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SOFIE WAEBENS

Imperial Policy and Changed Composition of the Auxilia: The «Change in A.D. 140» Revisited

In A.D. 140, the privileges of auxiliary veterans were reduced, as their military diplomas attest. Before 140, all their children were granted citizenship upon discharge, including those born during their military service, i.e., when they did not have the right to marry.¹ After the so-called «change in 140»² had taken place, however, only children born from a legal Roman marriage, i.e., after their fathers' military service, were eligible for the grant of citizenship. Many scholars have wondered why this «change in 140» was introduced under Pius, a decision that stands in sharp contrast with the usual concern of his predecessors for the families of soldiers and veterans.³ Various theories have been proposed, ranging from the stimulation of recruitment⁴ to the gradual reduction of the veteran privileges from the mid-second century onwards.⁵ In 1984 CAMPBELL therefore thought that «little new [could] be said» about the «change in 140».⁶

An earlier version of this paper was presented at the Work in Progress day van Impact of Empire on 17 December 2009 at Amsterdam. I would like to thank those present for their suggestions on the material discussed. I am also much indebted to KATELIJN VANDORPE, GERTRUD DIETZE-MAGER, BERNHARD PALME and WILLY CLARYSSE for reading and commenting on earlier drafts of the paper and for stimulating discussions about the «change in 140». Furthermore, I am grateful to the editors, CHRISTOF SCHULER, HELMUT MÜLLER and most notably RUDOLF HAENSCH, and the anonymous reviewer, whose suggestions and comments greatly improved the content of this paper. Special thanks are due to PETER VAN DESSEL for correcting my English.

¹ For a recent and detailed study of the soldiers' marriage ban, see PHANG 2001. It has been generally assumed that the marriage ban was lifted under Septimius Severus in 197, but a recently published auxiliary diploma of 206, most notably the phrasing *praeterea praestiterunt filiis decurionum et centurionum quos ordinati susceperunt (ut) cives Romani essent*, suggests otherwise: ECK 2011, 63–77.

² The term «change in 140» is used throughout to signify the change in formula of auxiliary diplomas in 140, whereby the *civitas liberorum* privilege was withdrawn from auxiliary veterans.

³ For examples of this imperial concern, see J. B. CAMPBELL, *The Marriage of Soldiers under the Empire*, JRS 68, 1978, 158–159; ROXAN 1986, 276–277.

⁴ E.g., LESQUIER 1918, 320–321; E. SANDER, *Das Recht der römischen Soldaten*, RhM 101, 1958, 198; ROXAN 1981, 265–286; PFERDEHIRT 2002, 247–257.

⁵ DIETZE-MAGER 2007, 93–103.

⁶ CAMPBELL 1984, 444.

Recently, however, PETER WEISS has revisited the subject.⁷ In his view, the withdrawal of the *civitas liberorum* privilege from auxiliary veterans fits in with Pius' imperial policy and imperial representation, in which Roman marriage and citizenship played key roles. The diplomas issued from 140 onwards clearly reflect this new imperial representation, because illegitimate children of auxiliary veterans no longer received citizenship upon their fathers' discharge. Pius' personality, in particular his interest in legal affairs, and pursuit of *aequitas* also influenced his decision to reduce the privileges of auxiliary veterans. But although the emperor's personality undoubtedly played a role in the introduction of the «change in 140», the question still remains why the *civitas liberorum* privilege was withdrawn from auxiliary veterans only. If Pius had wanted to level the privileges of auxiliary veterans with those of legionary veterans, who were not granted *civitas liberorum*, why did fleet veterans continue to receive this privilege? The «change in 140» should therefore not be attributed to Pius' imperial policy only.

I. The formula of auxiliary/fleet diplomas before 140

The military diplomas of auxiliary and fleet veterans⁸ have almost exactly the same formula from the time of Claudius down to 140. Slight variations and peculiarities occurred in the diplomas, yet without substantially affecting or altering the content.⁹ The traditional formula used in auxiliary/fleet diplomas¹⁰ before 140 is as follows:

ipsis liberis posterisque eorum civitatem dedit et conubium cum uxoribus quas tunc habuissent cum est civitas iis data aut si qui caelibes essent cum iis quas postea duxissent dumtaxat singuli singulas.

«[The emperor] has granted to them, their children and their descendants citizenship and the right of marriage (*conubium*) with the wives they had when citizenship was given to them, or, if they were unmarried, with those whom they married afterwards, one wife only for each man.»

⁷ WEISS 2008, 1–45.

⁸ At the latest from 20 February 98 onwards (RMD IV 216), provincial fleet veterans received their privileges with auxiliary veterans in auxiliary diplomas (appropriate clauses were inserted into the normal auxiliary formula to allow for differences in treatment), while praetorian fleet veterans continued to receive separate diplomas; see J. C. MANN, *The Development of Auxiliary and Fleet Diplomas*, *Epigraphische Studien* 9, 1972, 233–235.

⁹ Some of these changes have been discussed by participants in the Passauer Colloquium; e.g., MÓCSY 1986, 437–466; WOLFF 1986, 44–115. Some twenty years later, a second Colloquium was organized in October 2004 at Bern. The contributions of the participants, many of them an update of topics discussed at the previous Colloquium, have been published in SPEIDEL – LIEB (ed.) 2007.

¹⁰ The term auxiliary/fleet diploma is used throughout to signify an auxiliary diploma that includes the grant of *civitas*, *conubium* and *civitas liberorum* to provincial fleet soldiers.

The diplomas confer Roman citizenship upon the soldiers,¹¹ their children (*liberi*) and their descendants (*poster*). The soldiers were also granted the right of *conubium*, i.e., to contract a legal marriage in accordance with Roman law.¹² The *conubium* conferred by diplomas is the right to marry women of Latin or peregrine status: at the moment when the veterans are granted citizenship and are permitted to marry, they already enjoy *conubium* with Roman citizen women, because a Roman citizen man and woman automatically possess *conubium* with each other (Tit. Ulp. 5.4 and Gaius, Inst. 1.57). Presumably, the soldiers' unions – for it seems likely that soldiers of peregrine status married local women according to local law¹³ – were legitimized upon discharge, without any formality (no ceremony or legal document was required to contract a Roman marriage).¹⁴

The formula used in the diplomas specifies that a soldier could present only one woman as candidate for the grant of *conubium* (*dumtaxat singuli singulas*) and, on top of that, only the woman he had been living with when he was given citizenship, i.e., at the moment of his discharge (*uxores quas tunc habuissent cum est civitas iis data*). These limitations of *conubium* suggest that soldiers might have had several women and thus children born from several unions.¹⁵ The grant of *civitas*, however, was not limited to one woman's children only: *ipsis liberis posterisque eorum civitatem dedit* implies that citizenship was given to all children, including those born from previous unions with other women.

¹¹ During the first century, diplomas might be given to soldiers who were still actively serving in the auxilia, as the clause *qui militant* attests. From the early second century onwards, diplomas record the phrase *qui militaverunt*, which suggests that diplomas were henceforth issued to veterans only. For a more detailed discussion, see G. ALFÖLDY, Zur Beurteilung der Militärdiplome der Auxiliarsoldaten, *Historia* 17, 1968, 215–227; MANN, loc. cit. (n. 8) 233–241; PFERDEHIRT 2002, 5–27.

¹² Besides these privileges, auxiliary veterans were entitled to exemptions from *munera*, compulsory public services, valid only for a specified period of time, and to immunity from the poll tax. These privileges varied over time, but were eventually reduced in the course of the second century; see WOLFF 1986, 97–115; LINK 1989, 66–132; N. LEWIS, The Compulsory Public Services of Roman Egypt, ²1997, 139–140 and G. WESCH-KLEIN, Recruits and Veterans, in: P. ERDKAMP (ed.), *A Companion to the Roman Army*, 2007, 439–444.

¹³ ARNAUD-LINDET 1977, 299–301.

¹⁴ E. VOLTERRA, L'acquisto delle cittadinanza romana e il matrimonio del peregrino, in: *Studi in onore di Enrico Redenti nel XL anno del suo insegnamento II*, 1951, 407–408, 417.

