

The Code begins with regulations against those who try to imprison someone who has not, or not yet, been condemned by a court; it may be noted that the possibility is envisaged that a slave may be unwilling to return to his legitimate owner (see Nos. 211–26 below).

### The Gods

Anyone who initiates proceedings concerning a free man or a slave is not to lead the person off before the trial. If he does lead him off, let him fine him for leading off: for a free man ten staters, for a slave five; and order him to release the person within three days. If he does not release him, let him condemn him to a fine: for a free man one stater, for a slave one drachma, per day, until he release him: and the judge, having sworn an oath, shall make a ruling as to the time. If he denies that he led him off, and there is no witness to testify, the judge, having sworn an oath, shall make a ruling. If one side claims that a man is free, the other that he is a slave, the benefit of the doubt is to be given to those who claim that he is free. If both sides argue that a slave belongs to them, then if there is a witness, he is to declare judgement according to his testimony, but if there are witnesses on both sides, or on neither side, the judge, having sworn an oath, shall make a ruling. If the court decides against the person who is holding a man, he must release the man within five days, if he is a free man; and he must hand him over in good faith if he is a slave. If he does not release or hand over the man, let him declare that the complainant is being awarded compensation: for a free man, fifty staters, plus one stater per day until he releases him, for a slave ten staters, plus one drachma per day until he hands him over in good faith. If one year elapses after the judge has pronounced judgement, three times the original compensation may be exacted, or less, but not more; and the judge, having sworn an oath, shall make a ruling as to the time. If the slave who has been ordered to be returned to his owner flees to a temple, the defendant shall summon the complainant and with two free adults as witnesses he shall show him the slave at the temple at which he has taken refuge; he may do this in person, or someone else may do it on his behalf; but if he does not summon the complainant and show him the slave, he is to pay the compensation specified above. If he has still not handed over the slave after a whole year, he is to pay the simple fines as well.

### 4. *Digest* 1, 5: 'On the Status of Persons'; 5: Marcianus, from *Institutes*, book 1

Roman jurists codified clear and strict rules about the conditions under which a person was legitimately a slave:

The status of all slaves is the same, but free men are divided into the free-born (*ingenui*) and freedmen (*libertini*).

(1) Slaves come into our ownership either by civil law or the common law of peoples (*ius gentium*) – by the civil law, if anyone over twenty allows himself to be sold in order to benefit by retaining a share of the purchase price; and by the common law of peoples, those who have been captured in war and those who are the children of our slave women are our slaves.

(2) The free-born are those who are born of a free mother; it is sufficient for her to be free at the time when the child is born, even if she was a slave when she conceived, and conversely, if she conceived as a free woman, but later gave birth as a slave, we recognise the child that is born as free. (It does not matter whether the mother conceived the child within or without a recognised marriage.) The reason for this is that the mother's adversity ought not to prejudice a child in the womb.

(3) This raises the question of whether the child of a slave woman who was set free when pregnant, but was again reduced to slave status or sent into exile before giving birth, should be slave or free. But it has rightly been accepted that the child is in fact born free, and it is sufficient for an unborn child that its mother was free at any time in between.

### 5. Gaius, *Institutes*, book 1, 1; 8–55

In the second century AD, an otherwise unknown jurist called Gaius wrote a textbook of Roman law for students. He sets out clearly the different legal statuses of slaves, citizens and different categories of freedmen, and mentions the various pieces of legislation which affected slaves, particularly the *Lex Aelia Sentia* of 4 AD; we may note the similarity in Roman law between the dependence of a slave and that of a son on the master of the household (c. 55).

(1) Every community that is governed by laws and customs uses partly its own particular law and partly the law common to all mankind. For whatever system of justice each community establishes for itself, that is its own particular law and is called 'civil law' as the law particular to that community (*civitas*), while that which natural reason has established among all human beings is observed equally by all peoples, and is called 'law of nations' (*ius gentium*) since it is the standard of justice which all mankind observes. Thus the Roman People in part follows its own particular system of justice and in part the common law of all mankind. We shall note what this distinction implies in particular instances at the relevant point.

(8) The system of justice which we use can be divided according to how it relates to persons, to things and to actions. Let us first see how it relates to persons.

(9) The principal distinction made by the law of persons is this, that all human beings are either free men or slaves.

(10) Next, some free men are free-born (*ingenui*), others freedmen (*libertini*).

(11) The free-born are those who were free when they were born; freedmen are those who have been released from a state of slavery.

(12) Freedmen belong to one of three status groups: they are either Roman citizens, or Latins, or subjects (*dediticii*). Let us examine each status group separately, beginning with subjects.

