their book they divide their material into essential and less essential categories. Better too much than too little.

The introduction raises major questions about how the Romans conceptualized the family and the rôles assigned to its members, and the part played by law in shaping views and concepts. The result is to introduce the reader to the principal debates and controversies which have occupied Roman family historians in recent decades. Thus when the authors write that from the standpoint of the law a Roman wife was relegated to a position 'so tenuous that she seems at times only to be tolerated as an unavoidable prerequisite for the bearing and raising of children' (p. 4), they open up the whole question of the relationship between law and social reality in general and the problem of accurately assessing the social rôles of Roman women in particular, implicitly demanding, as elsewhere, that some consideration be given to non-legal evidence. One could ask at once in this instance how the legal construct compares with the apparently far more positive image of Roman wives conveyed (to my mind) by representations of the *dextrarum iunctio*.

Slavery complicated everything in the Roman family of course, as the authors correctly point out. Yet their decision, understandable for practical reasons, to keep material on slaves to a minimum skews the book to some degree in the direction of a nuclear model of the Roman family to which some may react questioningly.

The final, and perhaps only substantive, point I want to make is that the phrase 'Roman family law' must be taken only as a modern shorthand for various discrete enactments and rulings affecting Roman familial behaviour, and not as an indication that there ever existed at Rome a coherent body of law in which 'the family' was the prime focus of attention. This indeed was a logical consequence of a mode of thought that saw the household (rather than 'the family' in any modern sense) as the essential domestic unit in which a series of separate vertical relationships between its head and his dependants, slaves included, was all-important. Whether, therefore, there was a '*system* of family law' at Rome (p. 3, my emphasis) is a proposition that could be regarded as less than self-evident, and one that could stimulate further discussion not only in the classroom but among specialists in Roman family history as well. Not least for this reason, F. & McG.'s book is far more than a teaching text. It is a valuable and welcome contribution to Roman family studies at large.

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THE ROMAN LAW OF TRUSTS

B. NOORDRAVEN: *Die Fiduzia in römischen Recht.* (Studia Amstelodamensia 37.) Pp. viii + 386. Amsterdam: J. C. Gieben, 1999. Cased. ISBN: 90-5063-062-6.

Anglo-American law is rife with what are termed 'fiduciary relationships'. The category, neither unified nor coherent, describes legal interactions in which one person, the fiduciary, is accorded power or discretion to act on behalf of another person in a way that can affect that person's interests, as a result of which that person is highly vulnerable: trustees in relation to trust beneficiaries; guardians, to their wards; partners, to one another; lawyers, to their clients; directors, to their companies.

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By contrast, arms-length relationships of commercial character, between parties in a position to bargain, are not considered fiduciary even when quite lopsided (my relationship to a public utility, or to Gateway Computers); they occasion no special legal duties of trustworthiness or loyalty. Key to this distinction is the presence of a perceptible conflict of interest, along with the legal obligation to guard against it.

The monograph under review, which began life as an Amsterdam dissertation, is a sustainedly interesting analysis of *fiducia,* the Roman legal institution that, via Chancery, gave rise to the Common Law term. *fiducia*, a familiar feature of the landscape in classical Roman Law (Gaius mentions it often, in various contexts), was altogether banished from the Justinianic Corpus—usually through crude interpolation of key texts. Recovering the classical institution has been one of the most signal triumphs of modern historical scholarship, with foremost credit going to the artful textual reconstructions of Otto Lenel; but the precise details, inevitably controversial, continue to attract the notice of Roman law enthusiasts.

Bert Noordraven sees *fiducia* as having originated in the effort of a *paterfamilias*, who was obliged to be away from home for a protracted period, to protect his estate by conveying it to a friend, with the proviso that the property be given back when he returns (pp. 2–3; cf. pp. 48–64 and Gaius, *Inst.* 2.60); from there it evolved and proliferated. Possibly so, but doubt obtrudes. *fiducia* was age-old, antedating the Twelve Tables, even though it does not appear that the fiduciary's duty to re-convey became actionable until the second century B.C. (pp. 6–9). What is therefore remarkable about *fiducia* is the centrality it accords to *fides* as a compelling social norm. It may well be that the *fides* of *fiducia* fulfilled an array of purposes more or less from the outset, above all when legal institutions were nonexistent or underdeveloped. For example, the use of *fiducia* to provide real security (with transfer of ownership to the creditor, who had a duty to re-convey when the debt was paid; cf. pp. 64–5) may have emerged long before the second century B.C., as a natural counterpart to the debt-bondage of *nexum.* (*Nexum* is ignored in this book.)

