

Novel 128.

Concerning the collection and payment of public tribute and other topics.
(De publicorum tributorum exactione et salutione et aliis captibus.)

Emperor Justinian to Peter, the glorious Praetorian Prefect.

c. 1. Since we are anxious to do things which are of advantage to our subjects, we must enact also the present law, in which we ordain that in the month of July or August of each tax year, the several (particular) orders for the tax levy of the next tax year shall be made known in the tribunal in each diocese of our glorious prefects, by making a record thereof, which shall state the amount of tribute levied in each province or city in kind and in gold against each jugum, Julia or century or by whatever other name a tax-unit is known; and it shall also show the value of the products in kind according to the market and custom in each place,^a the amount that shall be paid into the treasury (of the prefect-area), or paid and expended in the province. The orders for the tax levy, thus composed, shall be sent to the presidents of the provinces at the beginning of each tax year, and published by them in the cities under their jurisdiction in the month of September or October. Copies thereof, too, shall be furnished without delay, to those wanting them, from the office of the glorious prefects, so that our subjects may know what tribute they must pay. But if our subjects, prior to the time of such publication, have paid or expended in the province taxes different from those specified in the order for the levy, they shall be credited therewith on the tribute of the same tax-year, so that they may suffer no loss. If the several orders for the tax levy are not sent within the time above specified, the officiating praetorian prefects shall pay a fine of thirty pounds of gold, and the tax accountant (tractator) of each province a fine of twenty pounds of gold.^b If the president fails to publish the order sent to his province, he shall be fined ten pounds of gold, suffer the loss of his girdle, and his official staff shall pay a fine of five pounds of gold.

Notes.

a. The marked price on the products to be furnished as taxes was fixed for the reason that taxes in kind were, during the later period, generally converted into money-payments. See C. 12.50.18, where the praetorian prefect was directed to fix the price.

b. The tractator seems to have been a sort of head-collector. Note C. 10.23.3. The reason why a fine should be imposed in this case upon him when the notice of tax levy was not sent out in time is obscure. It was Justinian's policy to catch as many officials as possible within the net of responsibility, provided the person held responsible was in some way connected with the act enjoined. So the tractator must have had something to do with the notices, though what it was does not appear. It was probably through some connection that this officer had with the public post, over which the notices were sent, it being, perhaps, made his duty to see that the notice was promptly delivered to the governor upon arrival at the post-station.

c. 2. We order that the payment of the tax in kind shall begin immediately at the commencement of each tax year, the payment in money at the times fixed by law.

Note.

This would seem to indicate that while money-payments were made in three equal payments, the tax in kind was paid at one time, at the beginning of the tax year. This is the view taken by Cujacius. 1 Karlowa 907, takes the view that both kinds of taxes were payable annually, in three equal installments. That was specifically permitted by C. T. 12.6.15, which, however, was not embodied in the Justinian Code. But it was probably true in any event when the tax in kind was converted into money-payments. C. 11.65.3 provides that emphyteuticaries (of imperial lands), and possessors of imperial patrimony, might pay in one, two or three installments. It may be that all that Novel 128, supra, meant was that the first payment of the year's taxes should be made at the beginning of the tax year, commencing on September 1, instead of on January 1, the date fixed for the first payment in money. If that was true, the situation of the taxpayers was substantially the same, for those that paid in money were in any event required to make a payment in September, and it made, of course, little difference to them whether that

was considered the first or the last payment of a tax year. Humbert, 2 Essai 35, says that the annona was payable in three installments, but that the taxpayer might pay all in advance—namely at the beginning of the tax year. That is probably correct. See C. 12.37.11.

c. 3. We direct that receipts, for part or full payments, shall be issued by those who receive the tribute, which shall state the amount of money and products paid, the property taxed, and the name of the owner from whom the tribute is received. If the receivers of taxes fail to issue receipts in the manner aforesaid, they shall pay a fine of ten pounds of gold and be subjected to torture. Furthermore, the president shall pay a fine of ten pounds of gold, if, when his attention is called to it, he fails to punish the violator and fails to see that the receipts are issued in the manner aforesaid.

c. 4. We also direct this to be observed, that if any of our subjects have doubts as to the property for which the tribute is demanded, or as to the sum of the tribute, the keeper of the assessment rolls shall be compelled by the president of the province, or if he neglects to do so, by the holy bishop of the place, to produce them and show the amount of the tribute according to such rolls, and payment from the property owner shall be demanded accordingly.

c. 5. We also want to aid our subjects in this, that the landowners need not nominate the receivers of the tribute which is payable in money (gold), so that they will not suffer any damage by reason thereof, but those responsible in each province or city for the collection of the tribute, whether judges, curials or collectors (exactores), special collectors (vindices), or palatine officials (canonicarii), or others, shall collect and transmit the money at their peril, or pay it out for uses for which it is assigned.

