

Book XII.
Title XXXVII (XXXVIII).

Concerning the distribution of the supply for soldiers.
(De erogatione militaris annonae.)

12.37.1. Emperor Constantius and Julian, Caesar, to Helpidius, Praetorian Prefect.
A constant custom has shown that our soldiers when on an expedition, receive (hard) biscuits and bread, wine also and sour wine, as well as ham and mutton as follows: Biscuits for two days; bread on the third day; wine on one day, sour wine¹ on another; ham on one day; mutton on two days.
Given at Hieropolis May 17 (360).
C. Th. 7.4.6.

12.37.2. Emperors Valentinian and Valens to Secundus, Praetorian Prefect.
We order that the soldiers shall gather their fodder (paleas) as far as from the twentieth mile stone and no farther.
Given at Edessa September 27 (363-364).
C. Th. 7.4.9.

Note.

The Emperor Julian had directed soldiers to go as far as twenty miles in order to get food for animals. C. Th. 7.4.7. The purpose was twofold, first, to keep soldiers busy, and second, to relieve provincials who would otherwise be compelled to furnish the necessary fodder. By the foregoing law, soldiers were somewhat relieved, in that they were not compelled to go farther than twenty miles. But the law in substance is the same as C. Th. 7.4.7.

12.37.3. The same Emperors to Victor, Master of the Forces.
Soldiers and their superiors must not dare to take any money on account of the cost of food² from the provincials.³ Soldiers must take notice, that they receive the necessary things through the distribution of supplies, and they must not also burden provincials.
Given at Bonomansio December 27 (364).
C. Th. 7.4.12.

12.37.4. The same Emperors and the Emperor Gratian to Auxonius, Praetorian Prefect.
You will order the provincials to bring the food supplies (annonas) to the borders near them, as we have wisely directed to be done on all borders. Soldiers stationed in veteran camps may take two-thirds of their necessaries from store houses there, and shall not be compelled to haul more than one-third.

¹ Blume originally translated this and the same word above as “vinegar” then stuck both and penciled in “sour wine?” Scott has “vinegar.” See 7 [15] Scott 286 (where this is C. 12.38.1).

² [Blume] See also Gothofredus on C. 5.7.9.3.

³ Blume penciled a question mark in the margin here.

Given at Marcionopolis May 3 (369).
C. Th. 7.4.15.

Note.

See C. 10.16.6, where it is shown that it became the policy to have necessary products for soldiers hauled by the provincials who were able to do so with the least trouble. Store houses were established all along the borders of the empire and in the interior (C. 10.26.1), and supplies kept therein. Thus Capitolinus (c. 28) writes of the third Gordian: 'So excellent was this man's management of public affairs, that there was nowhere a border city of major size, such as could contain an army and emperor of the Roman people, that did not have supplies of cheap wine, grain, bacon, barley and straw for a year; other smaller cities had supplies for thirty days, some for forty, and not a few for two months, while the very least had supplies for 15 days.' See also C. 10.26, and Humbert, 2 Essai 40.

12.37.5. The same Emperor to Probus, Praetorian Prefect.

Unless the bookkeepers (actuarii) deliver the tickets for supplies (pittacia authentica) immediately at the expiration of thirty days, they must make good from their own property, either to the soldiers or to the fisc the supplies which they neglect to exclude from the fiscal storehouses⁴ or fail to deliver to the troop of soldiers, whose accounts they keep.

Given at Sirmium April 8 (370-373).
C. Th. 7.4.16.

Note.

It is shown at note to law 9 of this title that the military supplies were under the control of civil officers, who made proper provisions that the supplies would be on hand, having become acquainted with the needs of the army through quarterly reports sent by army officers to the praetorian prefect. The main supplies were kept in storehouses, located along the borders to supplies the soldiers there, and located along the post-roads in the interior. Special men were in charge of the storehouses, but who were, probably, under the general control of the receiver-general in the province. At times provisions were furnished to soldiers which had not yet been stored (law 18 of this title), and in such case the local receivers of taxes were probably in control of these provisions and let it be paid to the army. Baked bread was probably in charge of a special man.

Optio.