#### *Dediticii*

(13) The *Lex Aelia Sentia* requires that any slaves who had been put in chains as a punishment by their masters or had been branded or interrogated under torture about some crime of which they were found to be guilty; and any who had been handed over to fight as gladiators or with wild beasts, or had belonged to a troupe of gladiators or had been imprisoned; should, if the same owner or any subsequent owner manumits them, become free men of the same status as subject foreigners (*peregrini dediticii*).

(14) 'Subject foreigners' is the name given to those who had once fought a regular war against the Roman People, were defeated, and gave themselves up.

(15) We will never accept that slaves who have suffered a disgrace of this kind can become either Roman citizens or Latins (whatever the procedure of manumission and whatever their age at the time, even if they were in their masters' full ownership); we consider that they should always be held to have the status of subjects.

#### *Citizens*

(16) But if a slave has suffered no such disgrace, he sometimes becomes a Roman citizen when he is manumitted, and sometimes a Latin.

(17) A slave becomes a Roman citizen if he fulfils the following three conditions. He must be over thirty years of age; his master must own him by Quiritary right; and he must be set free by a just and legitimate manumission, i.e. by the rod (*vindicta*) or by census or by Will. If any of these conditions is not met, he will become a Latin.

(18) The condition about the age of the slave first appeared in the *Lex Aelia Sentia*. That law does not allow slaves below thirty to become Roman citizens on manumission unless they have been freed by the rod after a council (*consilium*) accepted there was just reason for the manumission.

(19) A just reason for manumission exists when, for example, a man manumits in the presence of a council a natural son, daughter, brother or sister; or a child he has brought up [*alumnus* = foundling], or his *paedagogus* [the slave whose job it had been to look after him as a child], or a slave whom he wants to employ as his manager (*procurator*), or a slave girl whom he intends to marry.

(20) In the city of Rome, the council comprises five Roman senators and five equestrians; in the provinces it consists of twenty local justices (*recuperatores*) who must be Roman citizens, and meets on the last day of the provincial assizes; at Rome there are certain fixed days for manumissions before a council. Slaves over thirty can in fact be manumitted at any time; so that manumissions can even take place when the Praetor or Proconsul is passing by on his way to the baths or theatre, for instance.

(21) Furthermore, a slave under thirty can become a Roman citizen by manumission if he has been declared free in the Will of an insolvent master and appointed as his heir [i.e. to take over the liabilities: the *heres necessarius*], provided that he is not excluded by another heir.

#### *Junian Latins*

(22) . . . [persons who do not fulfil the conditions for full citizenship] are called 'Junian Latins': Latins because they are assimilated to the status of those Latins who lived in the ancient colonies; Junian because they received their freedom through the *Lex Junia*, since they were previously considered to have the status of slaves.

(23) But the *Lex Junia* does not give them the right to make a Will themselves, or to inherit or be appointed as guardians under someone else's Will.

(24) When we said that they cannot inherit under a Will, we meant that they cannot receive anything directly as an inheritance or legacy; but they can receive things by way of a trust (*fideicommissum*).

#### *Digression – Dediticii*

(25) But those who have the status of subjects cannot receive anything at all by Will, no more than any foreigner can, and according to the general opinion, they cannot make a Will themselves.

(26) The lowest kind of freedom is therefore that of those whose status is that of subjects; and no statute, Senate Recommendation or Imperial Constitution gives them access to Roman citizenship.

(27) They are even banned from the city of Rome or anywhere within the hundredth milestone from Rome, and any who break this law have to be sold publicly together with their property, subject to the condition that they must never serve as slaves in the city of Rome or within a hundred miles of Rome, and that they must never be manumitted; if

they are manumitted, the law stipulates that they become slaves of the Roman People. All these provisions are laid down by the *Lex Aelia Sentia*.

(28) But there are many ways in which Latins can become Roman citizens.

(29) First of all there are the regulations laid down by the *Lex Aelia Sentia*. Anyone under thirty who has been manumitted and has become a Latin; if he marries a wife who is either a Roman citizen or a colonial Latin or a woman of the same status as himself, and this marriage was witnessed by not less than seven adult Roman citizens, and he has a son; then, when that son becomes one year old, he has the right under this law to go to the Praetor (or in a province the governor) and prove that he has married in accordance with the *Lex Aelia Sentia* and has a year-old son.

And if the magistrate to whom the case is taken declares that the facts are as stated, then both the Latin himself and his wife (if she is of the same status) and son (if he is of the same status too) must be recognised as Roman citizens.

(30) (I added the phrase 'if he is of the same status too' with respect to the son because if the wife of a Latin is a Roman citizen, then her son is born as a Roman citizen, in accordance with a recent Senate Recommendation proposed by the Divine Emperor Hadrian.)

