

Book II.  
Title XXX (XXXI).

If (restitution of rights is sought) against emancipation.

2.30.1. Emperors Severus and Antoninus to Annia.

If, after a decree of the honorable praetor, who pronounced liberty to be due by the terms of a trust,<sup>1</sup> Secundus, failing, as you complain, to comply with the condition (imposed on him by the trust), was not manumitted, then your age admits of a renewal of the litigation. But if you gave him his liberty, though not due him, you know that it cannot be revoked, but you must recuperate your damage which was inflicted on that account, by an action on volunteer agency, against your curators. Promulgated June 30 (197).

2.30.2. Emperor Gordian to Solana.

Although, as you allege, you were less than twenty years old<sup>2</sup> when you manumitted your slave in council, circumvented by him (to do so), nevertheless the imposition of the rod, by which legal freedom is fortified, cannot be rescinded on the pretext of your age. But the court having jurisdiction should, so far as the rule of law permits, take care that you are indemnified, namely, by the person manumitted.<sup>3</sup> Promulgated March 10 (241).

2.30.3. Emperors Valerian and Gallien to Marthona and Sabinilla.

You have the right, without restitution of rights, but by operation of law, to pursue those whom you demand to drag back into servitude, and whom you did not, while you were below the age of twenty years, manumit in council after cause shown. But if liberty was granted (in council) upon showing of cause, restitution of rights cannot be had against (such grant of) liberty. 1. If, however, your interests were prejudiced by the fault of fraud of the freedman, who also was your curator, the resident of the province will take care that the damage is compensated by the person who inflicted it, and will not hesitate to inflict graver punishment, if anything was done by such open fraud that it appears as a crime for which the freedman should be punished. Promulgated September 25 (260).

Note.

Justinian changed the law requiring a minor to be twenty years of age before being able to manumit a slave. Novel 119, c. 2; see headnote C. 7.1. The required age

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<sup>1</sup> [Blume] “*Libertas fidecommissaria*” — It was liberty which a testator directed some one — in this case a minor — to give to a slave, in this case fixing conditions, with which the slave failed to comply. Hence manumission was not due, and restitution of rights might be had by the minor against the curator for wrong advice and consent. The rule in manumission of a minor’s own slave was somewhat different, age and the manner of manumission governing.

<sup>2</sup> [Blume] Bas. 10.13.2.

<sup>3</sup> [Blume] As to the different methods of manumission, see headnote C. 7.1. Manumission by rod before a board or council was one of the formal methods of manumission.

thereafter was the age of puberty. No restitution of rights was granted, if the manumission was made before the board.

#### 2.30.4. Emperors Diocletian and Maximian and the Caesars to Tatianus.

There is no doubt that a decision, rendered in favor of liberty in a suit for freedom, cannot be rescinded without appeal, even by reason of the privilege possessed by persons under age.

Promulgated at Nicomedia January 6 (303).

Note.

The instant rescript seems at first blush to be inconsistent with C. 1 h.t. But there the judge merely declared that freedom was owing to the slave pursuant to what the testator had provided. This might be called quibbling with a principle of law, but there is, in fact, a distinction.