

Book XII.
Title LIX (LX).

Concerning various offices and apparitors of magistrates (judges) and concerning their certificate of appointment.
(De diversis officiis et apparitoribus iudicum et probatoriis eorum.)

12.59.1. Emperors Valentinian, Valens and Gratian to Severus, Master of the Forces.

If the praetorian prefect, vicar or rector of a province shall at any time show that one who is found subject to the position as a record-keeper and public accountant (*chartis ac ratiociniis obnoxius*) has passed over to (assumed) the position of provost of a military camp and of soldiers, the latter shall be returned to the office in which he is compelled to perform the duties as accountant. The place, from which he is expelled, should rather be assigned to a person who has signal merits on his side.

Given December 23 (371).

C. Th. 8.7.11.

Note.

This law furnishes another illustration of the caste system of the later empire. Persons were bound to their position, until they, in regular course of time, had fully performed their duties therein. Accountants could not fill the position of provost, or superintendent of a military camp. This speaks of those who were engaged with the *charta* and *ratiocinia*. The latter term signifies accounts; the former term probably something different, namely, 'public record.' But the distinction between a record-keeper and a person who kept accounts was probably not very marked.

12.59.2. Emperors Gratian, Valentinian and Theodosius to Eusignius, Praetorian Prefect.

No person who has faithfully performed his service and is absolved therefrom shall again assume the duties from which he is released without imperial permission. If any one has surreptitiously done so, he shall be punished by a fine of five pounds of gold. Given July 14 (386).

C. Th. 8.7.18.

Note.

The rule here stated that an official could not again occupy the office which he had once filled and from which he had been discharged was a general rule, several times stated in the Code. C. 12.23.5; C. 12.25.1; C. 12.26.1.

12.59.3. The same Emperors to Eusignius, Praetorian Prefect.

No apparitor of Your Amplitude, or palatine¹ shall be sent into the province in which he was born or in which he has taken up his residence, or in which he shall already have performed official duties, either on pretence of public necessity, or as a bailiff (executor) in connection with a private suit. 1. The aide (*primiscrinus*) of the office of Your Highness must, without delay, pay 3 pounds of gold into the fisc, if this order is violated, and the apparitor who permits himself to be assigned to such duty, shall be

¹ [Blume] These were the members of the official staffs of the counts of the imperial exchequer and of the crown domain. C. 12.23.

deprived of his position. 2. This punishment, too, is to be visited upon the others, so that, if a domestic,² protector,³ inspector of horses (stratus), imperial messengers (agents in rebus), or palatine official of either office, shall go to the province in which he was born or in which he shall have taken up his residence, to assume such unlawful duty, his name shall be stricken from the register and he shall pay a pound of gold into the fisc, and the aides (adjutores)⁴ of the palatine officials and the accountants (numerarii vel actuarii)⁵ of the illustrious counts (of imperial exchequer and crown domain) shall pay a pound of gold to the fisc, if these regulations are not obeyed.

Given at Milan December 3 (386).

C. Th. 8.8.4.

Note.

This law states the general principle that no official should be sent out to a province in which they were born, in which they lived, or in which they had previously performed public duties.

12.59.4. Emperors Theodosius, Arcadius and Honorius to Silvanus, Duke and Corrector of the Border of Tripales.

Persons of limited means are not forbidden to serve as apparitors.

Given at Constantinople March 27 (393).

C. Th. 12.1.133.

12.59.5. Emperors Honorius and Theodosius to Gracchus, City Prefect.

The apparitors who have been deprived of the girdle of their office on account of an offense or negligence, shall not be able to re-enter any imperial service. Not even by a rescript shall entrance thereto be unlocked for persons, and they are rightly visited with severe punishment, if they undertake to gain such position in contempt of the prohibition contained in the imperial constitution.⁶

Given at Ravenna July 25 (415).

C. Th. 8.7.20.

12.59.6. Emperors Theodosius and Valentinian to Hierius, Praetorian Prefect.

To the offices of the worshipful proconsul of Asia, the count of the Orient, the Augustal prefect and the vicars -- whom also we have admonished under a threat of 20 pounds of gold -- no person shall be admitted to otherwise than by a certificate of

² [Blume] The domestic and protectors were part of the soldiers at the imperial court. C. 12.17.

³ [Blume] The domestic and protectors were part of the soldiers at the imperial court. C. 12.17.

⁴ [Blume] It will be noted that the adjutor here mentioned was named primiscrinus in an earlier part of the law, and bears out the statement of 3 Bethmann-Hollweg 146, that they were simply different terms for the same officer. See headnote C. 12.54.

⁵ [Blume] Here actuarii and numerarii are evidently used synonymously. Both were accountants, the former term however, being ordinarily used for the accountants or book-keeper of military troops. See headnote C. 12.49.

⁶ [Blume] To a similar effect is C. 10.72.12.

appointment from the imperial bureaus. 1. And if any such person shall be convicted by you, he shall be visited with appropriate punishment and his unlawful acts shall be void. Given at Nicomedia June 22 (426).

