

Book XII.
Title XL (XLI).

Concerning the quartering of soldiers, and concerning commutation payments therefor.
(De metatis et epidemeticis.)

Headnote.

Houses in cities -- but not in the country according to law of this title, were subject to compulsory quartering, that is to say, the owners thereof were required to receive soldiers and officers within their houses and lodge them; in other words, they were compelled to extend free hospitality.¹ The emperor, too, of course, enjoyed the right thereof. The officials directly in charge to see that such quarters were at the disposal of the persons entitled thereto were the *mentores* or *metatores*, the quartering-masters, already considered at C. 12.27. This obligatory reception of public servants by householders was called *hospitium* or *hospitalitas*, and the quarters furnished were known as *metata*. These quartering-masters were subordinates of the Master of Offices. It was the duty of these officials not only to see that these quarters were provided, but also that no unwarranted exactions were made by the persons quartered, and that, on the other hand, no unauthorized exemptions were claimed. Certain persons, as will be noted in the laws of this title, had a house or certain number of houses, exempt under a privilege granted them. The ordinary owner with only one house was required to give a third part of it up for quartering. See, generally, Boak, Master of Offices 80-82.²

12.40.1. Emperors Valentinian, Theodosius and Arcadius to Theodotus, Master of Offices.

If anyone shall undertake to erase the handwriting of our quartering masters (*mentorum*), by which they designate the houses assigned to various persons and write on the doorposts the name of the person to be quartered there, he shall, pursuant to this order, be considered guilty of forgery.

Given at Constantinople October 27 (393).

C. Th. 7.8.4.

12.40.2. Emperors Arcadius and Honorius to Hosius, Master of Offices.

Removing all annoyance on the part of quartering masters and the persons quartered in any city where we ourselves or those in our service may be, we direct that the owner shall, without fear or trouble have two-thirds of his house free, upon assigning a third part to the person quartered, and so, that the house, being divided into three parts, the owner shall have the right to choose the first part, the person quartered shall have the second part, whichever (of the two remaining) he may choose, and the third part shall be left to the owner. For it is plain equity and justice that one who inherits, buys or constructs a house should have his choice of the parts as well as have the remaining third part. 1. Shops used for trade shall not be subject to division, but shall be safe, secure and

¹ Blume has penciled-in the margin here what looks like: "contra G. C.T. 9.8.10."

² Blume wrote at the bottom of this headnote: "G. on C. T. 7. 8. 4 makes distinction between *metator* and *mentor*."

exempt from the annoyance of quartering and shall be for the exclusive use of the owners or lessees. Of course, if there is no stable, as happens, in the third part of the house for the soldier, room shall be assigned in the shops, unless the master makes other provisions therefor, in accordance with the number of animals and the quality of the house.

2. Illustrious persons, however, shall have for their quarters not a third of the house, but half of it, upon condition, that one of them, whoever wishes, may make an equitable division of the house according to his discretion, giving the right of selection to the other.

3. This order shall be in force in perpetuity, and illustrious persons must pay 30 pounds of gold to our fisc, and the others shall be deprived of their position, if they violate this general order, by reprehensibly using more room than authorized.

Given at Constantinople February 6 (398).

C. Th. 7.8.5.

12.40.3. The same Emperors to Vincentius, Praetorian Prefect.

We want all other judges to know that they must not lodge in the place of residence of the ordinary judges, if these are present.

Given at Milan January 17 (400).

C. Th. 7.8.6.

Note.

The governors of provinces were the 'ordinary' judges. The judges forbidden to lodge in the residence of the former were the higher officials.

12.40.4. The same Emperors to Aemilianus, Master of Offices.

We direct that the houses of armorers wherever located shall not be subject to quartering. This exemption extends to the houses of the armorers at Antioch and other cities, provided that the imperial train is not present.³

Given at Constantinople January 22 (400).