In any case, *fiducia* clearly did ramify. N. is a '*fiducia* maximalist', on a search-and-discovery mission to detect it lurking widely in legal texts, though habitually sidelined through interpolations. Of particular interest is *fiducia* of a slave for the purpose of manumission (pp. 66–90), and the various uses of *fiducia* in the law of succession (pp. 90–112). The discussion of *donatio mortis causa* (pp. 90–108) is exceptionally helpful because it clarifies oddities of *donatio* itself; N. argues that such gifts originally came into existence via fiduciary arrangements, although the institution later achieved independence. The continuing influence of *fiducia* is perhaps most evident in Papinian (13 *Resp.*), D. 39.6.42 pr., where *fiducia*-based jurisprudence is deployed to solve a convoluted legal puzzle (pp. 100–8).

The remainder of the book examines major technical issues: how *fiducia* is created, the legal duties it imposes on both the fiduciary and the beneficiary, and the legal remedies available to each. There is no question about *fiducia*'s ultimate fate at the hands of the Justinianic compilers, but it would have been worth the effort to have at least suggested the reasons for its decline: the growing distaste for formalism, presumably, and the inexorable rise of *pignus* and possessionless *hypotheca* during the early Roman empire. The nature of real security was, in the end, utterly transformed.

Although undoubtedly a bit top-heavy with *Interpolationskritik* (it is always misguided to quote legal texts with the supposed interpolations already marked, as if consensus on such issues were any longer attainable), this is a piece of real historical craftsmanship, such as one anticipates from the unrivaled workshop of Hans Ankum. To be sure, a contemporary Romanist might wish for closer scrutiny of the functioning

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of *fiducia* in Roman society; nor is space allotted to the subsequent history of the concept (oddly enough, larger in Common than in Civil Law). But a book is what it is, and this book is a very good one indeed.

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ROMAN LAW IN AFRICA

H. Weßel: *Das Recht der Tablettes Albertini.* (Freiburger Rechtsgeschichtliche Abhandlungen, Neue Folge, Band 40.) Pp. 332. Berlin: Duncker & Humblot, 2003. Paper, €68, SFr 115. ISBN: 3-428-10401-3.

In this volume, Weßel undertakes a thorough examination of the legal issues raised by the Albertini Tablets, consisting primarily of thirty-one deeds of sale discovered early in the twentieth century at a remote location on the Algero-Tunisian border. The sales involved land that was within a larger estate, the *fundus Tuletianos* (*sic*), owned by a certain Flavius Geminius Catullinus in the years 493–6, when Africa was under Vandal rule. The Albertini Tablets are significant for understanding land tenure in late antique North Africa, as well as for the rôle that Roman law played in the provinces of the Roman empire. These documents have received a great deal of attention by scholars, but they have never been the subject of a comprehensive study since the original publication by C. Courtois, L. Leschi, C. Perrat, C. Saumagne, *Tablettes Albertini. Actes privés de l'époque Vandale (fin du V^e siècle)* (Paris, 1952). W.'s study fills a major gap in the literature and now becomes the standard work on the legal issues in this highly significant group of documents.

To begin with land tenure, the Albertini Tablets indicate that an estate in late antiquity could be organized around groups of farmers with different property rights, including a landowner (or possibly an emphyteutic possessor), who had a claim on the rent paid by the *coloni*, and the *coloni* themselves, who cultivated much of the land on the estate and could dispose over their rights without any interference by the landowner. The Albertini Tablets were maintained by the brothers Geminius Felix and Cresconius, who are the primary purchasers in the sales (pp. 46–8). They were two among many cultivators on the *fundus Tuletianos*, but the reasons behind their purchases remain unclear. The parcels of land within the estate were cultivated in accordance with the *lex Manciana*, which is otherwise attested in the well-known second-century inscriptions from the Bagradas (Medjerda) valley as establishing the terms of land tenure for imperial estates, or state-owned land, in the early empire. It is difficult to trace process by which the *lex Manciana* (and the later and more broadly promulgated *lex Hadriana de rudibus agris*), a lease arrangement for imperial land in the early empire, came to represent the basis of land tenure on a private estate in late antiquity. To address this question, W. re-examines the debate over the origin and scope of the *lex Manciana* (Chapter 5); to the ample range of literature reviewed one should add L. de Ligt, 'Studies in Legal and Agrarian History I: The Inscription from Henchir-Mettich and the Lex Manciana,' *Ancient Society* 29 (1998–9), 219–39. W. supports recent findings that the *lex Manciana* was not simply a regulation authorizing the cultivation of unused lands, or *subseciva*, but that it was a more general *lex locationis* offering cultivators perpetual rights to land that they cultivated, primarily

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