¹⁵ KRAFT 1961, 121–123; J. F. GILLIAM, Some Roman Elements in Roman Egypt, *ICS* 3, 1978, 119 = id. *Roman Army Papers*, 1986, 413; ROXAN 1986, 276; PHANG 2001, 154–157. Although it has been recently shown by ELIZABETH M. GREENE (*The Families of Roman Auxiliary Soldiers in the Military Diplomas*, in: P. BIDWELL [ed.], *Proceedings of the XXIst International Limes Congress 2009*, forthcoming) that some of the auxiliary diplomas (36 out of 170) record a tribal affiliation for soldier and wife, suggesting marital unions predating enlistment and relocations from the home area of the soldier and wife, soldiers might have been more likely to form short-term unions with several women during the first century because of the mobile frontier policy in this period.

Starting from the late first century, soldiers were increasingly permanently stationed and thus able to form long-lasting family ties, resulting in a growing concern of the soldiers and veterans for their families. This concern is apparent from an increase in the number of diplomas mentioning wives and children between 117–140.¹⁶ The difficulties connected with the grant of *conubium* and *civitas liberorum*¹⁷ eventually led to an alteration of the traditional formula of auxiliary/fleet diplomas in the last year of Hadrian's reign. The altered formula first appears in a diploma of 28 February 138 (CIL XVI 83 = RMD IV 253):¹⁸ the phrasing is the same as before, but the present tense is used instead of the familiar past tense (*conubium cum uxoribus quas tunc habuissent cum iis civitas data aut si qui caelibes essent cum iis quas postea duxissent* thus becomes *conubium cum uxoribus quas nunc habent cum iis civitas datur aut si qui caelibes sunt cum iis quas postea duxerint*). Although most scholars have attributed this change in tense to Hadrian,¹⁹ WEISS has shown that Pius was in fact responsible for altering the formula.²⁰

There has been little agreement on the objective of this change to date, but it had to be significant, otherwise the formula would not have been altered.²¹ Most scholars believe the change in 138 to be a prelude to the «change in 140», but, as ECK has pointed out, the use of the present tense only affects the grant of *conubium*, not the grant of *civitas liberorum*, as was the case in 140.²² The alteration of the traditional formula of the auxiliary/fleet diplomas does suggest, however, that there were difficulties with the diploma grants that had to be dealt with. In this sense, the change in 138 may be seen as a prelude to the «change in 140». Yet, whatever its significance, this particular formula was short-lived: barely one year later, in the course of 139, the old formula was once again used in the diplomas,²³ up to the time when a new formula was introduced in 140.²⁴

¹⁶ ROXAN 1981, 276–278 and more recently GREENE, loc. cit. (n. 15).

¹⁷ The Gnomon of the Idios Logos (BGU V 1210) attests some of these difficulties: e.g., § 54, in which Ursus, prefect of Egypt in 83–84, did not allow a veteran's daughter, who had been granted citizenship, to inherit from her Egyptian mother.

¹⁸ *Ipsis liberis posterisque eorum* is omitted from the *intus*, but the *extrinsecus* has the complete formula: children born during their fathers' military service were thus still granted citizenship. For a detailed discussion, see ROXAN 1986, 273.

¹⁹ E.g., ROXAN 1986, 273–274; ECK 2007, 89.

²⁰ WEISS 2008, 31–32.

²¹ ECK 2007, 89.

²² ECK 2007, 89.

²³ There is a return to the past tense in the diplomas of March/October 139 (CIL XVI 175), 30 October 139 (RMD IV 261 and V 386) and 22 November 139 (CIL XVI 87: *ipsis liberis posterisque eorum* is omitted from the *intus*, but the *extrinsecus* has the complete formula).

²⁴ Given the return of the formula to its old form, the new formula was apparently not working well.

II. The «change in 140» and its impact on veterans' families

The formula used in auxiliary/fleet diplomas from 140 onwards attests that children of auxiliary veterans, born during their military service, were henceforth no longer granted citizenship, since in these diplomas *ipsis liberis posterisque eorum* no longer appears. At the same time, *Romanam qui eorum non haberent* was inserted into the formula and *singuli singulas* substituted by *singulis*. The new formula first appears on RMD I 39 (= CIL XVI 90) of 13 December 140²⁵ and reads:

civitat(em) Rom(anam) qui eor(um) non haberent dedit et conub(ium) cum uxorib(us) quas tunc habuiss(ent) cum est civit(as) iis data aut si q(ui) caelib(es) essent cum iis quas postea duxiss(ent) dumtaxat singulis.

The *intus* of the diploma, however, still partially records the old formula:

ipsis lib(eris) post(eris)q(ue) eor(um) civ(itatem) Rom(anam) qui eo(rum) n(on) ha(bere)nt ded(it) et con(ubium) cu(m) ux(oribus) qua(s) tunc hab(uissent) cu(m) est civ(itas) iis dat(a) aut si q(ui) caelib(es) es(sent) cum i(i)s q(uas) pos(tea) dux(issent) d(umtaxa)t singulis.

Despite the use of *ipsis liberis posterisque eorum* on the *intus* of this diploma, the formula substantially differs from previously issued diplomas because of the addition *Romanam qui eorum non haberent* to *civitatem*. Since the formula recorded on the *extrinsecus* is the one that remained the norm thereafter, the new formula – and, consequently, the withdrawal of the *civitas liberorum* privilege from auxiliary veterans – had already been introduced in December 140. The scribe of the diploma may have inserted *ipsis liberis posterisque eorum* into the new formula by ingrained habit, as argued by Eck.²⁶ A further change occurred in 143–145: sometime between 1 August 142 (RMD IV 264) and 143,²⁷ *si qui caelibes essent* was omitted, although it reappears in a diploma of 145 (CIL XVI 91). Most scholars are reluctant, however, to regard this alteration as having legal significance.²⁸ From 145 onwards, the formula is as follows:

²⁵ The fragmentary diploma RMD V 387 of November-December 140 also has the new formula on the *extrinsecus*. On CIL XVI 177 of 26 November 140, *civitatem* is not followed by *Romanam*, which was at first the only alteration made in the formula of the praetorian fleet diplomas. The first fleet diploma with the addition *Romanam* to *civitatem* dates to 1 August 142, the recipient being a veteran of the fleet of Ravenna (RMD IV 264 and V 392).

²⁶ Eck 2007, 90–91. Two praetorian fleet diplomas of 1 August 142 (RMD V 392) and 26 October 145 (CIL XVI 92), which erroneously include the phrase *qui eorum non haberent* from auxiliary diplomas after 140, support this view.

²⁷ M. M. ROXAN – P. WEISS, Die Auxiliärtruppen der Provinz Thracia. Neue Militärdiplome der Antoninenzeit, *Chiron* 28, 1998, 410 n. 109; P. HOLDER, in: RMD V, 2006, 815 n. 3; Eck 2007, 89–90 n. 8.

²⁸ ROXAN 1986, 271 n. 13; PFERDEHIRT 2002, 38; Eck 2007, 89–90 n. 8. Contra LINK 1986, 186–187.

civitatem Romanam qui eorum non haberent dedit et conubium cum uxoribus quas tunc habuissent cum est civitas iis data aut cum iis quas postea duxissent dumtaxat singulis.

«[The emperor] has granted [to the veterans] Roman citizenship, to those who did not have it, and the right of marriage (*conubium*) with the wives they had when citizenship was granted to them, or with those women whom they married afterwards, one wife only each.»

It is generally assumed that most auxiliary veterans resented the withdrawal of their *civitas liberorum* privilege, whereby children born during their military service were no longer granted citizenship upon their discharge, because most of their children were born while they were serving in the army. The family archive of Gemellus Horion, largely published in P.Mich. VI, illustrates the impact that the «change in 140» could have within one family. Gemellus' grandfather, Iulius Niger, a cavalry veteran who had been discharged from *ala veterana Gallica* shortly before 154 (P.Mich. VI 428), had two sons: Apollinarius Niger and Iulius Longinus. As shown by BIEŻUŃSKA-MAŁOWIST, Apollinarius Niger, born during his father's military service, was not a Roman citizen, contrary to his brother, who was born after his father's discharge.²⁹ This complicated situation may have tempted children born during their fathers' military service to usurp the citizenship, following the example of their mothers, who were not given citizenship (otherwise there would have been no need for the grant of *conubium*, because a Roman citizen man and woman automatically possessed *conubium* with each other).³⁰ The women «may have felt that they were Roman»,³¹ as § 53 of the Gnomon suggests.³²

Children born before their fathers' enlistment in the auxilia were still given citizenship upon their fathers' discharge after 140, provided that they were registered with the provincial governor, as the following special clause attests: *praeterea praestitit ut liberi decurionum et centurionum item caligatorum quos praesidi provinciae ex se antequam in castra irent procreatos probaverint cives Romani essent*.³³ Soldiers had to prove before the provincial governor that they had fathered their children, presumably by producing *testationes liberorum* and witnesses, but if they passed the examination, their children became citizens.³⁴ Only four diplomas recording this special grant

²⁹ I. BIEŻUŃSKA-MAŁOWIST, La famille du vétéran romain C. Iulius Niger de Karanis, *Eos* 49, 1957, 158, 163–164.

