

Book XII.
Title LVII (LVIII).

Concerning the provincial apparitors, chiefs, assistant chiefs, and primipilars (governor's
quartermaster).
(De cohortalibus principibus corniculariis et primipilaribus).

Headnote.

The governors of the various provinces each had an official staff, in pattern of the official staffs of the higher officials. The members of that staff were known as cohortalini or cohortales, while the term apparitor was reserved for the members of the official staffs of the higher officers. Kuhn, 1 Verfass. d. R. R. 151. In this translation the term apparitor is ordinarily used indiscriminately, the word 'provincial' however being generally added to "apparitor" in order to designate the members of the staff of the provincial governor.

A governor of a province was not only the executive and administrative head thereof, but he was also the ordinary judge of first instance, with plenary jurisdiction. We should, accordingly, expect that the official staff would not be unlike that of the praetorian prefect, and we find that, in fact, to be the case. The presidents of the provinces in the East for example, had the following: A chief of staff, an assistant chief (cornicularius), a marshal or sheriff (commentariensis), an aide (adjutor), an accountant (numerarius), the number being later increased to two (C. 1.12.49.4), a record keeper, a receiver of requests, "stenographers and other apparitors, whom it is not permitted to enter any other imperial service without a notation of the imperial Clemency." (Not. Dign. Or. 44.6-14. We find so-called orderlies among them, and scouts. Law 7 of this title. And any person reaching these or higher positions were required to fill the position of governor's quartermaster. At C. 10.72.13, we find mention of two susceptores, who were apparently something like Receivers-General of taxes of the province. In short, since the governor's duties embraced nearly every sphere of governmental activity in the province, he had officials under him whose duty it was to look after the details. See C. 1.40 and headnote C. 1. 27.

12.57.1. Emperor Constantine in his edict to the Africans.

No station-master shall make any extra exaction, nor have a prison, nor keep any person in custody even for a manifest crime, knowing that, if he does anything of the kind, he will be punished with death.

Published at Carthage May 10 (315).

C. Th. 8.4.2.

Note.

The stationarii were station-masters in the provinces, and are considered at C. 4.61.5 and note, and C. 12.22.1 and note. They had evidently acted so oppressively as to give rise to the instant law.

12.57.2. Emperors Constantius and Constans to Taurus, Praetorian Prefect.

No governor (judex) shall dare to appoint or promote anyone without an imperial letter of approval. We except, however, the provincial officials who have charge of the public post. For public advantage does not permit the denial of any aide to such service.¹
Given at Milan May 27 (358).

C. Th. 8.7.7.

12.57.3. Emperors Valentinian and Valens to Festus, Consular of Syria.

The customary privileges extended and granted to the provincial apparitors of Syria by Diocletian of blessed memory, have also been extended by us, and we order that they shall not be called on to take charge of the haulage of public freight or to the duties as public seamen or enrolled as curials against their will. But we grant them the right of refusal thereof, after they have finished their employment and have faithfully filled the office of primipilar.

Given October (365).

C. Th. 8.4.11.

Note.

The matter of hauling of freight is considered at C. 11.8.4 and 8. There was probably a separate guild to do the work of hauling, and it was probably under the immediate direction of ministers of finance. The apparitors of the provincial governor were not to be troubled therewith. There was also a separate guild of public seamen, as noted at C. 11.2, who were required to look after the shipment of supplies to the capitals of the empire. The provincial apparitors were also exempt therefrom, as well as from curial duties. The primipilar, the governor's quartermaster, is fully considered at note C. 12.37.9. As will be noticed from this law, a provincial apparitor was required to serve as such before he was free from duty. After he had passed through various ranks and had reached a certain position, not necessarily that of chief, he was required to serve as primipilar, before he was entitled to retirement. Law 7 of this title.

12.57.4. The same Emperors and Gratian to Probus, Praetorian Prefect.

We want the official staff of the rectors of the provinces to be admonished by letters of Your Magnificence, that those who are taken into, or appointed in (probatos), their office must be enrolled in the cohorts or legions.

Given May 17 (372).

C. Th. 8.4.12.

Note.

Cujacius and others interpret this law to mean that the persons in the office of the governor were cohorts in name but with privileges such as the legions had.

Gothofredus, at C. 8.4.12, has shown that this law is part of C. Th. 12.1.78, which forbade sons of veterans who were enrolled in a curia from being taken away from the curia, and he accordingly interprets the instant law to mean that sons of veterans who had attempted to serve in the governor's staff should be removed from thence and enrolled in the armed militia.

¹ [Blume] See C. 1.30.3.