C. Th. 7.8.4.

12.40.5. Emperors Honorius and Theodosius to Johannes, Praetorian Prefect.

We liberate the devoted land owner from all disturbances. 1. First of all, therefore, no quartering master (metator), by whomever sent, shall enter any landed estate, public or private, belonging to the imperial house (domus nostrae) or to anyone else. 1a. The owner, his agent and even his serf (plebi) is granted the right by Our Serenity to expel the person -- who comes on the property to prepare quarters -- nor need he be in fear of any prosecution, and he may rest assured that he has the right to protect himself, for whoever discovers a violator of the law, may protect himself against him.

1b. We have ordered that the magistrate and the primates (proceres) of his staff, by whose direction such person is sent on to any property contrary hereto shall be banished for a (limited) time. 2. We permit the simple right of hospitality, of course, but with the limitation, that no food, for either men or animals, shall be demanded from the host; that all make their journey quickly and continuously; and that no one fixes his residence there, so that the length of the stay of the guests may not in any way burden any estate. 3. Any

³ At the end of this manuscript volume, Blume wrote: "not exact—'quo,' 'similis' left out."

imperial magistrate (administrator), governor, surveyor (togatus),⁴ apparitor, soldier, or traveler who demands anything from the host, shall be punished by a fine of ten pounds of gold. 4. We are so anxious to suppress such disgraceful custom, that even the givers shall not be exempt from punishment, if it is shown that they have given anything voluntarily in violation of this order.

Given at Ravenna June 12 (413).

C. Th. 7.8.10.

12.40.6. The same Emperors to Hadrianus, Praetorian Prefect.

It has been provided for the protection of Africa, that the vicious custom (of furnishing supplies in connection with) hospitality must cease; nor shall anyone demand a bath from the owner of the houses.⁵

Given at Ravenna March 3 (414).

12.40.7. The same Emperors to Eustathius, Praetorian Prefect.

The ground floor rooms of the various towers of the new wall of this sacred city shall be for the use of the devoted soldiers returning from or going to war.⁶

Given at Constantinople March 3 (422).

C. Th. 7.8.13.

12.40.8. Emperors Theodosius and Valentinian to Helio, Master of Offices.

We direct that the physicians of our palace as well as those of Rome and the teachers of sciences, as well as the professors of the art of painting, shall, for the benefit of the necessary arts and liberal instruction, provided they are free born, be exempt from the burden of quartering as long as they live.

Given August 19 (427).

C. Th. 13.3.18.

12.40.9. The same Emperors to Nomus, Master of Offices.

Those who furnish quarters, whether in their own houses, or by satisfying those quartered⁷ in some other way, shall not be compelled to pay the regular fees (pensio) for

⁴ [Blume] Togatus. Gothofredus thinks that we should here understand the togati Augustei, that is to say, the surveyors, who were sent by the emperors, especially Theodosius II, over the empire, to survey it, and who, probably were quartered the same as other state officials. Scott has only “superintendent, collector, or subordinate officer.” See 7 [15] Scott 294 (where this law is C. 12.41.5).

⁵ [Blume] Infausta hospitalitatis praebitio. The sense is, without doubt, as translated. The Theodosian Code, Theod. 7.8.10, subsequently embodied in Code Just. 12.40.5, as above shown, related only to Africa, and therein was prohibited, not all quartering, but the demand of supplies, as is shown. Scott is in accord. Id. (as C. 12.41.6).

⁶ At the end of this manuscript volume, Blume wrote: “‘returning’ left out of copy—inserted in original.”

⁷ [Blume] Metatoribus. This, Gothofredus thinks refers to those quartered, not to the quartering masters, as generally.

quarters not furnished, or for any investigation (discussionis).⁸ Next we want no one, in whatever position or of whatever rank he may be, who has his house exempt from quartering in this flourishing city the right to quarter in the house of another by reason of any military privilege. This shall apply also to the provinces. 2. Those who have only the honorary title of illustrious, either with or without the girdle, shall not have their houses exempt from quartering.⁹ 3. This applies, too, in case of those men who have the rank of spectabiles (worshipful) by virtue of officiating in an administrative position, but who receive the illustrious dignity through our liberality. 4. And let all take notice, that if anyone, while he enjoys the girdle of office, and who has his house exempt from quartering to the extent that he need not make payment for the one-third thereof, nevertheless claims the right of quartering in the houses of others, by reason of his military service, he shall, if his exemption is based on the position of honor occupied by him, be deprived of the privileges of the laws which he tried to cheat; if he is one of those who occupies no position of rank, he will be punished by a fine of 100 pounds of gold to be paid into the imperial treasury.

