

Book VII.
Title IX.

Concerning manumission of municipal slaves.
(De servis rei publicae manumittendis.)

Dig. 40.3.

Headnote.

Slavery was very extensive in Roman territory and in the early empire slaves were employed by the State in numerous public functions, though free people in a subsequent period succeeded them in such positions. So, too, there were municipal slaves, who were frequently employed in responsible positions, although here, too, the tendency in the later empire was to exclude them therefrom. They received pay or maintenance allowance, out of which, doubtless arose their special property (peculium), which, however, was strictly the property of the municipality. Heavy penalty was imposed on those who used municipal slaves for their own private purpose. C. 6.1.5. See generally as to public slaves, Buckland, Roman Law of Slavery 318, 330.

7.9.1. Emperor Gordian to Epigonus.

If you were manumitted by the (municipal) senate with the consent of the president of the province in accordance with municipal law and imperial constitutions, you will not be again compelled to submit to the yoke of servitude, from which you escaped by manumission, because the slave whom you gave as a substitute fled.

Note.

Slaves of municipalities were freed by an order of the local senate, with the consent of the president or rector of the province, as here indicated. See also C. 11.37.1. It seems to have been a common thing for a manumitted slave to give another slave in place of himself. Buckland, Roman Law of Slavery 589, says that there is no reason to think that this was a legal requirement. See C. 6.46.6, as to giving of a substitute.

7.9.2. The same to Hadriana.

If the rector of the province approved the decree of the municipal senate by which the man whom, as you state, you afterwards married received his liberty, it is not uncertain that the girl born of this marriage is a Roman citizen and under paternal power.

7.9.3. Emperors Diocletian and Maximian and the Caesars to Philadephus.

Without any title, by which ownership of slaves is usually acquired, a freedman of a municipality does not become a slave. If you were, therefore, manumitted according to the ancient law,¹ the authority of which was extended to the provinces by a senate decree under the second consulship of Javentus Celsus and the consulship of Neratius Marcellus, and you subsequently, as freedman, acted as municipal clerk (tabularius), you did not lose

¹ [Blume] The text has "vetti libici," which is meaningless. Mommsen conjectured that it should be "veteris rei publicae."

the freedom which you had secured, nor did your occupation prevent your son who was born free, of free people, from becoming decurion.
Given at Ravenna March 18 (290 or 293).

Note.

The enactment here referred to as having extended the power of municipalities to manumit slave to the provinces was passed in 129 A.D. Marcus Aurelius gave the power to manumit to all guilds. D. 40.3.1. Manumitted municipal slaves took the name either of the municipality or of the magistrate who freed them. They kept their peculium unless it was expressly taken away. D. 40.3.3. Buckland, Roman Law of Slavery 588, 589.

The first sentence of the present law mentions that a freedman of a municipality does not become a slave. The doubt that arose in the present case arose out of the fact that the freedman in this case acted as clerk - tabularius - of the municipality, and in the earlier part of the empire such clerks were usually slaves.