

## Novel 8.

That a magistrate shall become such without a gift.  
(Ut magistratus sine ulla donatione fiant.)

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Emperor Justinian to John, Praetorian Prefect the second time and Exconsul and Patrician.

### Headnote.

The custom had grown up for the person receiving an appointment at the hands of the emperor to pay a certain amount of money. This money so paid was called suffragium, and was in fact purchase money of the office. This amount was paid into the imperial treasury and must have amounted to a considerable sum. See Novel 161, c. 1. The same practice had existed earlier when an honor was conferred upon anyone in a city, as is fully shown by Reid, Municipalities of the Roman empire, 456, though the practice there doubtless ceased, when, as it did, a municipal office became a burden, instead of an honor. See headnote C. 10,32. Justinian in this Novel points out, that attendant upon the payment of the purchase money into the imperial treasury were several evils - various officials, under the emperor, imitating the latter, and asking money for recommending an applicant for the office and helping him get it. The practice was abolished by this Novel. Tiberius, however, by Novel 161, enacted in 574 (appended to C. 1,40), had to re-enact Justinian's legislation, which shows that the latter had been more or less disregarded in the meantime.

### Preface.

We spend our days and nights in frequent vigils and cares deliberating what may be done by us that is useful to our subjects and pleasing to God. Nor are these vigils incidental work, but we devote them to the deliberations above mentioned, spending every day and night for that purpose, so that our subjects may live under favorable

conditions, freed from all care which we ourselves assume for them all. We have made diligent investigation and inquiry, desiring to do things which will be useful to our subjects and which will relieve them from every burden and every wrong from outside except from public assessment and an equal and legal tribute. We have discovered that a great injustice has crept into public affairs, not one that is ancient, but recent, which does violence to our subjects and reduces them to poverty, so that there is danger that they may be reduced to extreme want and cannot meet the customary, legal and reasonable <sup>(a)</sup> public tribute, pursuant to a public census, without great difficulty. For since those who reigned some time ago <sup>(b)</sup> always wanted to reap a benefit from payment for offices, <sup>(c)</sup> and as the glorious prefects followed their example, for which they could not be blamed, how could our subjects, in view of this wrong, and with damages inflicted from outside, <sup>(d)</sup> meet the customary and reasonable taxes?

1. We therefore considered how we, by one general act, could better every injurious condition in our provinces. We found that this could be done, if we could bring it about that the presidents of the provinces who administer the civil magistracies therein, would keep their hands clean, abstain from all gifts and be content with the salary paid them out of the treasury. This will not happen, unless they themselves receive the magistracy gratuitously, without paying any purchase money therefor, called suffragium, either to those who hold the (higher) magistracies <sup>(e)</sup> or to anyone else. For we have carefully considered that, although the income of the empire will be reduced to no slight extent, still since our subjects will receive great benefit, if they are left unharmed by the magistrates, the empire and fisc will prosper through the riches of our subjects, and the adoption of one measure will produce great and incredible abundance. Is it not clear to all that a person who gives money with which to buy a magistracy, gives not only the amount for which the name of suffragium has been invented, but will also add much other money for

the purpose of winning the favor of others who either give or undertake to procure the magistracy?<sup>(f)</sup> And when such bad beginning is made, the person who has commenced to make gifts must give to many; and he will, perhaps, not give this money out of what he has, but must borrow it, and in order that he may be able to secure a loan, he sustains a loss (for commissions etc). Hence he figures that he should be allowed to receive from the province the amount of his debt, principal and interest, and the loss arising through the loan, as well as the generous expenses paid in the meantime (while holding office), becoming to a magistrate and those around him, and, in addition to that, an income for himself in the future, when he, perchance, no longer holds the magistracy. Thus the amount that will be demanded (by him) from our subjects will be three-fold, nay, to speak more correctly, ten-fold the amount which he himself gave. The fisc will be prejudiced thereby; for the amount that ought to be paid to the fisc (would be paid) if he, who holds the magistracy, kept his hands clean. If he converts this amount to his own use, he makes the taxpayer poor for us, and he (then) charges the poverty caused by himself up to us.<sup>(g)</sup> And how many other crimes are committed which are justly referable to these pilferings? For the provincial magistrates intent on such gain, dismiss many that are guilty, selling them their crime, and condemn many innocent persons to please the guilty; nor do they do this only in civil causes, but in criminal causes as well, when life is at stake. Hence people flee from the provinces; they gather here, priests, decurions, provincial apparitors, land-owners, plebeians and serfs, all lamenting and justly complaining of the thefts and wrongs of the magistrates. This is not all, but money is also generally the cause of seditions in cities and popular tumults arising and ending. That is the fountain of all evil, and the demanding of money by the magistrates is the beginning and end of all wickedness. Indeed the divine saying is wonderful and

