

Book XII.
Title I.

Concerning positions of dignity.
(De dignitatibus.)

Headnote.

The title *clarissimus* (honorable) came to be applied to the senators of the empire. Other titles, as the "most perfect," the "most eminent" and others came to be applied to officials of equestrian rank. In the fourth century, however, the titles of *spectabilis*, translated worshipful, and *illustrious* came into being, and from that time of these, together with *clarissimus*, came to designate the various high officials, and dividing them into three ranks, or orders. The other titles went almost wholly out of use, although "perfectissimus" still appears in the Justinian Code (C. 12.31), and is found even in the *Basilica*, but it is difficult to say to whom it was applied. The nobility of the empire from the fifth century on were either *clarissimi*, *spectabiles* or *illustres*, the higher, of course, including the lower title or titles. The *clarissime*, the lowest of the three orders or ranks, came to designate the senatorial order (note C. 12.10.2), to which the members belonging to the other orders all belonged, as stated. It is thought by some that Justinian created another, still higher rank, the "glorious." Boak, *Master of Offices* 20. Above the men of these ranks stood the consuls or who had been consuls, and next to them the patricians, but the men who received these distinguished titles were comparatively few, and they did not constitute orders or ranks in the same sense at least as the others. So the countship may, in a sense, be considered as a separate class, not, however, necessarily connected with any office. It was a title of honor attached to some public offices, or conferred as a reward for service or for favor. In certain cases it designated a definite office, as that of the count of the imperial exchequer and of the crown domain. There were three grades, counts of the first, second and third order. Some of the third order became counts of the imperial council. Boak, *Master of Offices* 20, 21; C. 12.10 and note to law 2 of that title.

The term "dignity" was primarily used for a governmental position to which one of the titles or ranks of honorable, worshipful or illustrious was attached. 1 *Karlowa* 829. The term "palace dignities" (*dignitates palatinae*) was applied to the "dignities" at the imperial court. The term "dignity" was also, however, applied to brevet - and honorary official positions - and the title, or rank, once acquired during office was not lost upon expiry of the term of office, though a person who completed his term of office might receive a higher rank or title than he had during office. Thus the worshipful chief of the notaries became of illustrious rank upon retiring from office. C. 12.7.2. That was true also with captains of the life-guards. C. 12.16.1.

All the highest officials of the empire, next to the emperor, were of illustrious rank: The four praetorian prefects, the prefects of Rome and Constantinople, the master of the cavalry and infantry, the Grand Chamberlain, the master of offices, the quaestor of the imperial palace, the count of the imperial exchequer, the count of the crown domain, the counts of the domestics. Many other officials were of worshipful rank when occupying an office, or were joined to that rank upon retirement therefrom. Others still were of the lower rank. Among those of worshipful rank were the steward of the

imperial household, the chief of the notaries, the masters of the imperial bureaus, the chiefs of the imperial bureaus (proximi), the chiefs of the imperial messengers, and accordingly the chiefs of the official staffs of the illustrious officers, including the so-called adjutor, the chief of the official staff of the Master of Offices, tribune of the domestics and protectors, counts of the imperial council, imperial physicians and professors after a certain length of time of service, governing counts and some dukes.

Among those of honorable rank were the life guards, part of the protectors and domestics, and the ordinary governors of a province like the presidents and consulars - the latter not to be confused with consuls, ex-consuls or honorary consuls.

12.1.1. Emperor Alexander to Severiana.

If, as you state, you had a grandfather of consular, and a father of praetorian rank, and you have not married men in private station, but men of honorable rank, you retain the rank of honor of your family.

Note.

A consul, including an honorary consul, held the most exalted rank among the dignitaries, due to ancient tradition. Bury, 1 Hist. Later Roman Empire 20. A praetor (C. 1.39), who had formerly been the Roman judge, but who had been largely supplanted by others, held the lowest rank in the titled hierarchy, that of honorable, clarissimus, and the latter title was hereditary, but a woman who married a man not belonging to the nobility, lost her rank. Laws 11 and 13 of this title.

