

Book I.
Title XLVIII.

Concerning the office of the different judges.
(De officio diversorum iudicum.)

Bas. 1.116-117.

1.48.1. Emperor Constantine to Domisius Cusus, Vicar.

No judge (governor) shall deem himself permitted to send an official to a house where a housewife (mater familias) lives, with an order to drag her into court, since it is certain that the debt owing to the state by her, who, in consideration of her sex, remains within her house, can be satisfied by the sale of her house or other property. If anyone hereafter thinks of dragging such a woman into court, he shall, as one among the greatest criminals, be punished with capital punishment, without hope of pardon.

Given at Treves, January 11 (316).

C. Th. 1.22.1.

Note.

The sense of this law is that a woman could not be forced to come out of her house to defend any civil case even though she was sued for delinquent taxes or other public dues, in which case men could be put under arrest. C. 10.19.2 and note. Novel 134, c. 9 pr. was enacted to supplement the instant law. Women could not be thrown into prison even during the pendency of a criminal case against her. If the crime was serious, she was put into a monastery. Nov. 134, c. 9.1. Novel 134, c. 9 pr. above mentioned reads as follows:

We have also thought it necessary to make a correction by suitable assistance so that no woman will be confined or guarded in connection with any civil case. But if a woman is sued according to law for any public or private debt, she shall answer in the case and conduct the cause either through her husband or some other suitable person of her choice. If she is a widow, or never was married, she shall, similarly, be permitted to assert her rights according to law either personally or through some other person of her choice. If a magistrate dares to violate the foregoing provisions, he shall, if of superior rank, be punished by a fine of 20 pounds of gold, and if of inferior rank, by a fine of 10 pounds of gold, and whoever lends them assistance in such violations shall be deprived of the girdle of his office, subjected to torture and sent into exile. If a woman, after being duly summoned, refuses to appoint someone to answer for her, or a judgment is rendered against her when she is conducting her own case—or someone else for her, or she is in default—she shall not be confined or guarded even in such case, but legal proceedings may be taken against her property.

1.48.2. Emperors Valentinian, Theodosius and Arcadius to Principius, Prefect of the City.

All judges (governors) must duly honor those above them, and those by whose favor they sometimes receive promotion; nor shall they in writing to them address them as brothers, under punishment of the apparitors who attend to this (and violate this law). Given February 13 (384).

1.48.3. The same emperors to Constantius, Prefect of the Gauls.

Let all chiefs (principis) and assistant chiefs (cornicularii), and the primates of the official staffs, as well as the judges (governors) take notice that they must each pay three pounds of gold out of their own property if the chamber of the judges does not stand open for entrance to dignitaries, to whom permission is even given to enter our council-chamber, or if proper deference is not shown them in salutation, or the right to be seated with the judge is denied them.¹

Given at Treves, November 8 (389).

C. Th. 6.26.5.

¹ [Blume] See C. 1.45.1 and note; also C. 12.19.2.