

Novel 142.

Concerning those who make eunuchs.
(De iis qui eunuchos faciunt.)

Emperor Justinian Augustus to Marthanes, Count of the Crown Domain.

Preface.

The penalties provided by the emperors before us for those who make eunuchs are known to everyone. Because some men, contemptuous of their safety, not long ago dared to perpetrate such crime, some of them, accordingly, suffered the deserved punishment and other were, after they were punished, sent into exile. But since they did not even thus abstain from such action, but this crime spread, and often few out of many (of those that were castrated) escaped unharmed, so that some of those who were saved have testified before us that hardly three out of ninety were saved, who would be so contemptuous of his own safety, that he would neglect this matter and leave it unpunished? For if our laws subject to punishment those who draw a sword against another, how can we overlook slaughter so impudently committed in a matter both godless and against our laws? We have thought it necessary, accordingly, to pursue more severely those who dare to commit such acts.

c. 1. We, therefore, ordain that whoever in any place in our republic dares or shall dare to castrate any person, the perpetrator who has dared or dares to do so, shall, if a man, suffer the same thing that he has inflicted, and if he escapes unharmed, his property shall be confiscated to the fisc by the officiating magistrate of your glorious office, and shall be sent to Gypsum,^a there to remain the remainder of his life. If it is a woman who does this, she, too, shall be punished, her property shall be confiscated to the fisc by the same officiating magistrate and she shall be sent into exile, so that out of the same act of which she has thought or think to make a gain, shall arise her punishment and the loss of

(2) Novel 142, cont'd.
her property. Persons who direct this (the castration) to be done, and have delivered persons for this purpose, or who have furnished or who furnish their house or other place for that purpose, shall, whether men or women, be subjected to the same punishment, as conspirators of such illegal action.

(a) An island in Egypt where criminals were sent to work in the mines. C. 9,47,26,2; Nov. 22,c.8; Cujacius, Obs. 8, c.27, and 20, c. 31.

c. 2. While the castrated persons should have been freed (under the laws of) ancient times (but were not),^(a) we, in any event, direct that those that were castrated since the beginning of the twelfth indiction (tax year) of the last tax cycle^(b) in any place if our republic shall be free, and shall not be dragged back into servitude in any manner or under any kind of contract, and no instrument, public or private (relating to them), which has been or shall be executed in any manner or through any fraud, shall have any validity, and no judicial investigation as to the status of such persons that is or has been made shall be valid; and all persons who aid in the execution of any such contracts shall be subject to the aforesaid punishment. If it happens that a slave is castrated by reason of any sickness, he, too, shall acquire his liberty; for persons who were free in the beginning and who fall subject to such sickness have it in their power to apply any remedy to themselves which they wish. Persons, accordingly, who have been castrated since the time mentioned, shall, with whomever in our republic they may be, be sought out and shall be free, and shall never again be reduced to servitude. If anyone dares to detain any castrated persons after the enactment of the present law, we give the right to such castrated persons, since they have acquired their liberty by operation of the present law, to come before the emperor here as well as to report the matter to the holy officiating patriarch and to our glorious magistrates, and to report it in the provinces to the holy bishop of the place and to the

president thereof, so that through the care of all of our magistrates, and at the peril of their official staff, in Constantinople and every other place, such parties (who detain castrated persons) may be punished and liberty may, pursuant to the present law, be preserved for the latter. For we do not permit so many murders, committed by those who dare to do this (i.e. castrate persons), to be overlooked in our republic. For if the barbarians have complied with these orders after having notice thereof, how can we permit anything of that kind to be done after so many sanctions of former emperors, and permit it to be left unpunished in our republic? ^(a)

Epilogue. Your Glory will obey and observe this, our will, declared by this general imperial law, here and in the province.

Given November 17 (558).

Notes.

(a) Under C. 4,42,1, they were confiscated to the fisc.

(b) A tax period, here called cycle, was a period of fifteen years, each year of which was a tax year, a thorough revision of all tax schedules being made during the beginning of each of these cycles.

The foregoing novel was enacted in 558 A.D. and the cycle spoken of was then past, and was the period from 537-552 A.D. Otto, Schilling and Sentennis.

(c) The penalty imposed in this case that a slave who was castrated should be free doubtless applied only to cases where a man castrated his own slave, and not to cases where he, contrary to the will of the master, castrated another's slave. Cujacius, on this Novel. In the latter case, the castrator was liable to fourfold damage to the master of the slave. D. 9,2,27,28.

Reference is made here to barbarians obeying the commands of the emperor. That seems to be based on Evagrius 4, c.22, who related that Justinian sent to the Abasgi a eunuch, their countryman, with the order that none of their nation should thereafter be emasculated. Justinian's statement that his orders in this respect were obeyed was, perhaps, based on a mere assumption.