very true, that avarice is the mother of all evil, especially when it invades the minds, not of people in private station, but of magistrates. For who does not steal securely, who does not rob with impunity, when he observes the magistrate, and sees him sell everything for gold, confident that his wickedness can be redeemed with money? Hence arise homicides, adulteries, robberies, blows, rapes of virgins, disturbances of public assemblies and contempt for laws and magistrates, since all believe that they, as the meanest slave, are exposed for sale. It is difficult for us to recall and set forth all the evils which arise from the thefts of magistrates, since no one dares to reproach them freely, because they will immediately excuse themselves by saying that they have bought the magistracy.

Notes.

(a) *pia tribula* - tribute gladly given; hence not unjust but reasonable.

(b) This refers to Anastasius and Seno.

(c) By receiving money paid for the office. This money was called "*suffragium*."

(d) Probably refers to the extraordinary burdens inflicted by officials who wanted to gain back the money which they had paid for the office.

(e) Reference is probably made to the higher magistrates who recommended certain persons for the appointment as president - mainly the praetorian prefects.

(f) The *suffragium* went into the public treasury. Nov. 161, c.2, which also deals with this subject. It was real purchase-money for the office. But in addition to this money, applicants were compelled to pay money for recommendations, making the total payments large.

(g) Perhaps by taking credit in connection with settlement of taxes; i.e. he evaded responsibility for it.

c. 1. Having considered all these things, and having taken our well-beloved spouse, given us by God, into our counsel, and havind also communicated with Your Sublimity in reference thereto and having sought your advice to some extent, we have undertaken to make this imperial law. By it we ordain that no proconsul, nor the person hitherto known as vicar, nor the Count of the Orient, nor any other (like) magistrate, nor a consular, presidential (of-ficers) who are called consulars and correctors - of whom an addendum to this law makes special mention and who alone are subject to this law - shall give any recommendation-money for the office (suffragium), or make any gift for the magistracy either to any magistrate or those under him or to any other person on account of any patronage (support), but they shall receive the magistracy free of charge, except that they shall pay small amounts for drafting the letters-patent and certificates which go with each magistracy. We add an addendum to this imperial law which states what each magistrate should pay for letters-patent or certificate or mandate to our imperial register, or to the office of Your Sublimity, which amount is limited and not greatly felt by him.

c. 2. We determine, however, that the vicar of the province of Asia, who is president of Phrygia Pacatiana, shall no longer be called by that name, but shall henceforth be known as the Count of Phrygia Pacatiana, and shall receive the salary, for supplies and fodder, what he now receives for both magistracies, and no diminution therein shall take place. He shall not have two official staffs, but both shall be mingled, that of the president and that of the vicar, and shall constitute one, which shall be, and shall be known as, the official staff of the Count, and the risk on account of the collection of the public tribute shall be on the Count and on all alike; for the official staff shall be a unity, is not divided, and all members serve jointly; but on account of



the double risk, the staff shall receive the salary, for food supply and fodder, which the two official staffs received previously. The magistrate who was formerly vicar, but now worshipful Count of Phrygia Pacatiana, shall not rule over any other province, nor have anything to do with other provinces of the diocese of Asia, but he shall enjoy the name of Worshipful County of Phrygia Pacatiana, and, as said before, shall be satisfied with that province.

Note.

Justinian made a number of administrative changes. Bury. Hist. L. R. E. 2, 339. The vicar of the diocese of Asia formerly had under his jurisdiction, according to Notia Dignitatum Or. 24, Pamphylia, Lydia, Caria, Lycia, Lyceonia, Pisidia and the two Phrygias, comprising what is now the southwestern portion of Asia Minor. Subsequently a duke was established in most of this territory, as shown by Novel 145 appended to C. 1, 29, whose jurisdiction, however, was again curtailed by that Novel. See headnote thereto.

c. 3. We make a like provision also as to another vicar, namely of the diocese of Pontus, so hereafter only one magistrate, not two, shall be appointed, who shall be known as Count of the First Galatia, and shall also have military jurisdiction (as well as civil), as is now the case, and shall have the salary, for food supplies, of each magistracy (civil and military), but not outside of the First Galatia. For we give him no power whatever in any province of Pontus, except only in the First Galatia. <sup>(a)</sup> The official staff shall be mingled in like manner, and shall be, as has been said, considered as one and as united, which shall be, and shall be known as, the official staff of the Count; nor shall any difference exist between them, but the staff shall be a unity, subject to one magistrate, the president of one province; and the whole official staff, in like manner, shall, together with the magistrate, be responsible for the taxes.

