

Book XI.
Title LXIII. (LXII)

Concerning slaves and serfs of Patrimonial, forest and emphyteutic land.
(De mancipiis et colonis patrimonialium et saltuensium et emphyteuticarium
fundorum.)

11.63.1. Emperor Constantine.

The emphyteuticaries are troubled by serfs who contrary to usage usurp land which they have not cultivated, when by custom, they may claim only what they have planted with olives or vines, by their own labor. They even attempt to usurp irrigating water from the Springs, the use of which is for the benefit of the emphyteutic lands. 1. We have therefore thought best to decide, that henceforth the right and control of the waters shall belong to the emphyteuticaries, and only so much thereof shall be used by the serfs as clearly suffices for the fields cultivated by them. For the irrigating water which they use over and above that, they shall pay rentals and fees to the emphyteuticaries according to the amount used.

Promulgated at Carthage March 9 (319).

Note.

Only lands which serfs cultivated could be claimed by them. If they planted olive groves or raised vineyards, they could claim the benefit of these, though the land was subsequently leased by emphyteutic lease. They were not permitted to use more water for irrigation than necessary for the land occupied by them. They were required to pay rent for any excess water.

11.63.2. Emperors Valentinian and Valens to Germanius, Count of the Imperial Exchequer.

Emancipations of slaves on patrimonial and emphyteutic lands, made by persons not owners of the lands, shall be rescinded by the imperial comptrollers (rationales) by authority of this order.¹

Promulgated April 19 (367).

11.63.3. Emperors Gratian, Valentinian and Theodosius to Postumianus, Praetorian Prefect.

We have learned that some persons who have received patrimonial lands have expelled the serfs resident thereon and have substituted either their own slaves or other serfs for them. By this edict we direct that those who henceforth venture to attempt anything of the kind, shall be deprived of these lands.

(about 383 A.D.)

11.63.4. The same Emperors and Arcadius to Cynegius, Praetorian Prefect.

For the betterment of the patrimonial lands, it has long ago been decreed by our laws that if those who had formerly cultivated them have gone to other places or have entered the military service, they shall be recalled to their ancestral condition and to their

¹ [Blume] See note to law 12 of this title.

own duties. But those who have completed their military service and have already become veterans shall not be compelled to turn their swords into plowshares or mattocks.²
(384-389 A.D.)

² [Blume] See headnote C. 11.48, and C. 11.48.11, and C. 11.64.