

Book III.
Title XII.

Concerning non-judicial days (holidays).
(De feriis.)

Bas. 7.17; D. 2.12.

3.12.1. Emperors Constantine and Maximian and Severus and Maximinus, most noble caesars to Verinus.

Since you ask, dear Verinus, whether observance similar to that of holidays, added by us (and) which arise out of fortunate events, should likewise be extended to the times regulating appeals, it has pleased us to write you,¹ so that you may know that time fixed for appeals should be uninterrupted, and without the addition of days of that kind; (hence) the addition of the days above mentioned cannot at all be made in such cases. Given—(305).

Note.

The same rule was applied to postponements in C. 3.11.3.

3.12.2 (3). Emperor Constantine to Helpidius.

All judges and the people in the city should rest, and the work in all the crafts should cease, on the holy Sunday. But the people in the country may freely and lawfully apply themselves to the culture of the fields, since it often happens that grain can be sown in the furrows and vines planted in the trenches on no better day, so that the benefit conferred by the providence of God may not perish with the opportunity of the moment. Promulgated March 3 (321).

3.12.3 (4). The same emperor to Severus.

No judge must presume to establish holidays by his authority. Such days, ordered by a governor (administrator) should not be called imperial holidays, and they, being deprived of that name, also lack the advantage thereof. Given April 13 (323).

Note.

No day merely declared as a holiday by a governor was in fact such. Bas. 7.17.20.

3.12.4 (5). Emperors Valentinian, Valens and Gratian to Glybrius, City Prefect.

Your Sincerity must decide public and fiscal cases also in the two months of vacation, that it to say, without letting such vacation interfere. Cases also pertaining to bakers may in the future be lawfully tried during the same time.² May 4 (369).

¹ Blume has penciled in above “you,” without striking it, the phrase “your experience” and put a question mark in the margin. Scott translates this as “...We are pleased to answer you...” 6 [12] Scott 275.

² Without striking anything in this sentence, Blume penciled a question mark into the margin and penciled in this variant: “Valid examination of cases pertaining to bakers may in the future be made (lawfully tried during the same time).”

3.12.5 (6). The same emperors to Albucianus, Vicar of Macedonia.

During the forty days which anticipate the time of Easter by the beginning of ceremonies, all examination of criminal cases will be suspended.

Given at Thessalonica, March 27 (380).

C. Th. 9. 35. 4.

3.12.6 (7). Emperors Valentinian, Theodosius and Arcadius to Albinus, City Prefect.

We order that all days shall be court days.

1. Only those days shall remain as days of vacation which each year, for a period of two months, indulgently gives to rest from labor, in order to mitigate the summer heat, and to gather the autumnal fruits.

2. We also give over to leisure the usual days at the beginning of each year.

3. We add to these the natal days of the great cities of Rome and Constantinople, during which the legal proceedings, which own their origin to them, should be deferred. We also add the holy pascal days, seven preceding and seven succeeding Easter, also the natal day of Christ and the day of Epiphany and the time during which the suffering of the apostles, the teachers of all Christianity, is rightly commemorated; and these holy days shall not be open to shows.

4. Sundays, too, which the ancients rightly named the Lord's days and which return at regular intervals, shall be put in this class.

5. An equal reverence shall be paid to the days which marked our birth and the beginning of our reign, and on these days no examination of disputes shall be made before referees, whether appointed by judges upon request or by the choice of the parties.

6. During the fifteen days of Easter, the exaction of all taxes in kind and of all public and private debts shall be deferred.

Given at Rome August 8 (389).

C. Th. 2.8.2.

Note.

During the time of Marcus Aurelius, the days on which court might be held numbered 230. Capit. Marc. 10. When Christianity became the recognized religion of the empire, considerable changes were made in the days that were closed and the days that were open for holding court.

No one could compel his opponent to attend to stand trial at the session of harvest or vintage, according to D. 2.12.1—a rule applicable, doubtless, also to the other days provided as holidays. If during the days of harvest or vintage the parties appeared, however, and voluntarily engaged in the trial of a case, the judgment pronounced was valid. If a party, on the other hand, kept away, and judgment was pronounced in his absence, it was void without appeal. This was true also as to other days. For exceptions, see the laws of this title. Under some circumstances, however, parties might be compelled to come to court during this time; for instance, where the subject matter of a suit would be lost by lapse of time, but in such case the defendant could only be compelled to join issue in the case and have the trial adjourned. D. 2.12.1 and 6. Application might be made to a judge in some legal matters on holidays; for instance, for the appointment of guardians or curators; to admonish persons who neglected their duties; to hear excuses; to order alimentary provisions; to ascertain persons' ages; for orders that possession of property might be taken by a woman heavy with child, for the unborn child, or for the sake of preserving property, or by way of security for the

payment of legacies or trusts, or in case of threatened damage; also for orders for discovery of testaments; for orders for the maintenance of children, parents or patrons, or for making entry on inheritances suspected to be insolvent, or for ascertaining by ocular proof the extent of an aggravated unlawful wrong, or executing manumissions provided for by a trust. Again where property was likely to be lost by lapse of time or by death, it was the practice for justice to be administered even in the season of harvest and vintage. So inquiries as to whether a man was free or a slave could be heard to the end at all times of the year. D. 2.12.2.3. The president of the province usually laid down what were to be the days of harvest and vintage in accordance with the custom of the particular locality. D. 2.12.4.

3.12.7 (8). The same emperors to Tatianus, Praetorian Prefect.

All acts, public or private, shall remain quiescent during the fifteen days of Easter. Emancipations and manumissions, however, during these days, and enrollment and registration thereof, are not forbidden.

Given at Constantinople May 27 (392).

3.12.8 (9). Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.

Let the judges of the provinces be admonished not to except any of the forty days of Easter or even the holy day of Easter itself in examining robbers under torture and especially the Isaurians, so that the disclosure of criminal conspiracies, which is to be sought through the torments of robbers, may not be deferred, since pardon from the Almighty may well be hoped for in a matter by which the safety and peace of many is secured.

Given at Constantinople April 27 (408).

C. Th. 9.35.7.

3.12.9 (11). Emperors Leo and Anthemius to Armasius, Praetorian Prefect.

We do not want the festal days, the days dedicated to the highest majesty, to be taken up with pleasures, or profaned by the vexations of collections.

1. We decree that the sacred Lord's day shall always be honored and venerated and not used to execute any orders. No summons shall disturb anyone; no exaction for suretyship shall be made; the apparitors shall be silent; let advocates hide;³ examinations shall not be made on that day; the harsh voice of the crier shall not be heard; litigants shall rest from controversies and have a moment of peace; let adversaries go to each other without fear, let reciprocal penitence enter the minds; let pacts be made and compromises speak loudly.

2. But while facilitating rest on this day, dedicated to God, we permit no one to give himself over to unseemly pleasures. The day shall not be open for the theater, the strife of the circus, or the tearful spectacle of wild beasts. If our birthday or the day when we came to the throne should fall on Sunday, its celebration shall be deferred.

3. If anyone attends the spectacles on that day, or if any apparitor of a judge rashly violated the provisions of this law under the pretext of public or private business, he shall suffer the loss of his office and confiscation of his goods.

³ This has been penciled in above the typewritten original which read "advocates shall keep still." Scott reads this as: "...advocates shall cease to conduct cases..." 6 [12] Scott 277 (where it is in C. 3.12.10).

Given at Constantinople December 9 (469).

Note.

As to treatment of prisoners on Sunday, see C. 1.4.9.