

Book X.
Title XLIV.

Concerning those who have voluntarily performed liturgies.
(De his quie sponte munera suceperunt.)

10.44.1. Emperor Alexander to Felicianus.

The veterans who, while they could have relied upon the immunity which they have, preferred to become decurions in their home city, cannot subsequently claim the immunity which they waived, except under express condition and agreement reserving their immunity or where they have assumed only part of the burden.

Note.

As implied in the instant law, veterans were exempt from liturgies. That is also stated at C. 7.64.9; C. 10.55.3; C. 12.46.1. Just the extent of the exemption is not clear. According to some authorities, they were apparently not exempt from patrimonial liturgies. C. 12.46.1; D. 50.5.7 and 11. Karlowa, however, thinks that veterans who served out their full time were exempt from all liturgies, personal and patrimonial.

If they voluntarily became decurions, they waived all exemptions, unless they became such upon express condition that they should not be subject to all municipal duties. See as to exemptions of soldiers, generally, Abbott & Johnson, Munic. Adm. 107, and C. 10.55 and C. 10.56.

10.44.2. Emperors Diocletian and Maximian to Valerius.

Whoever has a temporary exemption from liturgies, and voluntarily accepted some position of honor except the decurionate, does not lose the privilege to which he is entitled, because he sacrificed his own interest to that of his native city, or, desirous of glory, somewhat overstepped the public law.

10.44.3. Emperor Leo to Pusaeus, Praetorian Prefect.

Whoever, tho not subject to any curia, has voluntarily filled any position of honor or burden in any city, shall not be thereby prejudiced either as to his property or as to his personal status; but he himself, and his children and their posterity, together with their property, shall remain free and exempt from such ties, so that, if any function was entrusted to them with their consent, by reason of which they necessarily received any money, they, upon payment of the amount remaining in their hands, will be released without molestation or fear of their status. 1. In fact, we ordain by this law that if anyone of them has voluntarily performed all curial burdens or functions or honors, without being compelled to do so, he shall, for his liberality, be made and appointed, if he wishes, father of the city¹ in which he became a voluntary curial (municeps).

¹ [Blume] i.e. curator. C. 10.32.30. The emperors evidently considered it dangerous to fasten the status of a curial on the children of a man who had voluntarily, without being bound to do so, undertaken to perform liturgies in a city or fill magistracies therein. That is evident from this as well as the succeeding law. It is apparent that there were some persons who were willing to perform curial duties, provided that the curial status should not devolve on their children. And to encourage such men to do so, their children were

Given at Constantinople November 9 (465).

10.44.4. Emperor Justinian to Mena, Praetorian Prefect.

We want persons who are exempt from curial condition, but who afterwards (voluntarily) become a member of the curia of a city, feel assured, that their posterity, not only those thereof who are already born, but also those thereof who are thereafter born, will remain exempt from such condition, whether such persons entered the curia under the special condition that their descendants should remain exempt from such status, or whether they said nothing about it. And no one shall dare to say that children born or conceived after such entrance should follow the condition of their father. For we have endeavored, by this special grace, to make persons more willing to bring such aid to cities, and we shall not permit the successors of such decurions to suffer any inquietude even as to a fourth of his property,² but such property shall be exempt from all curial burden. 1. If the deceased is shown to owe anything to the curia by reason of administering any curial liturgy, or by reason of the fourth that may at various times have fallen to the curia,³ or by reason of any other matter, the successors must, of course, restore this to the curials. 2. The provisions, however, not only by ancient laws but also by our sanctions, which have been made concerning natural sons whom a father has given over or shall afterwards give over to the curia, so that he may have legal successors both by testament as well as in case of intestacy, are excepted from the present law, and these natural sons, as well as the males procreated by them, shall follow the condition of their father, or, if no male children are left, a fourth part of the property of the deceased shall be assigned to the curia.⁴

made exempt, as here stated. Had such exemption not been granted, few men would voluntarily have entered a curia.

² [Blume] C. 10.35.1 and other laws of that title.

³ [Blume] Part of the property of such person might have been derived from a curial; if it was, it was subject to the same laws as other curial property.

⁴ [Blume] This subject as to natural, as opposed to legitimate, children, is fully considered in Novel 38, c. 1; and Novel 89.