c. 6. We further order that such a special tax commissioner from the palace (canonicarius) be sent into the province who can, at the risk of those who appoint him, collect the public tribute, and no other special exactor (compulsor) shall be

sent afterwards and inflict damage on our subjects. For we entirely, for the future, abolish the very name of compulsory. And if the canonicarius is found to be inefficient, no compulsor shall be sent, but such special commissioner shall be removed and another appointed in his stead, and the special commissioner must be content with the payment of the customary tribute and must inflict no damage on our subjects.

c. 7. If a forced addition (epibole) of property derived from and taxable with the same estate is made, we direct that the person receiving the forced addition shall pay the taxes thereon from the time on that the forced addition is made. A forced addition shall not be made, unless a proceeding, in writing, has been instituted before the president of the province and the latter has given his decision, designating the person who must receive the forced addition. If such person deems himself aggrieved, he may appeal to the tribunal of the glorious prefect and the matter shall be settled according to law.

a. See C. 11. 59.

c. 8. If it happens that the owner of landed property disappears or is unable to pay the tribute, making forced addition necessary, we order that it shall be immediately transferred to those who have property derived from the same estate and belonging to the same fiscal unity, together with all serfs with their peculium, everything found thereon, fruits, animals, furnishings and implements. But if no person is found, who should, according to law, receive such property, or it happens that a forced addition is deferred for any other reason, we order that a record thereof be made before the president of the province, which shall state the quality and status of the property and all things found thereon, so that the curials, collectors or official staff (of the president) may take it over. And if thereafter persons are found who should take it over according to the laws, they shall be compelled to do so only when they are compensated for any damage or injury to the property by the collectors, curials or official staffs.

c. 9. We also order that no transportation expenses (parapompica) shall be demanded from our subjects for money or products which are expended or distributed in the provinces; nor shall more transportation expenses be demanded from them for the money or products which are transported than originally fixed for the several provinces.

Note.

All land owners were bound to bear their proportion of the expenses of hauling public supplies or money. Note C. 10.16.6. That part of the taxes were expended in the province, for salaries and for supplies of and compensation to soldiers is partially shown by C. 12.37.18, and Novel 130 appended to C. 12.37 [not

appended in this edition]. As to parapompica, see also C. 12.30.4.

c. 10. Persons, moreover, who are sent to the provinces to collect taxes, shall not begin to do so until they have filed their letter of authorization in the provincial court, so that those that pay public tribute may incur no risk or damage in the matter. This rule shall govern also in private matters.^a

a. A similar law is C. 12.60.7.

c. 11. We also order that the collection of no private accounts shall be entrusted to collectors of tribute, and if anything of the sort is entrusted to them, they must not do anything in connection therewith, so that our subjects may not be injured in the name of the public tribute.

c. 12. And if any person who owes public tribute states to the officer (executor) that another person is his debtor, such officer shall not trouble the person so named, unless it is clear that the public debtor is unable to pay the public tribute, and in any event investigation must first be made before the president of the province whether the person named really is a debtor of the insolvent; and in either case the collection shall be made in a lawful manner. And if anyone dares to make a collection contrary to our orders, he shall be deprived of his girdle, his property shall be confiscated and he shall be sent into exile. A magistrate, moreover, who directs or authorizes such violation, shall pay a fine of ten pounds of gold, and his official staff a fine of five pounds of gold.

Note.

The fisc might garnish the debtor of the fisc, but could not be compelled to do so. Note C. 10.2.4. And as here noted, it was enjoined not to do so except in case of necessity.

c. 13. No collectors of public tribute, moreover, nor assessors (censuales), clerks (logographi), or other public servants, shall enjoy the right of asylum, as against those who claim to be damaged by them in the collection of a tribute.^a

a. Novel 17, cc. 6 and 7. No taxpayer had the right of asylum—protection in a sacred place—as against taxes. See Edict 13.

c. 14. No one, moreover, shall be compelled to pay tribute for estates which he does

not own; and if it happens that a person has serfs who own lands of their own, the tribute against such lands shall be collected from the serfs themselves, and their master shall not be troubled on account thereof, unless he voluntarily obligates himself to pay such tribute.

a. See, more fully, C. 11.57.

c. 15. We order that collectors of public tribute must use just weights and measures, so that our subjects will not be afflicted with injury in that matter. But, if our subjects believe themselves damaged in the matter of weights and measures, they are permitted to receive the measures and weights for produce of the soil from the glorious prefects, those for silver or other metal from the officiating glorious Count of the Imperial Exchequer. And these measures and weights shall be kept in the Holy Church of the several cities, so that the payment of tribute (and the contributions for) the military and other expenditures may be made according to these provisions, without trouble of our subjects.

