

Book XII.
Title XXXVI (XXXVII).

Concerning special military property (*castrensi peculio*) of the soldiers and of the apparitors of the praetorian prefect (*praefectioni*).
(*De castrensi peculio militum et praefectianorum.*)

12.36.1. Emperor Alexander to Priscianus.

If your son was in your power at a time when you bought property on his account, it is clear that it belongs to you. 1. The movable things, however, which were given to the person enlisting in military service by the father, mother, relatives or friends, and the things acquired in camp by reason of the service are part of his special-military-property. 2. In this class also belong inheritances from parties with whom he could not have become acquainted except through the opportunity afforded by military service, though immovable property will be part of it. 3. But an inheritance from the mother, although acquired during service, is no part of such special property. 4. And it is clear, that a landed estate, received as a gift, is not part of such special property, though estates bought with special-military property is.

Published November 13 (223).

Note.

Whatever a son under paternal power acquired belonged, ordinarily, to the father, or other head of a household. But soldiers, and afterwards men in the civil service, were granted special privileges, under which they acquired certain property, obtained during military service, or while in the civil service, as their own special property which was not subject to the control of the father and which, accordingly was no part of the latter's inheritance when he died. The subject is extensively considered in headnote C. 6.60 and note C. 8.46.2. It is also mentioned at C. 12.30. The instant law is clear as to what property of a soldier became his own special property. It was called *peculium castrensis*, literally military-camp-property, so called because it was given by reason of the military service. The special property of those in the civil service was called *quasi castrensis peculium*, quasi-special-military property.

12.36.2. The same Emperor to Felix.

A son, under paternal power, has no right to alienate any property without the consent of his father, except when he has the property as special military property.
Published June 24 (224).

12.36.3. The same Emperor to Felicianus, a Soldier.

He errs, who persuaded you, that you were free from paternal power when you took your oath as a soldier. Soldiers remain under paternal power none the less, but the property acquired in camp is their own special property, over which the father has no control.

Published October 13 (224).

12.36.4. Emperor Gordian to Gallus, a Soldier.

Since you state that you were appointed as heir by your brother, your military comrade, it seems more in accord with justice that you acquired the inheritance rather as your own special property than for the benefit of your father in whose power you are. 1. For it is reasonable to believe, that the common trouble of marches, the comradeship in the service, the association in performance of duties, not only added to his brotherly affection, but also made each mutually dearer to the other.

12.36.5. Emperors Diocletian and Maximianus, and the Caesars to Philostratus.

You see that when a son in military service dies, his special property (peculium) remains in control of the father; it is not acquired by the latter as an inheritance.

Note.

The point here made was this: Did the father, upon the death of the son, and when the latter had no disposed of it by testament, come into possession of the special military property as an inheritance, or because he was the father of the son? If as inheritance, he might not be able to get it if he was, for instance, insane, and could not accept it. If on the other hand, he obtained, or as here stated remained in, control of it by reason of his right as father, he was not required to do anything whatever in order that it became his absolutely. See Cujacius on this law.

12.36.6. Emperors Theodosius and Valentinian to Zoilus, Praetorian Prefect.

We direct that the bureau clerks (scriniarii), as well as the stenographers (exceptores) and others, who have permission to serve on the staff of Your Highness, shall have the undiminished right to have their own special property (castensis peculii) just as if they served in the first assistant legion.

Note.

The office of the praetorian prefect was the highest civil office under the emperor, just as the 'first legion' was considered as the most honorable in the armed service. Hence service in the office of the former was considered of the same honor, as service in the latter. See note C. 12.52.3.