

Book II.  
Title L (LI).

Concerning restitution (of rights) of soldiers and of those who have been absent on public business.

2.50.1. Emperors Severus and Antoninus to Chilo.

If Valerianus, the centurion of the Twelfth Alpine Cohort, died before he received the right of possession of the inheritance, his heir can rightly, by reason of the right of the deceased, ask the aid of restitution of rights, within a judicial year only, if Valerian died in service, after the expiration of time in which the right of possession of an inheritance is granted.

Promulgated November 1 (197).

Note.

Judicial year. Annus utilis (judicial year) was a year consisting of 365 days on which a party was able to go into court and reach the judge thereof; days on which he was unable to do that were excluded. D. 44. 3. 1; Hunter 844; 2 Roby 333. A judicial year might, therefore, in some cases be long. For this reason, and perhaps others, Justinian, by C. 2.52.7, substituted for the judicial year the period of four calendar years, and this period is, in fact, in some cases, called “utilis annus”—judicial year. C. 5.6.6.

2.50.2. Emperor Alexander to Petronius, a centurian.

If any of the property of those who are absent on public business has suffered diminution by prescription, or some person is released from a cause of action in their (the absentee's) favor, restitution of rights within a judicial year is permitted them by the petual edict.

Promulgated October 30 (222).

2.50.3. The same emperor to Aristodemus, a soldier.

Whatever property of a soldier is taken possession of by another during military service, is—the bar of the intermediate time being removed<sup>1</sup>--permitted to be reclaimed by such soldier within a judicial year after he has ceased to be absent on public business. Beyond that, however, he should not disturb the right of a possessor, inaugurated against him.<sup>2</sup>

Promulgated January 5 (223).

2.50.4. Emperor Gordian to Mestrianus.

You should not be unaware that the property of those who, without fraud, are absent on public business, and are not properly defended according to the judgment of a reasonable man, may only be taken into possession, but the sale thereof must be deferred to a time when the former have ceased to be absent on public business.

Given December 21 (239).

Note.

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<sup>1</sup> [Blume] By restitution of rights.

<sup>2</sup> [Blume] See C. 7.35.2 note.

If a person was absent on public business and he became a defendant in a case, possession might be taken of his property, but that is as far as the case could go. The property could not be sold during his absence. Steinwenter, Versäumnisverfahren 41 note 3. See also C. 2.53.1.

2.50.5. The same emperor to Secundinus, a soldier.

It is manifest that the four<sup>3</sup> years' limitation after a sale made by the fisc, cannot apply to those who are absent on public business, nor to others, of age, who have a claim to restitution of rights.

Promulgated May 10 (240).

2.50.6. Emperors Valerian and Gallien to Germanus, centurian.

If the heirs of your creditor sold your property obligated to them under a mortgage, while you were engaged in military service, you can obtain restitution of rights by going before the president of the province and the sale will be cancelled and possession given you be paying the debt, or the price for which the property sold, if smaller than the debt.<sup>4</sup>

Promulgated April 2 (254).

2.50.7. Emperors Diocletian and Maximian and the Caesars to Marina.

It is not becoming that the transactions of your father should be nullified by his sons on account of his military service, especially since you state that your father did not complain of such contract during his lifetime.

Given February 5 (294).

2.50.8. Emperor Justinian to Mena, Praetorian Prefect.

We ordain that<sup>5</sup> to the soldiers engaged in military expeditions only that time which runs during the period of the same expedition shall avail, either to defeat defenses of prescription and limitation of actions, as well as for claiming restitution of rights. The time in which, without the constraint of an expedition, they live in other places or at home, shall not avail them in claiming the aforesaid privileges.

Given at Constantinople April 8 (529).

Note.

This law is also found in C. 7.35.8, except that the provision as to restitution of rights is left out. By the time occupied in an expedition evidently was meant the time while the soldiers were away from home, and engaged in military service, whether in camp or on an actual expedition. See Bas. 10.23.8; C. 2.51.1.

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<sup>3</sup> [Blume] Substituted for "five" by compilers on account of C. 7.7.2-3. 31 Z.S.S. 175. See C. 2.36.3.

<sup>4</sup> [Blume] See C. 2.28.

<sup>5</sup> [Blume] "Only" in text; seems superfluous.