

Concerning brothers and sisters succeeding along with ascendants and concerning other subjects.

(De fratris filiis succedentibus una cum ascendentibus, et de aliis capitibus.)

The same Augustus (Justinian) to Bassus, glorious praetorian prefect.

Preface. We feel no reluctance in amending our laws, as we want to find out everywhere what is for the best interests of our subjects. We recall that we enacted a law (Novel 118), by which we ordered that if a person should die leaving brothers or sisters and children of another previously deceased brother or sister, these children should be called to the inheritance as successors of their parents and should take the portion of the latter; but that if the decedent left ascendants as well as brothers or sisters, related to each other through either parent, and also children of a previously deceased brother or sister, the brothers and sisters should be called along with the ascendants, but that the children of the brother or sister should be excluded.

c. 1. Rightfully correcting this, we ordain, that if a decedent leaves ascendants and brothers or sisters who may be called along with the ascendants, and also children of a previously deceased brother or sister, these children of the previously deceased brother or sister shall be called along with the ascendants and brothers and sisters, and take the share which their parent would have taken if living. These provisions, however, shall apply only to the children of a brother or sister, who was related to the decedent through both parents (i.e. was a full brother or sister); and to state it briefly, we want them to occupy the same position when called to the inheritance along with brothers and sisters as well as ascendants, as we have given them when called with brothers and sisters only.

Novel 127, c. 2.

c. 2. We think that another thing also needs correction, and we make it a part of the present law. We have been taught by experience that prenuptial gifts to women should be registered on the records, so that, if the original instruments are lost, they have ready proof of their marriage. And we ordain that whether the men themselves or others for them promise prenuptial gifts or gifts on account of marriage, and the gift amounts to more than five hundred gold pieces (\$1500), they shall register it on the records, namely, with the master of the census in this imperial city, and in the provinces with the defender of the city or with some other person who has the right to make such records. If they fail to do so, then the gift shall nevertheless be valid so far as the woman is concerned, and when the time for collecting the gift or part of it arrives the fact of non-registration shall be no defense against her. But if the dotal documents and the subsequent events give right to the husband to collect the dowry, or a part thereof, we direct that he shall have no right of action, unless, he has registered, the gift (prenuptial or on account of marriage), as stated. For since the men have it in their power to register the gifts, it has appeared improper to us that the danger of non-registration should fall on the women.

c. 3. Since, moreover, we believe that women who do not marry a second time are worthy of more privileges than those that do, we ordain that if any women, after losing her husband, does not remarry, she shall not only have the usufruct of the prenuptial gift, as heretofore ordained, ^(a) but she also have a proportionate part of the ownership thereof along with the children, so that, according to the rule of proportion, she shall herself be considered as one of the children. We direct that this shall not only apply to mothers, but also to fathers and other ascendants, who do not marry a second time.

(a) Nov. 98.

Novel 127.

c. 4. Since, moreover, we forbade husbands and wives in a recent law (Nov. 117) to send a bill of divorce and dissolve a marriage, unless for a cause recognized by law, and imposed a penalty upon the husband and wife who should dare to do so, making, however, a distinction in the penalty imposed on the husband and the wife, and changing that for the better, we ordain that there shall be no distinction in the penalty imposed on the husband and wife who dares to do this, but that the same penalty which is provided by us against women who dissolve a marriage without the existence of a cause recognized by law, shall be imposed upon husbands who dare to do this, and the penalty for the husband and the wife shall be the same. We have thought it just to make the penalty equal where the transgression is the same.

Epilogue. Your Glory will cause the present general law of ours to be made known by the usual edicts, both to those who live in this great city and to those who inhabit the provinces, so that no one may be unaware of what has been sanctioned by us for the common welfare of all.

Given. Sept. 1, (548).