The person directly in charge of getting the supplies from the keeper of the storehouse was the optio,⁵ a civilian connected with the army, and who may be called the commissary of the army, and who was paymaster in a limited sense, for he made requisition on the keeper of the storehouse and made distribution among the soldiers. Whether he was one of the men referred to in law 16 of this title termed "erogator," paymaster or distributor, and who was directed to pay or distribute with his own hand, is doubtful. Gothofredus on C. Th. 7.4.1 says that the optio was the person who demanded

⁴ [Blume] They might spoil? The tickets were given out monthly. G. [Presumably Gothofredus.]

⁵ Blume penciled in here: "but see Actarius in 1 P-W 302."

the military supply from the susceptor, which he afterwards paid out, distributed to the soldiers, tribunes and prefects. 'In short, the optio was the paymaster of military supply.' It is said in Procopius 4.20: "There was a certain Gezon in the army, a foot soldier, optio of the detachment, to which Solomon belonged; for thus the Romans called the paymaster." Again in Procopius 3.17, it is said of such person: 'Who was in charge of the expenditures of the general's household; such a person the Romans called Optio.' Joseph H. Drake in 'The Principales of the Early Empire' in 'University of Michigan Studies' vol. 1, 325, says of the optio: 'This official, as described in the Code of Theodosius is a collector and distributor of grain supplies for the troops.' This is probably correct, even of Justinian's time. That the distribution of money, however, among the troops, was, at least at times, in charge of another official is clear from C. 12.37.14, where an 'opinitor' is directed to make certain money payments, and from C. 12.37.16, which speaks of an "erogator," "paymaster," who was required to travel a great distance, to pay money to the army, and who, accordingly could not well be the 'optio,' commissary, who was required to be with the army constantly. In Novel 130, it is said that the optiones connected with the army shall accept supplies in kind and distribute them among the dukes and soldiers, retaining a fifteenth part for their own benefit, as a compensation, and that they shall issue receipts to the persons from whom they received supplies. Thus it is clear that while these commissaries received the supplies from the storehouses, if the army was in camp, they received them from the people along the route of the march, if the army was moving. And in as much as he would not in such case alone be able to do the work required of him, certain other persons, called delegatores, agents were also required to look after the supplies. Nov. 130, c. 1. This office of optio, commissary, was distinct from that of the primipilares, mentioned at length in the note to law 9 of this title, who was an official connected with the staff of the governor of a province, and whose duty likewise was to see that the army was supplied with provisions, and who, therefore, also was a sort of commissary, called Governor's quarter master to distinguish him from the optio. One if not the main reason why the bookkeeper was required to issue requisitions-lists promptly was because there was always danger that the supplies might spoil -- a reason, too, for the succeeding law. See generally Humbert, 2 Essai 41; 108; Gothofredus on C. Th. 7.4; and see note to law 9 of this title; and Novel 130.

Actuarius (bookkeeper).

Seek in 1 Pauly-Wissowa 301, 302, says that the actuarius was daily required to receive from the susceptores (agents of municipalities for paying out military supplies -- note Gothofredus C. 7.4.1) the taxes in kind, as against receipts (pittacia authentica) issued by him, and to divide the supplies among the soldiers. C. Th. 7.4.11, indeed, shows that the susceptor received the pittacia authentica from the actuarius. The pittacia authentica here mentioned are probably the same as breves, also referred to in law 9 of this title, which in short means 'lists.' Note Gothofredus to C. Th. 7.4.11. Perhaps, they consisted of requisition-lists, containing the names of the soldiers and the amount to which each was entitled. It also appears from law 9 of this title that apparently actuarius, or the optio, paymaster hereafter mentioned, received supplies. Still the statement by Seek seems somewhat too broad, although the actuarius may at times have acted as paymaster. The actuarius really was the bookkeeper of a troop of soldiers consisting of

200-400 men. Both Gothofredus and Cujacius agree on this, and that seems to be true. It would, therefore, seem that he issued lists, requisitions, as above stated, leaving the actual payment and doling out of the supplies to the optio, the paymaster, through the susceptor, the paymaster identifying the men, and perhaps acting as a check in other matters, although, as stated before, the actuarius may at times have acted as paymaster.

12.37.6. Emperors Valens, Gratian and Valentinian to Modestus, Praetorian Prefect.

Our brave and devoted soldiers shall take their personal supplies and their provisions for their horses from the granaries each day, or at least within the proper time, that is, before the expiration of the year; and if they intentionally delay to take what is due them, the supplies not taken at the proper time, shall become the property of our fisc.

Given at Antioch April 4 (377).

