ABSTRACT

The citizenship status of Flavia Domitilla, the wife of the emperor Vespasian, has frequently been the subject of scholarly comment, but has never been explained adequately. In his Vitae, Suetonius merely spares a few lines for this unlikely imperial wife, who came from a seemingly obscure and indeed disadvantaged background. Flavia Domitilla is generally regarded as having been a freedwoman or born in captivity and is, therefore, an implausible choice of wife for a member of the senatorial order. However, a closer examination of the case indicates that she may well have been freeborn, yet was also born into Junian Latin status. The article draws on legislation regarding Junian Latins in imperial Rome and discusses the legal as well as customary marital prerequisites for Roman senators.

Meanwhile he took to wife Flavia Domitilla, formerly the lover of Statilius Capella, a Roman equestrian of Sabrata in Africa, a woman originally only of Latin rank, but afterwards declared a freeborn citizen of Rome in a suit before arbiters, brought by her father Flavius Liberalis, a native of Feren- tinum and merely a quaestor’s clerk. By her he had three children, Titus, Domitian, and Domitilla. He outlived his wife and daughter; in fact he lost them both before he became emperor.

Introduction

As a result of Suetonius’ brief account of Flavia Domitilla and her marriage to the future emperor Vespasian sometime during the reign of Gaius (37-41
CE), there remains a high degree of uncertainty with regard to her citizenship status, as evidenced in *Vesp.* 3. 1 Although it was the tendency of male Roman aristocrats to marry a few years before acquiring a quaestorship (the first rung on the senatorial *cursus honorum*), 2 by the close of Gaius’ reign, Vespasian had already served as a military tribune, a quaestor and an aedile, before being assigned to lead legio II Augusta in Germania Superior in 42 CE. His son Titus, the eldest of Vespasian’s recorded children, was born in December 39 CE, 3 a date which might be regarded as an obvious *terminus ante quem* for dating his parents’ marriage, which perhaps took place sometime in 38 or early 39 CE. 4 Furthermore, the appearance of *inter haec*, together with the position in which this piece of information is related at *Vesp.* 3, seems to anchor the marriage in Gaius’ reign, though one cannot be completely certain of this. If this is the case, it seems that, in almost the same way as his political career, 5 Vespasian, who had maintained a relationship with the

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1 On Flavia Domitilla, see especially *PIR* II F 416, where a general overview of what is known about her is provided.


5 Griffin (note 4) 2-13 argues that Vespasian deflected negative attention from himself by carefully staging a lack of ambition during his political career; cf. Levick (note 4) 204. See also B.W. Jones, *The Emperor Domitian* (London 1992) 2, who argues that Vespasian downplayed his ‘financial, social and political successes’ so as
influential freedwoman Antonia Caenis,\(^6\) was a somewhat slow starter in the matter of marriage.\(^7\) In addition, because it took him some time to choose a bride, his marital choice of Flavia Domitilla, a woman of Junian Latin status as Suetonius affirms, becomes all the more perplexing, particularly since Junian Latinity is normally associated with a servile origin. Determining the exact legal status of Vespasian’s wife is therefore apposite given that the union produced two future emperors of Rome, whose legitimacy is never called into question, even though the foulest of accusations, such as incest and sexual passivity, are levelled at Domitian in the posthumous literary tradition.\(^8\)

Unfortunately, the details provided by Suetonius, our best source for Domitilla, are not greatly illuminating. This is exacerbated by the fact that Tacitus provides no useful hints regarding Vespasian’s wife. Perhaps something of importance was recorded in the now-lost books of the \textit{Historiae} dealing with the bulk of Vespasian’s reign, in addition to those of his sons. Detail might also have been provided in missing sections of the \textit{Annales}, for Tacitus’ account of Gaius’ reign, i.e. when Vespasian possibly married Domitilla, has also been lost. The epitomes of Cassius Dio are also useless for our purposes. All that remains is pseudo-Aurelius Victor’s description (\textit{Epit.} 10.1; 11.1) of Domitilla being a \textit{liberta}. But, given the clear relationship between

to deflect negative attention during the reigns of emperors such as Gaius and Nero. But Vespasian could hardly have been a particularly threatening senator on account of his rather obscure background.

\(^6\) As Suetonius tells us at \textit{Vesp.} 3, Caenis was evidently the future emperor’s lover before his marriage (\textit{dilectam quondam}) and resided with Vespasian almost in the place of a wife after Domitilla’s death (\textit{paene iustae uxoris loco}). On Caenis, who had once been the slave of Antonia Minor, mother of the emperor Claudius, see \textit{PIR}\(^2\) A 888; also Suet. \textit{Dom.} 12.3, but cf. Cass. Dio 65.14.1-4, where positive remarks are offset by some negative connotations attached to her role in the imperial household. That Caenis had nothing to do with Vespasian while he was married seems rather difficult to believe.

\(^7\) R. Syme, \textit{The Roman Aristocracy} (Oxford 1989) 175 argues, in agreement with his 1987 work cited in note 2 above, that, during the reign of Augustus, a Roman \textit{nobilis} would typically marry in his early twenties. Vespasian, of course, was not a \textit{nobilis}, but this makes for an interesting point of comparison.

