

Book VI.  
Title I.

Concerning fugitive slaves and freedmen, and slaves of cities assigned to trades and different works, and those belonging to the Crown Domain or to the emperor.  
(De fugitivis servis et libertis etc.)

Bas. 60.7; Dig. 11.4.

Headnote.

Most of this book deals with inheritance and heirship, testate and intestate and incidental matters, such as wills, legacies and trusts. Somewhat different rules obtained in inheritances of freedmen than those of free people, and they are treated before the latter. Incidental thereto the book treats of the duties of freemen to their patrons. So the subject of fugitive slaves is considered, and inasmuch as a fugitive slave was considered as a thief of himself, and to conceal a fugitive slave was considered as a species of theft, title 2 of this book treats of the subject of theft in general, which, perhaps, should have been treated in book 9 of the Code. Manumission of slaves and freedom from slavery in general will be found treated in the first part of book 7 of the Code.

6.1.1. Emperors Diocletian and Maximian to Acmlia.

It is manifest that a fugitive slave commits a theft of himself and usucaption, and the prescriptive period of a long time (ten or twenty years) cannot, therefore, apply, so that the flight of slaves may not become hurtful, from any cause, to their masters. Promulgated December 9 (286).

Note.

As to usucaption and prescription of a long time, see headnote C. 7.26 and C. 7.33.

Slavery was so extensive in the Roman Empire that special rules were necessary to be made on that subject. Aside from slaves belonging to private parties, there were slaves in municipalities and imperial property. While a fugitive slave was not, of course, at the same time the thief as well as the object stolen, he was so considered, so that no period of prescription, as here mentioned, could apply. And the rule was adopted, so as to deter anyone from receiving such slave. Stolen property was not prescriptible. Headnote C. 7.26 (4).

6.1.2. The same Emperors and Caesars to Pompeianus.

It is the president's duty to give opportunity to masters to search for their fugitive slaves. Promulgated April 29 (294).

6.1.3. Emperors Constantine and Licinius to Probus.

If fugitive slaves are seized while going to barbarians, their feet may be mutilated or they may be turned over to the mines, or they may be punished in any other manner. Without day or consul (317-323).

#### 6.1.4. Emperor Constantine to Valerianus.

Whoever, without knowledge of the master, receives a fugitive slave into his house or possession, shall return him, together with one that is his equal or together with twenty solidi. 1. If he has taken him the second or third time, he shall, besides returning him, give to the master two or three others, or the aforesaid amount for each of them. Guardians or curators, instead of minors, are subject to the same punishment. 2. If the property of the person who takes the slave does not suffice for the payment of the aforesaid penalty, he shall be chastised in the discretion of the proper judge. 3. But if the slave falsely claims that he is free and is hired by another, the person who had him cannot be penalized. The slave must, of course, be subjected to torture, to find out whether or not he was fraudulently sent by the master to the house or possession of the person who took him in for the purpose of gain. If it appears, from interrogation of the slave, that such wrongful act was committed, the guilty person will be deprived of his slave, who will be confiscated for the fisc.

Given at Thessalonica June 27 (317).

Note.

Buckland, Roman Law of Slavery 269, says of the latter part of this law, that the rules relating to the reception of fugitive slaves and the penalties connected therewith were such as to give rise to the fear that they would lead to blackmailing, and that hence, it was provided, that if the master had fraudulently sent the slave with a view to profit, a question which was to be determined by torture of the slave, if necessary, the slave was to be forfeited to the fisc.

#### 6.1.5. The same Emperors to Januarius.

The law is, that slaves who know the different trades and belong to a city, must remain there, and if anyone tempts any such slave to run away or calls him away, he must restore him together with another, and pay twelve solidi into the treasury of the city whose slave he abducted. Freedmen, too, who have a trade, if tempted to run away, must be restored to the city under the same rule. Accordingly, if a fugitive slave is not demanded or called back through the care of the defender (of the city), the latter will be called upon to replace him with two others, and no imperial forgiveness or sale (by the city) will avail in the future (to release him therefrom).

Given February 14 (319).

Notes.

It will be noted from this law that the penalty for causing a slave belonging to a city to become a fugitive was made heavier than the penalty mentioned in law 4 of this title, which refers to a slave of a private person.

The last sentence of the law apparently means that the defender of the city - the leading municipal official of later times - will not be released from the penalty specified, even if the emperor releases him therefrom, or even if the municipality should sell the slave to the person who detains him.

The Basilica, 60.7.10 and notes, understand the sentence somewhat differently, namely that the abductor cannot be released from his penalty by a remission from the emperor, or by pretending that he bought the slave, so as to pay merely a simple penalty.

6.1.6. The same Emperors to Tiberianus, Count of the two Spains.

If anyone reclaims a fugitive slave, and the other (who has the slave) claims to be the owner, for the purpose of evading the law which imposes a certain penalty on those hiding such slaves, or shall incite the slave, over whom the dispute exists, to claim that he is free, the worthless slave, concerning whom a dispute exists, shall be immediately subjected to torture, so that an end may be made of the dispute upon the discovery of the truth. This will not only benefit the two disputants but will also deter slaves from flight. Given at Constantinople August 18 (332).

6.1.7. Emperors Valentinian, Valens and Gratian to Felix, a consular.

If anyone undertakes to hide a fiscal slave, he shall not only be compelled to restore him, but shall also pay to the fisc, by way of punishment, twelve pounds of silver. Given April 12 (371).

Note.

It will be noted here also that to hide a public slave was much more severely punished than to hide a slave of a private person.  
See law 4 of this title.

6.1.8. Emperors Valentinian, Theodosius and Arcadius to Albinus, City Prefect of Rome.

If any public slaves, employed in arsenals or on other public works, are unmindful of their status, go to the houses of others and ally themselves, in marriage, to female slaves of persons in private station, they and their wives and children shall be immediately returned to their former condition and labor. Given July 25 (389).