

Book XI.
Title XX.

Concerning imperial messengers.
(De agentibus in rebus.)

Headnote.

Agentes in rebus.

This term has been throughout translated as imperial messengers for want of a better term. They seem to have been the successors of the so-called *frumentarii*, secret agents sent to do espionage duties, whom, becoming hateful to the people, Diocletian discontinued, substituting others, however, in their place - namely the *agentes in rebus*, who in turn, as will be noted in note to C. 12.23.1, were discontinued as police officers, because of their corruption and because they had become hateful to the people.

These imperial messengers were almost like a department of the government by themselves. They formed what was called a *schola*, a department, 1248 in number under Leo, with supernumeraries waiting to take the places of those who passed out of their ranks. They were, it seems, at first, under the praetorian prefect, but under Constantine passed under the control of the Master of Offices. None could be admitted to the school without imperial sanction, and none could be removed without a like sanction.

C. 12.20.2 and 3. 2. Boak, Master of Offices 69, 70. Promotion in the ranks was regularly on the basis of seniority, although an exception might be made in some cases. C. 1.31.1 and 2; C. 12.20.1; Boak, supra 70. A list of the members was kept in the office of Master of Offices, and he was required to see that none except the proper number were kept on the registrar. C. 12.20.3.

They consisted of members of various grades; 48 *ducenarii*, 200 *centenarii*, 250 *biarchi*, 300 *circitores*, 450 *equites* (riders). These names represented the various grades.

Their duties were important, and were so considered, as may be seen by the honors which were granted them. They were employed to execute the emperor's commands, deliver imperial documents, provide escorts at the imperial pleasure. In short, they might be employed by the emperor for any service whatever. On account of this fact, they have herein been called imperial messengers. They were also used as messengers by the Master of Offices, and they acted as inspectors of the passports issued for the public post, being sent to the provinces for that purpose. Boak, supra 71, 72; C. 12.23.1 and note. Some of them, under the name of *curiosi* (C. 12.22), were annually, and for one year, sent into the provinces to act as inspectors of the imperial post and to see that the regulations in connection therewith were observed, two being sent into each province, with the exceptions of some years in the fourth century, when more were sent. At one time at least, they had acted as tax collectors. C. 10.19.1. As already stated, their services might be various. They acted as leaders of delegations to other countries; looked after locating troops; oversaw shipping in the harbors; enforced laws against heretics; executed criminals of high rank; supervised building and acted as record-keepers (*chartularii*) in the imperial bureaus. See generally, Hirschfeld, Kleine Schriften 624-645; 1 Pauly-Wissowa 776-779.

Princeps - chiefs.

The next title of this book deals with the chiefs of the imperial messengers, who were members of that corps of men, sent out to act as chiefs in other departments.¹

The Register of Dignitaries attests the fact that members of the department of the imperial messengers, generally doubtless from among those who had been ducenarii, were sent to act as chiefs of various official staffs. That is true in the case of the official staffs of worshipful magistrates. C. 12.21.1 and 2, also show that some of them acted as chief of the official staffs of the praetorian prefect and city prefect. According to the Register of Dignities, the whole official staff of the Master of Offices both of the West and of the East came from the members of the department of imperial messengers. The reason that these men were sent to act as such chiefs of the official staffs in the provinces was to keep the central government in touch with the latter. These men, being from among the imperial messengers, in a measure were separate and apart from the staff, and we, accordingly, find that some official staffs did not have any princeps at all. Headnote C. 1.27. They occupied, accordingly, a peculiar position, and that may account for the fact that they constituted a group by themselves, really belonging to the same department from which they went as chiefs, and therefore recognized as chiefs "of the imperial messengers." By reason of their peculiar position, imperial messengers were not taken from among men who had served on other official staffs. Thus the persons who had served out their time in the office of a duke could not become imperial messengers. C. 1.46.3.