\(^8\) On this, see M.B. Charles, ‘\textit{Calvus Nero}. Domitian and the mechanics of predecessor denigration’, \textit{AClass} 45 (2002) 19-49. Perhaps it was important \textit{not} to question the legitimacy of Domitian, for this would have also reflected badly on the ‘good’ Titus.
Suétounius and the Caesares through the Enmannsche Kaisergeschichte (EKG), it is just as likely that the inclusion of liberta was merely an extrapolation from the earlier writer’s Latinaeque condicionis, sed mox ingenuam et cивem Roman, itself possibly a fragment of what another author less sympathetic to Vespasian might have recorded. The derivative status of the Epitome de Caesaribus therefore makes it hazardous to ascribe too much authority to its claim that Domitilla was of servile origin.

Accounts of Domitilla

It clearly behoves us to examine more closely the rather limited information that Suétounius provides about Domitilla, who is almost overshadowed in the rather brief Vespasianus by the freedwoman Antonia Caenis (Vesp. 3), in addition to the various theories put forward by modern scholars regarding Domitilla’s status. For the sake of simplicity, the three broad options that lie before us are as follows:

1. 
   - Domitilla had been a slave at some point, and possibly had been born while her mother was still a slave of Liberalis, Domitilla’s father. After being freed informally, she acquired Junian status. As a senator, Vespasian should not have been able to wed her, or have legitimate offspring with her.

2. 
   - Domitilla was freeborn, but her mother had been a slave. Domitilla was born after her mother’s informal manumission and was thus a Junian Latin, like her mother. For Vespasian to marry her and have legitimate offspring, it was necessary to have Domitilla proclaimed freeborn and a Roman citizen.

3. 
   - Domitilla was freeborn, but had been accidentally cast into slavery. She was later recognized as freeborn by her father, Liberalis, and was restored to her full rights as a freeborn Roman citizen, including the ability to marry a senator such as Vespasian and have legitimate offspring with him.

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9 On this, see especially M. Festy (ed. & trans.), Pseudo-Aurélius Victor. Abrégé des Césars, Collection des Universités de France (Paris 1999) xxi: ‘L’EKG ... a pour source principale les Douze Césars de Suétone, dont l’Epitome n’a de ce fait qu’une connaissance indirecte.’

Proponents of the first theory naturally assume that Domitilla’s upgrading to full citizenship was something of a farce. That Domitilla had been the *delicata* of an equestrian from the province of Africa called Statilius Capella does not help her case as a freeborn woman very much. Relying on this evidence, Wardle even describes her as having been his ‘sexual plaything’, although translating *delicata* thus, while defensible on the basis that *delicatus* usually means a ‘favourite slave’, might give undue credit to scurrilous and vituperative accounts of Domitilla to which Suetonius presumably had access. It is just possible that Domitilla could have existed in a state of concubinage with Statilius, in which case we cannot infer whether she was a slave or a freedwoman. The legal evidence, such as that preserved in the Digest, affirms that unmarried freedwomen or citizens could live in a state of concubinage with a Roman man, and that such relationships were not characterized as involving *stuprum* provided that certain conditions were met. Being a concubine therefore did not irrevocably sully even a freeborn woman’s reputation, especially if she was not of élite origin; indeed, a concubine could eventually be married by her male lover once an intention to do so had been declared, and if there were no legal obstacles, i.e. *conubium* existed between the pair, such as would be the case if both parties were full

11 E. Cuq, ‘Le mariage de Vespasien d’après Suétone’, *RPh* 8 (1884) 161-64 suggests that *delicata* should be read as *delegata*, but this is rejected by H.W. Ritter, ‘Zur Lebensgeschichte der Flavia Domitilla, der Frau Vespasians’, *Historia* 21 (1972) 759-61, at 761. There seems to be no firm reason to contend otherwise. Wardle’s view (above p. 108-09 n. 27) that *ex Africa* was a ‘potential slur of “non-Italian”’ may be a hypersensitive reading. The *eques* in question could have conceivably come from an Italian family, part of which had settled in Africa, rather than a ‘local’ who had achieved equestrian status.


13 See Wardle (above, p. 108).

14 Papinian, *Dig.* 34.9.16.1, for example, describes the relationship between the senator Coccianus Cassianus and his freeborn (*ingenua*) concubine Rufina, and that the *principes* Septimius Severus and Caracalla allowed a daughter born of this union to inherit part of her father’s estate.

15 Ulpian, *Dig.* 32.49.4 notes, with reference to the acceptance of gifts by wives and concubines discussed above, that *sane ... nisi dignitate nihil interest* (‘there is no difference at all [between wife and concubine] except in rank’).

citizens.\textsuperscript{17} It cannot be claimed with any great surety, therefore, that Domitilla had been Statilius’ slave simply from the statement that she had been his *delicata* at one indeterminate point, even if this might appear to be the simplest explanation.

