

Book V.
Title XXVI.

Concerning concubines.
(De concubines.)

D. 25.7.

5.26.1. Emperor Constantine to the people.

No one shall be permitted to have a concubine during marriage.
Promulgated at Caesarea June 16 (326).

Note.

Concubinage was regular and continuous cohabitation between a man and a woman and came to be recognized as legal at least from the time of Augustus. Parties that were married could not enter into that relation, and a woman of rank could not be a concubine unless an express declaration before witnesses was made of the intended relations. D. 25.7.3 pr. The paternity of the children was recognized, but they were not under paternal power and the rules of dowry, prenuptial gift and gifts between husband and wife had no application. The children were not recognized as legitimate, although they were finally given some rights to inherit from their father and they could be made legitimate. The laws on the subject varied from time to time. The rights given in the next title were rights given to children of this character. Children who were the offspring of promiscuous cohabitation were never given any recognition of any sort of legitimacy whatever, and when natural children are mentioned in the next title, children who were the offspring of concubinage are intended. Other illegitimate children, the offspring of casual or promiscuous cohabitation are called spurious. They could not be made legitimate.