C. Th. 7.4.17.

12.37.7. Emperors Valentinian, Theodosius and Arcadius to Rufinus, Praetorian Prefect.

No one of the soldiers shall be permitted, upon declining to receive the supplies assigned in the provinces, at the proper time, when there is an abundance, demand the price of them in time of scarcity for which occasion he has waited. So that if anyone neglects to receive the offered supplies on account of abundance during the year, and afterwards wants the property previously rejected, in money, at a price fixed on account of scarcity, he shall neither collect what he demands contrary to law, nor receive what he previously failed to accept.

Given at Constantinople July 29 (393).

C. Th. 7.4.20.

12.37.8. Emperors Arcadius and Honorius to Hilarius, Praetorian Prefect.

It behoves us to look after the interests of the provincials. Your Sublimity will therefore notify the tribunes of all the divisions or squadrons as well as of the scholarians,⁶ or the illustrious counts to remember that hay is to be furnished to the soldiers in the legal amount according to the law of Valentinian⁷ and is not to be hauled to town.

Given June 16 (396).

C. Th. 7.4.23.

Note.

While the provincials, according to the foregoing law were compelled to furnish fodder to the troops, they were not compelled to haul it to town.

12.37.9. The same Emperors.

Your Excellency will cause the amount of distribution made by the Receivers (susceptores) to be compared with the quantity stated in the registers, and the day on

⁶ [Blume] The Scholarians were a picked body of men, 3500 strong, part of the troops of the imperial palace, and who accompanied the emperor on his journeys. They were better equipped and better paid than the ordinary soldiers, and were commanded by a tribune who was generally a count of the first rank. Bury, 1 Hist. Later Roman Empire 37.

⁷ [Blume] This law is not extant.

which distribution has been made to the soldiers must be carefully examined, and if it appears that the bookkeepers (actuarius) or paymasters (optiones) have received more than stated in the registers in our bureaus said persons shall be compelled to return twice the amount, while the receivers (susceptores) shall be credited with the amount which they show to have paid out upon demand of the former (the bookkeeper and paymaster). 1. And rescripts have also gone out to the illustrious masters of both forces in which we have wisely ordered that lists (breves) made with the greatest fidelity and accuracy should be sent to our bureaus before the beginning of the tax year (indictionis), according to which distribution should be made by the receivers (susceptoribus).
Given at Constantinople March 25 (398).
C. Th. 7.4.24.

Note.

The susceptor mentioned in this law was the civil officer, who had in his control the money or property that was turned over to the army, through the mediation of the optio, the paymaster or quartermaster of the army. It is evident that a report was made probably four-monthly, by the susceptor of the amount which he had turned over. The date of payment was carefully examined, for the purpose, of course, of determining whether or not there were as many men on the payroll as shown by the payments made by the susceptor. This payroll was on record in the office of the praetorian prefect. The latter part of the law, which required the masters of the soldiers to send a report before each indiction, doubtless contained a list of the soldiers and officers, and the susceptor paid accordingly to this report so made, thus preventing any fraud on the part of the bookkeeper and the paymaster, the optio.

It is apparent, however, that considerable changes might occur during a year in the personnel and the number of the soldiers by reason of death or otherwise. That fact itself was recognized in the foregoing law, for it provided that the susceptor should be held harmless if he paid out according to the requisition made by the bookkeeper and the paymaster of the army, and it doubtless could be shown by the latter that in fact the list in the office of the praetorian prefect was not a true list. To correct this situation to some extent, four-monthly reports were subsequently required to be sent by the tribune of each troop of soldiers and other officials. This law, shown in C. 1.42.2, is thought to date from the time of Anastasius. This report doubtless contained a list of the officers and members of the troop and the amount of pay required. It is not certain whether it also was required to show the list of officers and soldiers in the preceding four months and the amount of pay disbursed, but is probably did. A law shown in C. Th. 11.25.1, dated 393 A.D., required the apparitors of the duke of an army to make a report, apparently containing the amount disbursed, to be compared by the governor of a province with the amount shown in his office to have been paid out, and the two reports, one from the duke and the other from the governor's office were subsequently to be compared in the office of the praetorian prefect. And it is not unlikely, therefore, that the report above mentioned of the tribune and other officials, also was required to show the disbursements, that is to say, requisitions made in the preceding four months, as well as a list of the members of the troop at that time and the necessities of the future four months. Our information, however, on the subject is not definite.