Levick shows herself to be something of a supporter of the second theory. Based on Suetonius’ testimony, which could possibly have been influenced in part by negative literary treatments of the Flavians, rather than just the glowing ones of which Tacitus writes (*Hist.* 1.1.16-18), she contends that Flavia Domitilla ‘either was or had been deemed an ex-slave’ and argues that she bore the name of her father, Flavius Liberalis, and that her mother was likely to have been his ‘frieldwoman and concubine, freed without good cause shown, contrary to the *lex Aelia Sentia*, so acquiring only Latin status.’\textsuperscript{18} The *lex Aelia Sentia* of 4 CE was designed to restrict citizenship rights for those slaves freed under the age of 30.\textsuperscript{19} But, as is most commonly held, the law did not bestow Latinity; in other words, the *lex Iunia* was probably older.\textsuperscript{20} A common reason for freeing a slave under the *lex Aelia Sentia* was the intention to marry, in which case the manumitter was asked to take an oath that the marriage would take place within six months. If a child was born in the meantime, its status would be in doubt, at least until the marriage took place, or the six-month period expired.\textsuperscript{21} However, a detail that often

\textsuperscript{17} Indeed, marriage legally took place as soon as *affectio maritialis* occurred. On the legal aspects of Roman marriage, see especially S. Treggiari, *Roman Marriage: Insti Coninges from the Time of Cicero to the Time of Ulpian* (Oxford 1991) passim, and especially chapter 2.

\textsuperscript{18} Levick (note 4) 12; cf. 212; Gaius, *Inst.* 1.31 discusses the *lex Aelia Sentia* with regard to those freed under the age of 30.


\textsuperscript{20} W.W. Buckland, *The Roman Law of Slavery* (Cambridge 2000, repr. of 1908 edn.) 536-37, with *Dig.* 40.2.19. On Junian Latins, see especially P.R.C. Weaver, ‘Where have all the Junian Latins gone? Nomenclature and status in the early Empire’, *Chiron* 20 (1990) 275-305. The *lex Iunia* was either passed in the reign of Augustus, as per Bradley (note 19) 155, or under Tiberius; cf. id., *Slaves and Masters in the Roman Empire: A Study in Social Control* (New York & Oxford 1987) 87.

\textsuperscript{21} H.J. Roby, *Roman Private Law in the Times of Cicero and of the Antonines I* (Cambridge 1902) 38; Buckland (note 20) 540; but J.E. Grubbs, *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood* (London & New York 2002) 11 holds that the *lex Iunia* was passed after the *lex Aelia Sentia*. 
escapes scholarly attention is that, if the slave was freed for the purpose of marriage, the 30 years of age rule did not apply and freedom could be bestowed, provided that a consilium was convened for this purpose.\textsuperscript{22} Furthermore, a Roman master retained the right to free blood relatives, including his children by a slave, according to the same process. By overlooking the legal details, Levick’s argument does not shed much light on the already confused picture that Suetonius affords us with regard to Domitilla’s status: she maintains that Domitilla was declared freeborn, as Suetonius specifies, in which case she could not have been born while her mother was still a slave.\textsuperscript{23}

\textsuperscript{22} Roby (note 21) 30; P. Jörs, W. Kunkel & L. Wenger, \textit{Römisches Recht Aufgrund des Werkes} (Berlin 1987, repr. of 1927 edn.) 74; P.R.C. Weaver, ‘Children of Junian Latins’, in B. Rawson & P. Weaver (edd.), \textit{The Roman Family in Italy: Status, Sentiment, Place} (Oxford 1997) 55-72, at 56; Grubbs (note 21) 11, 192; see Gaius, \textit{Inst.} 1.18-19; 38-41; Dig. 40.2.13; J.F. Gardner, \textit{Being a Roman Citizen} (London & New York 1993) 39. Another way in which Junian Latin status could be ‘upgraded’ to Roman citizenship is the process of \textit{anniculi probatio}, according to which a Junian Latin must appear before the urban praetor or provincial governor when the child had reached the age of one year; on this, see Roby (note 21) 37-41; Gardner 18, 75. For the case of auxiliaries and sailors serving in the Roman military being awarded Roman citizenship and \textit{conubium} upon their discharge, see S.E. Phang, \textit{The Marriage of Roman Soldiers (13 BC-AD 235): Law and Family in the Imperial Army} (Leiden 2001) 53-85 and id., ‘Intimate conquests: Roman soldiers’ slave women and freedwomen’, \textit{AncW} 35 (2004) 207-37; also, see B. Pferdehirt, \textit{Die Rolle des Militärs für den sozialen Aufstieg in der römischen Kaiserzeit} (Mainz 2002) 46-55. In this way, Roman soldiers could confer citizenship on children arising from \textit{de facto} relationships with their social inferiors.

\textsuperscript{23} Levick (note 4) 212, n. 21 owes the point to J.F. Gardner, \textit{Women in Roman Law and Society} (London & Sydney 1986) 223. The latter argues that Liberalis married a freedwoman, but omitted a testatio at the time, which only took place a year later; hence, he had to prove the legitimacy of the marriage before he could claim citizenship for his daughter. Gardner’s other suggestion, viz. that Liberalis was confused about his citizenship status, and possibly thought of himself as a Latin, is also rather superficial; see J.F. Gardner, ‘Proofs of status in the Roman world’, \textit{BICS} 33 (1986) 1-14, at 4. Although mistakes regarding one’s social status were not uncommon, surely Suetonius would not have used \textit{mox ingenua} if this was simply a case of mistaken personal identity. In any case, it seems that Roman parents were generally anxious to acknowledge their children and safeguard their status and would even see to the issuing of birth certificates regardless of whether the children were legitimate or not; on this, see F. Schulz, ‘Roman registers of births and birth certificates. Part II’, \textit{JRS} 33 (1943) 55-64, at 59-60, who argues that the declaration of legitimate children was a \textit{professio}, while, for illegitimate children, parents would opt for a \textit{testatio};
The third theory, which requires a good deal of imagination on the part of the reader, remains to be unpacked. Barrett has recently resurrected the old thesis, first put forward by Bennett, that Domitilla, daughter of Liberalis, was possibly born free, but was then exposed or lost and hence raised as a slave by whoever claimed ownership of her. At some point, the hitherto unlucky Domitilla was rediscovered and reclaimed by her parents, although the stain of her earlier slavery remained, and therefore required absolution. This scenario is also given some credence by Wardle in this volume, but, without any clear evidential basis, this almost smacks of historical fantasy, with Liberalis either needing to have realized his error all those years later, or Vespasian having to invent this back story after meeting Domitilla.