(a) Galatia was a part of the diocese of Pontus. The instant law did not work well and the office of Vicar of Pontus was restored by Edict 8.



c. 4. Moreover, we permit no magistrate, civil or military, to send substitutes into cities of the province which he governs. Any one who dares to do so must know that he will be deprived of his magistracy.

Note.

The defender of the city was required to act as substitute for the governor, when the latter was not there, as shown by C. 1,55 and Novel 15 thereto appended. Hence the governor was forbidden to appoint a substitute. This provision is found in a number of the Justinian Novels.

c. 5. This shall apply also to the Count of the Orient and the President. For there, too, we combine two magistracies into one, the holder of which shall indeed have the name of Worshipful Count of the Orient, but shall have only one official staff which shall be, and shall be known as, the official staff of the Count. The Count shall govern the first Syria and Cyrrhестica and shall have the salary, for food supplies, of both magistracies. We give him an equal rank with the vicars. He, too, together with the official staff under him, shall be responsible for the collection of taxes and for the civil and public order.

Note.

Bury, Hist. Later Roman Empire, 2,339, says: "The count of the East was deprived of his jurisdiction over the Orient diocese, and retaining his title, rank and emoluments, became the civil governor of the province of Syria Prima."

c. 6. We want, moreover, all persons to be subject to all the magistrates of the provinces, persons in private station in all matters, civil and criminal, according to the jurisdiction of the magistrate, and persons in the state-service who are subject to their own magistrates shall nevertheless be subject to the former in all fiscal and criminal matters. And the magistrates of the provinces are

permitted to prohibit agents sent therefrom any office to execute any orders, from taking any fees in excess of what is provided by our law; if they neglect to do so, they must pay all damage done to our subjects by reason thereof. We give them leave, moreover, to give information thereof, not only to the magistrates by whom these agents were sent, but to us also, so that, when we have been informed, we may meet out the proper punishment. If they find any such (agents), haughty by reason of their rank and girdle, inflicting injuries on our subjects, they have the power to investigate the acts of injustice, deprive the guilty of their girdle of office, and represent us in the provinces, as is already provided by ancient constitutions. For as we forbid them to abstain from all unjust gain, so they shall enjoy every honor, respect and authority, if they use their magistracy honestly.

c. 7. After we have thus drawn a distinction as to magistrates, (we further ordain that) it is proper that the person who receives a magistracy here, should, in calling God as witness, take an oath in our presence, or if we are not at leisure, in the presence of Your Sublimity, or those who at any time grace your position, and in the presence of the glorious, officiating Count of the Imperial Exchequer, the glorious quaestor of the Imperial Palace, the glorious Count of the Crown Domain, and the magnificent Secretary (chartularius) of our Sacred Bedchamber who looks after these letters-patent for us, that he has not in any manner given or promised anything as recommendation-money (suffragium) or for support, and that he has made no agreement to send anything from the province, for support, to the glorious prefects or to other magistrates or to those that surround them, or to anybody else. But as he receives the magistracy free of charge, and furthermore receives his salary (annonas) - which alone we permit him to take - so he must keep his hands clean and render an account thereof to God and to us. Your Sublimity, and



those who occupy your office after you, may know that if you or they, or those of influence with them, or your official staff, take anything from those who receive the aforesaid magistracies, beyond the amount which they are to pay as fees (*spartulae*) - which alone we have ordered to be given in amounts deemed sufficient - no slight punishment will follow. But even the highest officials who take anything from those who receive magistracies, or who permit their official staff to do anything of the kind, and who, after having knowledge thereof, pay no attention to it, shall not alone repay fourfold the amount which they received, but they will also incur our gravest displeasure and may expect to lose their position. And if the persons around them, or their official staffs, attempt to take anything more than is allowed by us to be done, they shall be obliged to repay the fourfold thereof to the persons damaged; they shall be deprived of their property and the girdle of their office, and shall suffer the punishment consonant with their crimes.

Note.

