

Book XI.
Title XXXXI. (XXXX)

Concerning Spectacles, Actors and Procurers.
(De spectaculis et scaenicis et leonibus.)

Headnote.

Laws as to actresses are found in C. 5.4.23 and 29, and Novel 51.

11.41.1. Emperors Valens, Gratian and Valentinian to Hesperius, Proconsul of Africa.

We do not envy, but rather encourage, the embrace of pursuits which make a people happy, so that the giving of athletic contests may be restored. And if the leading men wish to win the good will of the people by such pursuits and pleasures, we gladly permit that to be done, in order to make the pleasure complete, at the expense of those who voluntarily wish to do so.

Given at Treves March 10 (376).

C. Th. 15.7.3.

Note.

These contests had been forbidden in Africa, and were restored by this law, provided that they were given voluntarily, so - as the law states - to make the pleasure unalloyed; that is to say so that part of the pleasure would be taken away by reason of the fact that these contests were not given voluntarily. Gothofredus on this law. As to contests and games, see C. 3.43; C. 10.54.11; C. 11.42.1 and C. 11.46.1.

11.41.2 (3). Emperors Gratian, Valentinian and Theodosius to Valerianus, City Prefect.

Whoever diverts to his own benefit and gain those horses which our serenity or the regular consuls have given to pleasures, shall be punished by a fine of a pound of gold.

Given at Treves April 24 (381).

C. Th. 15.7.6.

Note.

The law was originally addressed to the city prefect of Rome, as shown by the Theodosian Code, but as it stands in the Justinian Code, it applied to both capitals where the emperors furnished horses for chariot races. Two consuls were chosen by the emperors each year, so as to reckon the years by their name, and their main function during the empire was to give games for the pleasure of the people. The consulship was abolished in 542 A.D. Bury, 2 History of the Later Roman Empire 346, 347. Chariot races were very much favored, and people became divided into factions. See a description in Cass., Var. 3.21, in Hodgkin's Letters of Cassiodorus, and Bury, 2 History of the Later Roman Empire 71-74.

11.41.3 (2). The same Emperors to Valerianus, City Prefect.

Your illustrious authority will not inflict any punishment upon chariot drivers in sight of¹ (the people viewing) the games in the circus.

Given April 24 (381).

C. Th. 15.7.7.

11.41.4. Emperors Theodosius, Arcadius and Honorius to Rufinus, Praetorian Prefect.

If a picture of a pantomime in short dress, or of a charioteer in disorderly folds (of his dress) or of a contemptible actor is placed in public porticos or places in cities in which our portrait is usually hung up, it shall be immediately torn down, nor shall it ever be permitted to exhibit the pictures of indecorous persons in a decorous place. We do not forbid that to be done in approaches of the circus or in front of the stage of a theatre.

Given at Heraclea June 29 (394).

C. Th. 15.7.12.

11.41.5. Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

No judge (governor) shall attempt to take from one city to another or from one province (into another) any chariot horses, charioteers, wild beasts, or actors of any city, lest, while they unduly crave popular applause, they strain the public purse and interfere with the festivity to be held in all the various cities. If anyone disregards this order, he will be visited with the punishment which follows the violators of the laws.

Given at Constantinople August 6 (409).

11.41.6. Emperors Theodosius and Valentinian to Florentius, Praetorian Prefect.

We do not permit fathers or masters, who are procurers and who impose upon their daughters or female slaves the necessity of sinning, to enjoy the right of control or exemption from punishment in the commission of such a crime. 1. They shall, therefore, as punishment lose the right of control over them and they cannot acquire any property in this manner. And the slaves and daughters, as well as the persons hired out on account of poverty and whom an unhappy fate has brought to such condition, will be permitted to implore the aid of bishops, judges and defenders to be released from the bonds of their miseries. If the procurers insist on pursuing them, or compel the women to undergo the necessity of sinning, they shall not alone lose all control over them, but they also will be punished by exile in the public mines; this is less severe than when anyone is compelled, by a procurer, to tolerate the vile embraces which she does not want.

Given April 21 (428).

C. Th. 15.8.2.

Note.

Part of the original of this law is also found in C. 1.4.12. The trade of pandering or procuring seems to have been tolerated for centuries. We find it recorded that

¹ [Blume] Praeter; some of the texts have propter, which would give the law the meaning that on account of the games in the circus the chariot drives should not be punished. This is probably not the meaning as shown by Gothofredus on C. Th. 15.7.7, who explains the law to mean that no punishment should be inflicted upon these drivers in sight of the people. But see German translation and note.

Alexander Severus ordered that the tax on procurers and harlots apparently first imposed by Caligula, (Suet. Calig., c. 40) should be diverted to the maintenance of the theater, circus, and amphitheatre instead of being paid into the treasury. Lamp., Alex. Sev. 24. Theodosius the Younger prohibited, under severe penalty, retaining any woman in harlotry against her will, as shown by the instant law and especially by C. Th. 15.8.2, from which this law was taken. To the same effect is the next law. See also headnote C. 9.9 and C. 4.56 and notes. Justinian made a new law to curb and prohibit the trade in pandering. This law is known as Novel 14.

11.41.7. Emperor Leo.

No one shall hereafter exercise the trade of a procurer, nor shall any tax be paid into the treasury from such source. No one, therefore, shall prostitute any female, slave or free. If the persons who does so, is of low birth, he shall be sent to the mines or banished beyond the boundaries. If such person is in the employment of the state or has an honorable profession, he shall lose it together with his property. Actors (thymelici), too, shall refrain therefrom. If a female slave is prostituted, she may be claimed by anyone, free of cost, whether by man, woman, clergyman or monk. The higher and inferior magistrates, together with their official staffs must obey these provisions, under the penalty of corporal punishment and a fine of 20 pounds of gold.