

WERE BAILIFFS EVER FREE BORN?

Columella in his *Res Rustica* always speaks of the bailiff (*uilicus*) as the slave of the owner of the farm, but in his Preface he states that the owner sometimes sent a *mercenarius* to be bailiff, and this has by some scholars been taken to mean that a freeborn labourer could be appointed. Since such a possibility is not mentioned by Columella elsewhere or by any other Roman writer, it is probable that the term *mercenarius* in the Preface has been misunderstood. Hired labourers in ancient Rome included slaves as well as freemen.

We have abundant evidence that slaves were employed as bailiffs. Varro (*R.R.* 1.18.1) for instance includes the *uilicus* (bailiff) and the *uilica* (house-keeper) among the *mancipia* (slaves). Columella (1.7.5–7) refers to the *uilicus* as a *seruus* and a little later speaks of his *seruile ingenium* (1.8.10) and his treatment of fellow slaves.

Nevertheless some bailiffs did not remain slaves till their dying day. Two inscriptions mention bailiffs who were freedmen. They must have been unknown to W. E. Heitland, who in his *Agricola*,¹ p.158, writes 'It might be that he [the bailiff] looked forward to manumission after long service. But I cannot find any authority for such a supposition, or any concrete instance of a manumitted *uilicus*.' One inscription comes from Caria and the other from Latium. The one from Tralles in Caria is put up by Thalamus, a slave, in honour of his bailiff Gnaeus Vergilius Nyrius, the freedman of Gnaeus Vergilius: 'cN. VERGILIO. cN. L(ibertus). NYRIO. tHALAMVS. VILICO SVo. CONSTITVIT' (*CIL.* iii.7147).

The other inscription (Dessau 7372) was set up in memory of the bailiff and housekeeper of C. Obinius: 'C. Obinius C. l. Epicadus, Trebia C. l. Aphrodisia, hic uilicarunt annos XIII.' 'Gaius Obinius Epicadus, freedman of Gaius, and Trebia Aphrodisia, freedwoman of Gaius, were bailiff and housekeeper here for fourteen years.'

Columella (1.8.1–3) warns owners not to appoint as bailiff a slave used to the idle and dissipated life of the city. The slave chosen should be accustomed to hard labour, preferably farm work, and should be young enough to continue working hard. In Praef. 12 (the passage whose meaning is in dispute) he says that owners too often appoint a man weakened by old age; a rich man sends a footman, an owner of moderate means sends a *mercenarius*. The general similarity of these two passages suggests that both refer to the folly of sending a weak old slave instead of an able-bodied one, but the word *mercenarius* has been thought by some to mean a freeborn day labourer, a hireling. It certainly can have this meaning, as in Varro's *R.R.* 1.17: 'omnes agri coluntur hominibus seruis aut liberis aut utrisque: liberis, aut cum ipsi colunt, ut plerique pauperculi cum sua progenie, aut mercenariis, cum conducticiis liberorum operis res maiores, ut uindemias ac faenisicia, administrant, iique quos obaerarios nostri uocitant.' Varro is explaining that farms are worked by slaves, by free men, or by men who are working off a debt by labour. The free men are either cultivating their own

¹ Cambridge (1921).

land or working on someone else's for wages. In the Loeb translation Varro's definition of *mercenarius* runs 'Agriculture is carried out by . . . hired hands, when the heavier farm operations, such as the vintage and the haying, are carried out by the hiring of freemen'. Some *mercenarii* however were slaves whose owners made money by hiring them out to other men. The custom of hiring out one's slaves is described in the *Digest* (Ulpian, vii.1.25.2; Gaius, vii.7.3) and is mentioned by Seneca (*De Beneficiis* 7.5.3) who says that you have no right to take away your slave if you have hired him out to someone else: 'nec seruum tuum, mercenarium meum, abduces'. Evidently the mere fact that Columella in his Preface said a *mercenarius* could be appointed bailiff does not prove that a freeborn labourer could be appointed. According to Gesner's edition² Columella means a free man; R. H. Barrow thinks the same; the Loeb translation implies that Columella means a slave or freedman. To decide which is right we must study the rest of what Columella says in *Praef.* 12 and in the parallel passage, 1.8.1–3.

In both passages Columella contrasts good bailiffs with bad. The verbal resemblances prove that when he wrote one passage he had the other fresh in his mind. For instance, in the Preface we read 'uilicum . . . peritissimum' and 'quo celerius, quod ignoret, addiscat'. In Book 1 we read 'uilicus . . . peritus and quo celerius addiscat'. We shall find that he is expressing the same ideas in both passages, and that where one is obscure we can interpret it by comparing it with the other.

nunc et ipsi praedia nostra colere dedignamur et nullius momenti ducimus peritissimum quemque uilicum facere uel, si nescium, certe uigoris experrecti, quo celerius, quod ignoret, addiscat. sed siue fundum locuples mercatus est, e turba pedisequorum lecticariorumque defectissimum annis et uiribus in agrum relegat, cum istud opus non solum scientiam, sed et uiridem aetatem cum robore corporis ad labores sufferendos desideret; siue mediarum facultatum dominus, ex mercenariis aliquem iam recusantem cotidianum illud tributum, quia uectigali esse non possit, ignarum rei, cui praefuturus est, magistrum fieri iubet.