This chapter refers to the chartularius of the emperor who attended to the letters-patent or certificates of appointment. The subjoined list of fees mentions three such officials. These certificates of appointment were made out, most of them, by the chief of the notaries and his assistants and a record kept thereof. See headnote C. 12, 7. A copy was probably kept by the emperor's chartularii, record-keepers. See as to the chartularius, headnote C. 12, 49. Fees were paid to these chartularii, as mentioned in the list of fees subjoined to this Novel. The chartularius is here referred to as of "the imperial bed-chamber." Whether he was a subordinate of the Grand-Chamberlain mentioned in C. 12, 5, or not does not appear.

c. 8. Those who, in this manner, receive magistracies free of charge, should first of all be zealous to attend to the tribute with vigilance and to collect it with severity, without making any con-

cessions, from those that are contumacious and require the application of force; not to look for any profit in connection therewith, and to treat obedient persons with paternal kindness. Next, they should protect our subjects from all wrong, nor accept any gift from any of them; they must be just in trials, just in public matters, pursuing crimes, preserving the innocent entirely unharmed and imposing legal punishment upon the guilty and thus govern our subjects as a father does his children, loving those that are innocent, correcting and punishing the guilty, and maintaining justice in public as well as private affairs. Nor should they alone do this; they should also choose such a counselor (assessor) and all others about them (as are just), so that they, though themselves innocent, may not seem to commit wrongs and to steal through others, and what is worse, to seem to have taken associates for the commission of injustice. Hence, Your Sublimity is, accordingly, permitted to appoint to magistracies persons of honor and experienced in fiscal matters, namely curials and other persons who have shown themselves to be worthy and are suitable for magistracies. For who would not gladly receive and consider, endowed with dignity, a man who obtains the magistracy by our decision and that of Your Sublimity, who has testimonies that he is a just man, who has received his magistracy free of charge, who is not intent upon anything dishonest in the province, or to reimburse himself for what he had given or otherwise collect money, but who is intent only to commend himself to God and to ourselves, and to enjoy a good reputation, living in hope of great reward.<sup>(a)</sup> 1. If anyone, however, acts contrary hereto, he will be accused of the crime of theft even during his magistracy in which he acts as judge,<sup>(b)</sup> and if it appears that he has given money to obtain the magistracy, or that he has received anything (illegal) through position - for both acts are equally deserving of punishment - he will suffer confiscation of his property, exile, corporeal torture and (other) punishment. And the person, too, who

takes anything from him, will, as we have stated, be subject to severe punishment. For we demand that any provincial magistrates keep their hands clean so that they may preserve our subjects unharmed and safe. These punishments, accordingly, of the law, to be administered by their (superior) magistrates, hang over those magistrates who act contrary hereto. And we further give leave to the provincials, if any magistrate therein perpetrates injustice and inflicts damage or wrong on our subjects to send petitions to us through the bishop, beloved of God, and through the primates of the place, explaining the wrongs of the magistrate. And when we have this information, we shall send an examiner into the province to investigate the matter, so that the magistrate may suffer punishment at the place where he commits his crimes, and serve as an example for others, deterring them from doing likewise.

Notes.

(a) i.e. of another magistracy, perhaps higher than the preceding one.

(b) No provincial governor or other magistrate with plenary jurisdiction over life and death (i.e. with the imperium), could be cited to appear in court, because he himself exercised the power of putting persons into prison. D. 2,4,2. That rule was modified by this provision in this Novel, and this modification is stated in other novels of Justinian. The rule and the modification is referred to again in C. 10 infra.

c. 9. It is necessary, forsooth, for the magistrate, according to former constitutions, to remain in the province for fifty days after his term of office is ended, and to appear publicly and answer all actions brought against him. If he flees before the expiration of such time he may be seized as the meanest of slaves and we give our subjects leave to detain him in the place, or province and demand that he return, as stolen property, everything that they have given him, but they must do so in the presence of the bishop, dear

to God, who shall investigate the matter, reducing it to writing, till the former magistrate restores whatever he is shown to have taken. The provincials have leave, nay, we make it their duty, if they learn of any theft of a magistrate, to report to us, so that when we have learned that he has sold justice for gold, we may visit the aforesaid punishment upon him. And, furthermore, the person who violates his oath, with which he assumed his magistracy, will be subject to celestial punishment. But if the former magistrate ventures to leave the province for any reason whatever before the expiration of fifty days, he may be seized wherever found, led back to the province which he governed, and compelled to restore fourfold the amount which he is shown to have illegally received.

Note.

For a similar provision, see C. 1,49.

c. 10. It is, however, to be observed, that our subjects can bring no action against the magistrate for any matter except for theft. We do not permit that to be done, if he seems to act rather severely toward contumacious persons in connection with the collection of tribute or in punishing criminals. On the contrary, if he has kept his hands clean and has attended to the collection of tribute with diligence, relinquishing his post thereafter, we shall visit with the severest punishment those who dare to subject him to insult, and who fail to do him proper honor when he departs, after the legal time. Our honorable officials, who become magistrates of the provinces of our empire after the enactment of this law, should, accordingly, consider how much glory they will enjoy if they show themselves to be such (as mentioned), and in what difficulties they will find themselves, if they violate this law, so far as they are concerned. For it would be absurd that they should punish persons detected in small thefts, subjecting them to torture till they have restored what they have taken, while they themselves should remain unpunished for large thefts committed by them, without blush-