In any event the reports of the army officers were checked with the reports of the civil officers, so as to prevent any fraud. Who the susceptor mentioned in this law was is

not quite clear. This officer appears as a receiver of taxes in the various municipalities. There were also receivers-general in each province, one connected with the crown domain, one with the imperial exchequer. C. 10.72.13. The military magazine in the province was probably under the latter's control, and he doubtless was the one who made the report here mentioned, taking into consideration therein the amount that was paid in the various localities instead of from the magazines, as mentioned in law 18 of this title. That reports of receipts were made is shown in C. 10.23.1 and 3. On account of the fact that the main work of the receiver general was to look after collections, he could not, of course, be personally present at the magazine to turn provisions over to the paymaster of the army. That necessarily was required to be done by someone else. The magazines were in direct charge of a special man, called *praepositus*, prefect or provost. See C. 10.26 and C. 10.72 and C. Th. 12.6. And he, necessarily, was sort of a receiver, but in as much as all receipts in a province were probably under the more or less direct control of the receiver-general, it is not unlikely that the prefect of the military magazines was his subordinate, although we have no direct evidence to that effect.

Primpilaris. Another official should be mentioned in this connection, whose duties are not specifically stated, but which may be inferred from the laws, and that is the *primpilaris* called Governor's quartermaster to distinguish him from the *optio*, commissary, mentioned in law 5 of this title, and note. That he became responsible to the fisc is stated in C. 4.9.1. Privileges are mentioned in C. 12.62. The Governor of a province was the general supervisor of the income and expenses in a province. It was his duty to see that soldiers were able to receive the supplies which they needed. These supplies, if not used locally were carried to granaries or magazines. Someone, necessarily, was required to supervise the operations which insured the necessary supplies at the proper places. That duty seems to have been imposed upon the *primpilaris*. C. 12.57.3 and 7 show that he looked after the food supplies of the army. C. Th. 8.4.6 shows that it was his duty to supply the army on the borders with food. He seems to have been the provincial apparitor who had reached certain high position in the staff of the governor of a province, and he was not free from duty, till he had filled the office here mentioned. C. 12.57.3 and 7. Kuhn, *Verfass. d. R. R.* 170-174, says that he had reached the position of chief in the office of the provincial governor; further, that this office at times looked after the imperial post. According to C. 1.3.27, a *primpilaris* could never become an ecclesiastic and continually remained subject to public duties and the orders of the praetorian prefect.

12.37.10. The same Emperors to Eutychianus, Praetorian Prefect.

We order that from the month of November new wine be given as a supply to all troops⁸ and soldiers throughout the provinces, since supply of old wine seems to be harmful.

Given at Constantinople May 23 (398).

C. Th. 7.4.25.

⁸ Blume wrote this in above the typewritten "divisions" without striking the latter. Scott merely has "soldiers." See 7 [15] Scott 288 (as C. 12.38.10). Also, at the end of this manuscript volume, Blume wrote: "12.37.10—harmful or expensive?" [Scott has "expensive." 7 [15] Scott 288 (in C. 12.38.10).

12.37.11. The same Emperors to the provincials of the proconsular province.

The opinatores, that is to say, those who urge the collection of the military food supply shall have nothing in common with the provincials, but they shall demand from⁹ the governors (judicibus) or the provincial official staff that the whole amount of the sum due be collected within the space of a year.

Given at Milan March 31 (401).

C. Th. 7.4.26.

Note.

In order to insure the prompt collection of taxes, special men were sent out from the capital to keep after the provincial officials, urging them to look after the collections.¹⁰ See C. 10. 19. 7.; and see C. 12.38.1 The opinator was such special messenger, who looked after that part of the taxes or supplies, destined for the army. This official was also mentioned in C. 10. 19. 7; and see C. 12. 38. 1. That official also at times acted as paymaster, probably only in exceptional cases, or perhaps only in cases where money instead of supplies was paid. See law 14 of this title. See full discussion, Gothofredus on this law.

12.37.12. The same Emperors and Theodosius to Anthemius, Praetorian Prefect.

The seven-days' supplies of soldiers, which the tribunes remaining in camp are accustomed to receive¹¹ as a gift under the name of stillatura, shall not be paid for in case at a valuation other than that of the goods in the open market.

Given at Constantinople April 9 (a. 406).

C. Th. 7.4.28.

Note.