Despite the obvious difficulties relating to Vespasian’s marriage to an ex-slave, Suetonius’ use of *mox ingenua* suggests, at least ostensibly, that Domitilla was not born into freedom, for *ingenua* implies that she had been regarded previously as a *liberta*. Indeed, pseudo-Aurelius Victor (*Epit.* 10.1 and 11.1), in describing the mother of Titus and Domitian, specifically describes her as a *liberta*, which is either a misreading of Suetonius on the part of the epitomator’s sources, such as the *Enmannische Kaisergeschichte* (*EKG*), or a reflection of negative literary traditions no longer extant. An alternative scenario, also put forward by Levick, is that Flavius Liberalis ‘had freed his daughter as a Latin and for the purposes of marriage to Vespasian there was a (collusive) lawsuit claiming *ingenuitas* e *libertinitate* (vindication of the free birth of a person currently of freed status).’ This was necessary given that Augustus’ legislation clearly prohibited Roman senators, unlike men of other social status, from marrying women who were not freeborn.

cf. Treggiari (note 17) 76. In some of the surviving *professiones*, Roman parents specified the citizenship status of their offspring, though this was not obligatory.

24 Barrett (note 4) 388; H. Bennett, ‘The exposure of babies in ancient Rome,’ *CJ* 18 (1923) 341-51, at 349; cf. also Jones (note 4) 3, n. 10; Levick (note 4) 212, n. 21.

25 Note that the argument regarding Vespasian’s silence on his wife’s past does not hold much water given that he assumed the imperial power after her death. Furthermore, she is publicly mentioned, as Wardle (above, p. 110) also recognizes, during the reign of Titus.

26 Levick (note 4) 12.

Yet it appears rather out of character, from what is recorded of his life, for Vespasian to choose to jeopardize his ambitions and indeed the legitimacy of his (presumably hoped-for) offspring on a precarious argument that could at some point return to haunt him and his heirs.28

With these various theories, some more unduly speculative than others, having been elucidated, a much simpler explanation is required for Vespasian’s decision to marry Domitilla, a woman clearly of problematic origin – regardless of her true history. This must be based, in the main, on Roman law rather than convoluted surmise.

**Domitilla’s parents and Junian Latinity**

Now that we are done with the various theories pertaining to Domitilla, it is necessary to determine the social and legal context in which the marriage to Vespasian was procured, all of which rests on a clear appreciation of the status of Domitilla’s parents, in addition to a solid understanding of Junian Latinity.

Of great interest is that the case for Domitilla being freeborn was brought before the recuperatores29 by her father Flavius Liberalis,30 a native of Feren-

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28 In addition, the *lex Visellia* of 24 CE made it a crime for a freed person to pretend to be freeborn. The same law specified that, although freedmen could acquire Roman citizenship for public service, they could not pass the privilege of the equestrian status to their children and grandchildren; see A.N. Sherwin-White, *Roman Citizenship* (Oxford 1979) 331, and especially nn. 1-3. For a senatorial decree issued under Domitian specifically relating to collusion in order to establish free birth, see Roby (note 21) 49 (the decree is mentioned at *Dig*. 40.16.1).

29 With regard to the duties of the recuperatores, whose selection was included in the *lex Iulia de iudiciis priuatis*, the extant information is unclear. It is believed that they initially presided over matters relating to foreigners, but their province eventually expanded to matters pertaining to Roman citizens. They seem to have been preferred in cases where a speedy decision was required; see W.A. Hunter, *A Systematic and Historical Exposition of the Roman Law in the Order of a Code*, trans. J.A. Cross (London 1878) 51; B.W. Frier, *The Rise of the Roman Jurists: Studies in Cicero’s Pro Caecina* (Princeton 1985) 199-206; A. Lintott, *Imperium Romanum: Politics and Administration* (London & New York 1990) 60-64.
tinum, a small town located in southern Etruria. It is not especially clear whether the legal process in question occurred before Domitilla’s marriage to Vespasian, or after this event. Suetonius does not tell us. One might conjecture that being proclaimed freeborn was a condition of marriage imposed by the groom; alternatively, Domitilla’s status might have been questioned by a political enemy after the fact, thereby prompting Vespasian to have her proclaimed an *ingenua* through the agency of her father’s suit. Domitilla’s status would certainly have been a sensitive issue if there had already been issue from the otherwise illicit marriage, for these children would no longer have been regarded as legitimate, since *conubium* could not have existed between Vespasian, a senator, and Domitilla, if she were a freedwoman. That said, it is arguably more likely that she had been proclaimed freeborn before the marriage took place.