(31) Although the *Lex Aelia Sentia* only gives this right to acquire Roman citizenship to those who were less than thirty years old on manumission and thus became Latins, this was later extended to persons who were over thirty on manumission and became Latins, by a Senate Recommendation passed in the consulship of Pegasus and Pusio [early in the reign of Vespasian].

(32) But even if the Latin dies before he has been able to establish that he has a year-old son, the mother can prove it, and if she was previously a Latin she will thus become a Roman citizen herself. [...] Even if the son is a Roman citizen already, because he is the child of a mother who is a Roman citizen, she still ought to prove his case; for then he can become the natural heir (*suus heres*) of his father.

(32a) What was said regarding a year-old son applies equally to a year-old daughter.

(32b) Furthermore, under the *Lex Visellia*, anyone who has become a Latin through manumission, whether he is over or under thirty, acquires the full rights of a Roman citizen if he has completed six years' service in the *vigiles* (police) at Rome. It is asserted that a Senate Recommendation was later passed granting citizenship on completion of three years' service.

(32c) By an edict of Claudius, Latins also obtain full citizen rights if they have built a sea-going ship with a capacity of not less than 10,000

*modii* of corn, and that ship, or its replacement, has been used to bring corn to Rome over a period of six years.

(33) Furthermore, it was enacted by Nero that a Latin who owned property worth 200,000 Sesterces or more and built a house in the city of Rome on which he spent not less than half his property, could obtain full citizen rights.

(34) Finally, Trajan enacted that if a Latin kept a mill going in the city over a period of three years, grinding not less than 100 *modii* of corn daily, he could acquire full citizen rights.

(35) Persons who are over thirty when manumitted and have become Latins can obtain full citizen rights by having the ceremony of manumission repeated; so can those manumitted below thirty, when they reach that age. In every case a Junian Latin over thirty, whose manumission is formally repeated by the man who has Quiritary ownership over him by the ceremony of the rod, the census or Will, becomes a Roman citizen and the freedman of the man who performed the second manumission. Consequently: if you hold the right to use a slave (*possessio*), but he belongs to me according to Quiritary law, then he can be made a Latin by you, acting alone; but the second manumission can be performed only by me, and not by you as well, and as a result he becomes my freedman. Even if he attains the full status of a Roman citizen by any of the other procedures, he still becomes my freedman. On the other hand you are given possession of any property he leaves behind when he dies, whatever the way in which he had obtained full citizen status. But if he belongs to the same owner both by possession and according to Quiritary law, he can become both a Latin and a full Roman citizen by a single act of manumission.

#### *Restrictions on Manumission*

(36) Not everyone who wishes to manumit is legally permitted to do so.

(37) A manumission made with a view to defraud creditors or a patron is void; the liberation is prevented by the *Lex Aelia Sentia*.

(38) The same *Lex* also prevents an owner under twenty from manumitting, except by the rod and after a council has accepted that there is a just reason.

(39) Just reasons for manumission exist where, for instance, someone manumits his father or mother, or his *paedagogus*, or someone who has been brought up with him. But the reasons instanced above for the case of slaves manumitted when under thirty can be put forward here too; and conversely, those mentioned in the case of an owner under twenty may also apply for a slave under thirty.

(40) The result of this restriction on the freeing of slaves by owners aged under twenty imposed by the *Lex Aelia Sentia* is that, although an owner who has reached the age of fourteen can make a Will and

institute an heir and leave legacies, if he is still under twenty he cannot give a slave his freedom.

(41) And even if an owner under twenty wants to make his slave a Latin, he still has to prove before a council that there is a just reason, and only afterwards may he manumit the slave informally in the presence of his friends.

(42) The *Lex Fufia Caninia* [2 BC] set an additional restriction on the manumission of slaves by Will.

(43) Those who own more than two and not more than ten slaves are allowed to manumit up to half the number; those who own more than ten and not more than thirty are allowed to manumit up to a third; but those who own more than thirty and not more than a hundred have the right to manumit up to a quarter; and finally, those who own more than a hundred and not more than five hundred are allowed to manumit not more than a fifth; those who own more than five hundred are not given the right to manumit any more – the law forbids anyone to manumit more than a hundred. But if you only own one or two slaves, you are not covered by this law, and there are no restrictions upon your freedom to manumit.

(44) Nor does this law apply to those who free their slaves by some other procedure than by Will. Thus a master manumitting by the rod or by census or informally in the presence of his friends, may set free his whole household, so long as there is no other impediment to giving them their freedom.

(45) What we have said regarding the number of slaves who may be manumitted by Will is to be interpreted in such a way that in a situation where only half, a quarter or a fifth may be freed, there is no requirement to manumit fewer than could have been manumitted under the preceding proportion. This is provided for in the law itself, for it would have been absurd if the owner of ten slaves should be allowed to manumit five (because he may free up to half that number), while the owner of twelve should not be allowed to manumit more than four.