The stillatura was a gift made by soldiers to the tribunes; probably at first exacted, but a customary payment during Justinian's time, and as early as 406 A.D., when the constitution found in C. Th. 7.4.28, (from which the Justinian law was partly taken) was written. The gift was probably for leave of absence given to the soldiers. C. 1.27.2.9.¹² Lampridius (Alex. Sec. 15), says that the emperor Alexander Severus punished by death tribunes taking such gifts from the soldiers. Pescennius Niger did likewise. Spart., Pesc. Niger 3. This furnishes a curious example of how an act punished by death in one generation may become an act considered proper in another. The gift mentioned became limited by law, at some time or other, to the equivalent of a week's supply of the soldiers; it was, however, paid in cash, the amount of which was determined by that which the

⁹ Blume wrote in the margin here: "from or by."

¹⁰ Blume penciled-in at the top of this page: "Optio - ordinary collector, opinator - extraordinary collector. G." [Presumably Gothofredus.]

¹¹ The typed original reads: "The seven-days' supplies of soldiers, remaining due (resistentes), which the tribunes are accustomed to receive." Blume also questioned the meaning of "resistentes" in a note at the back of this manuscript volume, wondering whether it mean remaining in station and referring to the German translation and note. Scott varies substantially: "For the seven days during which the praetorian tribunes are authorized to obtain provisions at a low price..." 7 [15] Scott 288 (where it is C. 12.38.12).

¹² Blume added a question mark in the margin here.

week's supply would have brought if sold in the open market. Some abuses in that regard had arisen. See Humbert, 2 *Essai* 44; also Cujacius on this law. By C. 1.27.2.9, which related to Africa, this gift was forbidden.

12.37.13. The same Emperors to Anthemius, Praetorian Prefect.

Again we order by this law, that if any soldier shall again attempt to demand the forbidden payment of supplies, or shall dare to change the fixed amounts of money payments, the worshipful duke shall be fined 100 pounds of gold and his staff shall meet with a like condemnation, in addition to the punishment for sacrilege, which clearly follows the violators of imperial orders.

Given at Constantinople March 23 (409).

C. Th. 7.4.30.

Note.

The foregoing law applied only to Palestine. There the soldiers received only money and no supplies. Hence supplies could not lawfully be demanded. Gothofredus on this law. See also C. 12.37.15; C. 12.37.19.3.

12.37.14. The same Emperors to Constantius, Master of the Forces.

The scholars, whom, in view of their labors, we shall put in command of troops, shall without delay receive from the special paymaster (opinator) for food supply paid in money (aerariae annonae) a solidus (a day) and also the ration for fodder due them for the time of their administration, whenever payment is made to the soldiers, and if one of them shall die before receiving payment, the amount due from either source shall be paid to his heirs.

Given November 19 (414).

C. Th. 7.4.34.

Note.

The Scholars are mentioned at note law 8 of this title. The instant law (C. 12.37.14) dealt with payment to Scholars who had been made tribunes of troops. The opinator was directed to pay them one solidus per day in money; they further received rations for fodder (cabellationis). The official called opinator was mentioned at note law 11 of this title. He was a special collector, and at times, seems to have been paymaster, at least of salaries paid in money (aerariae annonae). See Gothofredus on this law.

12.37.15. The same Emperors to Asclepiodotus, Praetorian Prefect.

All food supplies (salaries), usually assigned to members of official staffs and to the aides of the imperial palace, and of the imperial bureaus, and to the other assistants of all dignitaries, and which the men sent to collect them, harshly, greedily and without restraint have been accustomed to extort from the provincials, shall in pattern of the soldiers etc.,¹³ be converted into money, and Your Highness will direct that the

¹³ This clause has been penciled in and is hard to read. Scott translated this phrase as: "shall be estimated in the same way as the supplies issued to the soldiers from the Department of Subsistence..." See 7 [15] *Scott* 289 (where this law is C. 12.38.15). At the end of this manuscript volume, Blume wrote "part left out."

emoluments due to the above mentioned persons shall, for the public good, be valued and paid in money.

Given at Constantinople February 14 (423).

C. T. 7. 4. 35.

Note.

See C. 1. 52. On account of the depreciation of the currency, payment to soldiers and civil officials were by Diocletian made in kind, food supply for men and fodder for horses. That continued for some time, and thereafter in some cases it was positively forbidden to ask for money instead of supplies in kind. See C. Th. 7.4.1 and 18. Gradually, however, payments were made in money, payment in kind, as we saw at law 13 being forbidden to the soldiers of Palastine. In 365 a law was passed whereby border troops received one-third of the pay due them in money. C. Th. 7.4.14. Payment to civil officials in money finally became general, as shown by the foregoing law and by C. 1.52.1. See generally 1 Karlowa 854; Humbert, 1 Essai 375, 2, 39; 3 Bethmann-Hollweg 71.

