

Book X.
Title LXV.

Concerning embassies.
(De legationibus.)

10.65.1. Emperors Valerian and Gallinus to Achillinus.

The father of three living children is exempt from public embassies.

10.65.2. The same Emperors and the Caesar Valerian to Marcus.

Since you incurred expenses for the public defense in your own name, the heirs of your colleague need not pay you the amount which the latter received for his own necessities, but if the situation is such that it should be paid back at all, they should rather pay it into the city treasury. 1. But you do not unjustly ask for the money if it was intended as an honorarium to the advocates, which you are about to furnish. You may accuse before the president of the province for having deserted his embassy, him, your colleague, who, you say desisted from representing the city.

Note.

Two persons were sent on an embassy to the emperor by a city. Each of them separately received his expense money from the city. The expense money so paid, accordingly, belonged to each separately and the other had no claim on it. If it was to be paid back at all, it should rather revert to the city treasury. According to D. 50.7.11, however, such money was not returnable.

The rule was different, however, if the money received was intended as an honorarium for advocates who were to act for the city. Such money was required to be used for the purpose for which it was intended, even though such honorarium was paid by the party who did not have the money. He was entitled to be reimbursed. See Cujacius on this law. Delegates to the imperial court were frequently sent not alone by cities and provincial assemblies, but also by guilds and organizations.

10.65.3. Emperors Diocletian and Maximian to Mucianus.

It has been decided that persons who have completed an embassy to us from across the sea, but not persons who served the city, as such near at home, are exempt for two years from municipal liturgies and honors.¹

10.65.4. Emperor Constantius to Titianus.

All counts and presidents without exception who received their title (dignity) through unlawful intercession (suffragio), are subject to municipal burdens and liturgies, lest public interests be injured under pretense and umbrage of honors obtained thru unlawful intercession. But persons who have served on public embassies, should be exempt from the aforesaid burdens.²

Given at Treves June 30 (343).

¹ [Blume] See C. 10.41.2.

² [Blume] This law, as it appears in the Theodosian Code, which refers to poll tax, is discussed at length by Leo, Capitatio Plebeia, etc. 45-68.

C. Th. 12.1.36.

10.65.5. Emperors Theodosius, Arcadius and Honorius to Apodemius, Praetorian Prefect of Illyria.

If an extraordinary (provincial) assembly is required, when either an embassy is to be sent to us, or a matter is to be reported to your office, the result reached in the assembly thru common deliberation and discussion, shall not be referred for examination to be ordinary inquisitor (the president of the province). 1. For we permit you to take up and inquire into the complaints of the provincials for whom thru fortuitous circumstances, necessary assistance is often demanded, so that you may determine which of these matters should be immediately remedied by your help and which ones required reference to Our Clemency. 2. Deliberation concerning the common welfare of the provincials shall take place in public, and customary authority strengthen what the consent of the majority shall have approved.³

Given at Constantinople July 28 (392).

C. Th. 12.12.12.

Note.

The next law states that resolutions or decrees adopted by the curials of Alexandria, should be referred to the Augustalis, who occupied the same rank as a vicar, to be by him forwarded to the praetorian prefect, who was to decide whether the delegation should be sent or not. The instant law deals with provincial assemblies, and speaks of "extraordinary" assemblies, directing that the decrees or resolutions adopted by them should not be referred to the governor. There were ordinary and extraordinary assemblies apparently, the former meeting regularly once a year. Gothofredus on this law. Whether the decrees or resolutions adopted by the ordinary assemblies were required to be referred to the governor is not stated in the Justinian law. By C. Th. 12.12.3, all such decrees and resolutions were required to be made of record before the provincial governor. That law was left out of the Justinian Code. Cujacius holds that under C. 10.65.5, decrees and resolutions of such assemblies were not filed with the governor. To that effect is Marquardt, 1 Rom. Staatsverwaltung 509.

The existence of provincial assemblies for many centuries is well known, but their force as a political organization was not great, and they can hardly be held to have been the forerunners of the modern parliaments. The membership consisted of delegates from the various cities, some cities sending more than others. Their main functions, originally, were religious, and their main significance from a political standpoint was the fact that they adopted decrees or resolutions to be laid before the praetorian prefect or emperor by delegates, and which frequently related to the conduct of the governors, thus giving the central government a means to keep the provincial authorities in check. Abbott & Johnson say that "when the Justinian Code was compiled, the assemblies had ceased to exist as a political force, and their organization survived only in the institutions of the Christian Church." See, generally, aside from Gothofredus, Abbott & Johnson, Munic. Adm. 162-176; Arnold, Roman Provincial Administration 220-221; Marquardt supra, 497-516.

³ In his list of "difficult points" for Book X, Blume noted "C. 10.65.5 end."

10.65.6. Emperors Honorius and Theodosius to Monaxius, Praetorian Prefect.

Whenever a delegation is to be sent from the city of Alexandria, we direct that all curials, who live in the city, if not hindered by sickness or other unavoidable necessity, shall assemble at the senate house, and after attesting their decrees by subscribing them with their own hand, lay them before the worshipful Augustal prefect, so that they may lay their petitions, accompanied by his report, before you, so that you, after examining the purpose of the legation, may make the proper order in the matter.

Given at Constantinople October 5 (416).

C. Th. 12.12.15.

Note.

The law as found in the Theodosian Code specifically states that the praetorian prefect should decide whether the delegates should be sent or not. The meaning was probably not intended to be changed in the Justinian Code though the language was, the law providing that after the praetorian prefect had considered the matter, "res ordinetur" - the proper order should be made.