³⁰ Except in extraordinary edicts such as the «Edict of Octavian» (ChLA X 416 of 33–32 B.C.); for more details, see WOLFF 1986, 102–108; PHANG 2001, 69–72; DIETZE-MAGER 2007, 75–77. For a contrary view, see ALSTON 1995, 217 n. 23 (v); PFERDEHIRT 2002, 117–128, esp. 124–125.

³¹ ALSTON 1995, 65.

³² «If Egyptian women married to discharged soldiers style themselves as Romans, the matter is subject to the rule on usurpation of status». Translation: J. ROWLANDSON (ed.), *Women and Society in Greek and Roman Egypt. A Sourcebook*, 1998, 177 no. 131.

³³ NESSELHAUF 1959, 434–436, and WOLFF 1974, 479–481, proposed different restorations of this clause due to the limited amount of evidence known at the time (RMD I 53 and CIL XVI 132).

³⁴ ECK 2007, 91–92; ECK 2010, 46; ECK 2011, 73–75.

of *civitas liberorum* are known to date, with slight variations: AE 2005, 1114 of 142;³⁵ RMD V 397 of 144 (the phrase *item caligatorum* is omitted); RMD V 401 of 146; RMD V 416 of 155/156. The special clause, recorded on three later diplomas (RMD I 53 of 157/158; CIL XVI 132 and RMD V 446 of 192), is shortened to *praeterea praestitit liberis decurionum et centurionum quos praesidi provinciae ex se procreatos probaverint ut cives Romani essent*. A slightly different version of the special clause is only once attested, in an unpublished, fragmentary diploma of the late Antonine period:³⁶ *praet(erea) praest(itit) [ut NN ---]onis f(ilius) centur(ionis) item [liberi decurionum quos antequam] in castr(a) irent [praesidi provinciae ex se procreatos probaverint cives Romani essent]*.³⁷ A recently published diploma of 206 also records the special grant of *civitas* to children upon their fathers' discharge, but only to those born while their fathers were serving as decurions or centurions³⁸ in the auxilia: *praeterea praestiterunt filiis decurionum et centurionum quos ordinati*³⁹ *susceperunt* <ut> *cives Romani essent*.⁴⁰ Children born before their fathers' enlistment in the army are not included in the grant of *civitas*. The rare occurrence of diplomas recording the special grant of *civitas liberorum* after 140⁴¹ and the requirement of *probatio*, which suggests that fraudulent claims of citizenship were frequently made,⁴² may be explained by the fact that few soldiers qualified for this privilege, because most of their children were born during their military service, not before their enlistment. Since diplomas were customized to the individual soldiers, the special clause was only added to the traditional formula when required, i.e., when the soldier had children who were eligible for the grant of citizenship. The omission of the special clause on RMD V 447 (= RGZM 44), a copy from the same constitution as CIL XVI 132 and RMD V 446, may support this view: contrary to these diplomas, the special clause is not recorded on the diploma, because the recipient named neither children nor a wife.⁴³

³⁵ For this date, see ECK 2011, 74 n. 29.

³⁶ ECK 2007, 92 n. 15; ECK 2011, 74 n. 30.

³⁷ An undated, unpublished fragment of a diploma also records the special clause, but only *[praesid(i) provi]nc(iae) ex se [procr(eatos)]* can be restored: ECK 2011, 74 n. 31.

³⁸ CHEESMAN 1914, 37–39; J. F. GILLIAM, The Appointment of Auxiliary Centurions (P.Mich. 164), TAPhA 88, 1957, 155–168 = id., Roman Army Papers, 1986, 191–205.

³⁹ For the term *ordinatus*, see J. F. GILLIAM, The Ordinarii and Ordinati of the Roman Army, TAPhA 71, 1940, 127–148 = id., Roman Army Papers, 1986, 1–22.

⁴⁰ ECK 2011, 63–77, esp. 75.

⁴¹ Compared to the total number of surviving auxiliary/fleet diplomas after 140 (RMD V, 2006, 681–698 lists c. 200 diplomas), the diplomas with the special clause are extremely rare.

⁴² ROXAN 1986, 271, 273–274; LINK 1989, 191. For some examples of this usurpation, see M. REINHOLD, Usurpation of Status and Status Symbols in the Roman Empire, *Historia* 20, 1971, 289–293.

⁴³ ECK – WEISS 2001, 207–208; D. MACDONALD – A. PANGERL, A New Diploma of Pannonia Inferior from 192 A.D., AKB 33, 2003, 268–269; ECK 2007, 92–93; ECK 2010, 46–47. For a critical note, however, see the addendum.

III. Reasons for the «change in 140»

Many scholars have wondered, and continue to wonder, why the privileges of auxiliary veterans were reduced under Pius.⁴⁴ We may never fully know the objective of the «change in 140», as noted by CAMPBELL: «Antoninus Pius, it seems, took a personal decision to reduce some of the army's privileges, and the personal decisions of autocrats are most difficult to explain.»⁴⁵ This is even more difficult in Pius' case, for the history of his reign is not as well known as those of other emperors. The paucity of evidence, however, has not deterred scholars from proposing various theories:

Scholars	Objective of the «change in 140»
MOMMSEN, WOLFF, ECK – WEISS, ECK ⁴⁶	To restore the <i>disciplina militaris</i> : it does seem rather contradictory to reward soldiers who had ignored the marriage ban with the <i>civitas liberorum</i> privilege on discharge. The diplomas recording the special grant of <i>civitas</i> to children who were born before their fathers' enlistment in the <i>auxilia</i> may support this view. But (1) why did this sudden change in veteran privileges under Pius happen, (2) why was the <i>conubium</i> privilege not also withdrawn from auxiliary veterans and (3) why did fleet veterans continue to receive the <i>civitas liberorum</i> privilege? ⁴⁷
LESQUIER, SANDER, WATSON, GARNSEY, GRANT, ROXAN, FRIEDL, PFERDEHIRT ⁴⁸	To stimulate the recruitment of auxiliary veterans' illegitimate sons by women of peregrine status: since these sons were no longer granted citizenship, they could only become citizens by enlisting themselves into the army. But (1) there were not yet severe recruitment problems in the early second century ⁴⁹ and (2) the distribution of diplomas after 140 does not support this view. ⁵⁰

⁴⁴ TH. MOMMSEN and H. NESSELHAUF listed various arguments for attributing the change either to Trajan or Hadrian in: CIL III, 1902, 2015 and CIL XVI, 1936, 161, respectively. Trajan and Hadrian, however, are unlikely candidates, as argued by WOLFF 1974, 493–494; ROXAN 1986, 272–273 and by WOLFF 2007, 367. PFERDEHIRT 2002, 49–51, hesitates whether to attribute the change to Trajan or Pius.

⁴⁵ CAMPBELL 1984, 444. For this imperial «Unberechenbarkeit und Willkür», see most recently WOLFF 2007, 368–372.

⁴⁶ TH. MOMMSEN, in: CIL III, 1902, 2015; WOLFF 1974, 490–496; ECK – WEISS 2001, 206; ECK 2003, 80; ECK 2007, 101; ECK 2010, 47. Rejected by LESQUIER 1918, 320; ARNAUD-LINDET 1977, 302; MIRKOVIČ 1986, 178; VITTINGHOFF 1986, 540; WOLFF 2007, 367–368.

⁴⁷ Possible motives for the exemption of fleet veterans from the «change in 140» are discussed in Section IV.

