

Book XII.
Title XXI.

Concerning the chiefs (principes) of imperial messengers.
(De principibus agentum in rebus.)

12.21.1. Emperor Gratian, Valentinian, Theodosius and Arcadius to Cynegius, Praetorian Prefect.

We remunerate the imperial messengers, after their faithful work, by the deserved honor of chief (princeps). No officials (under him) shall be sent to attend to public or private matters without his order, and no one shall without him be directed to produce any (guilty) person (in court), although the order (to produce)¹ is issued in places where the official staff lives². We also want lawyers to know that they shall bring no suit in court without the knowledge of the chief, in the name of one (a single client) fraudulently attempting to bring unrelated transactions before the court. If this order is violated, ten pounds of gold shall be paid by your staff into the fisc.

Given at Constantinople February 28 (386).

C. Th. 6.28.3 and 4.

Note.

See headnote to C. 12.20. Imperial messengers became chiefs of various official staffs, and the instant law contemplated those offices which had to do with court matters.³ The princeps (chief), a member of the imperial messengers, was at the head of the staff, and everything was under his supervision; no apparitor could be sent on any mission without his order; no person charged with crime could be exhibited in court, no process of any kind could be served, without his direction. No case could be commenced without his knowledge, and lawyers could not attempt to combine cases or transact matters relating to various suits in the name of one client. The reason for all these provisions was that the chief received fees, or part of the fees, or everything that was done in the court. Not a single step could be taken in a case without the payment of fees. Ingress to and egress from the judge's chamber cost money. Nothing was free. This matter is not altogether strange to us, since certain fees are ordinarily connected with every suit in court, and it was formerly customary for the officers to get the fees, though the custom is now largely abolished.

The instant law probably dealt with the court of the city prefect, or the praetorian prefect, or both, in mind.

12.21.2. Emperors Arcadius and Honorius to Theodotus, City Prefect.

We direct that all citations, in all legal causes and in respect to all persons though of senatorial rank, shall be under the direction of the chiefs (principes); but all other proceedings which usually take place in the sacred assembly of the senate shall be attended to by the censors (censualium); nor shall any prejudice arise to suppliants through a rescript surreptitiously obtained.

¹ [Blume] intercessio - probably not the same as exsecutio.

² [Blume] Probably intended for Constantinople.

³ Blume penciled "wrong" into the adjacent margin.

Given at Constantinople May 21 (395).
C. Th. 6.28.5.

Note.

This law deals with the proceedings in the senate, and that of Constantinople. Citations issued in connection with these proceedings were under the direction of the chief of the official staff of the city prefect, who was the presiding officer of the senate.

Censuales.

All other proceedings were required to be attended to by the members of the bureau of the master of the census. That bureau, too, was under the city prefect. It was charged, at one time at least, with the duty of assessing the property of the senators for the purpose of taxation, and it kept a list of them. It also performed certain functions in connection with the custody and opening (probate) of wills and the registration of gifts. It further had a certain supervision over the students and foreigners in the capital. These censuales must not be confounded with the assessors (censuales) who performed their functions in various parts of the empire. See also C. 6.23.18 note; C. 8.52.32; Gothofredus on C. T. 6.28.5 and references there given; 1Karlowa 866. As to municipal censuales, see C. 10.71.

12.21.3. Emperors Honorius and Theodosius to Palladius, Proconsul of Africa.

We direct that the chiefs of the imperial messengers be decorated by the addition of the great proconsular rank.

Given at Ravenna September 25 (410).

C. Th. 6.28.7.

12.21.4. Emperors Theodosius and Valentinian to Valerius, Master of Offices.

Chiefs of the imperial messengers may have private secretaries (domesticos) in their employ, whose fidelity and industry they deem proven although the latter have often served in the same position before. 1. And if any imperial messenger, after the service of twenty-five years, is not able to await the end of the service, but by the testimonial of the school is advanced to the honorary title of ex-chief, he shall have the same privileges which are enjoyed by those who have actually officiated as chief. 2. But in salutations of the judges and in sitting with them, those who through the course of long service, have actually officiated as chief shall take precedence, although they are later in time. 3. The censuales or apparitors shall not devise anything against the privileges which they have, as though they had actually occupied the position of chief,⁴ at the risk of a fine of twenty pounds of gold.

Given at Constantinople January 29 (436).

C. Th. 6.28.8.

Note.

The domesticus was a private secretary or attendant and is referred to in note C. 12.29.1; note C. 1.42.2, headnote C. 1.51.

⁴ [Blume] No doubt those with honorary titles were here contemplated.

The censuales are considered in note 2 of this law. It may be noted here that the ordinary service of the imperial messengers was twenty-five years. An honorary title as chief could be conferred. As to other honorary titles, see C. 12.8.

