

Book VII.
Title VI.

Concerning abolishing Latin freedom and its union in a certain manner with Roman citizenship.
(De latina libertate tollenda et per certos modos in civitatem Romanam transfusa.)

Bas. 48.14.1.

7.6.1. Emperor Justinian to Johannes, Praetorian Prefect.

Since the class of those who had the lowest kind of Roman liberty is already abolished, why should imperfect Latin liberty, faltering with uncertain footsteps, and introduced, as it were, without order or distinctness, remain? Why should not the useless part thereof be abolished and the rational part thereof be bettered? 1. For since Latin freedmen appear to have been created in pattern of the ancient Latin right, which was conferred on colonies and out of which grew nothing but civil war in the Republic, it would be absurd that when the origin of such freedmen (the Latin right) is destroyed, the image thereof should remain. 1a. Since, therefore, the Latin status was introduced in many and almost innumerable ways, and different laws and senate decrees were enacted in connection therewith, out of which many difficulties arose, both out of the law Junia, as well as out of the senate decree Largianus and the edict of the divine Trajan, with which our laws had been filled, but of which there was no proof in the actual facts (*non autem in rebus fuerat eorum experimentum*).¹ It has therefore, seemed best to eliminate all those as well as Latin liberty, point out certain ways and means - which formerly gave rise to Latin liberty but which at present give Roman citizenship - and having enumerated in the present law all the methods by which Roman citizenship arises, every other method, which gave rise to the name of Latins, is abolished, shall not create Latins, but shall be considered as non-existent. 1b. For who could tolerate liberty to be such, that a man should be both free and slave at the moment of death, and that one who lived as a free man should not only be snatched into death, but into slavery as well? 1c. We, therefore, ordain, that if anyone wants to give his slave freedom by letter, he may do so in the presence of five witnesses who can verify the document by adding their signatures thereto below the writing of the author thereof, whether such author has merely signed it or whether it is wholly written by him. And if he does so through a letter, written by himself or by a notary (*tabularius*), freedom accrues to the slave, as if he received it through a codicil, and he shall be free and a Roman citizen even during the lifetime of the patron himself. 2. If anyone wants to give liberty to his slave in the presence of friends, he may make his wish known in the presence, likewise, if five witnesses and state that he wants the slave to be free. And whether this is attested on the public records, or whether the witnesses certify to it in a document bearing the signature of public persons (notaries) and the witnesses, these slaves, in like manner, shall receive Roman citizenship as though, likewise, received by codicil. 3. And we also know that this too was introduced by the edict of the divine Claudius, in connection with the ancient Latin right, namely that if a man should publicly eject his slave, stricken with dangerous sickness, from his

¹ [Blume] "but no remedy therefor could be found." - Otto, Schilling and Sentennis.

house, neither caring for him nor commending him to another, although, if he did not have sufficient property to provide for him, he had the opportunity to send him to a hospital or aid him as far as he could, such slave enjoyed Latin liberty, and when he died, the master received his property, though he abandoned him while dying. 3a. (But we provided that) such slave, given compulsory liberty, by an unwilling master, shall by this very act immediately become a Roman citizen, and the former master shall retain no right as patron. When such former master throws him publicly out of his house and family, neither caring for him nor commending him to another, nor sending him to a hospital, nor furnishing him the customary supplies, he shall have no further rights in the slave or in his property, either during the whole lifetime of the freedman or when he dies, or after he has yielded to his fate (has died).² So, too, if a man transfers his female slave upon condition that she shall not be prostituted, and the new master attempts, by an impious sale (to avoid the condition) to give her over to prostitution, or if the former owner has reserved the right to her return in such case, and he, upon her return to him, himself prostitutes the slave, she shall immediately become a Roman citizen, and he who prostituted her shall lose all rights as patron. For how could a man who is so degenerate and impious as to engage in such dealing, be worthy to have her either as his slave or his freedwoman? 5. And if any slaves wearing a cap of liberty march in front of a funeral procession of their master, or fan the corpse standing in the funeral chamber, they shall immediately become Roman citizens, if they do so by the wish of the testator or his heir. For no one shall falsely boast of liberality and marching in front of a funeral procession, believe that he is benevolent, when in fact they are all deceived by this public show and the marchers all remain in their former condition of servitude. These slaves shall become Roman citizens, but the right belonging to patrons shall be fully preserved.³ 6. Further, if anyone manumits a slave in his testament or by the rod, and he says or writes that he wants the slave to be a Latin, the fruitless addition of Latinity shall be considered for naught and the slave shall become a Roman citizen, lest the methods, which, according to ancient rules led to Roman citizenship, might be impaired by the wishes of private individuals. 7. And if a man bequeaths liberty to his slave upon any condition, and during the non-fulfillment of such condition, an outside heir gives him liberty, the latter shall become, not as formerly, a Latin, but a Roman citizen. And if the condition fails, he shall remain the freedmen of his manumitter. But if the condition is fulfilled, the slave becomes the freedman of the testator, in order that children and relatives may not be deprived of their rights as patrons and these rights shall (in such case) belong to the person to whom the law grants it.⁴ 8. The ancients thought that if a slave was defeated by a master in an action involving the question of freedom, and the price of the slave (fixed for manumission) was subsequently paid to the master by someone, that the slave should

