

Novel 13.

Concerning the praetors of the people.
(De praetoribus plebis.)

Emperor Justinian to the people of Constantinople.

Preface.

The name of the honorable prefects of the watch was both respected and well known to the ancient Romans, and we do not know in what manner another name and order came to be bestowed upon them. Our fatherland called them prefects of the watch, who superintended those who kept watch and left nothing unexplored. But in Greek, they are called, we know not how, prefects of the nights, as though their authority came into being with the setting of the sun, to be laid down with the rising of the sun. Why was the word "nights" added? Is it because that official looks only after those who commit wrong at night, and because he goes about in the city (during that time)? Why we see the officials of the prefect of the city doing the same thing, so that there would be nothing to hinder from calling that official by the same name. If anyone thinks that the powers are divided, those of the day-time being vested in the glorious prefect of this fortunate city, those of the night in the others, they stray far from the truth, the right reason of the name being in some way corrupted. Hence everyone surely rightly shuns this name, as obscure, nebulous and connected with the night, consider an appointment to that office as a penalty and not even worthy of the requirement of an imperial letter-patent.

c. 1. Having, therefore, considered the matter as we should, we have deemed it advisable, commencing with the name, to re-establish and ornament this magistrate anew. And no one shall hereafter be called praefect of the night, for this official looks after unlawful

conduct committed in daytime as well as at night. And as the name of praetor was in great favor with the ancient Romans, so the men appointed for watch and discipline and who have authority to quell popular tumults shall be called praetors of the people; and as there are some praetors in the senate, who preside in matters of freedom, guardianships and similar matters, so these men shall be praetors for the discipline of the people, to be called praetors of the plebeians (plebis) in our language, and praetors of the people in Greek. The laws show how honorable the name of praetor is, how closely associated that magistracy is to the consulship, how intimately connected with the law, making them associates of the consuls, and giving them the rank next to the latter. And as formerly there were consuls who were at the head of the exalted senate, and tribunes of the people who governed the common people, so there shall be praetors, known as praetors of the senate who perform the duties mentioned above, and praetors of the people who look after the discipline of the people and watch out for their interests.

2. This magistracy was formerly of high standing and was, in ancient Rome, administered with honor, not only in the time of the emperors but also previously, and when the office was first instituted in this great city, it was surely not held in contempt. We learn that in a not remote time, some persons who surrounded the emperor and administered great positions of honor, did not disdain to accept that office thereafter. But it gradually became to be considered so insignificant and unimportant that it was filled, not by letters-patent of the emperor, but by the glorious prefect of this fortunate city, and was generally occupied by one from among the latter's official staff, who managed the office badly. Its importance in antiquity, however, may be gathered by examination of antiquity and even from its present status. For he (the praetor) has his own court and officers, including marshals (commentarienses) and almost everything else assigned by law to the prefecture of the city.

c. 2. Since, then, we have investigated the facts of the past, we are anxious to bring the management of this office back to a better condition and to its former dignity. So we have thought it advisable to regulate it definitely, so that its occupants may not themselves repeatedly steal, or associate with thieves, and that their decisions may not be inconsiderate, thoughtless and bought. When we consider that men of the highest power sit in civil cases which do not involve anything of importance, but merely money, and often have colleagues associated with them, and when we are tremendously solicitous that no disputes be settled without investigation, why should not the greatest care be taken to select judges, before whom the lives of accused persons are put in danger, who are men of worth, lest they destroy the life of man who is born but once, and who cannot regain life after it has once been destroyed?

c. 3. We therefore ordain in the first place that no one shall exercise the powers of that office until after he has received imperial letters-patent, and shall not dare to function as such officer without them, but he must await imperial action and an imperial written order. We shall not give such office to any person to hold except those who have the rank of magnificent and illustrious, or are worshipful counts of the imperial council, or honorable praetorian tribune and notaries, or persons who have held another magistracy and who are suitable and have been, by our testimonial, shown to be worthy; so that, possessed of such dignity and honor, they may administer justice, particularly since lives are in danger and they generally adjudge cases of homicide, adultery, attacks, robbery and other like cases. 1. Men who preside in the trial of such accusations should be irreproachable in every respect, honest and worthy to sit in such cases, should abstain from theft, that is from corruption by accepting bribes, and should keep their hands

clean. They should also have an assessor chosen from among upright men to set with them. We do not leave them without a sufficient salary, but give each of them ten pounds of gold (\$2160) yearly, for their support, and they must be content with this and commit no theft and be guilty of no bribery. 2. They shall make no gift of any kind in connection with their appointment as was formerly the custom, and give no gold to anyone, and the party who gives anything to anyone for the purpose of obtaining the office shall be held to be as guilty as the magistrate who accepts any gift during his incumbency, as is stated in the oath required to be taken by them.