It is this last sentence whose meaning is disputed. The Loeb translation implies that the *mercenarius* is a slave or freedman: 'If the owner is of moderate means, out of the number of his hands for hire he orders someone who now refuses him the daily tribute money, since the man cannot be a source of income, to be made a foreman, though he may know nothing of the work which he is to superintend.'

If Columella is speaking of a slave, *mercenarius* here means a slave whose owner allows other men to hire him by the day. The slave keeps part of his earnings and hands over the rest (the *tributum*). Perhaps *recusantem* could here mean 'being unable to give'. Since he can no longer earn money for his master he is sent into the country to be a bailiff.

Columella may however be speaking of a man who makes money by hiring out not slaves but freedmen, as described in the *Digest* (xxxviii.1.25–7). If the freedman has become old or weak, he has a right to refuse to do work that is beyond his strength (*Digest* xxxviii.1.17). This explains Columella's word *recusantem* better than the hypothesis that the *mercenarius* is a slave. As the term *mercenarius* can be applied to both slaves and freeborn men, no doubt it can be used of freedmen.

² Columella, Vol. 1, edited by Gesner with additional notes by Ross (Flensburg, 1795).

If we suppose that Columella is speaking of a free man, *tributum* must be the labour by which he earns his hire. R. H. Barrow supposes that he is not literally a labourer but a client, and his *tributum* is his attendance on his wealthy patron. His summary of Columella's argument will be found in his *Slavery in the Roman Empire*,³ p.75. On this interpretation the client is called *mercenarius* because his motives are mercenary: he courts the great not out of admiration and loyalty but in the hope of the *sportula* and similar favours. The term *mercenarius* does sometimes have a bad sense, as when it applies that the man has been hired to do something dishonourable, such as giving false evidence (Cic. *Fam.* 3.11.3 *mercenarii testes*) or prosecuting an innocent man merely because the wealthy patron dislikes him (Cic. *Clu.* 59, 163 *egens quidam calumniator, mercenarius Opianici*). Barrow's interpretation of the noun *mercenarius* in *Praef.* 12 is influenced by the fact that in *Praef.* 9 Columella had used the adjective of the client who goes every morning to salute his wealthy patron: '*mercenarii saluatoris mendacissimum aucupium*,' of which the Loeb translation is 'the hypocritical fawning of the man who frequents the levees for a price'. Since it is the very rich, not the men of moderate means, who have that kind of *mercenarius saluator*, Barrow's interpretation leads him to ignore Columella's words *mediarum facultatum dominus* altogether. He writes 'The rich man sends to his land worn-out lackeys and litter-bearers, feeble and aged; sometimes a free man, refusing any longer the daily task of fawning to a patron, is appointed, but he does not always know the work which he is to supervise.' A free man, however, is not what we want in this context. If the rich man sends an elderly slave, the man of moderate means sends an elderly slave. In 1.8.1–3 Columella makes the same point: the master ought to choose an active young slave but too often chooses one who is idle or elderly. The rich man's footmen and litter-bearers, mentioned in the Preface, clearly belong to the lazy and sleepy-headed class of servants described as follows in Book 1:

Praemoneo ne uilicium ex eo genere seruorum, qui corpore placuerunt, instituamus, ne ex eo quidem ordine, qui urbanas ac delicatas artes exercuerit. socors et somniculosum genus id mancipiorum, otii, campo, circo, theatri, aleae, popinae, lupanaribus consuetum, numquam non easdem ineptias somniat; quas cum in agri culturam transtulit, non tantum in ipso seruo quantum in uniuersa re detrimenti dominus capit. eligendus est rusticis operibus ab infante duratus et inspectus experimentis. si tamen is non erit, de iis praeficiatur qui seruitutem laboriosam tolerauerunt; iamque is transcenderit aetatem primae iuuentae nec dum senectutis attigerit, illa ne et auctoritatem detrahat ad imperium, quoniam maiores dedignentur parere adulescentulo, haec ne laboriosissimo succumbat operi. mediae igitur sit aetatis et firmi roboris, peritus rerum rusticarum aut certe maximae curae, quo celerius addiscat.

This description of city-bred slaves reminds us of Horace's bailiff, who missed the pleasures of city life:

tu mediastinus tacita prece rura petebas,
nunc urbem et ludos et balnea uilicus optas.

This man had been a slave, a mere drudge.

Since (with the possible exception of Columella's Preface) freeborn bailiffs are nowhere mentioned, we should certainly suppose that they were very rare. Columella however does not seem in *Praef.* 12 to be speaking of a rare practice;

³ London, 1928.

on the contrary, he is complaining that most employers choose the wrong man as bailiff, the rich sending a footman and the less rich a *mercenarius*. One might suppose that half the bailiffs Columella had met were originally *mercenarii*. If these had all been freeborn, Columella would not, for the rest of the *Res Rustica*, have assumed that bailiffs were slaves. I conclude that Columella's *mercenarius* was a slave or possibly a freedman, and that freeborn bailiffs did not exist.

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