of the reader as both turn to consider the Roman law of persons (18, prius videamus de personis) beginning with the conditions of freedmen (112, de quibus dispiciamus). At this authorial level of discourse, where reference is made to the process of studying the law, there are very few cases where the first person plural must be understood as the voice of the writer alone, and a good many where it appears to include the reader as well, while the greater number of occurrences are ambiguous, capable of being understood in either way.

Elsewhere in Book I of Gaius’ Institutes, the voice of the writer alone seems to appear in the first person plural at I 116 (superest ut exponamus), and, more emphatically, quite close to the end of Book I, where it is proposed to omit a topic which has been treated in another work (nos qui diligentius hunc tractatum executi sumus et in edicti interpretatione et in his libris, quos ex Quinto Mucio fecimus, hoc omittimus, I 188). Present subjunctives, by contrast, seem inclusive of reader and writer, as they map transitions to one new topic after another: videamus (I 8, 50, 108, 124, 142), dispiciamus (I 12, 51, 125, 143), transeamus (I 142), as do suggestions that ‘we’ must be advised (admonendi sumus, I 133 and 141), or that ‘we’ will, can, or might, say, understand, or investigate one thing or another (dicemus, I 15, 16, 54, 129; intellegemus, I 15, 24, 32a, 45, 72, 133, 142; si cognoverimus ... intellegemus, I 50; intellegere possimus, I 122, 126; requirimus, I 139; si quaeramus, I 188).

More ambiguous are statements in the present indicative as to what ‘we’ are speaking of (loquimur, I 39, 76, 145), or what ‘our’ view of the law is (habemus, I 175): these could be understood either exclusively—the voice of the writer alone—or inclusively—reader and writer together. The same is true of the many cases where references to earlier statements appear in the perfect indicative—references to things set out (exposuimus, I 39, 126), reported (rettulimus, I 39, 87), or spoken of (diximus, I 24, 32a, 45, 63, 72, 75, 76, 78, 97, 119, 135a, 152 189). On the whole, and in view of the inclusive use of the majority of unequivocal occurrences of first-person plural expressions, I would argue that these occurrences also are more naturally understood as inclusive—particularly as they sometimes appear in combination with the unequivocal: so I 24, quod autem diximus...
\( \dots \) \textit{ita intellegemus}, cf. I 32a, 45, 72, 126; and I 142, \textit{videamus igitur} \dots \textit{ita enim intellegimus}.

As in Book I, so in the remainder of the \textit{Institutes}: There are only a few places where the writer's voice seems to reclaim the whole of the first person plural. So several proposals to postpone a particular discussion (II 97, \textit{alio loco referemus}; III 34, \textit{suho loco proponemus}; III 81 and 181, in \textit{sequentia commentatio proponemus}, or \textit{referemus}), and one referral to an earlier publication (III 33, \textit{in his commentariis non agimus, quia \dots propriis commentariis exsecuti sumus}; cf. I 188), to which should perhaps be added one citation of expert opinion (IV 60, \textit{nos invenimus}).

Transitions to new topics, however, continue to appear in a present-subjunctive or future-indicative form which strongly implies the involvement of reader with writer in the examination of the law: \textit{videamus} (II 1, 97, 120, 191, 247; III 39, 77, 89, 179; IV 88, 130), \textit{videimus} (II 121), \textit{dispiciamus} (II 86, 99, 100; III 55; IV 114, 115, 138, 161); \textit{transseamus} (II 246, III 88, 182); \textit{incipiamus} (IV 161); \textit{loquamur} (IV 1, 10); \textit{dicemus} (II 146, III 3, 131); while the reader seems strongly implied also in first-person plural expressions of admonition (\textit{admonendi sumus}, II 27, 80, 206; III 56, 163; IV 82, 110, 136, 169; \textit{admonemus}, II 40; IV 69), knowledge (\textit{dum sciamus}, II 88), enquiry (\textit{si quae ramus}, II 114, III 71, 170; IV 1; \textit{requeramus}, II 114; IV 60) and understanding (\textit{intellegere debemus}, II 32; \textit{intellegemus}, II 107, 124, 183, 233, III 2, 6, 45, 101, 114, IV 135, 155).