One also needs to appreciate the context of Vespasian’s decision to take Domitilla as his wife. Since he had, if Suetonius is to be believed, decided to terminate his relationship with the well-connected Antonia Caenis and marry a far less influential woman, one of his main incentives was surely not to maintain a discreet political profile, but to secure his chances of producing legitimate heirs. It makes little sense to conjecture that Vespasian went from one freedwoman to another, or that he asked Liberalis to vouch for the freeborn status of his daughter without being confident that this was an easily resolved issue. It may have been the case that Domitilla was indeed freeborn, but was considered of Junian Latin status, probably because of informalities surrounding the declaration of her birth. If so, Vespasian would have been at pains to vindicate his future wife before inciting any vitriolic attacks that would undermine his ambition to create a solid and respectable senatorial dynasty.

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30 On Liberalis’ role as *assertor*, see Jones (note 4) 23. If a person’s status was under investigation, that person was not entitled to act on his or her own behalf, but required an agent or *assertor* to put forward the claim of freeborn status; cf. Suet. *De Gramm.* 21, where Gaius Melissus clearly did not want his mother to claim a non-servile status for him.

31 Also found as Ferentum (as per Suetonius), or Ferentium, now modern Ferento.

32 This would have been particularly important for Vespasian, not only in terms of following the Augustan legislation, but also in relation to the rumours that his great-grandfather had not even been born a Roman citizen; see Suet. *Vesp.* 1.4.

33 On the whole, the praetor would assign less important matters to the *re recuperatores*; see W. Blair, *An Inquiry into the State of Slavery Amongst the Romans: From the Earliest Period, till the Establishment of the Lombards in Italy* (Edinburgh 1883) 286-87.
While the rest of Roman society seemed to have been treated with a fair amount of leniency in legislation pertaining to marriage, Augustan law required men of senatorial rank to be absolutely scrupulous with their choice of bride. Hence, although it is disputed whether Latins possessed conubium with Romans citizens, there was a regular number of ex-Latin cives Romani in every Latin community who had acquired citizenship by holding local magistracies, many of whose kindred were still of Latin status. In these circumstances, it is hard to believe that, under the Empire, there were so many Latini colonarii to whom conubium with a full citizen was not possible. Gaius (Inst. 1.56-57) and Ulpian (Tit. Ulp. 5.4.9) state that Roman citizens had conubium with Latins if it was specially granted. Here, he is probably referring to the Junian Latins of the Principate. Still, the lex Inilia de maritandis ordinibus prohibited senators, their children and their grandchildren from marrying anyone born into slavery (Dig. 23.2.44 pr.). Furthermore, the Papian Law decreed that all freeborn men except senators and their children were permitted to have a freedwoman as a wife (Dig. 23.2.23). Although, according to the law (Dig. 23.2.31), a senator could acquire special permission from the emperor to marry a freedwoman, in which case she would be

34 As Sherwin-White (note 28) 109 argues, the conception of Latin status as distinct from membership of a community attains importance only at a later stage, although it appears in embryonic form at Carteia in Spain. There, although the illegitimate offspring of cives Romani were recognized as being of Latin status by virtue of their origin, they were immediately organized into a community, which took the form of a Latin colony. Only with the creation of the Latini Inviani does Latinity become the condition of a class within the state.

35 J.A. Crook, Law and Life of Rome: 90 B.C.-A.D. 212 (London 1967) 42. Roman citizenship was ordinarily given to magistrates (and in some cases from the second century CE, to town councillors) of Latin communities. The right of Latin magistrates to gain Roman citizenship goes back to Republican times. The charters of Salpensa and Malaca in the Flavian period contain this right, and no more. But, by the 2nd century CE, this had become the lesser Latin right, while there was a maius Latium that gave citizenship rights to all members of the town council.

36 For the Republican period before the Social War, there can be no doubt. Livy's statement (8.14.10) ceteris Latinis populis conubia commerciaque …inter se ademerunt (‘the rest of the Latin populations were deprived of the right for intermarriage and commerce with each other’) implies that these rights persisted between Latin and Roman; see also Sherwin-White (note 28) 109-10.

regarded as a legitimate wife and the bans otherwise imposed on inheritance would be lifted, there is no evidence of Vespasian choosing this option. This means that Vespasian was either very confident of the ‘true’ status of his prospective wife,\textsuperscript{38} or else needed to make the point crystal clear for appearance’s sake.

The status of Flavius Liberalis is naturally of interest. Since he was a comparatively humble quaestorial scribe, as Suetonius condescendingly calls him, it does not seem particularly likely that he was of an especially privileged background. The name itself does not help us much. While there might be a temptation to view ‘Flavius’ as an indication of some sort of kinship to Vespasian, as does Jones (‘just possibly related to Vespasian by blood’),\textsuperscript{39} this is naturally impossible to prove, and should not really be used to divine Liberalis’ citizenship status. Liberalis’ position could well be telling. It seems manifest from an inspection of the marital choices made by Vespasian’s male relatives that the family was upwardly mobile.\textsuperscript{40} One might therefore imagine that the underlying rationale for marrying the otherwise lowly Domitilla was to acquire wealth. The position of quaestorial clerk was that of a \textit{mercenarius}, as Nepos (\textit{Eum.} 1.5) tells us with references to \textit{scribae}, and the holder of the office received payment for his services.\textsuperscript{41} This sets Liberalis and his ilk apart from other government officials and magistrates who were not paid any kind of salary, but derived their wealth, in the case of equestrians, from business undertakings, or, in the case of senators, from rents accruing from their extensive land holdings. Mooney views this as the reason for Suetonius’ haughty \textit{nec quicquam amplius quam quaestorio scriba.}\textsuperscript{42}