12.1.2. Emperor Constantine to Volusianus, Praetorian Prefect.

The doors to a title will be open neither to the infamous nor to the disreputable, nor to those who are defiled by crime or turpitude of life, not to those whom infamy segregates from the association of men of honor. (313-315).

12.1.3. The same Emperor to Refinus, Praetorian Prefect.

The greater rank (attained by anyone) does not abridge the privileges obtained by reason of a prior rank or service.
Given April 27 (319).
Th. 6. 35. 3.

12.1.4. Emperors Constantine and Constans to Philip, Praetorian Prefect.

We direct that the possessions of senators in various places and provinces, as well as their people thereon, shall be exempt from paying commutation money (for recruits or horses), as well as from other assessments levied by judges, and also from all sordid, extraordinary and degrading liturgies, and they shall not be bound to perform any unworthy function. (346-349).

Note.

As to liturgies in general, see headnotes C. 10.32.42.48. Apparently senators were exempt from all patrimonial liturgies, except highway work and transporting their tax in kind to storehouses, as mentioned in headnote C. 10.42. Senators seem to have had the same exemption as masters of the imperial bureaus. C. 12.9.1 and note. The term

“senator” here probably included all the members of the senatorial order. See note C. 12.10.2, and that is probably generally true where that term is used in this title. The subject of senators and of the senatorial order is more fully considered in note C. 12.10.2.

12.1.5. Emperor Constantius to Clearchus, Prefect of the City.

No city prefect shall subject any senator to any service without our direction or knowledge; no one shall wrong our senate by (such) gross insult; if any service, perchance, is to be imposed upon those possessing the senatorial rank, that must be reserved for our discretion; for anything done pursuant to our order is an honor.

12.1.6. The same Emperor to Orfitus.

Persons of the lowest grade of merchants, or minters, or low officials, or persons engaged in the base service of station master (stationarii) or men of the lowest dregs of officialdom, or who live on various disgraceful gains, shall not attempt to enjoy any position of rank. If he has received it, he shall be expelled; and those who are expelled must be returned to their own associates.

(357-360).

Note.

It is not entirely clear just who was intended to be included in the list of persons debarred from a dignity, that is to say, a position that carried a title with it. Merchants of the lowest grade are mentioned. "Negotiatores," which probably included all retail merchants, were debarred from entering any imperial service. C. 12.34.1. Bankers were excepted, and so were probably the class that might be designated as wholesale merchants. See note C. 8.13.27. The law also mentions minters and "low officials," by which probably persons of similar occupation as the minters were intended. Whether or not by the term "stationarii" the stationmasters mentioned in C. 12.23.1 were intended to be designated, is uncertain. "The dregs of officialdom" probably meant or included the cohortales, the apparitors of the provincial governors mentioned in C. 12.57, as well as the employees in a municipality. See 2 Cujacius 768.

12.1.7. The same Emperor to the Senate.

Since some of the judges deem it proper to have some buildings erected in some of the cities, the property of senators shall not be called on to contribute thereto.

Given May 3 (361).

C. Th. 15.1.7.

12. 1. 8. Emperor Julian to Sallust, Praetorian Prefect.

The right of senators, and the standing of that order, in which we also number ourselves, must be protected from wrong.

Done at Constantinople February 5 (362).

C. Th. 9.2.1.

Note.

It may be noticed, that the emperor considered himself as belonging to the senatorial order.

12.1.9. Emperors Valentinian and Valens to Symmachus, City Prefect.

We do not prohibit sons of freedmen from acquiring the rank of clarissimus (honorable).
(364-365).

12.1.10. Emperors Valens, Gratian and Valentinian to Grachus, City Prefect.

Clarissimi are exempt from the harsh method of investigation by examination under torture.¹

Given at Treves, January 4 (377).

C. Th. 9.35.3.

12.1.11. The same Emperors to Procopius.

The sons of a senator or other clarissimus (honorable person) shall be private persons, namely those who were born before the rank (title) was received; and this is known to be decreed not only as to sons, but applies in like manner to daughters. Since, however, paternal honors should not be of disadvantage to children, the child born to a senator or a simple clarissimus, shall remain in the ranks of the clarissimi.

Done at Hieropolis the 18th day before the kalends (377).