ing for the example which they set for our subjects, as though in disregard of all this they may appear worthy, free, everywhere entitled to praise, and have hope for our good testimonials and for advancement. 1. But we do not permit the worshipful dukes,<sup>(a)</sup> or anyone else to lay anything in their way, or wrong them, or mix in civil transactions. Jurisdiction over these (transactions) is reserved to them (the civil governors) while they, in turn must show their integrity and their zeal toward us. Our subjects may take notice, that this law is enacted for their benefit, in order that they may remain unharmed and live in tranquillity and not be compelled to leave the provinces, to spend their days in misery in foreign territory, and that we dedicate this law to God and to the present days of the great and universal festival,<sup>(b)</sup> so that all may consider our magistrates rather as fathers than thieves and sordid men, laying snares for their property. 2. It is also necessary for you, my subjects, since you know how much we look after you, to pay all your public tribute zealously without waiting till the magistrates compel such payment, and you should be so obedient as to show us, in turn, by your very acts, your suitable thanks for our kindness, and that you have, because of your devotion, just claim on every favor and care on the part of the magistrates. Since the magistrates must, at all events, collect the tribute and it is clear that they perform this duty at their peril, you, too, knowing this, should avoid all contumacy and should not exhibit disobedient minds, which would require the use of severity, necessary on account of the unavoidable collection of taxes. It is, indeed, known to you, my subjects, that the expenses of the soldiers and the pursuit of enemies require much care, which cannot be met without money and admits of no delay. Nor could we tolerate a diminution of the Roman territory. We have, on the other hand, recovered the whole of Libya, have subjugated the Vandals, and with the help of God hope to do even greater things, and the public tribute should be paid for these purposes without diminution, freely.

and at the legally fixed times. Hence, if you zealously respond to the magistrates, they can easily and expeditiously pay the tribute to us; we can thus praise the magistrates for their diligence and commend you for your voluntary action, and there will be entire and concordant harmony between those that govern and the governed.

(a) Dukes were military officers; presidents civil officers.

(b) The festival of Easter is meant, which was being celebrated at the date of the law.

c. 11. All, therefore, should sing hymns of praise to the great God and to Jesus Christ, our Savior, on account of this law which permits our subjects to live safely in their fatherland, be secure in the possession of their property and enjoy the justice of magistrates. We have also enacted this law, so that through the justice contained therein, we might be able to win the favor of God and cause Him to confirm our reign, lest we seem to permit our subjects, whom God has given us, to be afflicted with wrong, in order always (to appear) to save them in imitation of God's kindness. Hence, we have made this law an expiatory offering to God, as far as we are able, inasmuch as we have not overlooked anything that has come to our mind for the benefit of our subjects. Since we desire to eradicate all sordid and mean thefts and want to protect our subjects against provincial magistrates, we have, therefore, desired to give the magistracies to the latter free of charge, so that they may not be permitted to commit wrongs against, and despoil, our subjects, for whose benefit we have done all our labor. We have thought it unworthy to imitate our predecessors, who doled out magistracies for money, disabling themselves thereby to check unjustly-acting magistrates; nay they had cause to blush for the money which they received from that source, since they, on that account, could neither liberate the subjects from evil magistrates, nor commend the latter to refrain from oppression. We deem the income of the empire suf-

ficient if only we receive all the tribute, nor should we ask anything above that, by which the whole life of our subjects would be disquieted.

e. 12. Something which we mentioned above, we think best to elucidate by further legislation, so that our purpose may be plain to all. We therefore ordain that the honorable magistrates of the provinces subject to us, who have been appointed free of charge and mindful of the oath taken by them, shall also have this authority at our hands, namely, no one shall have the right to claim want of jurisdiction over the person (*fori praescriptio*) before them, in cases where acts of violence have been committed or in case of other (like) crimes and injuries arising therefrom, nor in public causes, nor in connection with the collection of public tribute; but all alike shall be subject to their jurisdiction. They, these magistrates, need not await the orders of their superiors, nor first report to them, but they may rest content with this law which grants them all the (necessary) power; nor may anyone set up any privilege in defense of said causes, nor consider that a ground for committing wrong with impunity. Magistrates who refrain from all bribery will not consider anything of more importance than God, the law and fear of us, but, mindful thereof, will preserve justice for our subjects, adjudging, and acting in, all things according to our laws.