12.20.1. Emperors Arcadius, Honorius and Theodosius to Anthemius, Master of Offices.

No one of the department (schola) of imperial messengers shall in the future attempt to usurp the place of a deceased member, but the person following him in rank in regular order of service and labor shall, as soon as the fates have carried off the decedent, succeed to the latter's emoluments, and all stealthy seizure of the position shall cease. Given at Constantinople June 30 (404).

C. Th. 6.27.14.

Note.

The rule here mentioned, that advancement should be in regular order, is stated in various places in the Code, as in C. 12.23.5; C. 12.25.1; C. 12.19.7. See Kuhn, Verfass. d. R. R. 159.

12.20.2. The same Emperors to Helion, Master of Offices.

No one, without authority from Our Majesty, shall hereafter have power to deprive of his girdle, or dismiss any of the imperial messengers. For the department (schola) which has received our approbation, should not fear punishment or insult, as if belonging to the common people (vilitatis) at the hands of a judge. Given at Constantinople November 11 (415).

12.20.3. Emperor Leo to Patricius, Master of Offices.

We direct that those who keep the register of Your Highness containing the names of imperial messengers, shall not hereafter have more than 48 ducenarii (second in rank)

¹ Blume inserted a question mark in the margin here.

on the list; the number of centenarii (third in rank) who are admitted in regular order to this grade shall consist of 200; in like manner the name and service of biarchus (fourth in rank) shall be limited to 250; that of circitor (patrol) to 300 and that of the troopers (equites) to 450. 1. Let the following arrangement, too, of Your Sublimity be fixed and stable unto eternity, that if any one of the ducenarii, who shall annually consist of 48, should, perchance, leave the light of day, his successors on intestacy and testacy shall, as a solace, receive the fruits of his labor and enjoy all emoluments of his remaining time, as if he had lived, and had claimed as his own the things for which he long had hoped; for this reason it is proper that his place shall be left open for the benefit of his heirs (till the following year). 2. No one, moreover, shall enjoy the stipends and privileges of the devoted department (schola), without an imperial warrant shown in the register of our imperial bureau of memorials.²

12.20.4. The same Emperor to Patricius, Master of Offices.

From the time on that those serving in the department of imperial messengers first reach the grade of ducenarii or centenarii, they shall not, if they are located in this holy city, be sued by the order of any judge, or respond to the action of their adversaries in any court, except the Magnificent Master of the Offices, unless, perchance, the latter has delegated authority to another. This shall be particularly followed in criminal causes; for it would be absurd that anyone should decide concerning the safety and honor of another, whose pecuniary matters even cannot be adjudicated by him. This privilege shall be extended also to their assistants whom they may have at various times, although we have learned that it has already been extended to them by former custom. After (the imperial messengers, however) have relinquished their office, they are, unless numbered among the centenarii, subject to the law applicable in ordinary cases. 2. We forbid, the centenarii, however, who are in the provinces to use the special privilege here granted, unless the care of the performance of a public duty, has been enjoined upon them, so that we direct that they must obey the orders of the ordinary judges (governors) according to the ancient law (applicable in such cases).³

Note.

The imperial messengers were under the control of the master of offices, and he, therefore, according to the general rule, had jurisdiction in all cases, civil and criminal, in which they were interested. He had the right, however, to refer the cases, that is to say, delegate someone else to try them. See note C. 3.13.7. But see C. 12.22.3, showing that the above did not apply when they were in the provinces.

Unless the men from the imperial court were engaged in public duties, they were subject to the jurisdiction of the provincial governor, who was the "ordinary" judge, with plenary jurisdiction.

² [Blume] See also C. 12.59.10.3.

³ At the end of this manuscript volume, Blume wrote: "Reconcile 12.20.4 and 12.23.3?"