12.37.16. Emperor Anastasius to Longinus, Master of the Cavalry and Infantry.

By this imperial order we direct that the members of the official staff of Your Highness, to whom the distribution of military pay or any other payment is committed,¹⁴ shall first swear that they will execute the charge enjoined upon them in accordance with justice. 1. And the paymaster (erogator) shall, pursuant to this beneficial order, as has been said, pay the public emoluments to each soldier with his own hand and without any deceit or fraud, so that each soldier, may, when he has received his pay with his own hand, act in accordance with the principle of justice in transactions with the bookkeeper (actuarius) in which the latter is permitted to engage.¹⁵ 1a. And this, too, is to be observed, the bookkeeper is permitted, whether the debt is paid immediately or in a year or in two or more years, to bargain for interest at less than 33 1/3% in proportion to the shortness of time. 1b. But no bookkeeper is permitted to bargain for more interest than (33 1/3%) for any length of time or period of years whatever, and he cannot charge any greater interest by any trickery on account of any length of time. 1c. If, at the time of payment of the military pay a dispute arises between the bookkeeper and the soldier as to an agreement or transaction, then the money due to the soldier shall be paid over to the staff officers, and shall not, according to past custom, be retained by the paymaster (erogator) or bookkeeper, and the dispute between the bookkeeper and the soldier shall, with the bible before them be determined by the devoted staff officers, so that the soldier may not under any pretext, be compelled to pay anything except the amount which he owes pursuant to a legal transaction with the bookkeeper. 2. In the case of those who happen to be away on leave of absence -- and only thirty are by an imperial constitution permitted to be absent at one time -- whose tickets (pittocia), in connection with which an agreement was made the bookkeeper produces at the time of payment, the money to be paid to these men, not to exceed thirty, shall be deposited with the staff officers, so that,

¹⁴ [Blume] This was perhaps not the optio mentioned in note to law 5 of this title.

¹⁵ [Blume] This evidently refers to loans made to the soldiers by the bookkeeper, and who evidently had been charging exorbitant rates of interest. This constitution, therefore, undertakes to remedy this evil.

when these soldiers return the interests of both parties may be protected upon trial of the case before the devoted staff officers in the manner above set forth. No permission is to be given to the officiating tribune to send away, on leave of absence, more than thirty men. 3. But if the tribune shall dare to send away more than thirty men on leave of absence, contrary to this beneficial constitution, then the money which was to be paid to men above the number of thirty, away on leave of absence, must unhesitatingly be paid by the paymaster into the public treasury. 4. And the tribune must take notice, that aside from the punishment already fixed for such offense, he must, from his own means, pay to every soldier above the number of thirty, who he has caused to lose their pay, by sending them away on leave of absence, whatever they may have lost by reason of such unlawful leave of absence. 4a. Nor shall the tribune leave the troop, until he has in this respect indemnified all the soldiers of this kind, that is to say, those whom he sent away on leave of absence beyond the number of thirty. 5. This, too, is to be added, that ten of the devoted staff officers, that is to say, the primates, as well as the head of each troop of scholars, shall certify in writing under oath, that the matter has been carried, out, as above directed, and that under their eyes, each of the soldiers, has received his pay with his own hand from the right hand of the paymaster. These documents shall be sent, with a report, by the honorable tribune, or the devoted staff officers, to Our Piety within three months, counted from the time that he (the tribune) has departed. 6. Above all things the officiating paymaster, after receiving the money from the treasury, must within two, three or four months, depending on the distance, make the payment committed to his charge; and if he retains the money longer and defers the payment, beyond that time, he must, out of his own property, pay all the damages sustained by every soldier by reason of a business transaction. 7. Let all who fail in the observance of the aforesaid regulation, by deferring payment in any instance beyond the appointed time, or in any other manner take notice that for so great a crime they will not alone suffer the loss of the girdle of their office, but also, confiscation of their goods, and in addition thereto the office of paymaster, shall, if this order is violated, be, by the staff of Your Highness, transferred to others. The staff, as soon as such a crime is committed by anyone, must¹⁶ bring it to the knowledge of Our Clemency, or at least to the knowledge of the illustrious Master of Soldiers, so that at the peril of the same officials such crime cannot be hidden from the imperial ears, to the end that when such crime is clearly shown, the person daring to violate these beneficial orders of Our Piety, will not be able to evade the threatened punishment. The soldiers, who have been injured by reason of non-compliance with the tenor of the foregoing order in so far as it relates to them, may come to our court, represented by one or two soldiers, speaking for all, and if that is done, the violator of the imperial sanction shall be visited with the legal penalties. 8. This, too, must be in every respect observed, according to an imperial order heretofore given, namely to pay over to their wives or children, all money owing to deceased soldiers up to the day of their death. (No day or consul.)