1. We also make the soldiers in the provinces subject to their orders in these matters; and in connection therewith, no command from us or any of our magistrates is necessary, but they may rely on this law and show that to the soldiers, so that the latter may aid them in the use of the power of the magistracy, and if they fail to do so, they will lose their salary as well as their position, and run the risk of bodily punishment. Hence, we have no need of any other magistrate, need no pursuers of robbers or persons to prevent violence who are called *bicolytae*, <sup>(a)</sup> or (who in fact are) rather

waylayers, or persons to disarm others, who under honorable pretexts, commit the worst of acts. For since the provincial magistrates take the place of the highest of our magistrates and suffice for every other magistracy in the provinces and direct everything according to the laws, so far as relates to them, why should anyone dare to set up the defense before them of want of jurisdiction over the person, or any other like defense?

(a) See also Novel 128, c. 22, and Novel 145. See section 13 below. See Rostkooseff, p. 437, as to special pursuers of robbers.

c. 13. We moreover forbid the glorious Master of the Soldiers in the Orient and all our (other) magistrates to send any pursuers of robbers, persons to prevent violence (*biocolytae*), persons to disarm others or any other persons of that kind into the provinces. If there are any such persons in existence after the enactment of this law, they must know that they are subject to be seized by the provincial magistrates and kept in prison and when the matter is reported to us, they will be subjected to the extremest danger; and those who give them commissions of that kind will be punished by a fine of thirty pounds of gold (\$6480), and will incur the danger of greater and severer displeasure. Our provincial magistrates, therefore, who have been deemed worthy of such great power at our hands, must so act that they will be justly and properly feared by all, knowing that if they use the magistracy given them by us badly, and are unworthy of the power committed to them by us, they will be subject to the punishments above mentioned during their magistracy, and at the end thereof will be subject to greater dangers. We give them no permission to depart from the province which they governed before the expiration of the legal limit of fifty days, either on account of a letter of recall (*revocatoria*), flight or any other cause; and they must know, as we have already stated, that whether they are found in this imperial city or in any other place, they will



be returned to the province which they governed, to suffer the punishments previously mentioned.

c. 14. They must take the oath here according to what has already been said above. If the magistrate's insignia are sent to anyone who is in the provinces, he must take the oath in the presence of the bishop of the metropolis, beloved of God, and the chief men there, and thereupon assume the administration of the office; and Your Sublimity will take care, whether a person assumes the magistracy in this great city or if his insignia are sent to anyone in the provinces by Your Sublimity, that he who assumes the magistracy furnishes a bond to the fisc for the honest collection of the tribute, as to you seems entirely proper. <sup>(a)</sup> This law shall apply to all who are hereafter to be appointed by us and receive the magistracy free of charge. For what has been done in the past, is subject to former laws, and none of the punishments fixed by this law shall apply to those who now hold the magistracies unless they are found to have committed thievery after the publication of this law.

#### Epilogue.

Your Sublimity, taking cognizance thereof, must take care to make all these things known in all the subject-provinces, through edicts sent in the usual manner, to the presidents of the provinces, so that the provincials, learning of our zeal toward our subjects and of our plan in regard to the appointment of magistrates, may know of how much good they become participants, inasmuch as for their benefit we do not even spare imperial employers.

Given April 15, 535.

(a) See also Novel 134 for provision for bond, where it is stated that though the bond is not actually given, it shall be considered as tho given.

## Novel 8 (Appendix)

An edict issued to all the bishops of the places and the holy patriarchs, beloved of God.

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Since we take care of the state delivered to us by God, and take pains that our subjects may enjoy justice, we have enacted the subjoined law, which we thought well to make known to Your Holiness and through you to all the people in the provinces. Your Piety and the other bishops should, therefore, be watchful, and if any wrong is committed by magistrates, to report it to us, lest the inviolable and just provisions enacted by us may be neglected. For if we, taking compassion on our subjects because, aside from the payment of the public tribute, they are burdened by great wrongs and thefts of our magistrates on account of the sales of provinces which were being made, and have endeavored to eradicate these evils by the subjoined law, but you negligently fail to report them to us, then we at least have made our expiatory offering to God, but you must render an account to Him for the injuries to others which, without our knowledge, are inflicted on men in your midst. Hence, since you are present in the provinces and are solicitous for the welfare of all alike, it becomes your duty to report to us these who carry on their administration justly as well as those who violate this law, so that, when we have been informed, we may punish the latter and reward the former. When the law, moreover, is posted up and made known to all, it shall be taken and deposited by the side of the holy vases within the holy church as though consecrated to God and enacted for the benefit of the men created by Him. You would do even better and be more useful to the people in your midst, if you would have it engraved on tablets or stones on the porches of the holy church, to make the reading and possession (knowledge) of the provisions of the law of easy access.

