

Novel 161.

Concerning presidents.

(De praesidibus.)

Headnote.

This novel deals mainly with two things; (1) the subject of purchase money of the office (suffragium), dealt with particularly in Novel 8, appended to C. 1,38, and (2) with the subject dealt with in C. 1,49, and Novel 95 there appended, that the governor should not leave for fifty days after retirement from office.

Preface.

The greatest good does not consist only of the enactment of proper laws, but also in diligently upholding those that have been passed, carrying them into effect and subjecting to punishment those who violate them. For of what use are laws if they merely exist in words without our subjects having the benefit or effect thereof? We know that the emperor, in carefully looking after his subjects, has often provided, that the presidents of provinces should receive their office free, so that, holding it while their hands are clean, they may treat our subjects justly and equitably and the fisc may flourish while our subjects are kept from harm. But this has been gradually forgotten through the unbridled avarice of those who bought rather than received the magistracies.

e. 1. But we, renewing the laws enacted concerning these matters, ordain that the magistracy shall be held only by those who are outstanding by reason of their good name, have exhibited the greatest care in administering justice, who receive the office, moreover, without any gift or largess, preserve our subjects from damage or harm, and diligently collect the public tribute. They and their councilors (assessores), and clerks (cancellarii) and private guardsmen (domestici) and everyone else under them must

not extort anything from the subjects, if they do not want to repay fourfold, as the laws say, of the amount which they received, but they must be content with what the fisc and the laws have assigned to them. 1. Further, when their term of office is up, they must publicly remain (in the province) for fifty days, as provided by law, and answer those who want to sue them. If the suit (that may be brought) has not been finished within these fifty days, they may appoint a procurator, if the suit is civil; but they must remain till the termination of the suit, if it is criminal; and the judge (in such case), whether a magistrate or appointed by the prefect, will be fined ten pounds of gold (\$2160), if he does not terminate the case within twenty days after it is commenced, the case proceeding in the manner aforesaid. 2. If any of them (the presidents), troubled by a bad conscience, secretly flee and take refuge in a holy edifice, they shall be shorn of their property, which shall be divided among those who were wronged, in accordance with law and in proportion to the wrong, as shown by the records (heretofore) made concerning such matters by one (the complaining) party, according to the provision heretofore made.^(a) 3. Provisions for the benefit of subjects shall remain in force, and the provisions rightly made by the emperor concerning presidents for the benefit of the subjects shall also remain in force. Moreover, as we punish those who sin in this manner, so also we compel those who, through this occasion, receive anything contrary to what has been forbidden, from our subjects, to restore the same fourfold.

Note.

(a) Novel 128, c. 23, (appended to C. 1,40), provided that the party wronged should declare his damage, and have a record made thereof, and "the damaged persons shall be indemnified out of the property of the party against whom such record is made." This record was made one-sidedly, that is to say, by the party wronged, and it is this provision to which reference is here made.

c. 2. And we were induced to make these orders because we considered the prosperity and welfare of our subjects of greater importance than the income that would accrue therefrom (i.e. the fees to be paid by the presidents) to the state. For along with the gifts to magistrates, we have also abolished the purchase money of the office (suffragia), which were customarily paid into the imperial treasury, and which amounted to a large sum of money, so that the state may also in this way enjoy a condition of well-being and return to a state of prosperity, released from payments which some time ago were devised by some to its detriment. For the great aim of Our Majesty is that the provinces may live under good laws, have protection and enjoy justice at the hands of the president, and that they pay their public tribute without trouble. For the state cannot be properly preserved, unless the taxes, religiously due, are paid, by means of which the army, nourished thereby, resist the enemy and defends the country districts and the cities, and so that the remaining orders may receive the portion thereof assigned to them, and so that walls and cities may be restored, and so that everything else may be done which is for the common benefit of the subjects.

Epilogue.

Your Glory will publish this our will, declared by this law, in the customary places in this fortunate city, and will send it to the provinces by the customary mandates, so that all may know how much we have at heart that the fisc and our subjects be kept from harm.

Given November (or December) 574.