

Book VII.
Title V.

Concerning liberty without Roman citizenship.
(*De dediticia libertate tollenda.*)

Headnote to 7.5 and 7.6

There were two general classes of free Roman citizens, those that were free-born and those that were freed from the condition of slavery, called freedmen. There were three classes of freedmen under the ancient Roman law, reduced, as shown by the next two titles, to one by Justinian. The lowest class, having what was called the dediticia libertas, was composed of liberated slaves that had been punished by their proprietors by chains, or had been branded, or had been convicted on a criminal charge, or had been committed to prison or a gladiatorial school or had been delivered to fight. Such slaves, when manumitted, never became either Latin or Roman citizens, and were merely considered as enemies who had surrendered at discretion. They could not take under a will in any form, or make a will, and they were forbidden, under penalty of being again reduced to slavery, to reside in Rome or within the hundredth milestone from Rome. Gaius 1.13,15,25 and 27.

The second class of freedmen, that frequently referred to in title 6 herein, was composed of those who had what was called the Latin right, and were called Latini Juniani - latini, because they were assimilated in status to latin colonists; Juniani, because they owed their freedom to the Junian law, before the enactment of which they were slaves. Gaius 1.22. This condition arose in a number of ways, some of which are enumerated in C. 7.6, infra. A complete list is given by Buckland, Roman Law of Slavery 548-551. They could not dispose of their property by will, or to take by direct devise or bequest, or be appointed testamentary guardian, although they could take property under a trust. Gaius 1.23 and 24; Ulpian 20.14. All of their property belonged, at death, to their patron, just as peculium - special property - of a slave. Gaius 3.56. Men of this class, though during life they lived as free persons, yet as they drew their last breath they were considered as losing their liberty along with their life, Inst. 3.7.4; which meant that they could make no testament, but all their property went to their patrons. 9 Cujacius 894. The third class of freedmen was composed of the other freedmen not embraced in the first two classes. By the laws of the next two titles, the three classes were assimilated into one.

7.5.1. Emperor Justinian to Julianus, Pretorian Prefect.

The lowest kind of Roman liberty (dediticia condicio), will not, in any manner, be permitted to trouble our state in the future, but shall be entirely abolished, because we find it no longer in use, and that kind of freedom is but an empty name. We, who love the truth, want in our laws provisions for matter only which really exist. Given (530).