Novel 48.

Concerning an oath which a dying person makes concerning the amount of his property.
(De jure jurando a moriente de modo substantiae suae praestito.)

Emperor Justinian to Johannes, praetorian prefect the second time, exconsul and patrician.

Preface. It has always been our aim to uphold the wishes of decedents if not repugnant to law and clearly opposed to the provisions therein contained. We know of an actual occurrence reported to us, namely that a testator stated the amount of all of his property under oath and that such property was all that he was leaving behind for his heirs; but some of the heirs made objections to this, in which they did wrong. They are his successors and in that matter comply with the orders which he has given (namely in becoming his successors); but when it comes to the statement made by him under oath, they are not willing to abide by that or uphold it in a manner in which it should be upheld, although the heir and the person who leaves him his inheritance are, in a way, looked upon as the same person. So one one should say that he was contradicting himself and that he did not want the statement made by him, and which he swore to be authoritative, to be upheld, but was disputing it by his own words.

c. 1. We, therefore, ordain that if a man has made an inventory with his own hand, or written by someone else, but subscribed by him, or states the amount of his property in his testament, while some of the heirs are absent and others or all of them are present, the heirs shall not be permitted to object thereto, or to claim that one of the heirs has concealed property not mentioned by the deceased. But if the decedent had declared under oath, or has stated in his testament, that he owns no more than the amount so declared or stated, the heirs, whether outsiders or children, must acquiesce therein, shall not attempt to uncover more or slander

their coheirs; they shall not ask the slaves or subject them to torture, or make other investigations or searches which simply give opportunity for strife and lead to nothing, inasmuch as the decedent's property is just what he swore it to be and which alone he wanted to divide among the heirs. 1. These provisions apply to heirs, who are almost the same as the decedent; but they shall not bind creditors, since it is stated in our laws that self-serving statements, made by a man orally or in writing, can neither be of advantage to him nor prejudice creditors. They may, on the contrary, make such investigation as they wish, but heirs shall be content with the statement of the testator. And a punishment shall be provided for heirs in this respect, so that if they object, they cannot have the property that was left them. They must accept everything as left or reject it all; they cannot accept in part and raise a dispute as to part; the decedent's wish must be respected by the heirs in every respect, and they must not presume to object to any part of it. This shall apply in the future, and in all cases not yet brought into court or settled by judicial decision or amicably compromised between the parties.

Epilogue. Your Sublimity, learning of this our will, declared in this imperial law, will cause it to be made known to all in the usual manner by your own edicts.

Given August 18, 537.