

Book XII.
Title XVI.

Concerning life guards (silentiarii) and their captains (decuriones).
(De decurionibus et silentiariis.)

12.16.1. Emperors Honorius and Theodosius to Ursus, Prefect of the City, and Aurelian, Praetorian Prefect of the Orient, and Strategius, Praetorian Prefect of Illyria.

The captains of the life guards (decuriones) in our palace, after faithfully performing their duty and relinquishing their office, shall have the option to obtain from Our Majesty either the rank of Master of the Offices, as though they had actually officiated as such, or that of officiating illustrious counts of the domestics, so that this honor shall be in every way extended to them in adoring Our Serenity, and in connection with the salutation of administrative officers, and the other privileges of the aforesaid rank, as well as in our council.

Given at Constantinople October 31 (415).

C. Th. 6.23.1.

Note.

See headnote C. 12.5. The silentiarii, here translated as life guards, were thirty in number, with three captains (decuriones). Law 3 of this title. But there were, as may be inferred, supernumeraries. Dunlap, Grand Chamberlain, in Roman and Byzantine Studies 221. The regulars, however, only enjoyed the privileges granted by law 3 of this title. 1 Karlowa 850. They were, until later times, under the Grand Chamberlain (Dunlap, supra 220), although judicial jurisdiction over them was in the Master of Offices. Law 4 of this title. These officials were part of the officers serving under the emperor, at the palace. It was their duty to watch the palace, maintain order and silence at the meetings of the imperial council, and in and about the imperial apartments. So characteristic was the silence kept by them at the meeting of the imperial consistory, that they were called "silences" (silentia). Dunlap, supra 220, 221; 1 Karlowa 848, 850. They received a high rank, upon retirement from office, as noted in the instant law, and were what was technically called illustres vacantes. See C. 12.8.2. The candidate, upon investiture with the office, received from the hands of the emperor the golden staff which was the symbol of the office. Dunlap, supra 222.

12.16.2. The same Emperors to Venantius, Praetorian Prefect.

Every captain of the life guard (decurion), and every life guard (silentarius) shall be exempt from the duty of furnishing recruits or horses; he need not make any contribution (as a liturgy), which is generally asked; no authority, or necessity, shall impose any burden upon him.

Given at Ravenna March 8 (423).

C. Th. 6. 23. 2.

12.16.3. Emperors Theodosius and Valentinian to Flavianus, Praetorian Prefect.

Though captains of the life guard (decuriones) and life guards advance to a higher grade by fortunate promotion, all privileges which they received by former imperial order, shall remain in force by the direction of this law, and no general pragmatic

sanction shall affect them adversely. 1. No authority, however high, shall impose upon them the burden to furnish haulage on highways or byways or to furnish horses for byways (angarias vel parangarias vel paraveredos). We also exempt them from the mean (sordid) liturgies, from burning lime and from any extraordinary burden (superindicti). 2. Their houses, too, situated not only in this imperial city, but in any other place, shall be exempt from the duty of quartering guests of any rank whatever. They may come to the imperial court without call by the emperor. A fine of ten pounds of gold will be inflicted upon the judges of the provinces and their officials, if they undertake to ignore these orders of Our Majesty. 3. And we add, that when they have received their hoped-for rest, and shall be numbered among the illustrious senators, they shall enjoy the senatorial honor without any duty, and in the pleasure of their exemption fully enjoy their rank. It is understood, however, that only thirty life guards and three captains (decurions) shall attain these privileges, and they only, if they have faultlessly kept their watches (at the palaces) through thirteen continuous years.

Given at Ravenna March 24 (432).

C. Th. 6.23.3.4.

Note.

This and the preceding law granted certain privileges to life guards during their time of service and upon their promotion to other offices. The instant law mentions exemption from (1) furnishing horses, (2) furnishing recruits, (3) furnishing haulage for the post roads or for byways (C. 12.50), furnishing horses for travel of imperial officials on the byways, billeting or quartering of soldiers or officials. It also gave exemption from "sordid" burdens, although furnishing haulage and horses for byways was included in that term. C. 10.48.12. So, likewise, all of the burdens specifically mentioned, were probably included in the term "superindiction," but that term here probably simply included any other extraordinary burden. See note C. 10.17.1; headnote to C. 10.42.

The law mentions no exemption from personal liturgies. During the time of service in imperial offices, such liturgies were, of course, inconsistent with such imperial service, and would need no special mention in the laws (Kuhn 168), although the laws occasionally referred to the subject. See C. 12.54.1; C. 12.28.1. But the same exemption would not necessarily exist after retirement from office. If the official was not a curial, that of course gave complete exemption, but if he was of curial origin, then, according to the law of Justinian enacted in 529 A.D., found at C. 10.32.67, he was subject to such liturgy. Only a few exceptions remained.

12.16.4. The Emperor Zeno to Cosma, the Provost of the Sacred Bedchamber.

In order that the devoted life guards may not be dragged before various tribunals and thus withdrawn from their sacred duties, we order, that anyone who wants to sue a devoted life guard or his wife, either civilly or criminally, shall not cause them to be summoned except by orders of the excellent master of the offices.

Note.

The heads of departments had jurisdiction over their subordinates, withdrawing the latter from the ordinary jurisdictions. Note C. 3.13.7. The master of offices was not actually the superior of lifeguards, as noted at law 1 of this title. Still he was given jurisdiction in civil and criminal cases over them, as well as over their wives and children.

12.16.5. Emperor Anastasius to Polycapus, Praetorian Prefect.

We order that officiating life guards, though under paternal power of their progenitor, shall possess as their own special property (*jure castrensis peculii*) all salary, gains, gifts or inheritance which they have received or will receive by reason of their service or by any other means. Parents surviving them cannot claim or take it, and brothers or other heirs cannot, after the death of the parents, claim it, to be considered as part of the inheritance from the latter, for purposes of partition. For labors (of the life guards) should not bring increase or gain to others. 1. Upon the same ground and for the same reason, neither the position itself, nor the entrance money heretofore or hereafter paid for the position, either by the life guards themselves or by their parents or by anybody else, shall become part of the estate of such deceased parent, nor shall it be brought into hotchpot or charged up to the life guards. 2. They shall, further, be exempt from guardianship and curatorship, so that those who on account of their service to us, are not even able to give proper care and attention to their own matters, may not be compelled to manage the property of others. 3. Besides, the children of those who are decorated by the title of the worshipful counts or tribunes, shall not be compelled to take the office of praetor, against their wish. 4. All of these privileges are granted, not only to those now serving, but also to those hereafter joining the life guards, both during the time of their service, as well as after they relinquish their office.
(About 497-499 A.D.)

Note.

Certain offices in the imperial services were purchasable and that of the life guards and their captains was included, as appears from this and other laws. C. 3.28.30 and note; C. 8.13.27 and note, and Novel 53, c. 5; see C. 2.7.25 and note. Ordinarily the purchase money for this office (*suffragium*) was charged up to the person for whom it was bought, if bought by the father, but the life guards and their captains had special privileges not only in connection with that, but in connection with the right of lien by other parties. C. 3.28.30; Novel 53, c. 5.

To act as guardian or curator was among the liturgies imposed on Roman citizens. Headnote C. 10.32. Life guards and their captains were exempt from that.

The praetor at one time was the ordinary judge with plenary jurisdiction in all cases. But his functions had been taken over by the governors of the provinces, city prefect and other officers, and the main duty of the praetor in later times was to spend money on the exhibition of games or on public works, and the acceptance of the office was more or less compulsory. C. 1.39 and notes. Bury, 1 Hist. Later Roman Empire 18.