

Book VII.  
Title XIV.

Concerning free-born persons who are manumitted.  
(De ingenuis manumissis.)

Bas. 48.10. 7; Dig. 40.14.

7.14.1. Emperor Alexander to Philetus.

Since you say that you are free born and also manumitted by a testament, you should bring action before a judge having jurisdiction (apud suos iudices). And if you have a just opponent, that is to say, a man who claims to be your patron, remember the senate decree that whoever, after manumission, claims his original status, must leave at the house of the manumitter whatever he received from it. Those learned in the law agree that legacies left to a man as a freedman are of that nature.

Note.

A man who was manumitted was not barred to claim that he was in fact free-born. He was, under a former law, limited to a period of five years after the manumission to make such claim, unless he did not discover his proofs until after that period, and he could then appeal direct to the emperor (D. 40.14.2 and 4). But that law was repealed by Justinian. C. 3.22.6; Buckland, Roman Law of Slavery 650. Such person, however, must return to the manumitter all that he received from or through him. D. 40.14.2.1; D. 40.14.3-5.

7.14.2. Emperor Gordian to Pompeia.

A free-born woman becomes a slave neither by the expenses of her support, nor by servile work, nor does she become a freedwoman by manumission. Promulgated May 11 (240).

7.14.3. Emperor Philip to Felicissimus.

If after your grandmother was manumitted she was solemnly declared to be a free-born woman, and her status is protected by the authority of a regular judicial decree, you may easily perceive, if you consult those learned in the law, that her sons, though born prior to the decree, justly demand the right of free-born persons.

7.14.4. Emperors Diocletian and Maximian and the Caesars to Agrippa.

Since you say that your free-born relative, made captive by the tyranny of the Palmyrean faction,<sup>1</sup> was sold as a slave, the president of the province will take care that he is restored to his former status. Subscribed January 10 (293).

7.14.5. The same to Cresceus.

It is very wicked to defame, either thru error or evil-mindedness, the status of free-born persons, especially since, according to your statement, one president and

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<sup>1</sup> [Blume] Carrying on war with Rome.

another, has long, upon your application, cited your opponent to appear to show your status to be different, if he was confident of his claims. 1. Hence it is clear that the rector of the province, moved by your allegations, justly decided that you should no longer be disquieted in the future. 2. If, therefore, your opponent still perseveres in his obstinacy, the president of the province will, when you go before him, compel him to abstain from his malicious conduct (injuria).

Given April 4 (293).

7.14.6. The same to Dionysius.

The law is very plain that a freeman cannot become the slave of a man who knows his status. Since, therefore, you state that you were in the service of the father of the minors (under the age of puberty) of whom you make mention, as a free person, the servile work which you did, though long continued, could not change your status in the least, when he had no title by which ownership of slaves is usually acquired.

7.14.7. The same to Matrona.

If it is clear that you and your sons were born free, the true facts of your birth protect you. But if a man raises the question of servitude, a dismissal of a suit, shown on the records, will neither injure nor help as proof of free-birth.

Subscribed June 17 (293).

7.14.8. The same to Callimorphus.

Persons that are free-born are so by reason of their birth; freedmen become such only by manumission. Moreover, a pact cannot give the status of a man of free birth, either to slaves or to freedmen, nor can such pact prejudice those who did not consent to the compromise.

Subscribed December 29 (293).

#### Note.

In C. 7.16.10, the converse of this proposition is stated, namely that an agreement cannot make a man a slave, unless, as stated in C. 7.16.5, a person sold himself in order to share in the price. The law in reference to compromises in such cases is not altogether satisfactory. In C. 2.4.13, a constitution by Diocletian, it is stated that no compromise, apparently not connected with any suit, between a master and his slave is binding on the master. To the same effect is C. 7.16.20; C. 7.16.36. Mothers could not make their sons slaves through a compromise. C. 2.4.26. In 500 A.D., Anastasius provided that a compromise of a suit as to liberty should not be disturbed merely because the decision was in favor of liberty. C. 2.4.43. In the discussion to Basilica 11.2.60, where this law is mentioned, it is said that a compromise without suit is not valid, but a compromise after a suit is commenced is valid. Perhaps the conclusion to be drawn is that a compromise after suit was binding upon all parties, at least where entered into between parties who had the right to do so and where there was no collusion. See Buckland, Roman Law of Slavery 657, 658; note C. 2.4.43.

7.14.9. The same to Potamonis.

It is plain and clear law that the offspring of a mother who is a freedwoman is free-born. 1. Since, therefore, you state that you mother gave you birth when she was a

freedwoman, that thereafter you were captured by the enemy and you subsequently came back, with the rights of a returned captive (postliminium), and that now a question of servitude is raised against you, it is proper to go before the president of the province, who will try the cause involving liberty and who will give judgment according to law, knowing that neither such status of a mother nor captivity can change the former status of those who return.<sup>2</sup>

7.14.10. The same to Athenodora.

When names, that are taken by public consent to distinguish one person from another, are changed by free-born persons in order to conceal their birth, this hurts no one, and possession of children who are born of free parents does not make slaves of them even though born while (their parents were) doing servile work. The status (of the parents) gives the children the status of persons of free-birth.

7.14.11. The same to Maxima.

If possession of you is not supported by any title, but you, as free-born persons, hired out your work for an agreed price, your status is not prejudiced, nor are you prohibited from suing in the usual manner to have the agreement made with you performed.

Subscribed March 7 (294).

7.14.12. The same to Quieta.

Kidnapping does not change the status of a free woman, but it is agreed that the woman so abducted retains her rights with which she was born.

Subscribed November 29 (294).

7.14.13. The same to Menandrus.

A freedman who contends that he is free-born, but fails to prove it, does not thereby lose his status as freedman.

Subscribed December 7 (294).

7.14.14. The same to Aristotelis.

The status of a free-born woman can in no manner be prejudiced by the sole fact that she is stated to have been given as a slave in a betrothal gift.<sup>3</sup>

Given December 26 (294).

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<sup>2</sup> [Blume] C. 3.32.7 and note. Children followed the status of the mother.

<sup>3</sup> [Blume] See C. 7.16.16.