

Book X.
Title XXVIII.

Concerning taxation of property given, relieved, changed in its tax burdens, or paying in cash.

(De collatione donatorum vel relevatorum aut translatorum seu adaeratorum.)

10.28.1. Emperors Theodosius and Valentinian to Hermocrates, Praetorian Prefect.

We decree that the order of Antiochus, of glorious memory, by which he imposed a definite amount as a regular tax upon property, previously relieved, shall in no way be modified; for whatever has taken on the character of a regular tax (*canonem*) should be paid by annual payments, and we permit it to be released neither for the past nor the future. 1. Remission of the aforesaid (special or extra) assessments as to the past and future time, shall apply not only to lands relieved from part of the taxes (*relevatis*) but also to lands given (by the emperors) and those in connection with which the taxes were commuted into money-payments (*aederatio*), or from payment in one kind or property into payment in another kind (*translati*), and (all other) lands, the taxation of which is known by any other recently invented name. None need fear any exaction beyond the regular tax and we relieve them not only from paying arrears of (special) levies, but no innovation shall hereafter be made, and no additional burden, imposed. No one, however, shall hereafter (ask to) have his property relieved from taxation contrary to imperial decrees. 2. And the staff of Your Highness may know that if a suggestion in violation of this ordinance is made to us, or if it obeys imperial mandates, issued perchance in violation of this ordinance, even without suggestion, and dares to subject (*exponendos*) anyone as debtors, pursuant to such (special levies), it will be punished by a fine of two-hundred pounds of gold.

Nov. C. Th. 26.

Note.

The law cannot be understood without consulting Novel C. Th. 26, from which it was taken. That law starts out in mentioning imperial bounty, and then apologizes for the stress of circumstances which, contrary to such liberality, required the assessment of special burdens, but provides that such special burdens should cease, and (as stated in the beginning of C. 10.28.1), the only burden that should remain should be the regular tax which was imposed upon these lands by Antiochus, and that such regular tax would be sufficient for these lands to pay, and that all innovations of a regular tax (*canon*) was probably meant the fixing of the taxation-units at a certain number, or the objects of taxation at a certain amount or number. So the main intention of the instant law (C. 10.28.1) evidently was that special levies should cease. The regular additions frequently made to the annual levies were, it would seem, not in contemplation in this connection.

The imperial liberality or bounty might be extended in various ways, some of which are mentioned here, namely by giving lands (*donata*), relieving lands from a portion or all of the taxes (*relevata*), or permitting taxes to be paid in gold instead of in kind (*aederata*), or permitting a tax in one kind of property to be paid in another, as the products in various regions might at times require (*translata*). Now it seems that when the emperor had, for instance, given some property to certain parties, and the stress of

circumstances demanded it, he thereafter made a levy of, say, a certain percentage of the income from the property on them, or a certain percentage of the benefit conferred. In C. Th. 11.20.6, for instance, a levy was made of a fifth of the benefit conferred. The instant law was directed against such special levies. But though the lands might have been originally entirely relieved from taxation, yet the regular tax levied against them by Antiochus remained.

It is apparent from this law, as it is from a number of others (e.g. C. 10.16.12; C. 11.51-53; C. 12.39.2), that there was no entirely uniform system of taxation, but that special exemptions were granted from time to time. Generally, doubtless, these special exemptions were necessary, the necessity arising principally out of invasions of barbarians, but it is not at all unlikely that under a government under which so many gifts of lands and other property were made by the emperor, some special exemptions were given purely as a matter of favor.