Present-tense indications of topic or terminology (\textit{loquimur}, II 94, 122, 191; III 154, 194; IV 57; \textit{dicimus} III 124, 136, 154a; IV 18; \textit{appellamus}, III 115; IV 170; \textit{ vocamus}, IV 45, 46), and understanding (\textit{intellegimus}, II 220, IV 15, 33), investigation (\textit{requirimus}, III 13) or legal usage (\textit{habemus regulam}, II 68; \textit{hoc iure uti debemus}, II 108, \textit{eodem iure utamur}, III 64, \textit{alio iure utimur}, III 117, 224, IV 163), might be understood to refer to the writer alone, did they not occur in circumstances where this person of discourse so often seems to include the reader, and that is the case as well with perfect-tense reference to earlier passages in the text: \textit{exposuimus} (II 1, 91, 115, 171, III 182, 194); \textit{diximus} (II 15, 33, 36, 65, 85, 105, 114, 116, 124, 125, 134, 179, 181, 183, 204, 205, 206, 243, III 45, 51, 56, 101, 109, 126, 170, 178, 179, 185, 206, IV 53d, 56, 72, 74a, 100, 129, 135); \textit{rettulimus} (II 228, III 17, 201; IV 85, 153); \textit{tradidimus} (II 23, III 38; IV 77); \textit{notavimus} (II 149a, IV 60, 133); \textit{mentionem habuimus} (IV 69). The inclusiveness of the perfect-tense observations is underscored by the passages in which they are combined with future indicatives: \textit{qua diximus, eadem \dots intellegemus} (II 124, III 45, 101, IV 135); \textit{qua \dots diximus, eadem transferemus} (III 206). Even with references to 'our' school (IV 79) or 'our' preceptors (I 196; II 37, II 123, 195, 200, 217, 219, 220, 231; III 87, 98, 103, 141, 167a, 168; IV 78), or what authority 'we' follow (III 156), it seems more natural in context to understand the terminology as inclusive of the reader.
The first person plural not only predominates in Gaius' comments on the authorial enterprise engaged in in the Institutes—it pretty well excludes all other persons. Impersonal remarks may emerge (e.g., *sciendum est*, I 47; *interpretatio ... exposita est*, III 54), but there is no suggestion of persons involved in the immediate project other than 'we'—the reader and the writer. And the implied second person is never separately addressed or spoken of, while the first person singular appears, at this level of discourse, only in a limited number of passages where the writer takes personal responsibility, unshared with the reader, for knowledge of pertinent literature. Thus one hears that 'I' have not failed to note some act of legislation (*ne<em>c me praeterit</em>, I 55, 73; III 76; IV 24), or that 'I' know of a relevant act or opinion (*scio*, II 163, 280).

**Substantive Level**

In reference to the operation of Roman law, as opposed to his current enterprise of studying it, the third person of discourse predominates in Gaius' Institutes, as we hear of what one or more persons do, or can or must do. But even on this level of discourse, first- and second-person pronouns, possessives, and verb forms are met with frequently, and once again the first person plural is the commonest of these.

The first book of the Institutes begins with the law of persons, and specifically with distinctions in personal status. In the distinctions of status described in Book I, 'we' appear always on the side of the more advantaged: Roman, of course, rather than foreign; also free, not slave; male, not female; adult, not child. In addition, 'our' status is repeatedly defined in relation to persons on the disadvantaged side of each set. Accordingly, 'we' appear as slave-owners (I 53) and holders of persons in *mancipio* (I 151); as marrying men (I 58) and men with wives in *manu* (I 108); and especially as fathers with children in *potestate*, natural (I 55) and adopted (I 97, 99, 102). 'We' do not appear as guardians of children, but as appointers of their guardians by will (I 146, 147); on the other hand, 'we' take on guardianships of another kind after participating in certain forms of emancipation or manumission (I 166a). 'We' are not represented as guardians of women, but they are said to be in perpetual guardianship *apud nos* (I 193). Cautions are given against abuse of persons 'we' hold in *potestate* as slaves (I 53) or as freemen in *mancipio* (I 141), though it is to be noted that no such warnings are offered regarding the treatment of children in *potestate* or wives in *manu*.