(46) [When a Will manumits more slaves than permitted by the law:] If a Will requests freedom to be given to slaves whose names are written in a circle, then because it is impossible to establish any ranking by which some have a greater right to manumission than others, none of them may be set free. This is because the *Lex Fufia Caninia* makes void any act intended to cheat the objectives of that law. There are also a number of particular Senate Recommendations which make void tricks contrived to evade the law.

(47) In conclusion, it should be noted that the *Lex Aelia Sentia* forbids manumissions made in order to defraud creditors, and this was extended to foreigners as well, by a decision of the Senate proposed by Hadrian; but the other provisions of this law do not apply to foreigners.

### *Types of Dependence*

(48) We now come to a second distinction made by the law of persons. Some persons are independent agents (*sui iuris*) and some are dependent on the rights of another (*alieni iuris*).

(49) Furthermore, some of those who are in a condition of dependence are in another's power (*potestas*), some in their hands (*manus*) and some in their ownership (*mancipium*).

(50) Let us now look at persons who are in a position of dependence; for when we have established what sort of people these are, we shall be able to see who are independent agents.

(51) And first let us consider those who are in another's power.

(52) Slaves are in the power of their owners. This power is derived from the common law of nations, for we can see that among all nations alike owners have the power of life and death over their slaves, and whatever is acquired by a slave is acquired on behalf of his owner.

(53) But nowadays neither Roman citizens nor any other people who are subject to the sovereignty of the Roman People have the right to treat their slaves with excessive and unreasonable brutality. For a Constitution of the Divine Emperor Antoninus orders anyone who kills his own slave without due reason to be brought to justice in exactly the same way as one who kills another's slave. Excessively harsh treatment on the part of owners is also limited by a Constitution of the same Emperor; for when certain provincial governors asked him for a ruling regarding slaves who had taken refuge at the temples of gods or statues of emperors, he declared that owners were to be forced to sell their slaves if the cruelty of their behaviour appeared to be unbearable. In both cases he ruled justly, for we ought not to misuse our rights – that is the ground for interdicting those who waste their own property from administering it.

(54) Now since there are two kinds of ownership among Roman citizens – slaves may belong to their owners by possession or by Quiritary right, or both – we say that a slave is in the power of an owner who has possession over him, even though he may not belong to the same man by Quiritary right. For someone who simply has the title to Quiritary ownership of a slave cannot be said to have power over him.

(55) Similarly in our power are those of our children who are begotten in a recognised marriage; this is a custom peculiar to Roman citizens.

### 6. Suetonius, *Augustus*, 40

The background to the *Lex Aelia Sentia* of 4 AD, which introduced the regulations for certain kinds of manumission recorded by Gaius, is described by historians like Dio Cassius (No. 71 below), and the pressures

28. Paulus, *apud Festus* p. 159

Manumission appears to have been so much more frequent in the Roman world than in Greece that there is some justification for seeing it as a temporary phase through which an outsider, if he had proved reliable, would pass to Roman citizenship. The reservations expressed by Greeks and by Romans themselves (69–71) only underline how normal manumission was. A Roman might free his slave informally, in the presence of his family council (*coram amicos*; cf. Pliny, *Letters* 7, 16.4 & 10, 104; for examples of records documenting informal manumission, L&R II, 67). But if the slave was to obtain full citizenship, certain procedures had to be followed (see No. 5, 17 above). There was a legal formula for manumission 'by the touch of the magistrate's rod' (*vindicta*), in the presence of a Roman magistrate with full powers (*imperium*).

A slave is said to be manumitted, when his owner holds that slave's head or some other part of his body and says 'I want this man to be free' and takes his hand away from him [literally, 'lets him go out of his hand'].

29. *Code of Theodosius*, 4, 7.1

Although it did not occur to Christians, any more than to anyone else in the ancient world, that slavery as such could be abolished, they felt that it was a humane and virtuous thing to manumit a deserving slave; many did this at the Easter ceremonies after a slave had served them for six years (see Gregory of Nyssa, *Oratio* 3 = PG 46, 657D). Constantine recognised the special role of the Church in facilitating manumission in a letter to the Bishop of Cordova.

The August Emperor Constantine to the bishop Hosius.

If anyone grants freedom deservedly to his slaves in the bosom of the Church as a result of his religious feelings, he shall be held to have granted it with the same legal force as that with which Roman citizenship has formerly been bestowed by the performance of the traditional procedures. But this privilege will only apply to persons who make grants of freedom in the presence of their bishops.

To 'clerics' we grant in addition that they shall be held to have given the enjoyment of absolute freedom to their slaves not only when they have given them their freedom in the sight of the church and the body of the faithful, but also when they have made a grant of freedom or have ordered it to be given by any form of words at the hour of their

death; so that the slaves in question shall receive their freedom on the day of the publication of the Will, without the need for any witnesses or intermediary.

