

Book XII.
Title VII.

Concerning the chief (primicerius) and first assistant chief (secunderius) and notaries.
(De primicerio et secundocerio et notariis.)

12.7.1. Emperors Gratian, Valentinian and Theodosius to Eutropius, Praetorian Prefect.

Our Piety has a special regard for the notaries. And, therefore, if any of this order have changed their labor for quietude, or laid their position aside on account of age, or have after their service in this order, obtained another post of rank, they do not lay aside the privileges of their first service, but add to them the reward of the subsequent honor.

1. If any member of an official staff, especially¹ one of your office, burdens them with the census adjustments, or equalization (of taxes), or with any other matter, the official staff must know, that it incurs the risk of a heavy fine, even though the offense is slight and that the number of accountants (numerariis) will be diminished by the dismissal of the author of the offense.

Given at Thessalonica June 15 (380).

C. Th. 6.10.1.

Note.

Notaries.

While this book deals to some extent with the great dignitaries of the empire who were at the head of great departments, for instance the great officials considered in the three preceding titles, it deals mainly with assistants, not only of these great dignitaries, but also of the emperor - for thus the notaries may be called. These are considered in the instant title. They are mentioned also in C. 2.7.23; C. 4.59.1; C. 12.40.11.

The foregoing law mentions notaries generally. The following law speaks of tribunes of the notaries. The latter are by some authorities considered the first ten of the notaries, in rank following the primicerius, the chief of the corps. See Otto, Schilling & Sintenis, "Index of Officials" to volume 7. The term notary was confined almost exclusively to the officials considered in the instant title. For an exception see C. 12.32.2. The notaries were imperial secretaries, and as such stood in high regard. They officiated as secretaries at the meetings of the imperial council, considered at title 12 of this book, at which general affairs of state were considered, and kept the proceedings of the council. Their chief, as stated, was called primicerius, just as the chief in many other departments, and he was granted by Justinian a benefice of ten pounds of gold, to be paid out of the revenue from Phoenicia. Edict 4, c. 1. He took precedence over the chiefs of the imperial bureaus - also closely associated with the emperor - considered in titles 9 and 19 of this book. He kept the great register, laterculum majus, in which were contained not only the names of the occupants of the greater offices, civil and military, but also forms for their appointment and instructions as to their duties. He appears to have had four separate bureaus under him in connection with this duty. Novel 8, list of fees. A register of some minor officials was kept by the quaestor and his assistants, as noted to C. 12.9 (2); C. 1.30.1 and note.

¹ Above this, Blume penciled-in "even" and put a question mark in the adjacent margin.

Fees were paid to the offices keeping these records, as may be more fully ascertained by examining the list of fees subjoined to Novel 8. The emperor had personal record-keepers, as shown by c. 7, of Novel 8, and the subjoined list of fees. These record-keepers (chartularii) probably kept a copy of the certificates of appointment, the original of which were probably made out by the office keeping a record thereof.
1 Karlowa 846.

Three separate lists of officials seem to have been kept. The greater register was kept, as above stated by the chief of the notaries and his assistants. The lesser register, containing the list of minor dignitaries, was kept by the quaestor and his assistants from the imperial bureau of memorials. See C. 1.30.1; Headnote C. 12.9. Then separate lists were kept for the members of the various official staffs, and certificates of appointment for them were issued by the three learned imperial bureaus. C. 12.59.10.

A part of the tribunes of the notaries were assigned as referendaries, fully reference to whom will be made below. See generally 1 Cambridge Med. History 38; 1 Karlowa 845-846. The numerarii seem to be made specially responsible if any unlawful burden was imposed on notaries. See note G.² to C. Th. 6. 35. 11.

12. 7. 2. Emperor Zeno to Hilarianus, Master of Offices.

We have believed it well to fortify and exalt with various benefits the distinguished and noble office of the worshipful tribunes of notaries, who by their glorious service bring advantage and honor to the state. 1. We have though it best to limit the chief (primiscerius) to a period of two years in his duty to keep the register. 2. But the tribunes who are occupied with their own affairs, and have not returned within a year - although they allege the rights of a furlough, suffer the loss of one grade on account of the absence of one year; of two grades if absent two years, of three grades, if absent three years, likewise, of four grades, if absent four years, and shall given their place to those lower to them in grade. 3. Those, moreover, who have ceased to be present for a whole period of five years, shall be stricken from the register, and shall enjoy only the name, not the rank of tribune, with the reservation that despite these provisions they shall be free from the burden of the census, adjustments or equalizations and from any other burden. 4. We have noticed that our special attention has been needed to see that no one may disturb the regular order of promotion through corrupt solicitation, influence, pretence of any kind or under the appearance of any public labor or care, and, by ignoring the matter of time, be preferred to those who have served a long time, and thru favoritism steal what old age, after long and extended devotion in duty, promises. 5. We must also add, that the chief shall, after relinquishing the care of the register (numerorum), have the ornaments of the master of offices, according to ancient custom, just as if he had carried on that office, and shall have precedence over brevet-officers though preceding him in time.

Note.

Similar provisions as contained in this law with reference to reduction in grade or rank by absence from office and expulsion therefrom will be found in C. 12.17.3 and C. 12.42.2 and 3. The various officials ordinarily passed from one grade to another in regular order, until they became chief. This will appear from several laws in this book.

² Blume probably means Gothofredus's Commentary on the Theodosian Code.

The high regard in which the chief of the notaries was regarded may be seen by the fact that he received the illustrious rank. For brevet officers and precedence, see title 8 of this book.

See, in 12 Pauly-Wissowa 906, shows that the chief of the notaries originally kept a list of the officers of the army, while the duty to keep a list of the officers of the army below the duke in rank was subsequently transferred to the laterculensis, in the bureau of memorials and under the quaestor. C. 1.30.1. He also thinks that the instant law as originally enacted was intended to retransfer the right to keep this list to the chief of the notaries, and draws that inference from the phrase "publicam numerorum sollicitudinem," the term "numerorum" referring to soldiers. However that may be, the term could not mean that in the law as it has come to us.

Referendaries.

Mention has already been made of referendaries. They were appointed, it seems, from among the tribunes of the notaries, and were the legal secretaries of the emperor in an even truer sense than the latter. It was their duty to report petitions to the emperor, transmit imperial answers to officials, convey instructions of the emperor to judges in the capital and the provinces and perform various missions. See C. 1.15. By C. 1.16, it was provided that all imperial orders communicated by the referendaries, except as to the appointment of special judges, should be in writing. By Novel 124, c. 4, they were forbidden to mix in any suits, limiting their activity to communicating orders to the judges. They were also probably employed as intermediaries between the emperor and the masters of the imperial bureaus, some of whom were engaged in some of the work as above mentioned, as will be seen by headnote to title 9 of this book. The referendaries disappeared in the later Byzantine Empire. Bury in 21 Harvard Studies in Cl. Ph. 25-29; and see C. 1.15.2; C. 4.59.1; Nov. 113pr, and c. 1; Nov. 124, c. 4; Cass., Var. 6.17; Procopius, B. P. 2.23. The last authority describes the referendary as an "announcer of imperial messages, always announcing to the emperor the petitions of his clients, and declaring to them in turn whatever his wish was." See also C. 1.50.2.

Novel 10 fixed the number of these referendaries.