In Books II-IV of Gaius' Institutes, the representation of 'us' as persons exercising domination over others is maintained. So in connection with the law of property, it is shown that 'we' may acquire this through slaves or children in 'our' *potestas* (II 86, 87, 89), or persons in *mancipio* to 'us' (II 90), as well as slaves in whom 'we' have usufruct (II 91, 94)—though not
through persons other than these (II 95); in connection with transmission
of estates, it is shown that 'we' may appoint as heirs those under 'our'
authority, children (II 179, 181, 182, 184) and in special circumstances
slaves (II 185, 186, 276). Third parties may become obliged to us through
contracts entered into by those under 'our' authority (III 163), especially
'our' slaves (III 164, 165), or through delicts committed against 'our'
children and wives (III 221). It is noted that kidnapping of 'our' children
or wives can be classified as theft (III 199). Possession may be exercised
on 'our' behalf by persons under 'our' authority (IV 150).

In Book II, where the topic is property, 'we' are represented as property
owners (II 1). 'We' may alienate property (II 6 and 25), but for the most
part are shown to gain it, by usucapion (II 43) or seizure (II 66), particularly
in the way of hunting and fishing (II 67), though if the catch escapes again
'we' may lose ownership (II 68), or by seizure from the enemy (II 69). 'Our'
land may gain in mass by alluvium (II 70), or in value by things built (II
73) or planted thereon (II 74, 75), though it is noted that 'we' may be liable
for value added by another in good faith (II 76).

From ways of acquiring specific possessions, the subject shifts to incor­
porereal things acquired for 'us' (II 97, 191), like inheritances, testate or
intestate (II 98, 99, 100, III 14, 77). Rather than appearing as heirs to
these, 'we' are for the most part represented as property-owners disposing of
'our' property by will (II 250) and appointing heirs (II 174, 175). Legacies,
again, are something 'we' bequeath (II 193, 201, 209, 216, 223, 244, 277),
rather than something 'we' receive, although at II 278 'we' sue for legacies
or trusts left to us.

The second part of Book III is on obligations, and once again, these
are represented as something acquired by 'us', rather than something 'we'
owe. So 'we' stipulate for something to be given us (III 103, 110, 111, 112,
117), and negotiate prices (III 140). 'We' make loans (III 90, 206), enter
partnerships (III 148) and assign mandates (III 155). The last part of Book
III, on delicts, is, interestingly, one 'we' figure little in, either as malefactors
or as injured parties, although it is noted that 'we' suffer iniuria through
wives and children (III 221, 222) and 'we' determine the damage suffered
through iniuria (III 224). Book Four is largely occupied with the law of
actions, and in this context 'we' are shown suing and claiming 'our' rights
(IV 2, 3, 4, 6–9, 18, 20, 30, 33, 38, 45, 51, 82, 93, 95, 131–131a, 136),
rather than being sued by others. 'Our' possession is referred to (IV 150),
including that exercised for 'us' by persons to whom 'we' have lent property
(IV 153). It is noted that there are persons whom 'we' cannot sue (IV 187).