Dated 18 April 321 AD.

INTERPRETATION: If anyone wishes to manumit in the holy church, it suffices for him to wish to manumit in the presence of the presbyters, and he will know that when they receive their freedom they become Roman citizens. And if clerics should wish to bestow freedom on their own slaves, they shall attain full and complete freedom as Roman citizens even if the manumission takes place out of the sight of the presbyters, or is simply verbal, without confirmation in writing.

30. Cicero, *Philippic* 8, 11.32

Greek thinkers stressed the importance of setting a definite limit to the length of time a slave might expect to remain in servitude (206). Augustus' legal reforms (5) as well as epigraphical evidence (G. Alföldi, 'Die Freilassung von Sklaven') suggest that at Rome domestic slaves were frequently manumitted at about the age of thirty. Twenty or thirty years' slavery was an exceptional and harsh punishment (119). A Roman who had fallen into slavery as the result of capture in war redeemed his ransom with five years' service as a slave (*CTh.* 5, 7.2). In his attacks on Marcus Antonius, Cicero compares the six years since the start of Caesar's dictatorship in 49 BC to a full term of slavery for the Roman people.

After six years, members of the Senate, we can now hope for our freedom. We have suffered slavery for a longer period than careful and hardworking captives taken in war normally have to. Should we refuse to be wakeful, to be anxious, to make every effort, in order to give the Roman people back its freedom?

31. Augustine, *Sermon* 21.6 (= PL 38, 145)

The different motives a Roman master might have for freeing his slaves are listed by Dionysius of Halicarnassus (No. 69 below); they include the desire to have a spectacular funeral, or to defraud the state corn supply (see No. 70 below). Other occasions for manumission are noted by Dio Chrysostom (No. 235).

It was universally felt that manumission ought to be the just reward for good service, rather than the arbitrary gift it may often actually have been. Hence the great stress on the loyalty (*fides*) of slaves (see

Nos. 153 and 239).

For Christians, too, manumission was seen as the natural and just reward for loyal service (but by no means as ending a freedman's obligations towards his patron: see No. 242 below).

You lead the slave whom you are going to set free by the hand into Church; silence falls; the official record is read out, or you make a statement as to your intentions. You say that you are setting the slave free because he has been faithful to you in every respect. That is what you approve of and show that you respect, what you are rewarding with freedom.

32. *Digest* 40, 1: 'Manumissions'; 5: Marcianus, from *Institutes*, book 2

In theory, a slave's savings (*peculium*) were absolutely the property of his master (No. 8 above); nevertheless, the Romans recognised that a slave could use such savings to buy his freedom, and under the emperors the law was prepared to enforce such a contract.

If anyone claims to have bought himself free with his own money, he can lodge an accusation against the owner on whose good faith he has relied, and complain about the fact that he has not been set free by him. At Rome he can do this before the Urban Prefect, and in the provinces he may approach the governors, as the result of a Decree of the Divine Brothers [Marcus Aurelius and Verus]; but with this proviso, that a slave who brings such an accusation but cannot prove it will be removed to work in the mines, unless his master prefers him to be returned to him to inflict a punishment upon him which must not be greater than this.

33. *ILS* 1519

A frequent occasion for freeing a slave was when the owner wanted his relationship with a concubine to be recognised as a legitimate marriage; this was one of the exceptions to the rule that a slave had to be over thirty (No. 5 above). There is a great number of inscriptions showing that a wife had previously been her husband's slave (see No. 171 below); frequently both had served as slaves in the same household, and when one of them was manumitted he (or occasionally she) could buy the master's rights over his spouse and then set her free.

To Titus Flavius Euschemon, freedman of Augustus, who had been secretary for correspondence and also procurator of the Jewish poll-tax; Flavia Aphrodisia set this up for her ex-owner and husband, who well deserved it.

34. *Digest* 37, 15: 'The Duties Owed to Parents and Patrons'; 9: Ulpian, from *On the Edict*, book 66

The freedman was in no sense independent of his previous owner. His obligations were both social and economic: it is to be noted that obligations of social respect (*obsequium*) assimilate the freedman's relationship to his patron to that of a son to his father.

The figure of father and patron ought always to be respected and sacred in the eyes of a freedman or a son.

35. *Digest* 37, 14: 'The Rights of Patrons'; 1: Ulpian, from *The Responsibilities of Proconsuls*, book 9

Provincial governors must listen to complaints by patrons against their freedmen and not deal with them lightly, since a freedman who does not show due gratitude should not be allowed to get away with it.