Given at Constantinople January 16 (444).

Nov. Theod. 25.

12.40.10. Emperors Valentinian and Marcian to Vincomalus, Master of Offices.

We ordain by this law, that anyone with the consular and patrician rank, shall have three of his own houses free from the burden of quartering during his life; and his heirs, namely, his sons, father, mother, grandsons, or brother, or sister, or wife, have two houses so exempt. 1. A person of only the consular rank, shall have two houses and one-half exempt; after his death his heirs, above enumerated, shall have one and one-half house free from the burden of quartering. 2. An equal privilege is extended to the person, and his mentioned heirs, who is only decorated with the insignia of the patriciate without the consulate. 3. But prefects (praefectorii) and masters of the soldiers shall have two of their houses exempt from the burdens of quartering as long as they live; their heirs, as above enumerated, shall have one house which enjoys a similar exemption. 4. The masters of offices and quaestors shall have one and one-half house free from the burdens of hospitality as long as they live; their heirs, as above enumerated shall have one house so exempt. 5. The counts of the domestics and protectores and of the imperial exchequer

⁸ [Blume] Discussionis domus. Discussio was an auditing-checking up by the discussores, travelling auditors, who in this case no doubt audited the list of houses for which the owners were liable for quartering. Nov. Theod. 25, in the forepart, not herein set out, provides that those not furnishing their proper part of quartering should be subject to payment -- pensio -- for that part. If they furnished what was required of them, they were not compelled to pay anything more - not even fees for checking them up. Those who held the title because they had administered the office had one and one half of a house exempt. Nov. Theod. 25. Scott translates this law as: "All those who are required to furnish lodgings in their houses, whether they do so on the requisition of quartermasters, or whether they have been promised indemnity under some agreement, cannot be compelled to suffer annoyance of charges or contributions on account of their houses." 7 [15] Scott 294-295 (where it is C. 12.41.9).

⁹ [Blume] The Brevet—illustrious officers. See C. 12.8.2.

and of the crown domain, and the worshipful chief (primicerius) of the notaries, may, while they live, enjoy one house free from the burdens of hospitality; their heirs as above enumerated, have one-half of a house which is protected by such exemption, but the third part of the remaining half is subject to the burdens of quartering. 6. Persons who have received the honorary-illustrious rank from the emperor without performing the duty thereof, must hereafter willingly open one-third of their houses, the proportion fixed by law, for quartering, excepting herefrom, however, shops, which are situated in streets and alleys. 7. This shall apply to all houses fit for quartering, and no one may use an imperial rescript, imperial (notation) or pragmatic sanction to exempt him in violation of this law. The provisions of this law shall apply to this eternal city.

12.40.11. Emperor Zeno to Illyrianus, Master of Offices.

We order that the ten tribunes¹⁰ next in order to the chief (primicerius) shall have their houses in this imperial city exempt from quartering.

12.40.12. Emperor Justinian to Julianus, Praetorian Prefect.

No president shall while traveling about in his province, ask for any money from the provincials for not burdening them with them quartering or for permission to carry arms (armorum deponendorum gratia). If he does so, he shall be removed from office, have his property confiscated and, be subjected to perpetual banishment.

Given at Chalcedon June 24 (530).

Note.

This law, says Cujacius, abolished the epidemetica, commutation money for quartering; that the money which the governors were forbidden to demand from the provincials in connection with quartering had reference thereto. Arms were forbidden to be carried. See C. 11.10.

¹⁰ [Blume] Notaries - C. 12.7.