Where reference is made to to the operation, as opposed to the study
of the law, the implied 'I's and 'you's of the first person plural do emerge
separately in first- and second-person singular pronouns, possessives, and
verb forms. In most cases where either the first- or second-person singular
appears, the other appears alongside it, forming a virtual ‘we’ of persons interacting either cooperatively or in competition. Early examples have to do with sorting out shared or doubtful ownership of a slave (I 35, 167) or riverine land (II 71) or materials owned by ‘me’ with value added by ‘you’—a board painted on (II 78), grapes made into wine and so on (II 79). Similarly, much later in the Institutes, a claim to something possessed for various lengths of time by ‘me’ and ‘you’ has to be sorted out (IV 152). Some interactions place ‘you’ and ‘me’ in a cooperative position—as, if ‘I’ assign a debt to ‘you’, and ‘you’ collect it in ‘my’ name (II 38, 39), when ‘you’ and ‘I’ exchange goods (III 141, 144), or when ‘you’ act on ‘my’ mandate (III 156, 157, 161). In a number of transactions, there is some voluntary exchange which is however so arranged as to create an obligation on your part, often with ‘me’ stipulating for payment from ‘you’ (III 102, 129, 130, 146, 176, 177, 179), delivering goods (II 20, 41), or making a loan to ‘you’ (III 90) or to ‘your’ slave (IV 72a). In at least one case, ‘I’ have to sue for what ‘you’ owe (IV 89, 90), but in some other cases ‘I’ turn out to have misconducted myself, cheating ‘you’ on a stipulation (IV 115, 116), or agreeing not to sue ‘you’, and then doing so anyway (IV 126). Only once do ‘I’ seem to owe ‘you’ (III 169). ‘You’ exercise deceit or compulsion upon ‘me’ in one case (IV 117). ‘You’ do ‘my’ daughter an injury just once (III 221).

On a number of occasions in the text of the Institutes, the first person singular appears without the second person singular. This occurs in descriptions of relationships: whom ‘I’ can and can’t marry (I 59, 61, 63); who is, or is not, ‘my’ agnate (I 156); ‘my’ descendants, in questions of wills and inheritance (II 133, 134; III 71), or ‘my’ heir (III 117); or with mentions of persons in ‘my’ potestas (III 104; IV 78). It happens also in situations such as shared ownership (II 77), contracts of hire or sale (II 147, III 113, 143), partnership (III 151), mandate (III 158, 160, 161, 162), or the initiation of legal action (III 181, IV 166a). In the area of delict, ‘my’ slave may be suborned (III 198) or killed (III 212), or another’s slave may wrong ‘me’ (IV 78). ‘I’ may act wrongfully, albeit in defense of my own property (III 200, IV 154, 155).

The second person singular appears without the first person singular, too—but much less often. Reference is made to persons in ‘your’ potestas (II 245, IV 77); legacies left by (II 215) or to ‘you’ (II 245, III 125); someone’s stealing from (III 202), or planting stolen goods on ‘you’ (III 187). It is to be noted that the second person plural is not met with on this level of discourse.

QUOTED LEGAL FORMULAE

The formulae of Roman legal actions operate on an I-you basis, as individuals address each other in actions ranging from the formation of a
contract to the institution of a lawsuit. The formulae, and this feature of them, are independent of any rhetorical or stylistic decision of Gaius’, though the decision to quote them directly was the writer’s, and this realm of quotation represents a third level of discourse, along with the authorial and the substantive, wherein first and second persons are encountered.

In the quoted formulae, the first and second persons singular often appear together, as when ‘I’ claim ‘your’ family in mancipation (II 104), when ‘I’ call for ‘you’ to do or deliver something after ‘my’ death (II 250; III 100), or on behalf of another person (III 167); when ‘I’ call for a stipulation and you make one (III 92, 93), or when ‘I’ call for formal release from obligation by asking if ‘you’ have what ‘I’ promised (III 169). In other quoted formulae, ‘I’ institute legal action against ‘you’ (IV 16, 17a, 17b, 21, 24, 83), make statements in connection with such a claim (IV 59, 93), or acknowledge an order to give ‘you’ something (III 174).

