

Book X.
Title X.

Concerning abandoned property and concerning incorporation thereof (in fiscal property).
(De bonis vacantibus et de incorporatione.)

Bas. 56.6.18.

10.10.1. Emperors Diocletian and Maximian to Scyrio, Comptroller (rationalis).

Your Gravity should know that the property of intestate persons, who have died without legal heirs, should be claimed for the accounts of the fisc, and no heed should be given to cities which try to claim it under the pretense of permission to do so. Whatever property of intestate persons you may hereafter learn to be occupied by cities under pretense of their privileges, you must not hesitate to reclaim for the fisc.

Given April 21 (292).

10.10.2. Emperor Constantine to Aemilius (procurator) (rationalis).

If at any time our imperial notations state that a possession or a house of which we have made a gift has been "in tact" (integro statu), this will signify the same as when we used to write with all its appurtenances, slaves, cattle, usufructs and rights;" so that all property which is part of the equipment of the possession or house, is to be delivered.

Given March 10 (313) at Milan.

C. Th. 10.8.1.

10.10.3. Emperors Valentinian, Valens and Gratian to Florianus, Count of the Crown Domain.

If an addition is, at any time, to be made to our property, either by confiscation or (otherwise) pursuant to law, the incorporation of such property with ours, shall be made in formal and solemn manner by the Count of the Crown Domain and by the comptrollers (rationalis) in the respective provinces, and everything shall be carefully noted in a list.

1. The signs, moreover, by the affixation of which lands are to be made a part of our property, shall only be affixed in the presence of witnesses. Persons who attempt to do anything of the kind for their own purpose shall be immediately visited with severe punishment.

Given March 29 (369).

C. Th. 10.9.1.

Note.

Imperial signs were affixed by private individuals to their own property to give it the appearance of imperial protection, or to the property of others, in order to subject it to hatred; or private signs of ownership were affixed to the property of others with the intention of exercising private patronage over it or to claim it unlawfully. All this was unlawful. See C. 2.14.15.16 and notes, and Novel 164.

The putting up of signs to designate ownership was very common, and hence when property fell to the fisc, by which, during Justinian's time, we must understand the so-called Crown Domain (res privata), so far as real property was concerned, imperial signs were put up, which were purple in color. See C. 2.15. Property falling to the fisc

consisted mainly of *caduca*, heirless property, *vacantia*, abandoned property, property of persons condemned to death or deportation or to the mines for life, property confiscated by the emperors for certain reasons and gifts to the emperor. See His, Domanen 33, et seq; Gothofredus on C. Th. 10.9.1. It was forbidden to take possession of such property till regular proceedings for the incorporation of it as a part of the imperial property had been taken. C. 10.1.5. The proceedings required to be taken are mentioned in law 5 of this title, and note thereto. After that was done, imperial signs were affixed to the property.

10.10.4. Emperors Honorius and Theodosius to Polladius, Praetorian Prefect.

We order that abandoned property of deceased persons shall be transferred to the fisc only if the intestate person has left no legal heir, either by reason of relationship of blood, or by any title recognized by law.¹

Given at Ravenna July 8 (424).

C. Th. 10.10.30.

10.10.5. Emperors Theodosius and Valentinian to Hermocrates, Count of the Crown Domain.

If abandoned property, or property which has fallen to the fisc in any other manner under the law, is reported, certain palace officials shall be chosen, bound by an oath and sent, so that at their instance the president of the province may, in the presence of the advocate of the fisc, make careful inquiry, whose property it was that is abandoned or is heirless, and of what size and quality it appears to be. 1. And when it appears after giving opportunity to reclaim it, that no one possesses or claims it rightfully, and it further appears by the president's report as well as by the trustworthiness of the public records, that it has fallen to the fisc, the matter shall be reported to us, so that by our command the abandoned or other property may be occupied in the name of the fisc. 2. This rule shall also be followed in connection with part of the property, or one or other of the things, or in connection with one or several rights of action. For if anything has been done by fraud, to the prejudice of the fisc, the men sent to collect will not escape our indignation, the president will be punished by loss of half of his property, and the advocate of the fisc will be compelled to make whole the detriment, which, by his fault, is inflicted on the fisc.

Given at Constantinople October 9 (435).

C. Th. 10.8.5.

Note.

The foregoing law provided, in part, the method that was to be pursued in order to incorporate property that was heirless, abandoned, confiscated or which fell to the fisc in any other manner, with the property of the fisc. The law related to provincial property, and provided, in brief, that the Count of the Crown Domain should send officials into the province to investigate the matter, report to the governor and cause the latter to make inquiry. If he found that the property belonged to the fisc, he made a report to that effect. A claimant was given an opportunity to defend his rights, and the method taken to inform him and the steps necessary by him to be taken are set forth in C. 10.11.8. If the party did

¹ [Blume] e.g. by adoption.

not appear, and the property was finally incorporated within that of the fisc, the claimant could afterwards, and within the period of four years, appear and made his claim, but he could not follow the property into the hands of a third party to whom it had been sold or given. C. 7.37.2 and note. On the whole, the process cannot be considered to have been an arbitrary and unreasonable one. Provisions for incorporating property in Constantinople and the surrounding country with that of the fisc are also found in C. 10.11.8.