c. 1. But if we have given so much attention to the question of the integrity of magistrates, it must be clear that we would much less permit defenders (of cities) to accept or give anything. They must pay indeed for the edicts issued to them (confirming their election), by the office of the glorious prefects four solidi (\$12.00) if the city is large, and three solidi (\$9.) if the city is one of the smaller ones, and no more. They must not accept anything from anyone, except the compensation that may be legally payable to them from the public treasury. If they receive nothing from the public treasury, they shall take nothing except what is authorized in the imperial constitution. If they or their record-keepers, called chartularii, or any others of the persons about him, are found to have taken anything, they shall return fourfold the amount thereof, shall be removed from their position, exiled perpetually, chastised with corporal punishment and give place to better men, to assume the duties of those that are wicked. You (the bishops) should also be watchful over these things and hinder and report those that act contrary hereto, so that no evil deeds may remain hidden, and being hidden, remain unpunished, but that, on the contrary, equity and justice may flourish among our subjects. Unless, moreover, the magistrates heretofore appointed refrain from all thievery after the enrollment of this law on the records, they also will be subject to the punishments provided therein. This edict is issued to the bishops.

A copy of the edict which has been issued to the people of Constantinople is in the following words:

How much care we exercise for the benefit of our subjects is shown by a recent law which we have written to our glorious prefects. But it is proper that you, too, know the pains which we take for the welfare of all. We have, therefore, issued the law in the form of an edict, so that you may sing hymns to our Lord God, to Jesus Christ, our Saviour and to our reign, that we have taken so much pains for your benefit.

A list of the amounts to be paid by each of the mentioned magistrates as customary fee: No magistrate shall venture to receive or give any sum beyond that mentioned herein.

1. By the worshipful Count of the Orient the following: to our imperial bed-chamber, 63 solidi (\$189); to the honorable chief (primærius) of the tribunes and notaries, together with the four bureaus of the imperial register, 50 solidi (\$150); to his aide, 3 solidi (\$9), to the staff of the glorious prefects, for the order (as to the appointment), 80 solidi (\$240).
2. By the proconsul of Asia the following: to our imperial bed-chamber, 63 solidi; to the chief of the tribunes and notaries, together with the four bureaus of the imperial register, 40 solidi; to his aide, 3 solidi; to the staff of the glorious prefects for the order (as to the appointment), 80 solidi.
3. By the worshipful Count of Phrygia Pocatiana the following: to the three worshipful secretaries (chartularii) of our emperor bed-chamber, 9 solidi; to the chief of the tribunes and notaries, 24 solidi; to his aide, 3 solidi; to the staff of the glorious prefects for the order (as to the appointment), 50 solidi.

Note.

It will be noted here that fees were paid to three different sets of officials: (1) to the three record-keepers of the emperor



(technically, of his bed-chamber); this chartularius - record-keeper - is mentioned in c. 7 of this Novel; the general subject of chartularius is considered at headnote C. 12,49; (2) to the chief of the notaries and his bureaus and his aide; these officials kept what was called the greater register of dignities and are more fully considered at C. 12,7,1, note; (3) to the official staff of the praetorian prefect for the "order." The original of the certificate of appointment was probably made out by the chief of the notary and his assistants (Karlowa 1, 846); a copy was probably kept by the emperor's record-keepers, and the "order" issued by the office of the praetorian prefect was probably in the nature of an edict, giving notice of the appointment. But see, Otto, Schilling & Sentennis, who think that this "order" was the certificate of appointment.

4. By the worshipful Count of the first Galatia the following: to the worshipful secretaries of our imperial bed-chamber, 9 solidi; to the primicerius of the tribunes and notaries, 24 solidi; to his aide, 3 solidi; to the staff of the glorious prefects for the order (as to the appointment), 50 solidi.

5. By the vicar of the Long-Wall the following: to the three secretaries of our imperial bed-chamber, 9 solidi; to the chief of the tribunes and notaries, 24 solidi; to his aide, 3 solidi; to the staff of the glorious prefects for the order (as to the appointment), 40 solidi.

As to those of consular rank.

6. By the President of the first Palestine: to the three worshipful secretaries (chartularii) of our imperial bed-chamber, 9 solidi; to the honorable chief (primicerius) of the tribunes and notaries, 24 solidi; to his aide, 3 solidi; to the official staff of the glorious prefects for the order (as to the appointment), 40 solidi.

Note.