This was in consonance with the principle that children should follow the vocation of their fathers -- the principle also mentioned in the next law.

12.57.5. The same Emperors to Modestus, Praetorian Prefect.

Each primipilar (governor's quartermaster) in the province of Oshroena who has a number of sons, shall put one of them into his own place, as by hereditary right, given another one, for love of his fatherland, to perform duties in the curia of Edessa, and choose for the others what imperial service may please him. But if he has only two sons, he shall satisfy both his cohort (in which he served) and the curia; if he has only one son he shall assign him to the curia of his city, and no favor granted him shall avail as against this rescript. 1. We, of course, allow fathers as well as they themselves (the sons) who by the authority of this law are assigned to duty in cities, if they find that any curials have been excused by the favor of the chief magistrates, to let that be known, so that they too, assigned to the same duties, may be compelled to obey the same law.

Given at Antiochia December 3 (375).

C. Th. 12.1.79.

Note.

The curia was given the preference in this law, if the primipilares had only one son. The reason will become apparent by considering the situation outlined in headnote C. 10.32, namely because the number of curials became smaller from generation to generation, on account of the large burdens imposed on them by the government. The curia was even given the preference over the army. C. 10.32.17; C. 12.33.2 and 4.

12.57.6. Emperors Gratian, Valentinian, Theodosius and Arcadius to Nestorius, Praetorian Prefect.

If an apparitor who has committed a crime shall flee, an edict shall be issued by which to recall him, and which shall contain conditions (specified) in the laws. If he fails to obey, sentence according to the quality of his offense shall be passed upon the fugitive. For we grant no pardon to such persons, nor encourage crimes by indulgence.²

Given at Milan June 12 (385).

C. Th. 8.4.15.

12.57.7. Emperors Valentinian, Theodosius and Arcadius to Tatian, Praetorian Prefect.

Apparitors of the provincial governors, who have reached the grade either of scout (speculator) or of orderly (ordinarius) shall not be released from duty by reason of any number of years or in consideration of any service, until they have filled the post of primipilar in proper manner. 1. But if any person subject to that duty should, before he fills that place, allege sickness or tottering old age in order to obtain rest, he shall not receive such rest till he has paid all that he owes to the position of primipilar. 2. Those, too, who have been deprived of the girdle of their office and have been adjudged infamous on account of their crimes, shall not be able to make that the occasion of enjoying their property undisturbed, and shall be visited by the deserved punishment without exempting their property from responsibility for the duty which they would perform at the end of their service.

² [Blume] See C. 9.47.21.

Given at Milan May 5 (389).
C. Th. 8.4.16.

Note.

A spectator was a scout, sent out by the governor to do or investigate something or other and report.³ The imperial messengers had similar duties. The name does not appear as among the officials in the Register of Dignities.

An ordinarius, or orderly, is mentioned as a member of the staff of the president of Arabia in the Register of Dignities of the Orient 37.46, but in no other place. Orderlies are mentioned in the place stated as third in rank, preceded only by the chief of the staff and by the assistant chief (cornicularius).

It will be noticed from this law that all provincial apparitors who had reached the positions above stated (not higher) were required to fill the position of quartermaster (primipilar) or if they did not fill it, by reason of sickness or old age, pay a certain amount -- presumably to indemnify the person who filled the position in their place. So if an apparitor lost his position on account of some crime, that did not exempt his property, but he was required to pay an amount of money -- presumably what he would have expended from his own funds if he had filled the position. That amount is not known.

12.57.8. Emperors Arcadius and Honorius to Euthymius, Vicar of Asia.

In commuting military supplies (primipilares) into money, the same valuation shall apply as in the case of goods exposed for sale.

Given at Constantinople February 25 (396).

C. Th. 8.4.19.

Note.

"Species primipilares" were military supplies, taking their name from the official who looked after them. As to commuting such supplies into money, C. 12.37.19. The market price governed.

12.57.9. The same Emperors to Clearchus, Praetorian Prefect of Illyria.

In Illyria, where as is well known, the most and largest collections of public taxes are made by the president's apparitors, 100 of these shall serve under each provincial governor. No one beyond this number shall aspire to one of those positions, or remain therein by connivance of the governor. No men must be employed for such service, who, while making large gains, fill the position only in name, but men who perform the duties of the office with due diligence.

Note.

In most places, the curials were the collectors of the taxes. But there were exceptions as noted in note C. 10.17.2. In Illyria, most of the collections were made by the provincial staffs. As to the number of the members of other official staffs, see note C. 12.55.2.