Note.

Several important matters appear from the foregoing law: The bookkeeper was accustomed to make loans to soldiers, expecting the return thereof out of the salary or compensation due them. He was permitted to charge one for every three solidi-gold-

¹⁶ [Blume] “Si non” suppressed. It would make the sentence too involved.

pieces, which would take 33 and one third percent on the money, no matter whether the loan rank for a short or a long period. A method was provided whereby the return of the loan was insured, namely, by the bookkeeper presenting the tickets issued to the soldiers - - doubtless accompanied by a proper order signed by the soldiers. These tickets could be thus presented by the bookkeeper, even if the soldier was absent; but he could not present any tickets for more than thirty absent soldiers. The tribune, in charge of a troop of soldiers was accustomed to grant soldiers a leave of absence. The foregoing law forbade the absence of more than thirty soldiers at any one time. By C. 12.7.2.9, all leave of absence was forbidden in the case of soldiers on Africa. In section 6 of this law, the paymaster (erogator), was directed to pay money received from the public treasury within two or three months, depending on the distance. This clearly shows that he received the money from one of the public treasuries, and at times traveled a great distance to reach the army. Now it was stated at note to law 5 of this title, that the optio was the commissary or paymaster of the army. It is hardly probable that he could be away from the army for several months, for soldiers would necessarily need supplies during that time. It would seem clear, therefore, that the paymaster (erogator) of money mentioned in the instant law, was a different person, and was probably a member of the official staff of the master of the forces, as stated by Cujacius on this law. It is not unlikely, that the instant law referred exclusively to money payments (solatium) to the soldiers and not to rations of supplies.

12.37.17. The same Emperor to Arcadius, Praetorian Prefect.

Since it often happens, on account of great and unavoidable reason, that soldiers are of have been employed to act as guard to persons or do other similar thing, and since it is improper that the treasury (publicum) should suffer any damage or loss therefrom, we order, that if any of the brave soldiers from any troop have been or shall be assigned by our majesty, to municipal senates, corporations, holy churches or other parties, to serve, as stated, as a guard, or for other reason no loss shall be occasioned, by the transfer, to the public accounts by reason of payment to them of food supplies or provisions for horses, but it (the extra cost) shall be borne by the party or parties, to whom they have been or shall be assigned. Only so much supplies and provisions shall be furnished and assigned from the public treasury as are customarily furnished and assigned in the places from which the soldiers come or have come. If the above mentioned parties refuse to furnish the foregoing, the soldiers shall not leave their places, or if they have left shall immediately return to them. It is to be observed in all cases that no devoted soldier shall be assigned to any party or corporation without a special order of Our Serenity, evidenced in writing. 2. If the staff of Your Highness fails to register a rescript of Our Clemency, making an assignment of soldiers to any parties, or fails to make known the amount which they, to whom the soldiers are assigned, should pay according to our order, they shall reimburse the public treasury for all damages sustained by reason thereof out of their own property and shall also pay a fine of thirty pounds of gold on account of their negligence, or rather connivance. The rectors of the provinces, too, and their staff, shall, if they violate our orders or permit them to be violated, be punished by the same fine.¹⁷

¹⁷ [Blume] See also law 19 of this title.

(No date or consul.)

12.37.18. The same Emperor. (In Greek.)

The constitution directs that whatever is to be paid to the soldiers shall be retained in the respective localities, and that only the remainder shall be sent to the public treasury. For it would be improper that only transportation to the treasury should be hastened, and payments to the soldiers neglected. Magistrates, moreover, and cities, and all public persons, must, if any violation of what has been decided occurs, pay the money due to the soldiers and a fine of 100 pounds of gold.

(No date or consul. Law probably made by Anastasius. See C. 1.4.18.)

