

Novel 166.

Concerning adding sterile land.

(De sterilium and adjectione)

Flavius Theodorus Petrus Demosthenes , magnificent praetorian prefect, exprefect of the imperial city and exconsul, Flavius Faustus and Flavius Stephanus to Flavius Ortalinus, honorable consular of Lydia.

Preface.

Since it is proper, when necessary, to make well-ordered matters clearer to our subjects by laws and orders of our offices, so that they will have no occasion for dispute in regard to (forcible) addition of sterile land, and other things. Some think that such sterile land should be set over to those, who, have adjacent and contiguous lands derived from the same estate, others that they should go to former and earlier possessors of the land, others that they should go to all former possessors without discrimination. Moved hereby, we want to come to a right and just decision of this matter, and make it clear and distinct for the subjects.

c. 1. If anyone therefore alienates, in a manner recognized by law, any field, farm, piece of ground or a whole estate, and afterwards dies, leaving his substance to his children or to outside parties, and the latter, in like manner, alienate of this substance, to which they succeeded, a farm, a piece of ground, or a field or the whole of the property, and that which is alienated by the successors becomes sterile, so that (forcible) addition of sterile land must take place, we direct that the burden of the sterile land, originating from the same shall not be given to all alike who possessed it in the first place, nor

contrary to the order of succession, but first to him who acquired the property, which has become sterile, from the children and outside successors above mentioned, and to the immovable property which he has; if he and his possession appears to be poor, the burden shall be imposed on those who transmitted it to him; and if their possessions do not suffice for the payment of the tax (against such sterile land), then it shall be returned to the first owner, (if living), who in the first place transmitted it to children or outside parties, and to the immovable property, if he has any, and finally in consequence of the poverty of all to the parth who bought the farm, or in any legal manner received the field or piece of ground from the first owner. That will be true no matter how many successions have intervened. So long as the nearer one (later one), is solvent, those who had the possessions at a previous time and their goods, shall not be troubled. That, then, is the order. Additions of sterile land shall be imposed, whether upon few or many who belong to the class that is liable, in proportion to the fertile land, which each respectively, in any manner acquired out of the (original) property, and they shall respectively be liable for the tax thereon, when possession of the proportionate part of the sterile land is delivered to them, or when they have refused to accept it. It is not just to burden them with the tax to be paid for such land previous to that time.

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Epilogue.

Your Highness (claritas) must accordingly take care that this matter be examined and carried out in this manner. If these orders are not carried out, as directed, you and the official staff obedient to you must know that you will pay a penalty of ten pounds of gold (\$2160), and perhaps suffer even a greater punishment, and the orders made by us will nevertheless be valid. Nicomedes, of our official staff, has been sent on this account.<sup>(a)</sup>

(a) This is an edict of the praetorian prefect.