c. 16. As, moreover, we fully look after the interests of the cities of our republic and of the inhabitants thereof, we order that no collectors of tribute shall have any right to use any money which is destined for city work or grain, or aqueducts, or other customary outlays or salaries, or to retain any such money or use it for his own advantage, but shall pay it over without delay or diminution, so that it may be used for the purposes for which it is destined. And the landowners or inhabitants of the cities shall not dare to give or pay out any such money on account of any extraordinary burden, or any fees. And if any person dares to give or accept any such money (for such purposes) he shall return twofold the amount thereof to the city. Nor shall the presidents of the provinces or their official staff have anything to do with such money or the management thereof, but the holy bishop of each city and the primates thereof and the landowners shall appoint the curator of the city, the grain-purveyor (frumentarius) and other administrators of that sort, and the holy bishop, together with five of the primates of the city, shall each year demand an accounting of the persons so appointed; if it appears from the accounts of the latter that anything is due from them, such sum must be collected from them, at the peril of those who appointed them, and shall be preserved for the purpose for which it is destined. If anyone of said administrative officers becomes insolvent, he shall be immediately removed and someone else appointed in his place by the holy bishop of the city and by the landowners, as stated, and those who nominate such persons must know that if the city sustains any loss thereby, they must reimburse the city

out of their own resources.

a. As for teachers and physicians.

b. *Nomine descriptionis*—a description was a special tax to meet any extraordinary expense. Imperial, senatorial and church property were exempt therefrom. Bury, 2 Hist. Later Rom. Empire 352; Novel 131, c. 5.

c. 17. It shall, moreover, not be permitted to entrust the examination of such accounts to any member of the official staff of the glorious prefects or of any other official staff, or to a member of a department (*schola*), either by order of such prefect or of any other judge, not even if such person receives a pragmatic or other sanction or imperial mandate by which such examination is entrusted to him. But if anything of that kind happens, the holy bishop and the primates of such city may refuse to answer him concerning the aforesaid matter and report to us so that when these things become known to us, we may order all damage done to the city by such persons to be made good out of their property and may visit proper punishment upon them.

c. 18. We order, moreover, that the clerks in the department of public works (*scriniarii operum*), under the praetorian prefect, shall have nothing to do with the examination of such accounts, and all general and special orders heretofore or hereafter permitting it, shall be void. For we do not want to entrust the examination of such accounts to anyone, unless we deem such examination of benefit to the cities, and select a person of good repute and rank, who must receive a written imperial order containing our signature and stating his name and rank and the matters in connection with which, and the time in which, we entrust the examination of accounts to him. Those whose accounts are examined by such persons, shall thereafter be perfectly safe and shall not be troubled by any other examination.

a. The bureau of public work probably dealt with public work done in the provinces at public expense. Gutherius 323. A chief accountant (*numerarius*) is mentioned in 3 Not. Dign. Or. 26.

c. 19. We furthermore ordain that at no place in our republic shall the same person be a magistrate as well as vicar of the glorious prefects or masters of the Forces; nor

shall anyone entrusted with the collection of public tribute be such vicar; and, in a word, no person shall become a representative of the prefects in the provinces, except by a written imperial order with which he must be provided on his mission, whenever such vicar should be necessary to be sent to look after the needs of the soldiers. If any act is done contrary to this order, the person appointing such vicar shall be fined thirty pounds of gold and make good all loss and damage sustained by anyone through such representative, and the person who dares to become such vicar, shall be deprived of his magistracy, power and service and shall be fined ten pounds of gold.

Note.

A vicar was a representative; those spoke of here were the representatives of the praetorian prefects and the masters of the soldiers. As already noted, Justinian virtually abolished the office of such vicars, reinstating the vicar of Pontus, however, by Edict 8, which was issued three years after the instant Novel. The instant provision, however, and Novel 134, c. 1, were aimed at vicars of somewhat different kind—vicars of the Counts of the Imperial Exchequer and Crown Domain being mentioned in Novel 134, c. 1. Agents who were sent out by these officials from time to time, in order to look after special matters, could not, of course, been meant, since the sending of such agents must have continued to be necessary at all times. See Novel 134, c. 1. Thus in this very Novel—portions appended to C. 10.19.9 [not appended in this edition]—it was provided that persons might be sent from the offices of the Praetorian Prefect, Count of the Imperial Exchequer and Count of the Crown Domain, to look after the collection of taxes and other payments due to the government. Similar provisions were made in other laws. See full note on the subject at C. 10.19.9. So also auditors were sent out from the capital of the empire to check up the accounts due to the central government, and for other purposes. See C. 10.30. So, too, it is indicated in that note and in Novel 134, c. 2, that while these agents in connection with the collection of taxes ordinarily dealt only with the provincial officials, urging them on to collect the taxes, some of them were at times stationed in the provinces permanently. It would, accordingly, seem that the vicars mentioned here were those representatives of these officials who were to represent them in matters, and whose positions were probably intended to be more or less permanent, and similar in character to the legates theretofore customarily

appointed by governors. See headnote C. 1.27. The underlying reason for such prohibition probably was to curb the power of the central departments and the desire to rely upon the magistrates who were appointed for local places, many changes having been made and more power having been entrusted to many of them.