Elsewhere, the first person singular may appear without the second, in claiming property by mancipation (I 119, II 24), appointing a guardian (I 149, 150, 152; II 289) or an heir (II 117, 179, 209) or freeing a slave by will (II 267), in granting legacies (II 104, 193, 199, 232) or trusts (II 249, 277), or in accepting an inheritance (II 166). References to ‘my son’ occur in formulae for disinheritance (II 127, 132), to ‘my slave’ (II 201, 267) or ‘my’ heir or heirs (II 165, 235, 238), in connection with legacies or trusts. And the second person singular may appear without the first in formulae for putting a time-limit on acceptance of estate by heirs (II 174, 177), for quoted stipulations (III 103a, 112, 115, 116; IV 53c), with reference to dispossesension by force (IV 154), in determining the issues of a dispute (IV 126), and in instructions to a judge to condemn or absolve (IV 42, 43, 47, 49, 50, 51, 86).

Quoted formulae are the only level of discourse in Gaius’ Institutes where the second-person plural appears in pronouns, possessives, or verb forms—and then very rarely: Panels of judges are instructed in the second person plural to condemn or absolve (IV 46), instructions are given to both parties to release disputed property (IV 16) and the interdict uti possidetis is employed to set up the terms of a dispute over property (IV 148, 149, 160, 170).

**Summary**

From the overviews given above, it will be clear that first- and second-person references, singular and plural, are unequally represented in Gaius’ Institutes, and that they are differently proportioned in the three levels of discourse which I have distinguished. The numbers of these references can be summarized as follows, where numbers refer to the sections of the Institutes in which first- or second-person verb forms, pronouns, or
possessives appear, sometimes more than once per section. Totals are omitted because single sections of the Institutes sometimes deploy the same person of discourse on several levels, or several persons of discourse on the same level. The total number of sections in the four books of Gaius' Institutes is 900, not counting a number of sections subdivided into a, b, and so on; the number of sections in which first or second persons of discourse occur is 330.

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This tabulation reveals in summary the relative commonness of the 'we' of fellowship, and the relative rarity of the 'you plural' of separateness, as well as their distinctive distribution among levels of discourse, with the few examples of the second person plural appearing only on that level from which the first person plural is excluded. Also visible is the preponderance of the first person plural on the substantive level of discourse, along with the emergence of the first and second persons singular on that level, and the preponderance of first and second persons singular on the formulaic level.

For the rest, though I have not attempted to summarize the occurrence of first and second persons of discourse on a book-by-book, level, two things should be noted which can be confirmed by consulting citations in preceding sections of this paper. First, the first person plural is very much present in Book One, but the first and second persons singular are mostly met with thereafter—as if it were desired that the personality of the shared 'we' should be firmly developed before its components—'you' and 'I'—were allowed to operate on their own. Secondly, while the first and second persons occur on authorial and substantive levels fairly regularly across the course of the four books of the Institutes, their appearance in quoted formulæ naturally occurs most often in Book Two, with its observations on the formulations of wills, and Book Four, with the law of actions.

DISCUSSION

In terms of its rhetorical and pedagogical effect, Gaius' deployment of the persons of discourse in his Institutes keeps reader and writer involved at
every level of the text. On the authorial level, the writer rarely speaks for himself alone. The reader or student is incorporated into the process of the study of the law through the use of the first person plural, brought into the pedagogical enterprise in order to enlist cooperation, promote participation, and prevent alienation or outright resistance. At best the reader will respond to the prospect of fellowship thus brought forward; at worst, it will be difficult to find a target for resistance in a writer or teacher so closely identified with oneself.

On the authorial level of discourse, the first person plural is for the most part understood to refer to a combination of the first and second persons singular: 'you' the reader, and 'I' the writer. On the substantive level, the first person plural expands to include the third person of discourse—'you' and 'I' along with 'others of our sort', so placing reader and writer together in a community of persons living their lives and conducting their business in terms of the law under study. The first and second persons singular into which the first person is sometimes resolved at this level interact for the most part with each other, but sometimes with other parties; where conflicts of interest are described, reader, writer, and others are shown cooperating to sort them out under the mutually accepted terms of the law. This tactical deployment of the persons of discourse serves as another source of study motivation, a steady reminder of the relevance of the authorial enterprise, where the law 'we' study is also the legal system within which 'we', along with 'our' friends and neighbors, live and act.