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\begin{itemize}
  \item The child of a \textit{libertus} born after manumission was regarded as an \textit{ingenius}; on this, see Alföldy (note 37) 136.
  \item Jones (note 4) 23. The name of Flavius Liberalis reminded Jones of that of the Flavian senators L. Flavius Silva Nonius Bassus, ordinary consul in 81 CE, and C. Salvius Liberalis Nonius Bassus, a suffect consul at some point. On these two men, see O. Salomies, \textit{Adoptive and Polyonymous Nomenclature in the Roman Empire} (Helsinki 1992) 132-33.
  \item Griffin (note 4) 1-5.
  \item Nepos tells us that, on the contrary, \textit{scribae} were honoured in Greece and had to come from a respectable family (witness \textit{honesto loco}), with the implication being that Roman clerks and secretaries did not; see also Lintott (note 29) 51-52, 142.
\end{itemize}
Although Liberalis’ position was associated almost exclusively with freedmen, a number of whom managed to elevate themselves to the equestrian class through patronage and the relatively significant financial benefits associated with apparitorial posts, it is precisely because of the healthy financial prospects that these posts became increasingly appealing to freeborn citizens. These men could therefore attract significant wealth and a useful nexus of supporters. As a result, it is possible to trace in Suetonius’ comment the reverberation of a common prejudice of the time against arriviste equestrians. Regardless of the extent to which Liberalis’ affluence influenced Vespasian’s decision to marry his daughter, financial prospects obviously needed to be balanced out with social status. It is almost impossible to ascertain Vespasian’s overarching motive. Perhaps it was deemed politic to distance himself from Caenis because of intractable tensions between Gaius and Antonia, or perhaps he was convinced on account of a familial or social connection to marry Liberalis’ daughter, with the potential financial benefits that could ensue from the union. At the very least, Vespasian thought it time to ensure the continuance of his line, which, if so, makes his decision to marry a woman of uncertain citizenship status even more perplexing. Our ability to draw inferences, at least with any confidence, is very limited.

Since Suetonius describes Domitilla as being of condicio Latina, determining her birth status is closely tied to a better understanding of Junian Latinity. Rather than merely an indication that a slave had been informally manu-

43 Purcell (note 42) 162. Furthermore, in terms of trying to elicit information for a servile origin based on Flavius Liberalis’ name, I. Kajanto, The Latin Cognomina (Helsinki 1965) 220 has shown that, out of the 197 men with this cognomen known from the CIL, only 16 seem to have been slaves or freedmen.

44 Purcell (note 42) 154-64.

45 Levick (note 4) 15 appears to be convinced that Vespasian married Domitilla to shore up his finances, a view followed by Wardle (above, p. 109): ‘plausibly’. However, both authors focus on Vespasian’s proclaimed avarice as maintained by Suetonius, and are willing to accept that Vespasian turned a blind eye to Domitilla’s possibly inappropriate status on this account.

46 See Suet. Cal. 23.2, where Gaius is suspected of poisoning Antonia. Levick (note 4) 12-13 argues that Vespasian married a kinswoman and that the marriage was designed to keep property within the family. The point is also made by Wardle (above, p. 109). It might not even be completely unreasonable to speculate that he simply wanted to marry Domitilla for emotional reasons, even if Vespasian does not emerge from the historical record as a particularly romantic fellow.
mitted contrary to provisions of the *lex Aelia Sentia*, and thus needed to go through the process of a formal re-manumission (*iteratio*) to receive full citizenship. Latin status could also be applied to those who had *not* been born into slavery. This is rarely remarked on, especially outside of a social history discourse. As a consequence, the potential implications of Junian Latinity are often overlooked, as indeed they appear to be in the case of Domitilla. It is therefore possible that Domitilla’s Junian status could have come about through means other than simply being born a slave, as pseudo-Aurelius Victor would have it. It is important for us to establish the conditions under which this might have been possible, with the comprehensive work of Weaver on Junian Latins and freedmen in general providing the framework for our analysis.

To start with, we know the name of Domitilla’s father, and can assume, with some safety, that he was either freeborn, or had at least acquired full Roman citizenship by the time of his daughter’s birth, regardless of his origin. It is perhaps reasonable to accept the former view. Yet we are not provided with any information about Domitilla’s mother. The silence speaks to a likely servile background, and therefore a source of some embarrassment, more so in view of her daughter’s alleged Junian status. Aside from the rather imaginative interpretations of authors such as Barrett and Bennett, there are two options before us. Domitilla was either born *before* her mother’s informal manumission, and was therefore born into slavery. Thus, even if informally freed herself in due course, she would have also had Junian status; alternatively, she was born *after* her mother’s informal manumission, and, if her mother had not been married to Liberalis, acquired Latin status through her mother. There is also a third option: Liberalis freed his female slave, who was likely to have been less than 30 years of age at the time of her manumission (*only inter amicos* for the purposes of marrying her and recognizing the child), but the case was not brought in front of a *consilium*. Such marriages, although not strictly complying with Augustan law, were still

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47 On the informal manumission of slaves, see Bradley (note 19) 155. D. Cherry, ‘The Minician law: marriage and the Roman citizenship’, *Phoenix* 44 (1990) 244-66, at 254-56 discusses Junian Latins and the implications of the Minician law to their marriage and citizenship arrangements. Still, Wardle (above, p. 108-09), following Levick (note 4), tends to overlook the possibility of people being born to Junian Latinity rather than having it conferred on them as the result of irregular manumission.