⁴⁸ LESQUIER 1918, 320–321; SANDER, loc. cit. (n. 4) 198; G. R. WATSON, *The Roman Soldier*, 1969, 137; P. GARNSEY, *Social Status and Legal Privilege in the Roman Empire*, 1970, 250; M. GRANT, *The Army of the Caesars*, 1974, 242; ROXAN 1981, 265–286; R. FRIEDL, *Der Konkubinat im kaiserzeitlichen Rom von Augustus bis Septimius Severus*, 1996, 261 n. 198; PFERDEHIRT 2002, 247–257. ROXAN 1986, 275–278, later suggested that sons of auxiliaries were similarly treated as sons of legionaries and were also granted citizenship upon enlistment. Rejected by MIRKOVIČ 1986, 175 n. 23; PHANG 2001, 333–342.

Scholars	Objective of the «change in 140»
KRAFT, WOLFF, LINK, VITTINGHOFF ⁵¹	To prevent excessive and/or fraudulent claims of citizenship: an increase in the number of diplomas naming wives and children between 117–140 ⁵² suggests an increase in the number of children by women of peregrine status, which in turn might have led to an increase in the number of (fraudulent) claims of citizenship (e.g., § 53, 55, 56 of the Gnomon). But (1) the evidence is somewhat ambiguous ⁵³ and (2) it is hard to believe that a concern for excessive and/or fraudulent claims of citizenship was incentive for the withdrawal of the <i>civitas liberorum</i> privilege from all auxiliary veterans (the requirement of some proof of paternity would have gone a long way to reduce the number of fraudulent claims; cf. the special clause and the altered formula of praetorian fleet diplomas after 158). ⁵⁴
DIETZE-MAGER ⁵⁵	To reduce the veteran privileges: the «change in 140» was a prelude to the gradual erosion of veteran privileges, culminating in the late second century, ⁵⁶ because of a shift in recruitment policy in Egypt. But (1) why did a shift in recruitment policy in Egypt lead to the withdrawal of the <i>civitas liberorum</i> privilege from all auxiliary veterans in the Empire and (2) the privileges of all citizens were reduced in the course of the second century, not only those of the veterans. ⁵⁷

⁴⁹ There is some first and second-centuries evidence that men attempted to dodge enlistment (e.g., Suet. Aug. 24.1 and D. 49.16.4.12), but it was not until the third and especially fourth century that the level of recruitment had dropped to a point that it became problematic, as is apparent from a series of fourth-century laws, issued to counteract the shortage of recruits (e.g., C.Th. 7.22.1 of 313 and 7.13.4 of 367).

⁵⁰ ECK 2003, 81; P. HOLDER, Observations on Auxiliary Diplomas from Vespasian to Commodus, in: SPEIDEL – LIEB (ed.) 2007, 107.

⁵¹ KRAFT 1951, 117–121; KRAFT 1961, 120–126; WOLFF 1974, 494–496; LINK 1986, 189–191; VITTINGHOFF 1986, 539–540. Rejected by PHANG 2001, 77–78; WOLFF 2007, 367–368.

⁵² ROXAN 1986, Tables IVA-C and VA, 285–289. For a recent study, see PFERDEHIRT 2002, 180–183.

⁵³ The figures derived from diploma analyses are too small to allow conclusions (51 for the earlier period compared with 29 between 117–140): ROXAN 1986, 270.

⁵⁴ WOLFF 2007, 371.

⁵⁵ DIETZE-MAGER 2007, 93–103.

⁵⁶ The view that the veteran privileges started to deteriorate from the mid-second century onwards only applies to their exemption from the compulsory public services, which had varied over time, but were reduced in the course of the second century. Auxiliary veterans, however, continued to receive *civitas* and *conubium* in the late second century, contrary to what DIETZE-MAGER thinks (2007, 102). For further argumentation against this view, see also S. WAEBENS, Reflecting the «Change in A.D. 140»: The Veteran Categories of the Epikrisis Documents Revisited, ZPE 180, 2012, 267–277.

⁵⁷ SHERWIN-WHITE ²1973, 267–274.

Scholars	Objective of the «change in 140»
MEYER, CHEESMAN, NESSELHAUF, ARNAUD-LINDET, MIRKOVIČ ⁵⁸	To level the privileges of auxiliary veterans with those of legionary, praetorian and urban cohort veterans, who did not receive the <i>civitas liberorum</i> privilege: an increase in the number of citizens who enlisted into the auxilia had highlighted the disparity in privileges between soldiers discharged from non-citizen units (auxilia, <i>equites singulares Augusti</i> and fleets) and those discharged from citizen units (legions, praetorian and urban cohorts). But (1) why was the <i>civitas liberorum</i> privilege withdrawn from all auxiliary veterans and not only from those who had been citizens upon enlistment, and (2) why did fleet veterans continue to receive the <i>civitas liberorum</i> privilege?

In a recent article, WEISS has dealt with the «change in 140» from a new angle by examining two Senate decrees, issued in November 140 and 176, respectively. The first decree was issued shortly after the death of Faustina the Elder, Pius' wife, in November 140,⁵⁹ the second shortly after the death of Faustina the Younger, wife of his successor Marcus Aurelius, in 176. The phrasing and content of the two decrees are similar, presenting the emperor and his late wife as an illustrious example of marital *concordia*.⁶⁰ Generally speaking, the decrees attest a new development within the imperial representation under Pius, in which marital *concordia* and *fecunditas Augusta* played key roles.⁶¹ This new representation, which was continued under Marcus Aurelius, may have been inspired by Pius' desire to consolidate his power,⁶² for he became emperor in a rather unexpected turn of events (HA Hadr. 24.6–7).⁶³ The new imperial representation stands in sharp contrast with Hadrian, perhaps a deliberate strategy, because Hadrian had become unpopular in his final years (Dio 69.23.2).

WEISS has argued that Faustina's death and the withdrawal of the *civitas liberorum* privilege from auxiliary veterans are connected, because the «change in 140» probably already took place in November, about the time when the first Senate decree was

⁵⁸ P. M. MEYER, Die ägyptischen Urkunden und das Eherecht der römischen Soldaten, ZRG 18, 1897, 70–74; CHEESMAN 1914, 34; MIRKOVIČ 1986, 175–176. NESSELHAUF 1959, 441–442, and ARNAUD-LINDET 1977, 302–304, did not believe that auxiliary veterans, who had been citizens on enlistment, were granted *conubium* and *civitas liberorum*. Rejected by KRAFT 1961, 123–125; WOLFF 1974, 493–494; ROXAN 1986, 272.

⁵⁹ Faustina thus probably died in October 140 (sometime between 20 October and 6–12 November 140), and not in 141, as is still generally accepted; see WEISS 2008, 7–8.

⁶⁰ WEISS 2008, 4–17.

⁶¹ K. FITTSCHEN, Die Bildnistypen der Faustina Minor und die Fecunditas Augustae, 1982; W. AMELING, Die Kinder des Marc Aurel und die Bildnistypen der Faustina Minor, ZPE 90, 1992, 147–155; A. ALEXANDRIDIS, Die Frauen des römischen Kaiserhauses. Eine Untersuchung ihrer bildlichen Darstellung von Livia bis Iulia Domna, 2004, 23–27, 83–87, 322–325.

⁶² WEISS 2008, 38–42.

⁶³ A. R. BIRLEY, Hadrian. The Restless Emperor, 1997, 295–296.

issued.⁶⁴ The «change in 140» was thus part of Pius' new imperial policy: the formula used in the diplomas from 140 onwards fits in with the new imperial representation, in which Roman marriage and citizenship played key roles.⁶⁵ Before 140, all children of auxiliary veterans were given citizenship upon their fathers' discharge, but after the formula of the auxiliary/fleet diplomas had been altered, only children born from a legal Roman marriage, i.e., before or after their fathers' military service, were eligible for the grant of citizenship. Moreover, *Romanam* was inserted after *civitatem* into the formula of auxiliary and fleet diplomas from 140 onwards, emphasizing the value of the Roman citizenship.⁶⁶ The diplomas thus reflect Pius' new imperial policy, which was intensified after his wife's death.

