

Book XI.
Title L. (XLIX)

In which cases unfree serfs (*coloni censiti*) may accuse their masters.
(*In quibus causis coloni censiti dominos accusare possunt.*)

11.50.1. Emperor Constantine to Maximus, Vicar of the Orient.

The serf (*colonus*), from whom more is demanded by the proprietor than is customary or more than was paid in former times, may go before the first judge whom he can find, and make complaint, so that the proprietor, convicted of demanding more than is customary, may be restrained from doing so thereafter, first returning what he has extorted as overpayment.

11.50.2. Emperors Arcadius and Honorius to Nebridius, Count of Asia.

Unfree serfs (*coloni censibus adscripti*) while exempt from obligations to which they are not subjected by tribute (taxes), almost appear as given over to slavery by reason of the annual dues and (other) obligations of their condition. 1. Hence it is not to be tolerated that they should dare to sue persons by whom, as their masters, they, together with the land, may without a doubt be sold. 2. We deprive them of such permission in the future; let no one dare to harass the name of the master in court, and they may know that their property belongs to the person to whom they themselves belong. 3. For as it has often been decreed, that such serf cannot sell or in any manner alienate any of his *peculium* (special property) without the knowledge of the proprietor of the estate, how can he have equal rights with the master in court, when the laws do not permit him to have any property of his own, giving him only permission to acquire, but not to transfer, property, and holding that he acquires and has property only for the master? 4. But as we deny such persons the right to sue their master or patrons and refuse them a hearing in civil causes except in cases of superexactions, in which case former princes gave them opportunity of lodging complaints, so in criminal cases which are public, permission of complaining on account of wrong to themselves or persons of their family, is not taken from them.

Note.

The instant law deals with the unfree serf, the *adscripticius*, the serf, as held by Leo, *supra*, whose name was listed in the census roll as a chattel, just as a slave. It will be noted that such serf had no property of his own. He had only a *peculium*, special property, just as a slave. For the *peculium* of a slave, see headnote C. 4.26. He could hold his *peculium*, and it could not be taken from him by the proprietor; but the serf could not sell or dispose of it. The free serf on the other hand could sell his own, personal property. See note C. 11.48.19. In as much as this property was much like that of a slave, it is not unreasonable to conclude with Leo (see note C. 11.48.10) that like the slave, such person was listed in the census roll as a chattel.

There was some difference, however, between the slave and an unfree serf. He could accuse his master in a criminal case, which a slave could not ordinarily do, and he had a right to complain of such master in a civil case when such master attempted to impose a greater burden on him than was customary. He was not, therefore, at the disposal of the master in the same sense that a slave was. He had the right to conclude a

legal marriage, though within certain limits of choice. He could become a priest or a soldier (C. 1.3.36), which a slave could not, though the consent of the proprietor was required, and though he had to find a substitute to cultivate the land. See generally, Clausing, The Roman Colonate 19-22.