48 On this, see Mooney (note 42) 384.

49 Weaver (note 22) 61-62; (note 20) 281-304.
recognised as formal unions. If this was the case, Domitilla was born into freedom, and so was indeed an *ingenua*, but was deemed illegitimate and, hence, only of Junian status – and not a full citizen like her father. Such an occurrence would be far from unusual; indeed, a great number of people seem to have been trapped in this semi-legitimate status.

The crux of the *liberta* vs. *ingenua* dilemma therefore lies in whether Domitilla was born before or after her mother’s informal manumission or union to her father. If Domitilla’s birth occurred after this event, the precise date of which might not have been recorded, there was no barrier to Vespasian, as a senator, marrying her. It follows that the real importance of Liberalis’ effort to have his daughter proclaimed freeborn was not only to have her proclaimed a full citizen, as would have been desirable in any case, but also to ensure that she could be married legally to Vespasian. It is interesting to note that the *recuperatores* to whom Liberalis brought the case were elsewhere identified with those summoned *in consilium*. In addition, given the difficulty of having to rely on witnesses for proving whether Domitilla was born before or after the mother’s manumission, this potential state of affairs makes both Suetonius’ description of her as *mox ingenua* and pseudo-Aurelius Victor’s choice to cast her as *liberta* more readily explicable. This scenario also explains why Domitilla could be regarded as the *delicata* of Statilius Capella, a characterization which can arguably be more securely understood as part of a vituperative tradition levelled against

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50 Weaver (note 22) 59. The marriage was legally recognized since the informally manumitted slaves were able to claim Junian Latin status, even though they did not possess the right of *conubium*.

51 As Weaver (note 22) 60 points out, the child did not take on the improved status of its parents, but remained in his or her original condition as a freeborn Junian Latin, with all the downsides attached, including the inability to inherit property of the parents (which reverted to their patron); see *Herculaneum Tablets* nos. 5, 89 (62 CE), with Bradley (note 19) 157.

52 See e.g. the case of Petronia Iusta from Herculaneum discussed by A. Lintott, ‘Freedmen and slaves in the light of legal documents from first century AD Campania’, *CQ* 52 (2002) 555-65, at 560-64.

53 Schulz (note 23) 59.


55 Cf. Lintott (note 52) 561.
Vespasian. Whether there was some misrepresentation involved by Liberalis is therefore beside the point, and can never be ascertained in any case – perhaps Domitilla really had been born while her mother was still deemed a slave, but witnesses had been produced to testify to the contrary. All that really matters was that she was recognized as being freeborn (ingenua) through a formal process, thereby allowing Vespasian to marry her, continue being a senator and ensure that their offspring would be both legitimate, and full Roman citizens.56

Deification?

A final matter is whether Domitilla was deified after her death. There has been some controversy about this. In addition to Jones and Milns,57 Castri-tius does not think deification likely, while Kienast believes it quite possible.58 A failure to have Domitilla deified, either by Vespasian himself, or by either of his filial successors, would be especially worthy of comment, and ostensibly indicative of a background that was not deemed politically responsible to drag up, regardless of whether there was really anything to hide. As Barrett correctly observes, ‘there is no literary evidence that Vespasian as emperor ever made an allusion, public or private, to his wife’.59 It is notable that Suetonius mentions Domitilla not once in the admittedly brief Vitae of her two sons, while even Caenis gets a mention in the Domitianus (12.3).

A lack of deification cannot really be explained away as Flavian matter-of-factness, for both Vespasian and Titus were deified (as was the norm for

56 More so, since the notion of dynasty was of great importance to Vespasian, and was likely to have influenced his thinking, even as a privatus. One need only recall his statement to the senate at Vesp. 25 that aut filios sibi successuros aut neminem (‘either his sons would succeed him or no-one would’); also recorded at Cass. Dio 65.12.1 in the context of Helvidius Priscus attacks on the emperor (‘son’ in the singular), and at Aur. Vict. Caes. 9.4.
59 Barrett (note 4) 393.
‘good’ emperors by this time), while Julia, Titus’ daughter, was deified by Domitian after her untimely death (Mart. 6.3; 9.1), as indeed was his infant son, as is evidenced by numismatic evidence. Deification was thus clearly important for the Flavian house. It is therefore odd that Titus and Domitian’s mother should not have received similar treatment, even if a retrospective one, either under her husband, or under one of her two sons. Whatever the case, one of the two Domitillae was deemed worthy enough to be portrayed on the obverse of coins minted under Titus, and also under Domitian, with the legend DOMITILLA DIVA AVGVSTA. Furthermore, some coins minted under Titus bear the legend MEMORIAE DOMITILLAE and show a 