The new imperial representation with its emphasis on Roman marriage and citizenship may have affected Pius' attitude towards the grant of *civitas liberorum* to auxiliary veterans, but other factors also played a role in the introduction of the «change in 140», as WEISS admits.⁶⁷ Until 140, auxiliary and fleet veterans, traditionally recruited from non-citizens, were granted more privileges than legionary, praetorian and urban cohort veterans, traditionally recruited from citizens.⁶⁸ WEISS therefore assumes that the *civitas liberorum* privilege was withdrawn from all auxiliary veterans to level their privileges with those of their citizen colleagues, whose children did not receive *civitas* upon their fathers' discharge.⁶⁹ This view fits in with Pius' personality, who disliked unnecessary expenditures and unjustified privileges, as is apparent from his replies to petitions and letters.⁷⁰ The «change in 140» was thus part of Pius' imperial policy, fuelled by his interest in legal affairs and pursuit of *aequitas*. This view, however, fails to explain why the *civitas liberorum* privilege was withdrawn

⁶⁴ The diploma in which the new formula first appears on the *extrinsecus*, RMD I 39, dates to 13 December 140, but contains anomalies, suggesting that the text was inscribed at least four days before, possibly a month before: P. WEISS, Von der Konstitution zum Diplom. Schlussfolgerungen aus der «zweiten Hand», Leerstellen und divergierenden Daten in den Urkunden, in: SPEIDEL – LIEB (ed.) 2007, 187–207; WEISS 2008, 34–35.

⁶⁵ WEISS 2008, 33, 36–37.

⁶⁶ The first attestation of this insertion into the formula of *equites singulares Augusti* diplomas dates to 158 (RÉMA 1, 2004, 117–122), because only a limited number of their diplomas have survived. For a different interpretation of the addition *Romanam* to *civitatem*, however, see n. 78.

⁶⁷ WEISS 2008, 36.

⁶⁸ Although the privileges of legionary veterans are debated, most scholars nowadays accept that they were not granted *conubium* and *civitas liberorum* because they were citizens, who were discouraged from forming unions with women of peregrine status, and did not receive military diplomas.

⁶⁹ WEISS 2008, 36; ECK 2010, 47.

⁷⁰ M. H. ELIASSEN, A Veteran's Exemption from Epikcephalia, in: R. S. BAGNALL e.a. (ed.), Proceedings of the 16th International Congress of Papyrology. New York, 24–31 July 1980, 1981, 331; V. MAROTTA, *Multa de iure sanxit*. Aspetti della politica del diritto di Antonino Pio, 1988; A. H. EL-MOSALLAMY, Upon Veterans' Exemption from Epikcephalia, in: A. BÜLOW-JACOBSEN (ed.), Proceedings of the 20th International Congress of Papyrologists. Copenhagen, 23–29 August 1992, 1994, 458–459; WEISS 2008, 36.

from auxiliary veterans only. If Pius had wanted the diplomas to reflect his new imperial representation, combined with a desire to level the privileges of auxiliary veterans with those of legionary, praetorian and urban cohort veterans, why did fleet veterans continue to receive *civitas liberorum*? Although alterations were made in the traditional formula of the praetorian fleet diplomas in 158, reflecting the new imperial representation,⁷¹ it remains unclear why the *civitas liberorum* privilege was not simply withdrawn from the fleet veterans, as had happened to the auxiliary veterans in 140.

The key to resolve this problem lies in the alterations made in the formula of auxiliary/fleet diplomas in 140: the omission of *ipsis liberis posterisque eorum*, whereby children born during their fathers' military service were henceforth excluded from the grant of *civitas*, and the addition of *Romanam qui eorum non haberent dedit civitatem*. This last alteration clearly suggests that an increasing number of citizens were serving in the auxilia by 140.⁷² The names of the recipients of the diplomas⁷³ confirm a change in the composition of the auxilia, starting from the late first century. Citizens were normally not allowed to marry women of peregrine status and, if they did, their children were not citizens themselves. When entering the auxilia, however, they were granted *conubium* and *civitas liberorum* upon discharge. Romans had always discouraged citizens from intermarriage with non-citizens⁷⁴ and the government was thus reluctant to grant these privileges to citizens, enabling them to marry non-citizens and have children who became citizens upon their discharge. CIL XVI 38 of 94 supports this view: the privileges of *conubium* and *civitas liberorum* were not conferred upon the members of *cohors VIII voluntariorum civium Romanorum* who were already citizens, but to those *qui peregrinae condicionis probati erant*. The distinction between the legions and the auxilia as citizen and non-citizen units had thus become blurred by the mid-second century. The change in formula of auxiliary/fleet diplomas, both in 138 and in 140, makes it clear that the government was aware of this increase in the number of citizens serving in the auxilia, who would be granted *conubium* and *civitas*

⁷¹ *Liberi* is substituted by *fili* and *uxores* by *mulieres*; see below, Section IV.

⁷² CHESMAN 1914, 32–34; LESQUIER 1918, 219–222; KRAFT 1961, 123; B. DOBSON – J. C. MANN, *The Roman Army in Britain and Britons in the Roman Army*, *Britannia* 4, 1973, 195; ARNAUD-LINDET 1977, 302; ROXAN 1986, 277–278; VITTINGHOFF 1986, 540; FRIEDL, loc. cit. (n. 48) 264; DIETZE-MAGER 2007, 97.

⁷³ The relevancy of onomastics to identify citizens is much debated, but this discussion mainly applies to inscriptions and papyri: the information derived from the names used in the diplomas, which were official documents, is considered more reliable. For an overview of the discussion, see LESQUIER 1918, 219–223; MÓCSY 1986, 437–466, esp. 462; D. B. SADDINGTON, *The Sorts of Names used by Auxiliaries in the Early Principate*, in: G. ALFÖLDY – B. DOBSON – W. ECK (ed.), *Kaiser, Heer und Gesellschaft im römischen Ägypten. Gedenkschrift für Eric Birley*, 2000, 163–178; MANN 2002, 227–234; PFERDEHIRT 2002, 154–167; WAEBENS forthcoming.

⁷⁴ REINHOLD, loc. cit. (n. 42) 275–302.

liberorum upon their discharge. Confronted with this development, Pius withdrew the *civitas liberorum* privilege from all auxiliary veterans, a decision that may have been influenced by his personality and his desire to consolidate his power through the new imperial representation, as shown by WEISS.⁷⁵ But why was the *civitas liberorum* privilege withdrawn from all auxiliary veterans and not only from those who were already citizens?⁷⁶ Two other factors may have played a role in Pius' decision to withdraw the *civitas liberorum* privilege from all auxiliary veterans: (1) the *disciplina militaris* and (2) the gradual devaluation of Roman citizenship in the course of the first and second centuries. As ECK has repeatedly noted, soldiers were not allowed to marry during their military service; yet, auxiliary and fleet soldiers were given *conubium* and *civitas liberorum* upon discharge.⁷⁷ Moreover, the prerogatives and the advantages connected with the grant of citizenship, most notably the exemption from the compulsory public services, had gradually been reduced in the course of the first and second centuries, due to the large-scale grant of citizenship to non-citizens. Under Claudius, the process of rewarding non-citizen soldiers for their long and faithful military service with the grant of *civitas*, *conubium* and *civitas liberorum* upon discharge was regularized, resulting in a growing number of citizens and, consequently, in a devaluation of the citizenship.⁷⁸ The citizenship was of course still sought after for its social status and for the remaining privileges connected with it,⁷⁹ but there was a feeling that 'the citizenship was not worth much' by the early second century.⁸⁰ Confronted with an increase in the number of citizens serving in the auxilia and fuelled by his personality and the new imperial representation with its emphasis on Roman marriage and citizenship, Pius decided to withdraw the *civitas liberorum* privilege from all auxiliary veterans.

⁷⁵ WEISS 2008, 30–36.

⁷⁶ WOLFF 2007, 368.

⁷⁷ ECK – WEISS 2001, 206; ECK 2003, 80; ECK 2007, 101; ECK 2010, 47.

⁷⁸ For more details, see SHERWIN-WHITE ²1973, 267–274. The devaluation of the citizenship is also apparent from the addition *Romanam* to *civitatem* in diplomas after 140: since the word *civitas*, used in official documents before 140, can only be interpreted as referring to Roman citizenship, *Romanam* may have been inserted into the formula because local citizenships, like the Alexandrian or Antinoite citizenship in Egypt, had gradually gained importance – yet without of course overshadowing the Roman citizenship. I owe this suggestion to GERTRUD DIETZE-MAGER.

⁷⁹ The *epikrisis* documents found in Egypt, for instance, attest that citizens and veterans were still exempted from the poll tax in the late second century; for a list of these documents, see C. A. NELSON, Status Declarations in Roman Egypt, 1979, 40.