Now if anyone fails to carry out their obligations to their ex-master or ex-mistress or their children, he should merely be reproved and be let off with a warning that he will be severely punished if he gives cause for complaint again. But if he has behaved insolently or abused them, he should be punished, perhaps even with a period of exile; and if he physically attacked them, he should be condemned to hard labour in the mines; and also if he has been responsible for spreading any malicious rumours about them or inciting someone to lay an accusation against them, or has initiated a law suit against them.

36. *Digest* 37, 14.19: from Paulius, *Opinions*, book 1

An ungrateful freedman is one who does not give due respect (*obsequium*) to his patron or who refuses to look after the management of his master's property or to act as his children's guardian.

37. Suetonius, *Claudius*, 25

On occasion the state might intervene drastically to stress the dependent status of freedmen and protect the interests of patrons (for Claudius' attitude to slaves, see Nos. 203–4 below).

(1) He sold off for the benefit of the state (*publicavit*) any freedmen who pretended to the status of Roman equestrians. He reduced to slavery any who failed to show due gratitude or about whom their former owners had cause for complaint, and he told their advocates that he wasn't going through the formalities of a trial against a man's own freedman.

38. *ILS* 8365

The position of freedmen as members of their master's household (*familia*) just like his children and his slaves, is illustrated by large numbers of inscriptions giving them the right to be buried in the family tomb (see No. 175 below). This one from Rome is particularly specific.

Let there be unrestricted access, entry and inspection to this tomb for all my freedmen and freedwomen. My heir must let them have the key so that they may sacrifice as often as is necessary.

39. *ILS* 8283

Conversely, freedmen and freedwomen who failed to fulfil their obligations would be explicitly excluded from this right (this example is also from Rome; for others, see L&R II, 66. iii and iv).

## To the Spirits of the Dead

Longina Procla made this for herself and for her freedmen and freedwomen and their descendants; except for the women who deserted me while I was still alive — they are not to have access or entry to this tomb.

40. *Digest* 38, 1: 'The Work-obligations of Freedmen' (*de operis libertorum*); 7: Ulpian, from *On Sabinus*, book 28

Apart from social respect (*obsequium*), Roman freedmen had another group of obligations towards their patrons which was much more

concrete, and shows why Roman slave-owners may have felt that manumitting a slave need not be economically disadvantageous. When a slave was freed, he had to make a formal undertaking on oath to provide his master with his labour for a specified number of days each year (*opera* = a day's labour).

In order for there to be a legal obligation arising from the taking of an oath, the man who swears the oath has to be a freedman, and he has to swear the oath in order to attain his freedom.

(1) The following question arises. If someone leaves his freedman a legacy in his Will on condition that he swears that he will fulfil a quota of ten days' work for the benefit of his son, is he bound by such an oath? Juventius Celsus says that he is so bound, and that the reason why the freedman took the oath promising work-obligations isn't so very important; and I myself accept Celsus' opinion.

(2) He has to take the oath after he has been set free, if he is to be bound by it; and he is bound by it whether he takes it immediately after being freed or some time later. (3) He has an obligation to swear to provide work, gifts or services; the work can be of any kind whatever, so long as it is imposed in an honourable, just and legal way.

(4) A rescript from the Divine Emperor Hadrian states that the right to exact work-obligations is void against a person who has attained freedom as a result of a *fideicommissum* [a request made in a will].

(5) A judge will allow claims for work-obligations against a child, once the child has grown up; and on occasion such a claim will even be allowed while he is still a child, for such a person too might be able to provide services, if he happens to be a copyist or someone who calls out names or can do accounting, or if he is an actor or some other kind of entertainer.

41. *Digest* 38, 1.9; 6: Ulpian, from *On Sabinus*, book 34; book 26

Since these obligations could be enforced at law, jurists provide much evidence about the different categories of *operae*. Thus, if a skilled freedman had agreed to provide his master with several days' labour at his craft, this labour could be bequeathed or allocated by the patron to someone else:

(9) Work-obligations do not exist automatically.

1. Those categorised as *officiales* [i.e. relating to the freedman's duties towards his former master] cannot be owed to anyone other than the patron, since their character resides in the identity of the individual who owes such an obligation and that of the individual to whom it is

owed. But those to do with manufacturing (*fabriles*) and others are such that they can be carried out by any kind of person, and for anybody. After all, if such a work-obligation resides in exercising a handicraft, then if the patron so orders it can be performed for someone else's benefit.

(6) Work-obligations which consist of manufacturing and any others which can be considered as providing money pass on to a patron's heir; but those which are *officiales* cannot be passed on.

42. *Digest* 38, 1.17: Paulus, from *The Rights of Patrons*

While patrons could go to law and obtain the rights owed them by their freedmen, these rights were not unconditional.

A judge should not listen to a patron who demands work-obligations which are impossible because of age or physical infirmity or which will damage the way of life which the freedman follows or hopes to follow.

