

Book V.
Title VII.

If one in power or his officials under him attempt to marry a woman subject their jurisdiction.
(Si quacumque praeditus postestate vel ad eum pertinentes ad suppositarum jurisdictioni suae adspirare temptaverint nuptias.)

Bas. 28.5.39.

5.7.1. Emperors Gratian, Valentinian and Theodosius.

If a person (a dignitary) endowed with the ordinary (governor's) or any other power uses such power in connection with a contract for marriage while the women themselves or their parents are unwilling, whether the women are wards or virgins or widows living with their father, or are widows sui juris, or are women differently situated, and he is found to show or to have shown his menacing favors to women whose protection is here in question, he shall, though the forbidden marriage has not been entered into, nevertheless, be subject to a fine of 10 pounds of gold for such attempt, and we order that when he has retired from his position, he shall not be entitled to claim the honor of his completed service (to which he would otherwise have been entitled). If he violates our provisions as to claiming the honor, which he abused, he shall not, for a continuous period of two years, be permitted to live in the province in which he violated our order (in reference to such claim).

1. This, too, is to be added, that the person whom he tried to circumvent by such unlawful conduct, together with her household, shall be permitted, while he is still in power, to immediately enter a protest against him and, together with her household, evade his jurisdiction, and the defenders of every city and the official staff of the judge shall protect them therein.

2. If the depravity was that of the ordinary judge (governor), all jurisdiction over the woman and her household, civil and criminal, shall, as long as the former occupies the office, belong to the vicar.

3. If, on the other hand, the vicar or a person of similar authority uses the power of his office in connection with such contract of marriage, the governor, in turn, shall be the intercessor. And if both are suspected, then, as long as they are in office such woman and her household shall be protected by the illustrious prefecture.

Given at Thessalonica June 17 (380).

C. Th. 3.11.1.

Note.

It had long been the law that a governor should not marry a woman in his province. C. 5.4.6 note; C. 5.2.1 note. That law was not changed by the instant one. On the contrary, it seems to have been aimed mainly at attempts on the part of a governor or other governing official to induce a woman within his jurisdiction to marry him either at the time or after his power would cease, when such marriage was repugnant to the woman or her parents. Governors frequently used their powers for unlawful purposes. C. 9.27 headnote.