12.21.5. The same Emperor to Cynegius, Praetorian Prefect.

We direct that those who, in regular order of their service have, after the rank of ducenarius, reached the desired rank of chief, or shall have become aides (adjutores) of the illustrious master of offices, shall, after they have begun to be numbered among the dignitaries, be decorated by the insignia of the rank of vicar. (440, 441).

Note.

The chief of the official staff of the Master of Offices was known as adjutor, aide, and not as princeps, the chief of the official staff of most of the other high offices. Hence this adjutor was entitled to the same rank as the princeps of other offices. He was given the rank of vicar; the princeps the rank of proconsul. The vicar and proconsul were of the same rank; they were spectabiles - of worshipful rank.

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

We order that the chiefs of imperial messengers, whom grim dangers and at times renunciation of life has brought to the rank mentioned, shall, when their time of service is complete, enjoy the girdle of the countship of the first order during the remainder of their life, reserving to them also the privileges granted to them in the meantime. (443, 444?)

Note.

As to the countship of the first order, see C. 12.10.

12.21.7. Emperor Leo to Nicostratus, Praetorian Prefect.

If one from the corporation of cohortales⁵ serves as imperial messenger and has a son, before the end of his service, and is afterwards decorated by the honor of chief (princeps), then, although he himself, after the completion of his service, shall be free from being required to perform any duty pertaining to the cohortales, the son, nevertheless, shall continue to be subject to that condition. If the son is born to him after having reached the position of chief, this son, although he has no position among the imperial messengers, shall be free and exempt from any ties as cohortalis, since he is the son of a father entirely exempt from that condition.

Note.

This law deals with the imperial messengers who, when he became such, was subject to the duty as cohortalis. As noted in headnote to C. 12.57, that term was confined mainly to persons serving in the official staff of the provincial governors, and are generally designated herein as "provincial apparitors." The term is here probably meant for a person who was subject to that duty, not one who actually performed it. That, however, is not clear. In any event, he was free from such duty, if he had reached the rank of princeps, chief among the imperial messengers, and had served as such, and so was his son, if born after that time, but not, if born before that time - a distinction

⁵ [Blume] provincial apparitors.

sometimes made by the emperors. See C. 10.32.67, and observe the provisions there as to freedom from curial duties.

12.21.8. Emperor Zeno to Johannus, Master of Offices.

Actuated by many requests of the departments of imperial messengers, the honorable chiefs of the department finishing their time of service and leaving it, whenever they, their wives, children, slaves or serfs are summoned either in person or thru procurators, by the order of one of the greater judges, shall pay no greater amount of fees to the process-servers (exsecutoribus) than one solidus, and to the attendants on the court of the vicar or president no more than a third part of a solidus. 1. They shall be troubled by no extortions or vexations in furnishing sureties; but shall give such sureties, as the defendor of the place thinks should be given, and those of them who, according to the tenor of the general edicts, possess immovable property either in this holy city or in the provinces, need give only a guaranty on oath (to appear). 2. This, too, is to be added, that they shall be summoned only pursuant to an order in writing. 3. And, further, as in the case of other members of official staffs, whenever a civil or criminal case is instituted against them, the process-server assigned to the transaction shall be content with payment to him of one solidus to the end of the civil or criminal suit. 4. And for registering rescripts of Our Serenity (which act as commencement of a suit), and for a simple action brought by him or his wife against their debtors, they shall deposit only two solidi in each case. 5. And whenever copies are demanded, those interested shall not delay, after receipt of the payment of one solidus, to furnish what is asked. 6. For furnishing (copies of) records whereby process-servers are authorized to summon (parties), not more than three solidi shall be paid to the parties entitled thereto. 7. But they (imperial messengers and their wives) shall pay not more than one solidus to a referee; not more than half of a solidus to the attorneys for the fisc, and not more than one third of one solidus to the scribes (notarii) (from the beginning) to the end, as has been said, of the case. For a copy of records (chartula) they shall pay one half of a solidus. 8. But if the trial is not held before a referee but before one of the competent greater judges, they shall pay no more than four solidi for commencing the action, and two solidi for taking down the proceedings, and they shall not be troubled by an exaction of payment of expenses to anyone else beyond the amounts stated. These provisions shall apply whether they bring actions against others, or whether they are sued by others.

Given September 1 (484).

Note.

It will be noted that the chiefs among the messengers and the members of their households were granted certain privileges in connection with furnishing fees and sureties in cases in court. A number of officials were granted similar privileges. See e.g. C. 12.25.4, and C. 12.29.3. The subject is fully discussed in headnote to C. 3.2, and see the laws of that title.