⁸⁰ E.g., Tac. Ann. 3.40; Plin. Pan. 37.2–5. GARNSEY, loc. cit. (n. 48) 267–271; SHERWIN-WHITE ²1973, 272–274; M. MIRKOVIĆ, Roman Military Diplomas, Epistulae and Papyrological Evidence, in: A. BÜLOW-JACOBSEN (ed.), Proceedings of the 20th International Congress of Papyrologists. Copenhagen, 23–29 August 1992, 1994, 452–454.

The *civitas liberorum* privilege was not only withdrawn from auxiliary veterans, but also from veterans of the *equites singulares Augusti*, as their diplomas attest.⁸¹ The formula of their diplomas was altered between 133 (RMD III 158) and 158 (RÉMA 1, 2004, 117) to *civitatem Romanam qui eorum non haberent dederunt et conubium cum uxoribus quas tunc habuissent cum est civitas iis data aut cum iis quas postea duxissent singulis*.⁸² This change in formula of their diplomas may have occurred simultaneously with, or very shortly after, the change in formula of auxiliary/fleet diplomas. But why was the *civitas liberorum* privilege also withdrawn from veterans of the *equites singulares Augusti*? It has been argued above that the incentive for the introduction of the «change in 140» was a change in the composition of the auxilia. Was there also an increase in the number of citizens serving as *equites singulares Augusti* in 140? The addition of *Romanam qui eorum non haberent* to *civitatem* in their diplomas suggests that this was the case, but the onomastic evidence is too ambiguous to determine whether there was in fact an increasing number of citizens serving in the *equites singulares Augusti* by the early second century.⁸³ It makes sense, however, that more citizens were also entering the *equites singulares Augusti* from the late first century onwards, since the *equites singulares Augusti* were recruited from the finest cavalymen of the *alae* and the number of citizens serving in the auxilia had undeniably increased by 140.⁸⁴

As mentioned above in Section II, it is generally assumed that most auxiliary and *equites singulares Augusti* veterans resented the withdrawal of their *civitas liberorum* privilege. Scholars therefore wonder why the introduction of the «change in 140» did not lead to a mutiny, as had happened in A.D. 14, when the legions stationed in Pannonia and Germania had not been paid the bonuses promised by Augustus and it was

⁸¹ Given their limited number, the *equites singulares Augusti* diplomas have not yet been included in the discussion about the «change in 140», as WEISS has noted in: P. WEISS, *Das erste Diplom für einen eques singularis Augusti von Antoninus Pius*, RÉMA 1, 2004, 120.

⁸² The *intus* of CIL XVI 144, dated to 7 January 230, still records *ipsis filisque*, probably a mistake of the copyist.

⁸³ Given the rare survival of second-century *equites singulares Augusti* diplomas, one has to rely on information derived from names listed in inscriptions, but this information is ambiguous, because having a Latin name does not necessarily attest one's citizenship. Consequently, scholars have argued time and again whether the *equites singulares Augusti* were mainly citizens (KRAFT 1951, 69–73; M. P. SPEIDEL, *Die equites singulares Augusti: Begleittruppe der römischen Kaiser des zweiten und dritten Jahrhunderts*, 1965, 61–67), Latins (TH. MOMMSEN, *Schweizer Nachstudien*, *Hermes* 16, 1881, 458–473 = id., *Gesammelte Schriften* 5, 1908, 402–415; F. GROSSO, *Equites singulares Augusti*, *Latomus* 25, 1966, 905–908; PFERDEHIRT 2002, 175) or peregrines (MÓCSY 1986, 445–446; LINK 1989, 60–62; A. U. STYLOW, *Ein neues Militärdiplom von 133. Zum personenrechtlichen Status der equites singulares Augusti*, *Chiron* 24, 1994, 92–93) upon enlistment. This last view is the most plausible one: most of the *equites singulares Augusti* were non-citizens upon enlistment, although citizens also served in their ranks, at least in the early second century.

⁸⁴ KRAFT 1951, 73; ARNAUD-LINDET 1977, 302.

clear that a response of Tiberius was not immediately forthcoming.⁸⁵ The political situation at the time undoubtedly played a role,⁸⁶ because Pius' reign was the most peaceful period in the history of the Principate, whereas several disturbances had to be dealt with in the provinces during the early first century, most notably along the Rhine frontier. Tacitus even specifically mentions that the threat of being left undefended against Rome's enemies was one of the main reasons to grant the soldiers' demands in A.D. 14 (Ann. 1.36). Nevertheless, it seems plausible that veterans were compensated in some way for the loss of their *civitas liberorum* privilege, even though there is hardly any evidence to support this view.⁸⁷ In Egypt, for instance, the veterans might have been granted Antinoite citizenship as compensation.⁸⁸ Hadrian, who had founded Antinoopolis in 130, granted colonists substantial privileges to encourage them to relocate to Antinoopolis.⁸⁹ One of these privileges was the right of *ἐπιγαμία* with the local population, allowing intermarriages between Antinoite citizens and Egyptians: children born from these marriages thus became Antinoite citizens themselves.⁹⁰ The colonists mainly came from Ptolemais and the privileged class of the Hellenes of the Arsinoite nome. Scholars doubt, however, whether veterans were part of the original colonists, as papyri only attest veterans as citizens under Pius.⁹¹ Some scholars have therefore argued that veterans did not become Antinoite citizens until the time of Pius, in an attempt to increase the city's population.⁹² Many citizens, however, did not live in Antinoopolis, but in other nomes. It therefore remains unclear whether «the recorded migration to Antinoopolis was an actual mass relocation or in fact a legal provision»:⁹³ Antinoite citizenship apparently did not require permanent settlement,

⁸⁵ Suet. Tib. 25. For a more elaborate narrative of the mutiny: Tac. Ann. 1.16–49.

⁸⁶ ELIASSEN, loc. cit. (n. 70) 331–332.

⁸⁷ ROXAN 1986, 280; DIETZE-MAGER 2007, 99–101.

⁸⁸ MALOUTA 2009, 86, already noted the possibility that the «change in 140» and the veterans attested as Antinoite citizens under Pius are connected, arguing that «it would make sense that after the change in 140 they were more meticulous in recording their status clearly as veterans of Antinoopolis, since this would have been very significant for their families – more so than their status as Romans.»

⁸⁹ For a list of the privileges, see M. ZÄHRNT, Antinoopolis in Ägypten: Die hadrianische Gründung und ihre Privilegien in der neueren Forschung, in: ANRW 2.10.1, 1988, 690–698; P. SCHUBERT, in: P.Diog., 1990, 24–33.

⁹⁰ Intermarriages between various population classes were generally discouraged in Roman Egypt: K. VANDORPE – S. WAEBENS, Women and Gender in Roman Egypt: The Impact of Roman Rule, in: K. LEMBKE – M. MINAS-NERPEL – S. PFEIFFER (ed.), Tradition and Transformation: Egypt under Roman Rule, 2010, 422–423.

⁹¹ P. SCHUBERT, in: P.Diog., 1990, 30–33; MALOUTA 2009, 92–96.

⁹² E. KÜHN, Antinoopolis: ein Beitrag zur Geschichte des Hellenismus im römischen Ägypten. Gründung und Verfassung, 1913, 80–88; H. I. BELL, Antinoopolis: A Hadrianic Foundation in Egypt, JRS 30, 1940, 133–149. For a contrary view, see H. BRAUNERT, Die Binnenwanderung, 1964, 213–214; ZÄHRNT, loc. cit. (n. 89) 686–687; ALSTON 1995, 62, 218 n. 3.

⁹³ MALOUTA 2009, 85.

only temporary residence to claim the privileges connected with it.⁹⁴ Conspicuously, veterans are no longer attested as Antinoite citizens in the late second century. Given the limited amount of evidence, however, one must remain cautious when considering a possible connection between the «change in 140» and veterans attested as Antinoite citizens under Pius.