C. Th. 8.7.21.

12.59.7. The same Emperors to Anatolius, Master of the Forces.

The privilege to fill a higher office will be granted to persons who shall have completed their term of employment by continuous labor, but only to those who seek higher service -- with the wish of acquiring honor - not to those who seek it with the object of gain, so that when placed in a more powerful position, they may hide their crimes previously committed, or commit other crimes with impunity.⁷

About 438-443.

12.59.8. Emperor Leo to Johannes, Master of Offices.

We direct that the worshipful dukes and their apparitors, and the border troops and the provosts of military camps shall be summoned only by order of the court of Your Sublimity, and shall not be subject to the jurisdiction of other judges, reserving, however, to the illustrious and magnificent masters of the soldiers, the customary powers long exercised by them on some of the borders of the Orient, of Thrace and of Illyria.⁸

12.59.9. The same Emperor to Hilarianus, Master of Offices.

We order that the members of the imperial bureaus (memoriales), the imperial messengers, the apparitors of the powerful prefecture of the Orient, the employees in the offices of the various judges (magistrates), shall be appointed in the usual manner by imperial certificate of appointment, and that not at random or pursuant solely to general (imperial) authority or patterns of certificates of appointment (kept on file); but only by authentic certificates of appointments subscribed by our own hand and granted at our discretion, so that no deception or fraud can be connected therewith. Only persons who profess the catholic faith shall be admitted. Persons in the service under other conditions -- unless they are persons whom ancient custom has permitted to be joined to the number of apparitors by reason of general authority alone -- shall, when the fraud is detected, pursuant to anyone's accusation, not only be ousted from the service obtained by fraud, but shall also suffer banishment and the loss of all of their property.

About 470.

12.59.10. The same Emperor to Erythrius, Praetorian Prefect.

We decree by this sanction that no one shall hereafter have permission to issue copies (of certificates of appointment) to those who are to be joined to any position in the imperial service which cannot be obtained without an imperial certificate of appointment, but, at the peril of the primates of every office, the authentic, original imperial certificate, containing a notation of our Piety together with the signature of the administrative offices under whose jurisdiction they will be, shall at the peril of the primates of each official staff be delivered to the appointee. Copies thereof, with the signature of the same judges

⁷ [Blume] See note C. 12.23.5.

⁸ [Blume] See note C. 1.31.4; note C. 1.46.2; note C. 3.13.6; note C. 3.13.7.

(administrators) are to be preserved in each bureau, as is proper. 1. Since it is well known, however, that the offices of certain judges (magistrates) are excepted from the foregoing rule as to certificates of appointment, we have thought it best, so that no occasion of any want of knowledge may continue, to add a schedule of those officials who must have an imperial certificate of appointment in order to enter official service. 2. We accordingly direct that persons who hereafter desire to serve in the imperial palace or in any other offices, but who, as has been said, and as is shown by the annexed schedule, cannot be employed in any such office except pursuant to previously issued imperial constitutions or custom, must obtain such employment by obedience hereof, and persons who by connivance or negligence attempt in any way to evade the regulation of the present imperial law will be punished not only by the loss of their goods, but also by capital punishment as though guilty of forgery. 3. And the schedule is as follows:

The imperial bureau of memorials (issues) the certificates of appointment of the imperial messengers (agentes in rebus) the palace officials of the imperial exchequer and of the crown domain. 4. The imperial bureau of letters (issues the certificates of appointment) for apparitors of the praetorian prefect of the Orient, of Illyria and of the city, for the apparitors of the proconsul of Asia and Achaia, of the Augustal prefect, the count of the Orient, the count of the imperial household lands, the vicars of Thrace, Pontus, Asia and Macedonia, and of the treasurers of the imperial exchequer. 5. Likewise the imperial bureau of petitions (libellorum) issues the certificates of appointments for the apparitors of the illustrious masters of the soldiers, of both infantry and cavalry, at the imperial court, of the Orient and of Illyria, for the invitation-officers at the imperial court (invitatores) the ushers, the employees in the imperial court (invitatores) the ushers, the employees in the imperial bureaus (memoriales) pages (paedagogiorum), keepers of provisions (cellarii), quartering-masters (mensores), for the torchbearers assigned to the imperial bureaus, for the palace servants of the empress (decani) for the courriers of the empress, for the apparitors of the worshipful dukes of Palastine, of Mesopotamia, of the new boundary of Phoenicia, of Osrhoena, Syria, Augusta Euphratensis, Arabia, Thebaid, Libya, Pentapolis, both Armenias, the two provinces of Pontus Scythia, the first and second Mysia, Docia and Pannonia, and for the apparitors of the worshipful courts of Egypt, Pamphylia, Isauria, Lycaonia and Pisidia.

Note.

The imperial bureaus were those directly at the disposal of the emperor or the quaestor. C. 12.7 and 19. With some exceptions, all appointments were required to bear the signature of the emperor, certificates being issued in his bureau. Three bureaus were employed instead of one, doubtless in order to distribute the fees connected with the issuance of the certificates of appointments. See the schedule of fees attached to Novel 8. The requirement that all certificates should be signed by the emperor was, of course, a requirement of precaution. It must not be supposed that he had time to examine them all, or to inquire who the various subordinate officials were. As to certificates of appointment for higher officials see note C. 12.7.1 and headnote C. 12.9.