

Book III.
Title XIV.

Whenever the emperor judges between minors, widows and sick people, but that they shall not be compelled to appear (in the imperial court).
(Quando imperator inter pupillos vel viduas vel miserables personas cognoscat et ne exhibeantur.)

Bas. 7.3.37

3.14.1. Emperor Constantine to Andronicus.

If anyone obtains an order of our Lenity against any minor under the age of puberty, widow, or person long afflicted or weak with disease, the persons mentioned shall not be compelled by any of our judges to appear at our court. Trial of the dispute shall rather be had within the province within which the litigant, the witnesses and the documents are, and every precaution shall be taken that they may not be compelled to go outside of the provinces. 1. But if minors under the age of puberty, widows and others, wretched through the injuries of fate, pray a rescript of Our Serenity, especially when they fear anyone's power, their adversaries shall appear before us.

Given at Constantinople June 17 (334).

C. Th. 1.22.2.

Note.

While the law clearly shows that ordinarily a case was required to be tried in the ordinary forum, at the same time, it also shows distinctly that the emperor could try cases, sitting as a judge in the first instance. In fact he was the judge with supreme power and all others were but his delegates. His jurisdiction extended over the whole empire and he could summon anyone to appear before him and defend his case. As already shown, he frequently delegated a case to a special judge, ignoring the ordinary judge. C. 3.1.5; C. 3.4.3. So the emperor could delegate his authority, coextensive with the empire, to another, and could direct anyone to appear to defend in any part of the empire. This, in fact, seems to have been done frequently and necessitated special laws. Novel 54 pr, c. 2, appended to C. 2.2.4; also Novel 151 relating to curials. Wenger 36, 42, note 55. Certain cases, against men of high rank, were triable before the emperor only, or a specially appointed delegate. C. 3.24.3.