IV. *The change in formula of praetorian fleet diplomas in 158*

The change in formula of praetorian fleet diplomas in 158 has been much debated,⁹⁵ but only more recently in connection with the «change in 140».⁹⁶ Until 158, praetorian fleet veterans continued to receive *civitas liberorum* unconditionally. Were provincial fleet veterans, however, also exempted from the «change in 140»? These veterans received their privileges together with auxiliary veterans in auxiliary diplomas from 98 onwards. In the period from 143 (RMD IV 266) to 154 (RMD III 169), all children of soldiers discharged from the fleet of Pannonia Inferior, including those born during their fathers' military service, were still given citizenship: *item filis classicorum* was inserted into the traditional formula (*civitatem Romanam qui eorum non habent **item filis classicorum** dedit et conubium cum uxoribus quas tunc habuissent cum est civitas iis data aut cum iis quas postea duxissent dumtaxat singulis*).⁹⁷ Many of the diplomas issued in this period do not include this clause, which was only inserted into the traditional formula when the individual fleet soldier had children whom he had named on the records sent to Rome.⁹⁸ It thus makes sense that the other provincial fleet veterans also continued to receive the *civitas liberorum* privilege after 140, at least until 154–158. Since the last attestation of the phrase *item filis classicorum* in Pannonian auxiliary/fleet diplomas dates to September 154 (RMD III 169), provincial fleet veterans may no longer have been granted the *civitas liberorum* privilege from 158 onwards, contrary to their colleagues from the praetorian fleets.⁹⁹ Until 158, the praetorian fleet formula read:

⁹⁴ Contra LESQUIER 1918, 322–327. Citizens were also exempted from liturgies outside Antinoopolis, suggesting that some of them lived in other nomes. The papyrus archives support the view that for many citizens, Antinoopolis was not their principal place of residence: e.g., the Tebtynis family archive (P.Fam.Tebt.) or the archive of Marcus Lucretius Diogenes (P.Diog.). These archives are also discussed by MALOUTA 2009, 86–87.

⁹⁵ The change was dated between 5 September 152 (CIL XVI 100) and 166 (CIL XVI 122) before the publication of RMD III 171.

⁹⁶ ARNAUD-LINDET 1977, 292–296; ECK 2007, 89–104; WOLFF 2007, 368; WEISS 2008, 32–36; ECK 2010, 48–49.

⁹⁷ ARNAUD-LINDET 1977, 293–295; WEISS 1990, 142–149. For a list of these diplomas, see PFERDEHIRT 2002, 78; ECK 2007, 94.

⁹⁸ ECK 2007, 93–95; ECK 2010, 48. Contra PFERDEHIRT 2002, 78–81.

⁹⁹ ECK 2007, 97–98; ECK 2010, 48–49.

ipsis liberis posterisque eorum civitatem dedit et conubium cum uxoribus quas tunc habuissent cum est civitas iis data aut si qui caelibes essent cum iis quas postea duxissent dumtaxat singuli singulas.

«[The emperor] has granted to them, their children and their descendants citizenship and the right of marriage (*conubium*) with the wives they had when citizenship was granted to them, or, if they were unmarried, with those whom they married afterwards, one wife only for each man.»

The formula of the diplomas was altered sometime between September–October 154 (RMD III 169) and 6 February 158 (RMD III 171):¹⁰⁰ *liberis posterisque* was substituted by *filisque* and the phrases *quos susceperint ex mulieribus quas secum concessa consuetudine vixisse probaverint* and *Romanam* were inserted into the formula before and after *civitatem*, respectively. The final alteration was the substitution of *caelibes essent* by *tunc non habuissent*; the new praetorian fleet formula thus read:

*ipsis filisque eorum quos susceperint ex **mulieribus** quas secum concessa consuetudine vixisse probaverint civitatem Romanam dedit et conubium cum iisdem quas tunc habuissent cum est civitas iis data aut si qui tunc non habuissent cum iis quas postea uxores duxissent dumtaxat singuli singulas.*

«[The emperor] has granted to them and to their children, whom they had begotten from women with whom they proved that they had lived in a permitted union, Roman citizenship and the right of marriage (*conubium*) with the same woman they had when citizenship was given to them, or, if they did not have [wives], with those women whom they married afterwards, one wife only for each man.»

The substitution of *liberi* by *fili* and of *uxores* by *mulieres* is conspicuous, as observed by WEISS:¹⁰¹ it is only after the grant of *conubium* that the women with whom the veterans had been living (*mulieres*) became *uxores*, their legitimate wives. Similarly, *liberi* was substituted by *fili* when referring to veterans' children: as long as their parents' union was not legitimized, they were only their children in the biological sense of the word. This refinement in phrasing may explain why *si qui caelibes essent* was omitted from the formula of auxiliary/fleet diplomas after 145 and of praetorian fleet diplomas after 158. *Caelebs* has the specific denotation of being unmarried; technically, however, a soldier cannot be married, but can only live in concubinage.¹⁰²

¹⁰⁰ The last known diploma recording the old formula is CIL XVI 100 of 5 September 152, but the time span might be narrowed down, because the phrase *item filis classicorum* appears in Pannonian diplomas until the late autumn of 154: WEISS 1990, 147–149; ECK 2007, 97–98. All praetorian fleet diplomas, however, still have the old formula in 158.

¹⁰¹ WEISS 1990, 148–149. *Item filis classicorum*, inserted into the formula of some Pannonian auxiliary/fleet diplomas between 143 and 154, supports the view that *liberi* was deliberately substituted by *fili*.

¹⁰² ECK 2007, 96–97; WEISS 2008, 33, 36; ECK 2010, 48–49; ECK 2011, 64.

The altered formula specifies that only children, whom the fleet soldier could prove to have been born from the woman he had been living with *concessa consuetudine*, were given citizenship. *Concessa consuetudo* probably refers to cohabitation,¹⁰³ since «there is nothing in the new formula of the naval diplomas which betrays official recognition of *matrimonium*».¹⁰⁴ The fleet prefect or a subordinate may have granted permission to the soldiers to cohabit with a specific woman when requested.¹⁰⁵ Children born from previous unions with women were henceforth excluded from the grant of citizenship.

The evidence required from the fleet soldiers probably comprised witnesses and/or a written document, naming the woman with whom the soldier had been living *concessa consuetudine* and the children born from this union. P.Mich. VII 442 of the late second century may have been such a documentation of *concessa consuetudo*, but the papyrus is fragmentary and its nature therefore doubtful.¹⁰⁶ Around the same time, however, the jurist Marcian stated that a man, who was living with a freeborn woman in concubinage, should produce a *testatio* of this union: *sine testatione hoc manifestum faciente non conceditur* (D. 25.7.3 pr.). Presumably, the fleet soldiers similarly had to produce a *testatio* of *concessa consuetudo* from the fleet prefect or one of his subordinates.

The question remains why the fleet veterans, of all people, continued to receive *civitas liberorum*. Several suggestions have been made why this privilege was not withdrawn from them, at least not immediately,¹⁰⁷ but the most plausible explanation is that they were exempted from the «change in 140» because, contrary to the *auxilia* and the *equites singulares Augusti*, there was no increase in the number of citizens serving in the fleets by 140.¹⁰⁸ Consequently, there was no incentive to withdraw the *civitas liberorum* privilege from fleet veterans in 140. Does the onomastic evidence, however, support this view? Although the names of the recipients of the auxiliary/fleet diplomas suggest that soldiers from the provincial fleets continued to be largely recruited from non-citizens, their colleagues from the praetorian fleets have the *tria nomina* suggestive of citizenship starting from the Flavian period.¹⁰⁹ Yet, they continued to receive the privi-

¹⁰³ H. NESSELHAUF, in: CIL XVI, 1936, 160; WOLFF 1974, 487; ARNAUD-LINDET 1977, 296; CAMPBELL, loc. cit. (n. 3) 165 n. 89; VITTINGHOFF 1986, 539 n. 24; LINK 1989, 11; PHANG 2001, 81.

¹⁰⁴ A. A. ALY, *The Roman Veterans in Egypt*, diss. University of Michigan 1949, 34–35.

¹⁰⁵ ECK 2007, 96; ECK 2010, 49.

¹⁰⁶ STARR ²1975, 92, identified this papyrus as a sailor's marriage certificate, following H. A. SANDERS, *A Soldier's Marriage Certificate in Diploma Form*, PAPHs 81, 1939, 581–590. SANDERS later revised his opinion and identified P.Mich. VII 442 as a betrothal; others have identified it as a divorce. For a more detailed study, see PHANG 2001, 47–49.

¹⁰⁷ STARR ²1975, 92; ROXAN 1986, 275; S. DUSANIC, *A Diploma for the Lower Pannonian Auxilia of the Early 140's*, ZPE 135, 2001, 218–219; PFERDEHIRT 2002, 185–187.

¹⁰⁸ ARNAUD-LINDET 1977, 302–303.