43. *Digest* 38, 1.19: Gaius, from *The Provincial Edict*, book 14

Work-obligations must be imposed upon the freedman in such a way that even on those days when he is fulfilling these work-obligations he still has enough time to earn a sufficient income to feed himself.

44. *Digest* 38, 1.34: Pomponius, from *Commentary on Quintus Mucius*, book 22

It should be noted that work-obligations sometimes decrease or increase or become different in kind. When a freedman is ill, for example, those obligations which he had begun to fulfil, lapse. And if a freedwoman who undertook to carry out work-obligations attains a social status such that it would be unbecoming for her to undertake work for her patron, then these will lapse automatically.

45. *Digest* 38, 1.35: Paulus, from *The Julian and Papian Laws*, book 2

A freedwoman over the age of fifty cannot be forced to provide labour services for her patron.

46. Pliny the Elder, *Natural History*, 14, 5

While freedmen should not be seen as an 'entrepreneurial class', many ex-slaves and their sons were anxious to advertise their successful integration into citizen society by amassing wealth to an extent that citizens by birth did not need to. It may be noted that it is agriculture, not industry, that bestows respectability (see AVN 4 and 5 on the relative status of peasant farmers and craftsmen). The fact that at Athens a freed slave had no right to acquire land indicates the difference between the role of slavery there and at Rome.

There are a few examples from our own lifetime of outstanding success in vine-growing; they shouldn't be passed over, because readers ought to know what the rewards are which are most to be respected in any particular field.

(48) Acilius Sthenelus, a common man and the son of a freedman, won great honour by cultivating no more than sixty acres of vines in the territory of Nomentum (Mentana) and selling it for 400,000 Sesterces. (49) Vetulenus Aegialus, also a freedman's son, became famous in the district of Liternum in Campania, and was even more highly regarded because the land he cultivated had been Africanus' place of retirement. But the greatest honour has been accorded to Remmius Palaemon, also well known for his textbook on grammar [see 133, 23]; this too was thanks to the assistance of Sthenelus. Within these last twenty years, Palaemon bought for 600,000 Sesterces a country estate in the same territory of Nomentum, near the stopping-place ten miles from Rome. (50) The price of all suburban property is notoriously low, particularly in this region; he had obtained farms which had been ruined by neglect and whose soil was poor even by the worst standards. It wasn't for any particularly high motives that he wanted to cultivate this land, but primarily out of vanity, which was something he was well known for. While Palaemon pretended to be a farmer, the vineyards were prepared for replanting under Sthenelus' management, and the result was almost unbelievable: within eight years the unharvested vintage was auctioned to a buyer for 400,000 Sesterces.

(51) Everyone ran to have a good look at the heaps of grapes in these vineyards; the inefficient locals explained it away by saying that Palaemon was exceptionally well educated. Finally Annaeus Seneca (the greatest scholar of the time, with political influence which in the end destroyed him, and a man who certainly didn't admire things of no consequence) was so taken by this farm that he was not ashamed to admit to being defeated by a man whom he otherwise loathed and who was likely to make the most of such an admission; and he bought the

vineyards for four times the original price, after just ten years of careful cultivation.

#### 47. Petronius, *Satyricon*, 75f

Writing at a time when some freedmen had been politically highly influential (see No. 176), Petronius satirises the way an ex-slave could inherit his patron's estate and challenge the wealth of the landowning aristocrats who were supposedly his natural superiors.

I too used to be just what you are, but I have risen as far as this by my own merits (*virtute mea*). What men need is initiative, none of the rest matters. I buy well, I sell well; let others give you different advice . . . Well, as I was about to say, it was thrift that brought me this good fortune. When I arrived here from Asia, I was just as big as this candlestick. Actually I used to measure my height against it day by day, and I used to anoint my lips from the lamp to get a beard on my face faster. Well, I was my owner's particular pet for fourteen years; there's nothing dishonourable in doing what your master orders. And I used to do my mistress's will too — you know what I mean: I won't spell it out, since I'm not the one to boast.

(76) But in accordance with the will of the gods, I became the master of the household, and took command of my master's little brain. And then? He nominated me co-heir with the Emperor, and I inherited an estate big enough for a senator. But no one is satisfied with doing nothing; I decided on a business career. I won't bore you with a long story: I built five ships, filled them with wine at a time when wine was equivalent to gold, and sent them to Rome. You'll suppose I'd planned what happened next: every single ship was wrecked. Fact, not fiction! In one day Neptune devoured thirty million Sesterces. Did I give up? Certainly not! I felt this loss as though it was nothing. I built other, bigger ships, better and more fortunate ones, so that no one should say I was not a courageous man. As you know, a great ship is a sign of great courage. I filled them with wine again, and bacon fat, and beans, and perfumes from Capua, and slaves. At that moment, Fortunata supported me most loyally — she sold all her gold and clothes and gave me one hundred *aurei*, cash. That was the yeast for my savings (*peculium*); what the gods will, happens quickly. On one voyage I made a round profit of ten million Sesterces. At once I bought back every estate which had belonged to my patron. I built a house, I bought slaves and cattle. Whatever I touched grew like a honeycomb. When I began to have more wealth than the whole of my community back home, I withdrew my hand; I retired from business life and drew an income

from advancing capital to my freedmen.