Note.

The foregoing law doubtless applied to taxes paid in kind as well as money. As already noted in law 16 of this title, and note, money was at times carried to the army from a great distance.

12.37.19. The same Emperor. (In Greek.)

The constitution directs, that if soldiers are not engaged in their own duties, but are either assigned to parties for the sake of help, or are sent away on leave of absence, the bookkeeper (actuarius) shall not take their pay (annonae) in natural products, lest they perish, but in money, at the value fixed by the treasury, the tribunes, their vicars (domestic) the private secretaries, bookkeepers and commissaries (optiones) taking an oath, but who shall none the less, after the oath, render due account, and if they shall be convicted of perjury in the matter they shall pay double the amount. 1. And if (any) soldier wants the supplies owing him converted into money, he shall receive the value fixed by the treasury. If he prefers the supplies in kind, he shall receive those raised in that region, (and in quality) as the bishop, beloved of God and the defender of the city may determine. 1a. And if a bookkeeper (actuarius) has purchased a soldier's supplies and as assignee demands them from the tax payer, he, too, shall receive the money therefor at the price fixed by the treasury unless the tax payer prefers to pay in kind. 1b. And if the tax payers want to deal with the soldiers (selling them things), they are not forbidden to do so, although they may gain by the fact that they deliver them a less quantity in kind than the price fixed by the treasury calls for.¹⁸ Nor shall the soldiers (militibus) inflict any damage on the tax payer, by reason of the fact that they made a bad bargain and compel the tax payer to deliver them products contrary to the agreement. 2. Since, moreover the constitution found that some of the record-keepers (chartulari) of the brave troops and of the confederates, were forcibly buying up grain for themselves, so that the fisc might pay them for the grain at the price fixed by the treasury, thereby making a profit on the products previously bought, the constitution prohibits compelling the tax payer to sell against his will. 2a. But if anyone wants to sell to them voluntarily, they shall not, as to the quantity which is subsequently to be furnished to the soldiers, exceed the price fixed by the treasury. 2b. For they cannot but a greater quantity, being forbidden to trade the same as all the soldiers. 2c. All of which will be disclosed by a future investigation, and whatever anyone has unlawfully gained, he shall return twofold, the informer receiving one-half and the fisc the other half. 3. All soldiers, moreover, who

¹⁸ [Blume] although they sell at more than the price fixed by the treasury.

are assigned to certain parties, shall receive their pay for food supply (annona) in money at the price fixed by the treasury, and the same way their fodder (capitum); nor shall they demand the products in kind unless the tax payer voluntarily brings them. 4. Whoever dares to neglect any of the foregoing provisions, will incur the greatest risk, be he a tribune, vicar, private secretary (domesticus), bookkeeper (actuarius) or commissary (optio), chief of a division, or apparitor of the master of the forces whenever it happens that anything contrary hereto becomes known or is attempted, and he does not immediately publish and report it, an investigation will show whatever has been done in violation of the constitution.

(No date or consul. Probably of the time of Anastasius. See C. 1.4.18.)

Note.

According to the preface of the foregoing law, the pay of an absent soldier was turned over to the bookkeeper. Whether that was true in all cases or not, does not appear. The price was 'kata tyn trapezan,' 'pro ratione mensae,' which probably means the price fixed by the praetorian prefect for the locality. See C. 1.52.1; 1 Karlowa 874. According to C. 10.27.2.3, the price paid in case of forced sales was that prevailing in the respective localities. And Otto, Schilling and Sentennis believe that here, too, the market price was meant.

Forced sales for governmental purposes were at times resorted to. C. 10.27. Some of the clerks (chartularii) connected with the army sought to make profit out of that at times, and made the forced purchases on their own account at a price below that fixed by the treasury, or praetorian prefect, or president of the province, selling the products so bought to the government at the price so fixed. This was forbidden, these clerks being forbidden to engage in any traffic, as soldiers generally were forbidden to do, except only that these clerks were authorized to buy to the extent that these products were necessary for the army.

In this law, as in law 17 of this title, it is shown that soldiers were at times assigned to other than strictly military duty. In note to C. 9.2.17 it is shown that soldiers frequently acted as guards of prisoners. They were also frequently employed to aid in the collection of taxes. See, e.g. Edict 13. And the instant law shows that they were used for police and other duties. As to the system of police in the Roman Empire, see Hirschfeld, Kleine Schriften 576, et seq.