c. 4. We have, moreover, learned that they have worthless officials in their service - we mean tracers of robbers, hangers-on, (a) out-purses and many others who themselves should be punished rather than to live in such manner. These tracers of robbers are not constituted to do any good, but they trace thieves only to secure some hush-money for themselves and their magistrates. It is proper for those who now are placed into the office of praetor of the people to hate and shun all these things, keep their hands clean, punish all delinquencies reported to them, theft and other offenses, purge the city of beastly thieves, employ honest men for such purposes and conduct themselves becomingly toward their office force, so that they will fear their superior and perform their duties zealously and with good will. If they wish to act rightly and so as to prove themselves worthy of our choice, they will see that there are few thieves, that theft is swiftly discovered, that there will be few offenders, fearing a magistrate whom no one can bribe. 1. They shall also try crimes of however grave a character, compose popular tumults, not serving the magistrate of this glorious and imperial city (city prefect), But the emperor alone, receiving all honors from him as an

inferior from a superior magistrate. Let them relieve us of cares and do nothing unworthy of good men and of imperial approval. If it happens - may God avert it - that there is any fire in the city, they should be present and render assistance, and consider it of the highest importance to keep anyone from stealing and taking the property of those in misery, and, as far as possible, preserve the property of those unfortunately visited by fire. If they conduct their office carefully, a greater office and a more dignified position of power awaits them. And they should know how much better it is to live in honor, than in disregard thereof to use many hands with which to commit evil, and afterwards live in straits, for property acquired in a dishonest manner does not stay long but quickly disappears. We have accordingly thought it for the best interests of our subjects to give them such amount of salary, and bestow the position on men of honor so that our subjects may learn their virtues. And the worshipful praetors of the people shall have a counsellor (assessor), worthy, as we said, of our judgment of them.

(a) Beneficarii - originally applied to soldiers exempt from ordinary burdens on account of special services. Kuhn I, 153.

e. 5. They shall have 20 soldiers and 30 firemen (matricarii) now provided for them, who shall be subject to their orders, and who, when necessary, shall restrain the unruly and keep the community in good order. They (the praetors of the people) should know that if they are honest, they will have God's assistance, and our good will and their position will last longer. For who wants to remove a man who conducts his office well and in accordance with duties.

e. 6. And if a man is delivered to them from the court of the prefect of the city, in order to be punished, they shall carefully inquire into the case, whether the man should be punished with death,

the loss of a limb or other similar manner, and if they think it advisable, make inquiry of the glorious prefect himself. 1. A sentence of death or of deprivation of limb against the party transmitted to them, must be carefully framed. But as we honor the worshipful praetors of the people with so many gifts, appointing them by letters-patent issued by us, and bestowing the salary, name and other things heretofore mentioned upon them, so we demand of them in turn to be honest and vigilant in everything, and manage everything uprightly, justly and with clean hands. If it appears that they offend in anything, that they steal or suffer theft to be committed without prosecuting it vigorously, and that they fail to punish with death those worthy thereof, or banish those that commit lighter crimes from this city to a place directed by us, they must know that they must render an account not only to God, but also to us; must make good all the damage suffered by our subjects, and incur our displeasure and the danger to be immediately shorn of their office with infamy. For we go to such trouble and incur such great expense, so that our subjects may not be wronged, and that none of them may without proper trial, lose money, life or anything of that kind.

Epilogue. All of you, therefore, when you learn of this, our desire, by this imperial edict and law and that we omit nothing that may be to your interests, offer up prayer for our government, which in this manner looks after you, considers the interests of each its own and exercises paternal care in favor of all. Let this law be made known to all the citizens in Constantinople.

Given at Constantinople, October 18, 535.