

Book I.
Title XXX.

Concerning the office of quaestor.
(De officio quaestoris.)

Headnote.

Quaestor. The quaestor, whose fuller title was quaestor of the palace was the great legal officer of the empire, and may be fitly called the Attorney General or Minister of Justice. The office grew in importance at least from the time of Constantine on. On all legal matters, the emperor spoke through him. There was a custom of private individuals and officials to address themselves to the emperor asking advice on legal matters. Judges in the provinces frequently took a case under advisement and referred it for decision to the emperor. The examination of the question was made by the quaestor and the answer was framed by him. This subject is fully set forth in headnote to C. 7.61. It would seem that during Justinian's time some other officials, probably those of the imperial bureaus, undertook to answer some of these matters. So in 541 A. D., Justinian enacted a law providing that no judge should accept an imperial rescript as valid unless it bore the signature of the quaestor. Novel 114. See headnote to C. 1.14. That official had no official staff of his own, but took his assistants from the three learned imperial bureaus of memorials, correspondence and cases on appeal, as shown in C. 12.9 and C. 12.19. The office force in these bureaus attended to all matters of correspondence of the emperor and to all matters, including petitions and cases on appeal addressed to him. But all legal matters were doubtless referred to the quaestor and were subject to his approval. He also drafted the laws proposed to be enacted. He may be said to have been the intermediary between the emperor and imperial bureaus. He also had control of the lesser or minor register as shown in the laws of this title. See generally, 1 Cambridge Medieval History 37, 38.

1.30.1. Emperor Theodosius to Sallustius, Quaestor.

Take notice that the care of the whole lesser register is in charge of Your Sublimity, so that all positions of rank mentioned therein, that is to say, the certificates of appointment for the positions of provost, tribune, and prefect of the camps, may, by authority of Our Clemency, be sent, according to ancient custom, according to your discretion, from the bureau of memorials.

Given at Constantinople April 26 (424).

C. Th. 1.8.2.

Note.

There were kept two registers, lists showing the dignitaries of the empire; one of these was called the greater, the other the lesser or minor register. The former was kept by the chief of the notaries and contained the names of the greater part of the dignitaries. C. 12.7.1, note. The minor or lesser register was under the control of the quaestor, who had clerks from the bureau of memorials as his assistants for this part of the work. Headnote C. 12.9 (3). The lesser register contained, as noted in the instant law, the names of all provosts, tribunes and prefects of the camps. The division of work of keeping the register was due to the desire of dividing the fees which were required to be paid for the execution of the certificates of appointment. Further, it appears from this law

that the quaestor had a certain amount of authority in determining who the appointees should be, and it was customary to pay nomination money (suffragium) for appointments, which the quaestor doubtless received from the appointees whose certificates were under his control. Justinina, by Novel 8, abolished the custom of paying nomination money.

A register of the dignitaries of the empire dating from the beginning of the fifth century has come down to us and furnishes a great deal of the material from which our knowledge of the offices and the functions of the various officials is derived. That register is known as "Notitia Dignidatum," one edition of which is by Otto Seeck (1876).

1.30.2. The same emperor to Helio, Count and Master of the Offices.

It has pleased Our Clemency that all positions of rank of the lesser register, which were previously under the charge and care of the illustrious quaestor, but which in whole or in part were thereafter transferred to the power and control of the Master of the Soldiers, should be, by reinstatement of the custom of ancient times, re-transferred to their former authority.

Given April 29 (424).

C. Th. 1.8.3.

1.3.3. Emperor Anastasius to Eusebius, Master of Offices.

No one shall be permitted, under any condition, to administer the offices and positions, which belong to the devoted men serving in the bureau of memorials, without our permission in writing; he who shall hereinafter be convicted of the crime herein mentioned shall be punished by confiscation of his property. And the official staff of the rector of the province also, among whom anyone shall dare to take charge of any such position without authority of an imperial rescript, shall be punished with the loss of three pounds of gold.

Given at Constantinople March 1 (492).

Note.

It was stated in headnote to C. 1.27 that nearly all officials including the apparitors were required to be appointed by the emperor. That rule is here stated as to the imperial bureau of memorials. C. 12.9 headnote. It is also stated as to the apparitors in the office of the provincial governor. To the same effect is C. 12.57.2, in which officials, however, dealing with the public post were excepted.