² [Blume] D. 40.8.2; Nov. 22, c. 12. As to casting out children, see C. 8.51.

³ [Blume] It was a custom for slaves manumitted by will to attend the funeral of their deceased master, wearing the cap of liberty (pileus). This custom gave an opportunity to give a false impression of liberality. And the foregoing provision was designed to put an end to such ostentation by providing that slaves permitted to wear such caps should not only appear free, but should thereby actually be made free.

⁴ [Blume] The children of patrons had certain rights, although the patron might assign his rights to one or more of the children. Inst. 3.7 and 8.

remain a Latin. This, too, seems harsh to us. For how can it be reasonable that the master should enjoy the price, and at the time of the death of the freedman again reduce the latter to the condition of servitude? These matters are not in harmony. In such case, therefore, the slave shall become a Roman citizen, and no right as patron shall exist, since the freedman is, in a way, freedman of himself. 9. And if anyone gives his female slave in marriage to a free man and gives her a dowry in writing - which is a custom only among free persons - the female slave shall become, not a Latin, but a Roman citizen. For if an act, frequently done among Roman citizens, and particularly among person of nobility, that is to say, executing a dowry - document - is done also in case of a female slave, it is necessary that a suitable effect be given thereto.⁵ 10. Similarly, if a master gives to his slave the title of son in an entry on the public records, such statement must be credited as meaning that the slave is free. For if the master is moved by such feelings of affection, as not to consider it unworthy to call his slave his son, and does so, not secretly and among friends only, but in an entry on the public records, as though expressing his last wish, how may he again have him as a slave when he dies? So such slave shall become a Roman citizen, and the liberality of his master shall be taken as one in fact, and his statement shall not become false.⁶ 11. And the last method, too, which gave rise to Latin freedom, shall be adopted as a method to confer Roman citizenship, namely when a master gives the documents which prove a man to be a slave, to the latter, or when he destroys such documents. But lest an opportunity for theft be given to slaves and for receiving liberty thru evil-doing, it shall be shown by definite and undoubted evidence that the master gave the documents to the slave or destroyed them in the presence of not less than five witnesses. Roman citizenship may, accordingly, be acquired in this manner, leaving the right of patronage unimpaired in this case as well as in all other cases, unless we have specially denied such right. 12. Having (for the purpose of conferring Roman citizenship) adopted these methods only from among the methods which formerly conferred Latin right, all others enumerated in books of jurists or in constitutions, shall be entirely obsolete. No Latins shall be created thereby, but slaves shall, as stated, retain their status as such, and the misuse of such methods shall not be permitted. And lest hereafter anything relating to Latin liberty to be contained in our laws, the law Junia shall be silent, the senate decree Largianus shall cease to have validity, the edict of the diving Trajan which followed these shall be quiescent, and if any other law or senate decree or constitution speaks of Latins, they shall have no effect as to such provision, and the ancient triple method of obtaining liberty, which introduced many doubtful questions, shall learn to go along one direct path. Any law or constitution that makes mention of liberty shall be understood as speaking, not of the Latin right, but of Roman citizenship.⁷ 13. As to freedmen already dead, whose good, as that of Latin freedmen, have passes to those who are interested therein, and as to freedmen now living, no innovation shall apply, but their goods may be held and recovered according to the ancient law. But the present constitution shall apply to all future freedmen.

⁵ [Blume] Compare Nov. 22, c. 11.

⁶ [Blume] See also Inst. 1.11.12.

⁷ [Blume] It will be noticed herein that when a man had Roman citizenship, he was considered free; the grant of Roman citizenship to one not possessing it was the equivalent of manumission.

Given at Constantinople November 1 (531).