

Book X.
Title XII.

To abolish petitions for property.
(De petitionibus bonorum sublati.)

Bas. 56.7.9.

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

Whenever anyone has been apprehended in, and punished for, the crime of treason, and his goods, as is the custom in connection with punishing the crime, has been taken possession of by the fisc, no one, in the hope of imperial munificence, shall dare to ask for them as his own. Whoever shall, contrary to law, dare to hope for anything which it is unlawful to do, shall be considered a violator of the law. 1. But since in some things we are often so besieged by shameless importunities of petitioners, that we sometimes grant what is forbidden, not even a rescript which is contrary to the provisions of law shall have any validity. 2. If, however, we want to grant such property to anyone of our own free will, when he neither asks for or demands it, such grant shall be valid.¹

Given at Thessalonica November 16 (380).

C. Th. 10.10.5.

10.12.2. Emperors Theodosius and Valentinian to Zoilus, Praetorian Prefect.

Wishing to tear up by the roots every desire of seeking the property of others, no one shall hereafter have the right to ask for it (if it has fallen to the fisc), whether (the owner) of either sex and of whatever status or sect has died intestate leaving no near relative or wife or husband, or whether the property has become that of the fisc by any other title. 1. No one shall dare to petition for the property of a person deceased, of whatever status or sect, although it may fall to the fisc, and not even those by whose act and office these petitions are accustomed to be brought before us, are permitted, with impunity, to act contrary to our sanction. 1a. And if the officiating illustrious quaestor subscribes a petition handed in or gives answer thereto, and if the illustrious Count of the Crown Domain permits a petition to be prepared or one handed in to be received, he will feel the indignation of our majesty and will serve as an example for punishment for others. 1b. And we order that the members of the bureaus, the (memoriales) who look after receiving or effectuating such rescripts, and the palace officials who have aided in or exhibited the proceedings in connection with a petition which was received, shall be punished by confiscation of their property. 2. By like provision, we order that all city (civiles) affairs, and affairs affecting the public rights, shall be protected against all petitions, so that neither a pragmatic sanction, or imperial notation, order or mandate, shall have any validity whatever if anything has been granted in violation of this sanction.

Given at Constantinople April 22 (444).

C. Th. 17.2.

Note.

¹ [Blume] See headnote C. 10.11.

Gifts and largesses by the emperor pursuant to petition, kept up, as already noted in headnote to C. 10.11, the infamous trade of informers, and deprived the state of valuable property. These gifts, pursuant to such petitions, were so numerous that it happened that property was given away which did not belong to the emperor, or gifts of the same property were made to two different persons. His, Domanen 44, citing C. Th. 10.10.5 and 24. Regulations, accordingly, became necessary in connection with such petitions. In 315 A.D., Constantine enacted a law that the fisc should not dispose of any property until after the expiration of a year subsequent to the time that it had taken possession thereof, in order to give a claimant time to recover it. C. Th. 10.1.1. In 380 A.D., as appears from law 1 of this title, it was entirely forbidden to petition for property that had belonged to traitors. In 401 A.D., it was forbidden to petition for property within two years after it had been incorporated with public property. Finally petitions for property of others was entirely forbidden, as appears from law 2 of this title. See His, supra, 45, who comments that no subsequent legislation is found in relation to such petitions, and that the law last mentioned must, accordingly, have been effective.

It appears from law 2 of this title that the quaestor, the Count of the Crown Domain, and their officials were forbidden to have anything to do with or to aid in the matter of petitions for lands there mentioned. The palace officials here mentioned were underlings of the Count of the Crown Domain, and had, evidently customarily prepared (*gesta ediderint*) before the Count of the Crown Domain. If he acted favorably upon such petition, then, probably, it was sent to the quaestor, the attorney general of the empire, who, if he was favorably disposed, "subscribed" it, that is to say, probably noted his approval thereon, forwarding it to the emperor. If the latter acted favorably, then, probably, such action was communicated to the quaestor, who thereupon dictated a rescript, that is to say, an imperial order granting the land. The rescript was subsequently signed by the emperor as well as the quaestor. The *memoriales* were clerks from the imperial bureaus who assisted the quaestor, took down the dictation (*exceperunt*) and extended their notes in long hand (*impleverunt*), or caused it to be done. In order to effectually stop all such petitions, all of the foregoing officials were forbidden to do anything in connection therewith. We frequently find that heads of departments, as well as the clerks therein, were forbidden to do certain things. All alike were made responsible in case of violation of the law. The laws already mentioned did not prohibit petitions, or applications for the lease or sale of public lands. Much of the public lands was sold or leased by emphyteutic lease from time to time, and the grant of public lands under these conditions seems to have been favored. C. 10.66.2, specifically mentions applications for the lease of lands belonging to the Crown Domain, and many provisions are found in C. 11.59 and other titles which contemplated applications either for the sale or lease of public lands.