

Book VII.
Title XXIV.

Concerning abolishing the Claudian Senate decree.
(De senatus consulto Claudiano tollendo.)

Bas. 48.25.1.

7.24.1. Emperor Justinian to Hermogenes, Master of Offices.

Since we have in our time gone to much trouble to further the liberty of our subjects, (and since) we have considered it impious that some women should be deprived of their liberty, and that a practice, introduced by the ferocity of enemies, contrary to natural liberty, should also be the result of the caprice of worthless men, we want the Claudian senate decree and the rule as to notices and judicial orders in connection therewith hereafter to be void, but a free woman, perhaps deceived or overpowered by an unfortunate passion shall thereby, or in any other manner, be led into slavery contrary to her birthright and thus bring the worst disgrace upon her honored relatives, so that she who has relatives, perhaps decorated with titles, might become the property of another and fear a master perchance inferior to her own people. This shall also apply to freedwomen; for the spirit of our time does not tolerate that a woman who has once had freedom, should be reduced to slavery by such disgrace. 1. But in order that slaves and serfs (adscripticii) may not think that such attempt (to marry free women) will be left unpunished - which is especially to be feared in the case of serfs - and in order that the number of this class of men (serfs) may not gradually decrease by their inter-marriage with free women, we ordain that if anything of that kind is done by a slave or serf, the master shall have power, either personally or through the president of the province, to correct such slave or serf by proper chastisement and take him away from such woman. If he neglects this, he may know that such neglect will redound to his own damage. 531-534.

Note.

The foregoing law would not be entirely clear without an explanation of its historical setting. The Claudian Senate decree was enacted in 52 A.D. It provided, among other things, that if a free woman cohabited with the slave of another, after notice by the owner of the latter that he forbade it, she and the issue became his slave, and her property probably became his also. In order, as stated, that such result might follow, she must have persevered in the cohabitation after notice. Once notice was not sufficient, and it was necessary to repeat it three times, the third notice to be in the presence of seven Roman citizens. The enslavement was completed by a magisterial decree following the third notice. See Tac., Ann. 12.53; Gaius 1.84.91.160; Inst. 3.12.1; C. Th. 4.12.2.3.5.7; Buckland, Roman Law of Slavery 412-414. All this legislation was swept away by Justinian by means of the law under this title.