

Book XII.
Title XLV (XLVI).

Concerning deserters and those who conceal them.
(De litorum et itinerum custodia.)

12.45.1. Emperors Gratian, Valentinian and Theodosius to Synagrius, Praetorian Prefect.

If any person, perchance, receives a deserter into his field and under his roof, and permits him to hide himself for long, the agent or procurator of the place, who does so knowingly and wittingly, shall be subjected to capital punishment, and the owner who had knowledge thereof, shall be punished by the loss of the estate where the deserter hid.

1. If any free born person of low station, exposes a deserter, he shall receive immunity from liturgies. 2. Nor do we speak only of those who were just recently enrolled under the fortunate standards, but feared the beginning of the service, but also of those who are shown to have kept away from military service secreting themselves in disgraceful hiding place. 3. A deserter is a person who is absent from the standards in time of war. But if such person reports voluntarily, he need not fear punishment for his previous offense. But if he cowardly conceals himself, he shall, when arrested by the person in whose house he is while the public officials also watch outside, be offered up to judicial severity, and meet a disgraceful death by the sword. 4. And if the rector of the province defers the lawful punishment, either through favor or delay, he shall lose his patrimony and good name, and the primates of his staff shall be punished by death.

Published at Rome July 15 (380).

C. Th. 7.18.4.

12.45.2. Emperors Arcadius, Honorius and Theodosius to Hadrianus, Praetorian Prefect.

If deserters when discovered shall undertake to resist and use arms they shall be destroyed as rebels in the very beginning of their attempt. The provincial judges must carefully investigate that they do not defend their crime of desertion by a false leave of absence (tractoriarum), or have opportunity of evasion through forged and fictitious letters (of discharge).

Given at Ravenna February 24 (403).

C. Th. 7.18.11.

12.45.3. The same Emperors and Longianus, Praetorian Prefect.

Persons who leave military service and engage in depredations and robberies, shall not escape the severity of the judge.¹

Given at Ravenna March 24 (406).

C. Th. 7.18.15.

¹ [Blume] See C. 3.27.1 and note; C. 12.36.13.