60 On Vespasian’s deification, see Suet. Vesp. 23.4; on Titus’, see Suet. Dom. 2.3.
61 See BMC Domitian 62 (pl. 61.6), 63 (pl. 61.7). On these coins, a naked infant boy is seated on a globe surrounded by stars. H. Mattingly (ed.), Coins of the Roman Empire in the British Museum II (London 1966) xcvi describes Domitia, who appears on the obverse (DOMITIA AVGVSTA), as ‘mother of the little god’.
63 See BMC Titus 136 (pl. 47.11); 137 (pl. 47.2); 138 (pl. 47.13) (all DIVA DOMITILLA AVGVSTA on the obverse); 148 (pl. 48.1) (DIVA DOMITILA [sic] AVGVSTA on the obverse). Mattingly (note 61) lxxv observes that ‘The type is far more appropriate to Domitilla the wife than to Domitilla the daughter’. A.S. Robertson, Roman Imperial Coins in the Hunter Coin Cabinet, University of Glasgow I (London, Glasgow & New York 1962) cxlv simply describes the woman as ‘Diva Domitilla’ on similar coins (cf. 274). It is, of course, difficult to draw too much from the appearance of AVGVSTA on these coins since, as Mattingly (note 61) xx points out, ‘Augusta is given as [a] title of honour to ladies of the imperial house’. For example, Julia, daughter of Titus, is clearly called AVGVSTA on Flavian coins; see BMC Domitian 69 (pl. 69); 250 (pl. 67.18); 258 (pl. 68.6); she is also called DIVA IVLIA, as per BMC Domitian 458 (pl. 80.3); 471 (pl. 80.9).
64 See BMC Domitian 68 (pl. 61.11), with DIVA DOMITILLA AVGVSTA and portrait on the reverse, and Vespasian on the obverse.
65 See BMC Titus 226-28 (pl. 51.8 = Titus 226); 229 (pl. 51.9). The latter coin also bears the legend IMP CAES VESP AVG on the reverse, though it is still difficult to determine which of the two Flavian Domitillae is being portrayed.
66 Mattingly (note 61) lxxvi. Wardle (above, p. 110) calls it ‘limited recognition’.

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the wife or Domitilla the daughter (or even both) being portrayed on these coins.

One might very well wonder why Vespasian would have been so reluctant to place Domitilla’s image on his coins. At the very least, Domitilla had presumably died some time before Vespasian became emperor, perhaps in the 50s, as Wardle plausibly argues. As a result, there would have been little political or personal reason for having Domitilla appear on Roman coinage, more so since it was well recognized that Vespasian was living in a marriage-like arrangement with Caenis. That she makes an appearance only under her sons should therefore not surprise. By this time, the Flavian dynasty was perhaps more sure of itself, so that there was no real shame to be had in reviving Domitilla’s memory, if indeed it is the mother to which the coins refer. Furthermore, Domitilla’s deification would have been more to the advantage of her sons than her husband. This way, they could claim being the progeny of two divi rather than merely one. Regardless of these matters, if Domitilla had indeed been born into slavery, as admittedly seems unlikely on the basis of the arguments presented supra, having her visage portrayed on Roman coins as the deceased wife of a Roman emperor and a mother of two principes was indeed an astonishing reversal of fortune.

Conclusion

To conclude, it seems that Flavia Domitilla’s status can be associated with that of numerous other children born to Roman fathers from their freed slaves. Since the manumission of Domitilla’s mother was probably conducted without a consilium being convened, Liberalis had to rely on witnesses to prove that his daughter was born into a state of freedom. It is clear that, until her receipt of Roman citizenship as a result of the matter being successfully resolved before the reciperatori, she was a Junian Latin. If this was indeed so, there was no legal barrier to Vespasian marrying her, since marriage between a Roman senator and a woman was permissible if the prospective bride had not been born into a state of slavery, provided that she eventually received full citizenship, as clearly occurred here. Despite the assumptions of pseudo-Aurelius Victor, the authority of whose testimony is very difficult to substantiate, Suetonius does not specifically describe Domitilla as ever being a slave,

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67 Wardle (above, p. 110).
68 One might also, not implausibly, conjecture that Titus and Domitian had rather fonder memories of their mother than did those who may have assailed the Flavians on the basis of their dubious ancestry.
though some of the words that he uses do have slave-like connotations, such as *delicata*. This need not necessarily be ascribed to an attempt on Suetonius’ part to cast Vespasian in a good light, as was clearly his intent throughout much of the *Vita*.69 It follows that the proclamation of Domitilla as both an *ingenua* (a freeborn woman) and a Roman citizen by the *recuperatores* does not contradict the possibility of her being born into Junian status, as Suetonius tells us. If so, Vespasian’s marriage to Domitilla should no longer be regarded as controversial from a citizenship perspective. It remains for others to provide a more thoroughly nuanced understanding of why he married a woman of lower status than himself. A final point is that the notion of Junian Latins being born into freedom, as was the case for Domitilla (if we allow ourselves to believe Liberalis’ story), was perhaps so obvious to Suetonius’ intended audience that further explanation of the detail recorded at *Vesp*. 3 was not deemed necessary – even though it was clearly a source of confusion for later writers such as pseudo-Aurelius Victor’s underlying source, and indeed to modern historians.

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