The 'I's and 'you's of quoted formulae maintain the sense of personal involvement, shared between reader and writer, in the transactions conducted under law. Crossovers link first and second persons met with on substantive and formulaic levels, as for instance when 'we' put formulae into play which involve 'your' promise and 'my' slave (IV 93; cf. II 193, 201, 277, III 112, 169, 174; IV 93). Other crossovers link the same or related persons appearing in authorial and substantive discourse, as for instance when it is stated that 'we' have spoken before of persons through whom 'we' gain possession of property (IV 155; cf. I 55, 63, 97, 108, 141; II 1, 68, 86, 94, 97, 99, 100, 179, 181, 191; III 71, 77, 103, 117, 141, 156, 163; IV 33, 45, 77, 78, 82, 136, 153).

In terms of rhetorical and pedagogical strategy, it is not only the involvement of the first and, especially, second persons of discourse in the study and operation of the law, but the way they are involved that is significant. The recurring 'we' of the first person plural in Gaius' description of the operations of Roman law is presented as belonging to a privileged class not only independent of the authority of other persons, but exercising authority over others as well. 'We' are also shown to moral and material advantage in the majority of transactions described—gaining goods, rather than alienating them and taking actions rather than having them taken
against us, except that where the two principles seem to be in conflict, as for example in the matter of transmission of property by inheritance, 'we' are represented as the active, rather than the passive party, testator rather than beneficiary, even though this involves the handing on, rather than the accumulation, of property.

Gaius chose to treat the law of persons before the law of property and the law of actions for reasons, perhaps, of logical precedence. Perhaps—but this approach to the subject also gave the writer the chance to develop his version of his own personal status and that of his reader right from the beginning of his work. And Gaius exploits this opportunity by offering the reader a status identical with his own, one which, as noted above, is highly advantageous. Inclusion of the reader on the more privileged side of every status division: This is realistic insofar as the law student in Gaius' time is unlikely to have been slave or non-citizen or female. But the representation of the reader as one who holds authority over other persons—slaves, wife, and particularly children—must have been somewhat unrealistic in terms of the likely age of the presumed reader.

This is not to say that Gaius' Institutes might not have been read by adult males. But the students to whom Gaius lectured at this introductory level, and the first-year law students for whom the Institutes was later prescribed, must have been, for the most part, teen-agers, and one would think that the one of the most significant status experiences of such students or readers would have been that of living in the potestas of their fathers. Similarly, the many legal transactions in which 'we' or 'you singular' participate during the course of the Institutes will have been, for the most part, ones which lay ahead of the envisioned reader, rather than being a part of his experience to date.

And still, Gaius does not choose to say, for example, 'We Romans are born into the potestas of our fathers'—perhaps because he anticipated that young men might have a natural resentment of this situation, looked at in this way, while if the position could be presented as one in which the reader could see himself in the more privileged position, this feature of the law might be more acceptable. What the writer has done is present to the reader a version of himself at a later age—as an informed, active, privileged participant in Roman society; as, in fact, what the writer must have wished him to become. And Gaius has made this as attractive as possible in terms of the character, situation, and privilege thereto attached. On this level, the lecturer/writer acts not only as an instructor in his subject, but as an agent of socialization of the Roman youth on his path to maturation and to incorporation in the community at large.

In conclusion, it should be noted that Gaius' deployment of first and second persons of discourse in the Institutes is one more readily available to writer than to lecturer. It is as easy to say 'I' or 'we' to a group of students as it is to write in these terms for what might be a single reader. It is possible to address remarks, arguments, or examples to only one student at a time out of a number attending one's lecture, and so bring the second person singular in alongside the first. It is very difficult to imagine doing all this over a whole series of lectures without ever bringing in the second person plural. To this extent, Gaius' lectures must have been fairly thoroughly recast in the course of preparation for publication.
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