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

Whoever shall aspires to keep records (chartas), or accounts (tabulas), or perform any other service as provincial apparitor, shall not permitted to get such position, until

³ Blume added a question mark in the margin here.

after his name has been placed on the register. A punishment is fixed for those who give any position to, or enjoin any duty upon, any person contrary to imperial statutes.

Given at Constantinople March 17 (407).

C. Th. 8.4.20.

12.57.11. Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

If any provincial apparitor has been discharged on account of a crime he must devote himself to quiet occupations, after he has been dismissed, or if he would rather beg to go back to his former duties, he must lay a rescript from our majesty before Your high office.⁴

Given at Constantinople February 17 (415).

C. Th. 8.4.26.

12.57.12. Emperors Theodosius and Valentinian to Isidorus, Praetorian Prefect.

If a provincial apparitor, or one subject to such service, has obtained any position of dignity, he shall be deprived of all signs of the honor and shall be returned to his former position; his children, too, born while he is in that position, are bound to their father's fate. 1. And if any such has ventured to obtain any position in the (higher) imperial service (militiam), he shall be protected by no lapse of time, except that of forty years; but shall be sent back to his own station in life, and neither he nor his children born during that time, may decline the duties which they owe as such. 2. No provincial apparitor or his son shall dare to aspire to any position other than that to which the status of their forebears has assigned to them. 3. So, too, persons engaged in various trades such as money changers, vendors of gems, silver or clothing, warehousemen (apothecarii), and vendors of other merchandise, no matter to what shop they belong, shall, we order, be excluded from all provincial offices, so that every honor and imperial service (militia) may not come in touch with them.⁵

Given at Constantinople April 3 (436).

C. Th. 8.4.30.

Note.

According to C. 3.23.1, a provincial apparitor who had taken up a position of honor, that is to say, a position of service in one of the higher offices could be dragged back without trial before the magistrate in whose office he served. As the curial was bound to his curia, the serf to his soil, the members of guilds to their corporation (C. 10.32; C. 11.48; C. 11.2), so the provincial apparitor was bound to his position, and the son inherited the position of his father. Kuhn, 1 Verfass. d. R. R. 174. For an exception see Law 5 of this title. There was a distinction drawn between a dignity and the ordinary position in the imperial service (militia), as noted at headnote C. 12.33. All those who had the rank of at least "honorable" held a "dignity," others not.⁶

⁴ [Blume] i.e. it must be approved by that office.

⁵ [Blume] Compare C. 12.34.1.

⁶ Blumed penciled in a question mark here.

12.57.13. The same Emperors to Thoma, Praetorian Prefect.

We permit no ex-primipilar, no ex-chief of the provincial apparitor to aspire to any other position (militiam), or flatter himself with a service contrary to the public interest, or attain any position of rank in prejudice of his former status. 1. But if a position of service or of rank is audaciously obtained contrary to this beneficial rescript or contrary to imperial orders, the permission therefor shall be ineffective, although granted by an order with a special imperial notation, and a person who attempts to work against the public interest by such trickery, shall have no claim to such position, but he shall be immediately delivered over to the curia of the city where he was born. About 442 A.D.

Note.

The law is not altogether clear. The last part shows that it was partially, at least, aimed against persons who attempted to escape their curial duties. We saw at law 12 of this title that no provincial apparitor could enter a position in the imperial service in one of the higher offices. The instant law seems to indicate that he could not do that even after he had served his full time and was discharged, and the law further seems to show that after his term of service as provincial apparitor he was liable to curial duty. Cujacius limits that, however, to persons who were not born into the status as provincial apparitor, but were originally outsiders. And he states in note to law 14 of this title that a provincial apparitor had a right to seek a higher position after he had served out his time. And that law, as well as law 13 impliedly, at least, permitted it, since they refer only to those who were actually serving as provincial apparitors, or were still subject to such service.

Prior to the enactment of this law, it seems to have been the rule that any provincial apparitor might go into some other service, if he received special imperial permission. Not. Dign. Or. 44.14; Occ. 45.14.

12.57.14. Emperor Leo to Constantine, Praetorian Prefect.

If anyone still subject to the service as provincial apparitor, has obtained the government of a province, or the girdle of any imperial service, or titled position, he shall be deprived of the place unlawfully usurped and obtained, although he boasts of having obtained such governorship, imperial service or titled position by our voluntary bounty. 1. He shall be deprived of all emoluments of the position which he spurned; nor shall he be able to obtain them personally or through a third person, but he shall be compelled to fill only the position of primipilar. He shall thereafter be assigned to curial duties of the city, in which he was born, during life. Even those who have completed such imperial service and have had title conferred on them shall be restored to their native curia. Given at Constantinople December 27 (471). Pref. C. 1.40.14.