

Book I.
Title XXXIII.

Concerning the office of the Count of the Crown Domain
(de officio comitis rerum privatarum.)

Headnote.

Count of Crown Domain. Something has already been said as to this official in the note to title 32 of this book. He was one of the ministers of finance and had control of most of the public—i.e. imperial—lands. These lands are fully considered in headnote to C. 11.62. See also headnote C. 10. Part of the time he and his officials under him had charge of the collection of the rents, but the matter was finally entrusted to the governors of the provinces. Law 2 of this title and note. He had supervision of the sale of the public lands an movable property and houses, as well as the renting thereof, and kept a list of the renter, for which he had a special bureau, called *scrinium securitatum*. Ordinarily the property in his charge was rented out (if not sold), except in the case of pasture land, in connection with which we find direct management. The serfs on the public domain were a part of it, hence it fell within the power of the Count of the Crown Domain to look after their interests. Recruits were required to be furnished from the serfs, or commutation money paid in lieu thereof, and he gave proper orders in connection with these matters. So, too, he had charge of the matter of fugitive serfs from the public lands, the irrigation of these lands and the haulage of the rental due therefrom in kind.

Property often fell to the *fisc* (treasury), by which we must here understand the Crown Domain. A regular procedure was provided by which heirless or vacant land was, under the direction of this official, incorporated into this domain. Headnote C. 10.5; C. 10.10. Informers would give information as to such property. See C. 10.11. Many of the lands which fell to the *fisc* were, in turn, upon petition to the emperor, turned over to other persons, and the Count of the Crown Domain gave instructions in connection with that. This official also collected many of the fines imposed for various offenses, and he was by many laws directed to enforce the collection at his peril, and at the peril of his official staff. See 4 Pauly-Wissowa 664-670.

The Count of the Crown Domain was said to be the count of the private estate (*rei privatae*), and the Crown Domain was really called the “private estate” (*res privata*), but for reasons explained in headnote C. 11.62(2), the terms here used have been thought to be more appropriate in this translation. As already stated in note to the previous title, the Count of the crown Domain had an official staff of his own, as well as officials stationed in the provinces. He and the comptrollers under him had certain jurisdiction in suits of tenants. That subject is fully considered in C. 3.26 and notes. As to the official staff of the count and the bureaus in his office, see C. 12.23.

1.33.1. Emperors Valentinian and Valens to Honoratus, Counsulor of Byzacium.

If any transaction has been laid open in court which discloses anything to the advantage of the *fisc* (treasury), Your Gravity will send the records to the office of the

Count of the Crown Domain, so that after receipt of information he may know what by the aid of law may be owing to himself.¹

Given December 2 (368).

Note.

Certain property that was heirless or abandoned or confiscated was incorporated with the property of the government. See C. 10.10. A lawsuit might disclose that certain property really belonged to the government for one of the reasons authoring its incorporation with government property. If that happened, the governor, who was the ordinary judge of the province, was directed to report it to the Count of the Crown Domain.

1.33.2. Emperors Arcadius and Honorius to Minervius, Count of the Crown Domain.

The collections from all of our property and from the lands under perpetual, that is to say emphyteutic lease, shall be returned to the charge of the palace officials and to the offices of the imperial comptrollers (rationalium).

Given at Milan December 23 (397).

C. Th. 1.11.1.

Note.

The charge of the collection of the rents from the imperial domain varied from time to time. The instant law provided that the employees of the Count of the Crown Domain should collect such rents. But it was finally decided that the governors of the provinces should do so. His, Domanen 57; headnote C. 11.62(2) and references there made. In other words, the instant law was repealed, although embodied in the Code.

1. 33.3. Emperors Honorius and Theodosius to Ursacius, Count of the Private Estate.²

If any of the illustrious judges or prefect of the city should undertake to claim jurisdiction over matters within the control of the Chief³ of the Crown Domain, or should furnish protection against the orders of that officer, his staff shall be liable to the payment of 50 pounds of gold as a fine, which shall be instantly demanded and paid to the treasury of Our Clemency.

Given at Ravenna, August 8 (414).

Note.

The city prefect was an illustrious judge, but the officer was here evidently sought to be distinguished from the other illustrious magistrates because of the difference in the character of their office.

¹ This reflects penciled corrections Blume made without striking the typewritten original, which read: "If any transaction has been aired in court, which discloses...so that after receipt of instruction, you may know what by the aid of law is owing himself." Blume also place question marks by the suggested changes and wrote beneath this law "I think German transl. wrong on last sentence." Scott translated this provision as: "Where transactions have taken place on account of which it is evident that something is owing to the Treasury, you shall transmit information of the same to the office of the Count of Private Affairs, so that he may make an investigation, and ascertain by the aid of the law what is due." 6 [12] Scott 142.

² In the headnote preceding this title, Blume notes that he chose to translate "Private Estate" as Crown Domain, so this use is apparently an oversight.

³ Blume had "Count" here but struck it in favor of "chief" for reasons that are not clear.

1.33.4. The Count of the Crown Domain shall not, without imperial mandate, lead away any provincial under the pretext of fiscal affairs, nor shall he entrust the investigation of a case to an informer.⁴

1.33.5. Neither the Count of the Crown Domain nor anyone of the magistrates in Constantinople or in the provinces shall admit (listen to) an informer concerning a treasure-trove. If he informs concerning any other matter, he shall immediately give a guarantee (against damages) of not less than five pounds. No seal shall be put on, or levy (descriptio) made on, or innovation made in, the property reported (by the informer) before a final decision in writing has been rendered. And if the accuser is in the city, the matter shall be adjudicated before the Count of the Crown Domain, but if he lives in the province, before the president or delegated judge, and the advocates of the fisc, or in their absence others, shall plead the case for the accuser free of compensation; the right to an advocate shall be equal for both parties, nor shall the defendant any longer pay any expenses incurred by the accuser. This shall also apply against a person who institutes any litigation against the fisc. Nor shall anyone of them appeal before the final decision of the case.

Note.

This law deals with informers, a subject considered in C. 10.11 and notes. The law on that subject in Justinian's time is not quite clear. By C. 10.11.7, all informers were apparently suppressed. By C. 10.11.8, informers as to treason were not to be classified as informers at all. Pursuant to the same law and C. 10.11.5, persons apparently were permitted to inform as to property that really rightfully belonged to the fisc—the public treasury, but they were required to deal with the advocates of the fisc or the palatine officials—the clerks of the ministers of finance.

By the instant law all informers as to treasure-trove were suppressed. Such treasures belonged equally to the finder and to the owner of the land. None of it went to the fisc or public treasury. C. 10.15. Parties to a suit had to pay fees in connection with it, and that rule applied to investigations as whether property belonged to the fisc—the public treasury. C. 10.11.8. Before the enactment of this law, it would seem that the accused in such proceeding—that is to say the person said to have some property of the fisc—was compelled to pay not only his own fees, but those of the informant as well. That rule was abolished by the instant law. To this effect, see C. 12.34.3.

⁴ Blume's typed original read "...take any provincial from his province under the pretext...nor shall he commit the trial of a case to an informer."