The same provision is made, in the same language, for the

same employees and for the same purpose as to the following magistrates:

7. The president of the second Palestine.
8. The president of maritime Phoenicia.
9. The president of the second Syria.
10. The president of Theodarad.
11. The president of Asrhoena.
12. The president of the first Cilicia.
13. The president of Cyprus.
14. The president of Pamphylia.
15. The president of Bithynia.
16. " " " Hellespantus.
17. " " " Lydia.
18. " " " Phrygia.
19. " " " Pisidia.
20. " " " Lyconia.
21. " " " Nova Justiniana.
22. " " " the second Armenia.
23. " " " Great Armenia.
24. " " " the first Cappadocia.
25. " " " the second Cappadocia.
26. " " " Helenapontus.
27. " " " Europa.
28. " " " Thrace.
29. " " " Rhodapa.
30. " " " Haeminontus.
31. " " " Caria.
32. " " " Lycia.
33. " " " First Augustannica..



As to the rank of president or corrector.

34. By the president of Libya Superior the following: to the three worshipful secretaries (chartularii) of our imperial bed-chamber, 9 solidi; to the honorable chief (primicerius) of the tribunes and notaries, 15 solidi; to his side, 3 solidi; to the official staff of the glorious prefects for the order (as to the appointment), 36 solidi.

Note.

The same provision is made, in the same language, for the same employees and for the same purpose as to the following magistrates:

- 35. The president of the First Egypt.
- 36. The president of the Second Egypt.
- 37. " " " " Second Augustamnica.
- 38. " " " " Third Palestine.
- 39. " " " Arabia.
- 40. " " " the Euphrates.
- 41. " " " Mesopotomia.
- 42. " " " the Second Cilicia.
- 43. " " " " First Armenia.
- 44. " " " " Second Galatia.
- 45. " " " Honorius.
- 46. " " " the Islands.
- 47. " " " " Second Moesia.
- 48. " " " Scythia.

49. By the defender of each city, for the order (of approval), to the official staff of the glorious prefects, 4 solidi, if the city is of metropolitan rank, and 3 solidi in the case of other cities, and nothing more. For we do not even want the defenders to give anything to the (higher) magistrates or to anyone else, or receive anything, except what they customarily receive from the public treasury, and they must know that if it is reported to us that one of them has violated these orders, he must return fourfold the

amount which he received, will be deprived of his office and will be sent into perpetual exile. And if the presidents of the provinces are neglectful in relation thereto and permit the defenders to commit thievery, they too will be subject to the same punishment.

The oath which must be taken by those who assume a magistracy.

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"I swear by Almighty God and His only betotten Son Jesus Christ, our Lord, and by the Holy Spirit and the holy and glorious Mother of God, the ever-virgin Mary, and by the four Gospels which I hold in my hands, and by the holy archangels Michael and Gabriel, that I will maintain for our masters, Justinian and Theodora, his consort, a pure conscience and blameless service in connection with the office delivered to me by them, and that I will freely and without fraud or circumvention undertake and do all work and labor for their government and empire in connection with the magistracy granted me by them; that I am in communion with the Holy Catholic and Apostolic Church of God, nor will I in any manner do anything against it, so far as I may be able, or permit anyone else to do so. I further swear the same oath that I have not given and will not give anything whatever on account of the office delivered to me or aid extended to me; that I have not promised or stipulated to send and I will not send anything from the province, as purchase money (suffragium) to the emperor, the glorious prefects, the other worshipful magistrates, or those about them, or to anyone else. But as I have received the magistracy free of charge, so I will maintain integrity toward the subjects of our pious masters, content with the salary assigned to me from the public treasury. And first of all I shall take pains to attend with zeal to the collection of the taxes, collect them with severity and without yielding in anything from those who are contumacious and need the application of force, without looking to anyone for gain, and without collecting more than is just from, or remitting anything to, anyone, on account of favor or hatred. I will treat in a paternal manner those who are compliant and as far as able, protect the subjects of our pious masters from harm. I will be impartial in both parties in a lawsuit as well as in public causes, grant nothing to any party contrary to law, but will pursue all wrongdoers and preserve justice according to my best judgment. I will



keep the innocent free from wrong, impose the legal punishment upon the guilty, and, as has been stated, maintain justice for all parties in public and private causes, and (I will so act) if I discover the public treasury (fisc) to have been damaged. Not only will I do this personally, but will also endeavor to choose a counselor (assessor) and other persons about me who are imbued with the same spirit, lest, although I may be honest myself, those about me would steal and commit wrongs, and if anyone does so, I will mend the wrong done by him, and dismiss him from office. If I fail to keep all this, may I here and in the future, before the terrifying judgment seat of our Lord God and Jesus Christ, our Savior, be associated with Judas, and afflicted with the leprosy of Gehazi,<sup>(a)</sup> and the terror of Cain, aside from being subject to the punishments provided by the law of my imperial masters."

(a) 2 Kings, c. 5.