12.20.5. The same Emperor to Patricius, Master of Offices.

We decree by this law, to be in force forever, that of the imperial messengers, who in regular order usually reach the insignia of the position of chief, four⁴ shall, in regular order, serve as assistant chiefs (subadjuvae) for the period of one year only, (one) in each of the bureaus of the arsenals and embroideries in gold (barbarorum) excepting (herefrom) however all merchants carrying on any kind of trade either personally or thru third persons, since they have by previous imperial constitution been forbidden to be in the imperial service; and excepting those who have undertaken the care and management of the possessions of others. For we want these offices to be occupied by those, whose labors have been approved by the testimonial of the department of imperial messengers. 1. Those, too, are to be excluded from this bounty of Our Clemency, who, while associated with the same department, are occupied in the imperial bureaus over which the worshipful primiscerius (chief) and tertiocerius (assistant chief) preside, aiding them, in drafting public documents, for they cannot do work in two offices; and aside from the emoluments which they receive from the aforesaid bureaus, they ought to be content with the solace of being chief. 2. But if, taken by sickness or old age, or inexperienced in such matters, or hindered for any other reason, they are unable to fill the duty of the above mentioned office, then, in consideration of their former labor, they may, at their own peril and on the responsibility of their own property, fulfill the aforesaid through a substituted chartularius (keeper of records) of the same bureau, in which he himself is about to become a chief, who is suitable, of good moral and possessed of knowledge, skill and experience.

Note.

Four chiefs among the imperial messengers were annually chosen for a year's service as subadjuva in the bureaus of arsenals. These bureaus were departments in the office of the master of offices, and at the time of the enactment of this law, there were evidently four of these bureaus, the subadjuva was doubtless the chief thereof, and he had assistants under him, among them chartularii - record keepers. Four were also chosen to act as subadjuva in the bureaus "barbarorum," which means the bureaus of foreigners, keeping account of the expenses in connection with legations sent to the capital. Probably the bureaus of barbaricarium were meant, which assisted the master of offices in the supervision of the imperial factories for the making of goods interwoven with gold, pearls and precious stones, the workmen therein being called barbaricarii. The Register of Dignities enumerates four of these bureaus in the office of the master of offices in the East. See Boak, Master of Offices 102, 103. It will also be noted that some of the imperial messengers helped in the imperial bureaus, under the primicerius and tertiocerius, by whom probably the chief and assistant chief of these bureaus were meant. Acting as subadjuva in the bureaus of arsenals and embroiderers in gold was evidently a privilege. In case of inability to perform the duty of adjuva, by reason of unavoidable accident, the post might be filled by the imperial messenger through one of the subordinates in the bureau, of which he was to become subadjuva - chief, as stated in the

⁴ Blume wrote in the margin here: "How could four become chief in one year? This appears to be C. 12.21.1 in Scott, where he agrees, essentially, with Blume. See 7 [15] Scott 263.

later part of this law. When he thus acted through a substitute, he himself, doubtless, drew some of the emoluments.

12.20.6. Emperor Anastasius to Celer, Master of Offices.

By this very salutary ordinance we order that the imperial messengers shall enjoy the benefits heretofore granted by imperial ordinance to those who are occupied in our service in connection with the payment of fees to process-servers for summons and in connection with the amount of expenses which they should pay in suits against them, or brought by them against others either directly or through procurators appointed by them; and they shall (only) be compelled to give a suitable surety from among their department, but not a stranger. 1. The privileges, however, which have by imperial orders, heretofore been granted to centenarii, ducenarii or chartularii (record-keepers), or to the chiefs (principes), even after they have relinquished their office, and which are still observed up to this time, shall be kept unimpaired and inviolate, since it is absurd and foolish to concede that this bounty of Our Piety could be shrewd interpretation be construed to be a decrease of privileges rather than an increase thereof. 2. A similar rescript in favor of their mothers, and also their children still within their control and who have not chosen or are not about to choose other employment is to be respected. 3. And the aforesaid persons who live in the provinces shall also enjoy a similar privilege, paying, however, (only) the third part of the above mentioned fees and costs of litigation. Those who shall in any manner or at any time violate our orders, or permit them to be violated, shall pay a fine of ten pounds and be visited by even severer punishment.