¹⁰⁹ STARR ²1975, 75; ROXAN 1981, 284–285; MANN 2002, 232–234; PFERDEHIRT 2002, 168–169.

leges of *civitas*, *conubium* and *civitas liberorum* upon discharge. Most scholars therefore believe that these soldiers were given a new Latin name, but not citizenship, upon enlistment. The fleet soldiers thus continued to be largely recruited from non-citizens in the early second century.¹¹⁰ The omission of the phrase *qui eorum non haberent* from the formula of praetorian fleet diplomas, even after 158, may support this view. Since the composition of the fleets had largely remained the same as before, the *civitas liberorum* privilege was not withdrawn from the fleet veterans.¹¹¹ Pius may also have been reluctant to reduce the privileges of fleet veterans because the fleet was less attractive to join, due to its low status and the longer period of military service (twenty-six years).¹¹²

If there was no incentive, however, to alter the privileges of fleet veterans, why did a change occur in the formula of praetorian fleet diplomas in 158? The change in 158 was without any doubt a result of the «change in 140», as CAMPBELL already noted. In his view, local officials believed that the *civitas liberorum* privilege had also been withdrawn from fleet veterans, making it difficult for them to obtain the privileges they were entitled to. Consequently, the privileges of the fleet veterans had to be stated more explicitly.¹¹³ This view, however, fails to explain why the rules became more stringent for the fleet veterans. Other scholars have argued that the government came to realize that the disparity in privileges between auxiliary and fleet veterans was, or could become, problematic, most notably in the frontier provinces; hence provincial fleet veterans were no longer granted the *civitas liberorum* privilege.¹¹⁴ Yet, it is still unclear why this privilege was not also withdrawn from praetorian fleet veterans, but was restricted to children whom the fleet veteran could prove to have been born from a permitted union.¹¹⁵ The most plausible view is that the «change in 140» provided greater opportunity for fraudulent claims of citizenship, because the praetorian fleet was henceforth the only non-citizen unit whose members were still granted *civitas liberorum* upon discharge. The formula used in praetorian fleet diplomas from 158 onwards, most notably the use of *probare*, may suggest that the government had noted an increase in the number of claims of citizenship. The fleet soldiers therefore henceforth had to prove – probably by producing witnesses and *testationes* – that their children were born to

¹¹⁰ STARR ²1975, 73; D. KIENAST, Untersuchungen zu den Kriegsflotten der römischen Kaiserzeit, 1966, 26–29; MÓCSY 1986, 442–443; O. SALOMIES, Observations on Some Names of Sailors Serving in the Fleets at Misenum and Ravenna, *Arctos* 30, 1996, 169; WAEBENS forthcoming.

¹¹¹ ROXAN 1981, 285 n. 68, argued that fleet veterans continued to receive *civitas liberorum* because of their smaller number compared to the number of auxiliary veterans: «The Fleets with a considerably smaller turnover would provide no incentive to change the existing situation.»

¹¹² H. NESSELHAUF, in: CIL XVI, 1936, 161; SHERWIN-WHITE ²1973, 274.

¹¹³ CAMPBELL 1984, 444–445.

¹¹⁴ E.g., ECK 2007, 97; ECK 2010, 49.

¹¹⁵ ALY, PHANG and ECK suggested that the traditional formula of the praetorian fleet diplomas was altered to encourage sailors to live with one woman in a stable, long-lasting union rather than to change partners frequently: ALY, loc. cit. (n. 104) 35; PHANG 2001, 81–82; ECK 2007, 101.

them from the woman they had been living with *concessa consuetudine*. Similarly, the requirement of proof of paternity for the children of auxiliary veterans, who were still eligible for the grant of *civitas liberorum* after 140, i.e., who were born before their fathers' military service, supports the view that the government had at least anticipated an increase in the number of claims of citizenship after the «change in 140» had been introduced. But the altered formula of the praetorian fleet diplomas also reflects the new imperial representation with its emphasis on Roman marriage and citizenship: children of fleet veterans, born from previous unions with women, were henceforth excluded from the grant of citizenship. This view also fits in with Pius' personality, who is presented in the literary and legal sources as an emperor who was not afraid to question legal customs and principles, and, if necessary, to alter or abandon them.

Conclusion

In a recent article, WEISS has revisited the «change in 140». In his view, the introduction of this change should be attributed to Pius' imperial policy and new imperial representation, intensified after his wife's death, in which Roman marriage and citizenship played key roles. Other factors, i.e., Pius' personality and pursuit of *aequitas*, also influenced his decision to reduce the privileges of auxiliary veterans. This view, however, fails to explain why the *civitas liberorum* privilege was withdrawn from auxiliary veterans only, while fleet veterans, who were also traditionally recruited from non-citizens, continued to receive this privilege. There must thus have been another incentive than the death of Pius' wife for the introduction of the «change in 140». The phrasing of the altered formula of auxiliary/fleet diplomas from 140 onwards may hold the key to resolve this problem: the addition of *Romanam qui eorum non haberent dedit to civitatem* clearly attests that there had been an increase in the number of citizens serving in the auxilia in the early second century. The distinction between the legions and the auxilia as citizen and non-citizen units had thus become blurred by the mid-second century. Confronted with this new development, whereby citizens were granted the same privileges as non-citizens upon their discharge from the auxilia, Pius decided to withdraw the *civitas liberorum* privilege from all auxiliary veterans. Other motives, however, must also have played a role in this decision; otherwise, the *civitas liberorum* privilege would only have been withdrawn from auxiliary veterans who had been citizens upon enlistment. WEISS has already shown that the altered formula used in the auxiliary/fleet diplomas from 140 onwards reflects the new imperial representation with its emphasis on Roman marriage and citizenship. The «change in 140» also fits in with Pius' personality and interest in legal affairs.

The fleet veterans continued to receive the *civitas liberorum* privilege after 140, presumably because there had been no increase in the number of citizens serving in the fleets during the early second century and, consequently, no incentive to alter their privileges, as ARNAUD-LINDET noted. Moreover, Pius may have been reluctant to reduce the privileges of fleet veterans, because the fleet was a particularly unpopular

service. But why was the *civitas liberorum* privilege withdrawn from provincial fleet veterans between 154 and 158 and the formula of praetorian fleet diplomas altered in 158? The disparity in privileges between auxiliary and fleet veterans may have been regarded as problematic, most notably in the frontier provinces; hence, the withdrawal of the *civitas liberorum* privilege from provincial fleet veterans. Praetorian fleet veterans were still granted this privilege, but no longer unconditionally: only children whom the soldier could prove to have been born from the woman he had been living with in a permitted union, i.e., *concessa consuetudine*, were eligible for the grant of citizenship. This alteration was undoubtedly the result of the «change in 140»: the requirement of *probatio* suggests that the government had noted, or at least anticipated, an increase in the number of claims of citizenship. Auxiliary veterans, whose children were still given *civitas* upon discharge after 140, were similarly required to produce evidence, in their case attestations that they had fathered these children. But the formula used in praetorian fleet diplomas from 158 onwards, which henceforth excluded children born from previous unions with other women from the grant of citizenship, also reflects the new imperial representation introduced by Pius.

Addendum

After this article went into print, a recently discovered auxiliary diploma of 25 April 142 from Dacia superior with the so-called special clause, discussed in Section II, has been published,¹¹⁶ bringing the total number of military diplomas with a special clause to 11. This is not only the earliest, but also by far the best-preserved diploma with the special clause. On the extrinsecus of this diploma, the special clause reads as follows: *praeter(ea) praestitit ut liber(i) eorum quos praesidi provinc(iae) ex se antequam in castra irent procreatos probaver(int) cives Romani essent*. The diploma is somewhat unusual for the absence of the rank of the soldiers whose children were eligible for the grant of citizenship after 140: in the previously known diplomas, *liberi decurionum et centurionum*, sometimes followed by *item caligatorum*, *ist* is used. Although the special clause was inserted into the traditional formula of the auxiliary diplomas, no children were named in this diploma, which casts some doubt on the generally accepted view that the special clause was only added to the formula when the soldier had children who were eligible for the grant of citizenship.

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¹¹⁶ W. ECK – A. PANGERL, Eine Konstitution für die Truppen von Dacia superior aus dem Jahr 142 mit der Sonderformel für Kinder von Auxiliaren, ZPE 181, 2012, 173–182.

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