

Book IV.
Title LXIII.

Concerning commerce and merchants.
(De commerciis et mercatoribus.)

Bas. 56.1.20.

Headnote.

The subject of commerce is treated in this part of the Code because closely connected with the subject of sales. As partially noted in the foregoing title, and again in C. 4 titles 40 and 41, many articles of commerce were absolutely forbidden from being exported, and must have hindered commercial activities to a considerable extent. There was trade with China, mostly, it seems though India; trade with the later country and with the people along the Baltic and the Far North, as well as with people of Africa. Silk came from China; or rather cocoons were imported from thence, the art of unwinding them having been discovered many centuries previously. There were two routes to India, one by sea and one by land and the Caspian Sea. From thence came sapphires, pearls, tortoise shells, and other precious stones, and supplies of cotton and linen fabrics, together with spices and aromatics.

There were armories for forging arms at Adrianople, Thessalonica, Antioch, Damascus and other cities; dye works at Tyre; factories for weaving linen and other cloth at Cyzicus and Scythopolis. Miletus and Laocicea were famous for wollen fabrics; Sardes for carpets, Cos for cotton materials, Tyre and Berytus for silk, Thessaly for cabinet furniture, Pergamus for parchment, and Alexandria for paper. Holmes, 1 Age of Justinian and Theodora 182-194.

4.63.1. Emperors Valentinian and Valens to Julianus, Count of the Orient.

The traders, if any, belonging to the imperial house, as well as the hirelings of the nobles, must be admonished to pay the necessary public dues, as honesty demands, so that performance of devotion to us becomes tolerable to all who want to make a profit in trade.

Given at Constantinople April 17 (364).

C. Th. 13.1.5.

Note.

It is thought—the opinion being based on C. Th. 13.1.5—that the dues here referred to originally related to the so-called lustral tax (chrysorarium), payable in gold, which was assessed every four years upon every kind of trade, and was very burdensome. Cujacius 371 and Gothofredus. That tax was abolished by Anastasius, as shown by C. 11.1, although shops with some exceptions, for special reasons, continued to pay taxes. Novel 43.

4.63.2. The same Emperors and Gratian to Tatianus, Count of the Sacred Largess.

Not only should no gold be given to barbarians, but if any is found among them, it should by careful ingenuity be taken from them. If gold is hereafter carried to barbarian land for slaves or any species of property, by the merchants, they will no longer be subjected to a fine, but to punishment by death, and if a judge fails to avenge such act when discovered, he strives to cover up a criminal act, as a participant therein.

(374?)

Note.

The intent of the law was that gold should not be exported from the country, but that goods bought from the barbarians should be paid for by something else than gold. As to other property that was forbidden to be exported, see C. 4.40.41.

4.63.3. Emperors Honorius and Theodosius to Theodorus, Praetorian Prefect.

We forbid that trade detrimental to cities be carried on by those that are noble by birth, and conspicuous by the splendor of honors and rich in property, so that buying and selling between plebeians and the tradesman will be easier.
(408 or 409).

Note.

The law here translated was not enacted for the purpose of drawing class distinctions, but for the purpose of bettering the conditions of merchants and traders. The nobility, if permitted to engage in trade, would in many ways, on account of their influence, and because of the number of plebeians under them or working for them, have hindered merchants in making a livelihood. Merchants were forbidden to occupy any position in the public service. C. 12.34.1. Bankers alone were excepted from this rule, and they, too, could not engage in the armed military service, and seek honors in that way. Hence, the foregoing rescript offered merchants some solace for that of which they were deprived. It may be noted here that the law makes a distinction between (1) nobles, (2) merchants, and (3) plebeians, so that it would seem that merchants and traders were held in at least some measure of esteem. It would seem that ordinarily by the term “negotiator” was meant a retail merchant, while the term “mereator,” referred to in the next law, was reserved for wholesale merchants.

4.63.4. The same Emperors to Anthemius, Praetorian Prefect.

Merchants subject to our sway or that of the kind of Persia, must in no event hold markets in places that lie beyond those that were agreed on in the treaty with that nation, so that they may not improperly spy into the secrets of another kingdom.

1. No one, therefore, subject to our rule, shall thereafter dare to go beyond Nisibis, Callinicum and Artaxata for the purpose of buying or selling any wares, nor think of exchanging wares with a Persian outside of the cities mentioned; and both contracting parties may know that the property which is sold or bought outside of these places will be confiscated for the imperial treasury, and in addition to the loss thereof, and the loss of the price which was paid or exchanged, the guilty parties will suffer perpetual exile.

2. Judges, through whose territory a Roman or Persian shall travel to forbidden places for the purpose of trading, and the apparitors of such judges, will be punished by a fine of thirty pounds of gold for each contract which was entered into outside of the aforementioned places.

3. Excepted herefrom, however, are those who accompany Persian ambassadors sent to Our Clemency at any time, and who have brought merchandise with them for trade. We do not deny them, out of kindness and out of respect of the embassy, the opportunity of trading beyond the places mentioned, unless they remain too long in any province under pretense of embassy, and do not accompany the ambassador on his return to his home. The punishment provided by this law justly falls on those who are bent on trade while they loiter, as well as on those with whom they trade.

(408 or 409).

4.63.5. The same Emperors to Aetius, City Prefect.

All corrupt solicitation and presumptuousness shall cease and the membership of firemen shall remain at 563; and no one shall have power to add to or change that number or substitute others for those who have died. Substitution for those who have died shall be made in your discretion in the presence of the firemen from the same guild to which the former belonged. The privileges of that body shall not be granted, through intercession, to any other beside the number mentioned.

Given at Eudoxiopolis August 21 (409).

Note.

The collegiate here mentioned were the firemen of Constantinople, as shown by the register of the city of Constantinople (Notitia Dignitatum, Seeck 243). They were taken from among the various guilds in the city. Their work was considered of a low grade, and Nov. Majorian 7.2 provided that if the agent of the owner of lands received and failed to return a fugitive member of a municipal senate, he should, if a free man, be made a fireman. Notwithstanding that fact, however, it is evident from the foregoing law that the position was coveted by some. The guild of firemen, such as shown to have been in Constantinople, does not seem to have been in other cities of the Orient. 1 Karlowa 902. See C. 11.18.1.

Placed as the foregoing law is in a title relating to merchants and commerce, the reason for such placing cannot but help arouse curiosity. It lies probably in the fact that the members of this guild were exempt from taxes, or certain taxes, probably the lustral tax referred to in law 1 of this title. See Pauly-Wissowa, "Collegium," 468.

4.63.6. The same Emperors to Maximinus, Count of the Imperial Exchequer.

If any shall be found to have passed beyond the cities specifically named in ancient laws, or to have received foreign merchants without the consent of the Count of Commerce, they will no longer escape confiscation of their property and perpetual exile. All alike, therefore, private and titled and military persons, must know that they must entirely abstain from such act or suffer the aforesaid punishment.

Note.

The Count of the Imperial Exchequer had charge of the commerce of the empire. Cassiodorus Var. 6.7. The Count of Commerce was under him. The Register of Dignitaries for the Orient mentions a Count of Commerce for the Orient and Egypt, Mysis, Scythia, Pontus and Illyria. In the West only the Count of Commerce for Illyria is mentioned. Not. Dig. 13.5-9; Occ. 11.86.