

Book XII.
Title XXII.

Concerning secret agents.
(De curiosis.)

12.22.1. Emperor Constantine to Lollianus, Praetorian Prefect.

The secret service men (*curiosi*) and station masters (*stationarii*) or whoever perform (C. 4. 61. 5) this function, must remember to notify the judges of crimes, and that upon them lies the duty of proof, not without danger to themselves, if it appears clear that they have brought false accusations against persons who are innocent. The bad custom by which they have sent men to jail shall cease.

Given at Milan July 22 (355).

C. Th. 6.29.1.

Note.

Stationarii.

Hudemann, R. Postwesen 68 and 97, holds that the *stationarii* were the station-masters at the stations along the public post, officials whom we might call postmasters, supervising the work of other men there engaged, taking care that the number of animals and vehicles which were required were at the place, and in general supervise everything connected with the station. They were forbidden to collect any duties for property transported along the post-roads by the provincials for their own use or for the use of the post, implying that they acted as customs officers. C. 4.61.5. It is apparent from C. 12.57.1 that they were permitted to make charges for certain matters. They were forbidden to keep any prison. C. 12.57.1 and the instant law forbade them to put anybody in prison. Yet it appears from this law, further, that they were doubtless charged with the duty of reporting the commission of crimes, and hence acted, doubtless, as a sort of police officer. Cujacius, on C. 12.57.1, says that they were taken from among the provincial apparitors.

Curiosi.

In law 2 of this title the *curiosi* and the *agentes in rebus* (imperial messengers) are identified as the same persons. According to law 4 of this title, these *agentes in rebus* were required to confine themselves to inspection of the passports along the public post. For these passports, see more fully C. 12.50. They had previously been employed for, or they assumed, general police or espionage duty, becoming oppressive and corrupt and hateful to the people. Honorius drove them out of Africa, they ceased to exist as police officers in the West before the time of Justinian, and Justinian finally discontinued them as such police officers in the East - all doubtless because they became corrupt, oppressive and hateful to the people. Hudemann, R. Postwesen 92-96. The number sent into the provinces varied from time to time. See Boak, Master of Offices 76. By law 4 of this title only one was sent into the province. They served for one year. Boak, *supra*.

While law 4 of this title specifically confined their duties to the inspection of the passports for the use of the public-post, for which purpose they were required to ride from place to place, the instant law clearly indicates that they reported crimes, or were required to report crimes, and therefore notwithstanding law 4 of this title, acted as a sort

of police officer, although they could put no one in prison. For the subject of police officers in general, see note C. 9.2.7. When the imperial messengers ceased to act as such police officers, others, of course, were used for that purpose.

12.22.2. The same Emperor and Julian, Caesar to Taurus, Praetorian Prefect.

We believe that the imperial messengers, in the performance of their duties and in inspecting the passports of the public post, mindful of our precepts, look after the welfare of the state in all things. We order, accordingly, that they alone, and no other office, shall be engaged in this service. They will with ever-watchful care see to it that no one uses the public post beyond the authority of the passport, or demands more than the passport authorizes. Whoever attempts to do that, shall be deprived of any beneficial result of his dishonest attempt. The passport shall also be shown to the judges (governors) or to secret agents (curiosis), although the bearer states that he is engaged in an urgent mission at our command, nor shall any refusal be considered nor any rank be exempt. We therefore forbid money to be demanded for animals not employed in the public post.¹ If anyone shall violate this, he shall be compelled to pay fourfold the amount received.

Given at Milan April 17 (357).

C. Th. 6.29.2.

Note.

It may be noted here that the law speaks of the same class of persons - those who looked after the public post, and in one place these men are called *agentes in rebus* and in another *curiosi*, clearly showing, of course, that the *curiosi* were simply the men from among the imperial messengers who were sent into the provinces to look after the public post.

12.22.3. The same Emperor to the Imperial Messengers.²

During the time, in which you have the supervision of the public post, the penalties of the praetorian prefect, shall be of no effect only against those (of you) who have preserved their honesty. Therefore those who will be engaged in acting dishonestly, against the spirit of the times, and contrary to the honor of your service, will not only be subject to the fines, but also to heavier punishment.

Published November 30 (359).

C. Th. 6.29.3.

¹ [Blume] This sentence is obscure. The Theodosian Code, from which this law was taken, contains a sentence preceding this to the effect that the secret agents should not be guilty of extortion. How they could demand money for animals not employed in connection with the public post is not clear. [Scott is in agreement. See 7 [15] Scott 267 (where this is C. 12.23.2).] See Gothofredus and Cujacius on this law. Hudemann, R. Postwesen 96, holds that it was their duty to see that money was demanded - evidently by others - for animals not used in connection with the public post.

² Blume's typed manuscript has "confidential agents" rather than imperial messengers here and in the next law. A note at the back of this manuscript volume says: "Agents in *rebus* first translated as 'confidential agent: C. 12.22.3.'" Scott has "agents employed in the transaction of business." See 7 [15] Scott 267 (as C. 12.23.3 and 4).

Note.

The imperial messengers were under the jurisdiction of the master of offices, and they, accordingly, claimed exemption from prosecution in the courts of the praetorian prefect or the provincial courts. But they were not granted such right. But see C. 12.20.4.

12.22.4. Emperors Arcadius and Honorius to Macellus, Master of Offices.

We order that into each province shall be sent an imperial messenger, to whom, however, shall only be entrusted the duty of inspecting passports on the public post, and they shall have nothing in common with the governors or the provincials. They shall vex no ships by unlawful extortion, nor receive complaints or protests looking to a lawsuit,³ nor put anyone in prison, but they shall devote their time entirely to the public post.⁴
C. Th. 6.29.8.

³ [Blume] On the part of the provincials.

⁴ [Blume] See note to law 1 of this title.