Note.

On its face, the law appears to be inconsistent, stating on the one hand that children of a senator, born before the latter obtained the dignity, should be private persons, but on the other hand decreeing that such children should belong to the clarissimi. However the latter were children born to a father after acquisition of his title. It seems that the law, as it stood originally in C. Th. 6.2.7 provided that these children should remain private persons in so far as the gleba, an extra tax on senators, was concerned, but should otherwise be clarissimi. See Cujacius on this law. The tax mentioned was repealed by C. 12.2.2.

It may be noticed that this law draws a distinction between senators; i.e. the senatorial order, and the simple clarissimi. At the time when this rescript was written, accordingly, there were clarissimi not included in the senatorial order. Later, however, all clarissimi belonged to the senatorial order. 1 Cambridge Med. Hist. 49; 1 Karlowa 888; note C. 12.10.2. See also C. 10.32.64 and 67.

12.1.12. Emperors Gratian, Valentinian and Theodosius to Neoterius, Praetorian Prefect.

The judges convicted of having become stained by theft or other crime, shall be deprived of their letters-patent, shorn of their honor and considered as among the lowest of men and as plebeians; nor shall they thereafter flatter themselves with the honor of which they proved themselves unworthy.

Done at Thessalonica January 15 (380).

C. Th. 9.27.1.

12.1.13. Emperors Valentinian, Theodosius and Arcadius to Marcian, Count of the Orient.

¹ [Blume] See headnote C. 9.41.

We elevate women through the honor of their husbands; we ennoble them, fix their legal forum and change their domicile thru the latter. But if they, later, have chosen a husband of a lower station, they will be deprived of their former rank, and will follow the condition of their later husband.²

Given at Constantinople November 10 (392).

Just. 10.140.9.

C. Th. 2.1.7.

12.1.14. Emperors Theodosius and Valentinian to Bassus, Praetorian Prefect.

We direct that judges shall have no power of fastening upon a senator, in whatever province located, any public service whatever.
(426).

12.1.15. The same Emperors to Neuthius, City Prefect.

All clarissimi and spectabiles (persons of honorable and worshipful rank) may, without leave, go to their native soil, or wherever they desire, and to tarry and live wherever they wish.³

12.1.16. The same Emperors to Apollonius, Praetorian Prefect.

If any grave crime is committed, and the guilty person have given bond instead of being in custody in prison, we order that if it concerns an illustrious person, the matter shall be reported to us; if it concerns other persons, decorated by some lesser rank, the matter shall be referred to Your Highness, so that in this manner it may be determined what ought to be decided concerning the crime committed.⁴
(442-443).

12.1.17. Emperor Zeno to Arcadius, Praetorian Prefect.

Whenever persons of illustrious rank are to be summoned in a private suit, civil or criminal, they are not to be troubled by a demand of sureties, but they shall enjoy the special privilege to simply given their guaranty on oath for their appearance. If they fail to comply with their guaranty contrary to the oath contained therein, and they or their procurators remain absent, then, the proper judge, if it is a civil suit, will enter a decree concerning the possession of the property belonging to them, what the authority of the law and the situation of the matter in hand may suggest; in criminal cases, they shall also be deprived of their rank, of which, by their perjury, they have shown themselves unworthy, so that judges, without consulting Our Piety, may apply the severity of the laws to them, as to men deprived of the illustrious rank by their own crime. The further privilege is granted to persons of illustrious rank, that they shall not be summoned in any case, civil or criminal, without a written decision (to that effect).⁵
(About 485-486 A.D.)

² [Blume] See C. 5.4.10.

³ [Blume] See note C. 12.10.2.

⁴ [Blume] See C. 3.24.1 and 3.

⁵ [Blume] See C. 3.24.3.

12.1.18. Emperor Justinian.

Saving the honor attached to an imperial summons to come, all who occupy law and high governmental positions, as well as honorary illustrious persons, may come to this city without imperial request, whether they had previously departed therefrom, with the emperor's consent or whether they live in the provinces and want to come to the imperial court on necessary business.

Note.

See also C. 27 of Appendix VII, the pragmatic sanction, appended to C. 1.27.