#### 48. Pliny the Elder, *Natural History*, 18, 8

If a former slave was motivated to be more successful in order to assert himself, he also ran the risk of incurring the resentment of the free-born. This envy (*invidia*, Gk. *phthonos*) on the part of the rest of the community frequently expressed itself in terms of sorcery accusations (see Apuleius, No. 96 below).

(41) Caius Furius Chresimus had been set free from slavery; when he started getting much larger harvests from a fairly small farm than his neighbours did from very large ones, he became highly unpopular and was accused of abstracting other people's crops by sorcery.

(42) He was afraid that he would be found guilty at his trial before the Curule Aedile Spurius Albinus; so when the tribes were about to cast their votes, he brought all his farm equipment into the Forum and brought along his slaves, who were all healthy and well looked-after and well dressed (so Piso tells us), and his well-fashioned iron tools, heavy hoes and plough-shares, and well-fed oxen; and then (43) said, 'Here, Romans, is my sorcery, though I can't show you or bring into the Forum all the work I've put in at night and my early mornings or how I've sweated.' As a result they acquitted him unanimously.

#### 49. *ILS* 8341

While some Roman freedmen managed to identify themselves with the ideal of the peasant farmer (Nos. 46 and 48 above), those who could not achieve the security represented by landed property saw their tomb as the best substitute — one reason why freedmen invested in particularly ostentatious funerary monuments. An inscription from Rome explicitly makes this connection.

Caius Hostius Pamphilus, freedman of Caius, physician, bought this tomb for himself and for Nelpia Hymnis, freedwoman of Marcus, and for their freedmen and freedwomen and their descendants.

This is our eternal home, this is our farm,  
these are our orchards, this is our tomb.

13 feet across, 24 feet deep.

50. *CIL 6.22355A*

The Roman *domus* provided foreigners who entered it as rightless slaves with a framework which enabled them not just to survive but to find a place in society as freed citizens. That the household unit satisfied emotional as well as merely economic needs can be seen not so much from epitaphs which freedmen had an obligation to erect for their patrons, as from those they put up for one another (from the tomb of the Memmii, Rome; see also Nos. 171–5).

In honour of Aulus Memmius Clarus

Dedicated by Aulus Memmius Urbanus to his fellow-freedman and dearest companion. I cannot remember, my most respected fellow-freedman, that there was ever any quarrel between you and me. By this epitaph, I invoke the gods of heaven and of the underworld as witnesses that we first met on the slave-dealer's platform, that we were granted our freedom together in the same household, and that nothing ever parted us from one another except the day of your death.

## CHAPTER 4

## MORAL INFERIORS

51. Xenophon, *The Householder*, 12

Associated with the compulsion to classify all men as either free or slave, came a tendency to assimilate this polarity to others: Greek and barbarian, intelligent and stupid, superior and inferior – and from there the shift to 'good and bad' was unavoidable. In spite of all the evidence that Greeks and Romans realised that *some* slaves were 'trustworthy, prudent, brave – and even philosophers' (Macrobius, *Saturnalia*, 46: see No. 243 below), there was an almost universal prejudice that slaves could not but be worse than their masters: 'There is no healthy element in the soul of a slave' (Plato, *Laws* = 80, 264e below). Similar to the prejudices to be found in ancient and other societies directed by the middle-aged against the young, or by men against women (for example, in Aristophanes' comedies *Thesmophoriazusae* and *Ecclesiazusae*).

(18) It is hard to learn to do something well if the teacher's demonstration is bad; and when a master sets an example of carelessness, it is difficult for the slave to learn to be careful. (19) To put it briefly, I don't think I can remember a case of good slaves belonging to a bad master. I do however know of bad slaves who belong to a good master – and they're punished for it. If you want to make people capable of being managers, then you have to supervise their work, and examine it, and you have to be willing to reward those responsible for what has been done well, and you must not be frightened to punish as he deserves someone who is careless.

52. Salvian, *The Governance of God*, 8, 3

This assumption was just as much taken for granted by a Christian writer at the end of antiquity.

(14) No one doubts that all slaves are either like their owners, or they are worse – though the more usual thing is to find that they are worse. Since even good masters generally own bad slaves, it is easy to work out from this what sort of people all these slaves must have been, when