c. 20. We furthermore forbid civil and military magistrates in the provinces to appoint any personal representatives in the cities or camps in the provinces entrusted to them from the time that they enter the province and while they occupy such magisterial position. A fine of five pounds of gold will be imposed on the person who appoints such representative as well as on the person who accepts such appointment. Before the magistrates, however, arrive in the province, they may appoint such representatives who may do all things, until the arrival of the magistrates, which the latter might do, except infliction of capital punishment or cutting of any part of the body. And if a magistrate is by our order sent into another province, he may likewise appoint such representative.

Note.

As higher officials could not appoint vicars, or person to represent them, so governors of provinces could not appoint such representatives, for the reason that the proper representative of the governor in the cities was the defender. C. 1.55, and Novel 15 appended thereto [not appended in this edition]. Provisions similar to the instant chapter are found in other novels—for instance Novel 17, c. 10, and Novel 8, c. 4. It may be noted, however, that such representative might be appointed temporarily. By Novel 95, c. 1, appended to C. 1.49 [not appended in this edition], it was provided that the outgoing governor should not retire until two days before the incoming governor entered the province. If that law was intended to continue, the representative or legate here mentioned had authority only for a very short time. Probably, however, the provisions of Novel 95—which had been intended to provide for the existence of some governor in in the province at all times—had not worked out well, and hence the instant provisions.

c. 21. We moreover command all military as well as civil magistrates to investigate all those who commit robberies, acts of violence, rape of property or women or other crimes in the provinces, to inflict legal punishment on them and accept no reward, in the name of customary fees, so that our subjects may remain unharmed in every respect. But we permit no military authority, high or low, or the civil magistrate, to appoint in the provinces pursuers of robbers, persons to prevent violence (*bicolytæ*), or tribunes for such purposes, or persons to deprive others of arms, lest more violence be thereby inflicted on the provincials. If any magistrate fails to obey this order, he will not only be deprived of his magistracy, but will also be fined ten pounds of gold, and the person accepting such commission will be tortured, his property will be confiscated and he will be sent into exile.

Note.

Compare Novel 8, cc. 12 and 13; Novel 134, c. 1, Novel 145. Novel 8, c. 12, provided that the magistrates should suffice for the purpose of looking after such matters, without appointing such special officers.

c. 22. We furthermore order that whenever the presidents of the province and their official staffs travel from one city to another, they shall not impose any burdens of haulage (*angariis*) on our subjects, or make levies on them (*descriptionibus*), or impose other burdens on them, but they must defray all expenses out of the amount allowed them from the public treasury.

Note.

To the same effect, see Novel 17, c.9.

c. 23. We furthermore ordain that the presidents of the provinces shall remain in the province for fifty days after they retire from office and answer all actions brought against them. If one of them happens to desert the province before the expiration of such fifty days, all persons who have been damaged by them may go before the holy bishop of the metropolis of the province, and, having laid his hands on the holy gospel, declare his damage, and have a record made thereof, and the damaged persons shall be indemnified out of the property of the party against

whom such record is made by the care and at the peril of the officiating prefect and managing tax official (tractator) of the province who must know that if they fail to do so, they must indemnify the damaged persons out of their own property.

Note.

See to similar effect, C. 1.49 and Novel 95 appended thereto. [Not appended in this edition.]

c. 24. If, moreover, a president of a province is called to another magistracy or the management of another province is entrusted to him, he must appoint a procurator who may answer all demands for damages against him. If he fails to do so, a record shall be made before the holy bishop, as above mentioned, and the damaged persons must be indemnified according to the tenor of such record by the care, likewise, and at the peril of the officiating prefect and the managing tax official (tractator) of the province.

c. 25. All fines, moreover, mentioned in the present law, must be collected by the officiating Count of the Crown Domain from those who fail to obey this law, and pay the same into our fisc; if he fails to do so, he and the officials under him must pay the amount out of their own property.

Epilogue. The provisions made by this ever-enduring law for the interests and tranquility of our subjects, must, by Your Glory, be studiously kept unimpaired and unchanged and you must cause it to be brought to the knowledge of all by publication of edicts in the imperial city, so that thereby all may be advised thereof. Given June 13, 545.