

Novel 160.

An example of an imperial pragmatic sanction.

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Emperor Justinian to Papius.

Preface. Aristocrates, the famous father of the city of Aphrodisium, and the landholders therein have supplicated us, saying that the aforesaid city, etc. In the first place we think that there are those who take and interpret our laws so as to make them the occasion for wrongs, which they should never do. For we are informed by the father of the city that a large amount of the city's gold had accumulated through legacies left to the city of Aphrodisium, and in order that it might not be lost, some of the men in power in the community had taken the money upon condition, that so long as they retained the money, they should pay to the city each year—whether called a contribution, return or interest—an amount fitting to be paid; but that since we enacted a constitution that no creditors should be permitted to collect more than double the amount of a loan, but should be content with such sum, the men receiving the money say that, since they paid more than double such amount, the legacy to the city is lost. Hence we are informed that the heating of the public baths, the expense of which used to be defrayed out of such payments, has thereby suffered, public works have deteriorated, and our constitution has, according to the interpretation of these men, inflicted injury upon the city.

c. 1. In order to obviate such a condition in our republic, we ordain that persons who have received gold upon condition of paying to a city a certain sum (each year), must make such payment each year in accordance with their agreement, as long as they retain the gold, and they can in no manner invoke our constitution (aforesaid) in connection therewith. For we made that constitution for creditors and to apply to cases specifically mentioned therein. The present species of payment is not included therein, since it seems more like an annual return than interest, and it behooves us to look equally after the interests of the fisc as well as those of cities. If, moreover, any person, after the present sanction, interprets our law differently and

wants to deprive the city of the money given him, he shall pay all arrears due the city, and pay the double thereof, so as to be justly awarded for his malicious interpretation; for while it was in his power to act as a good citizen, he is so dishonest as to wrong his native city which brought him forth.

Note.

This Novel is a striking illustration of the inconsistency of which Justinian was guilty at times. Perhaps, however, it embodies the same spirit running through many American decision which do not always apply the same principles of law to individuals and communities alike.