

Novel 24.

About the praetor of Pisidia.
(De praetore Pisidiae.)

Emperor Justinian to Johannes, glorious Praetorian Prefect of the Orient the second time, ex-consul and patrician.

Preface. We are sure that the ancient Romans could not have founded so great a state from small and slender beginnings, and could not thereafter easily have acquired the whole world, as we might say, and established their government therein unless they had been made more illustrious by the greater magistrates sent into the provinces, and unless they had given them the authority of arms and the laws, and unless they had been apt and noted in the use of both of these. These men were called praetors, and they were given this name because they preceded all others and drew up the line of battle, and the management of war as well as the making of the laws was committed into their charge. Hence, they ordered judicial tribunals to be called praetorian seats (*praetoris*), and many laws were issued by them. Many praetors held and administered provinces, some of them Sicily, some of them the island of Sardinia, some of them Spain, some of them other land or seas.

c. 1. Contemplating these facts and reintroducing antiquity into the state with greater splendor and bringing honor to the Roman name, we find that neither of the two magistrates sent into the more uncivilized provinces suffice for their full duty. In some of the provinces in which one was a civil, the other a military, magistrate, there was continuous strife and contentions between them, which was of no advantage to our subjects but by which they were oppressed. We have, therefore, thought it best to consolidate the civil and military offices into one, giving such official the name of praetor, who, in accordance with the attributes of the name given by the ancients, will have control of the soldiers in the province, and who will also administer the laws—for that also was part of the original jurisdiction of praetors. He shall have the salary of both of the officers, and an official staff of a hundred men—which should be sufficient—who will be called the praetorian

cohort, whose members shall be appointed by imperial certificates of appointment (probatoriae). That official will thus, when he has greater authority, be revered, will inspire fear in robbers and will be inexorable toward offenders. He must keep his hands clean, as we ordered all magistrates to do by a recent law. He must comply with that law, must take an oath, and administer everything in accordance therewith. He shall have control of the army, and he must administer civil matters in accordance with our laws. Hence, though we appoint one of our glorious ex-consuls to this position, this will be in imitation of the ancients, when they allotted provinces to consuls and ex-consuls and praetors, little inferior to the consuls, who gradually increased the Roman name and made it so great, as God has not permitted in the case of any other nation. We want to make a beginning of this arrangement in Pisidia, since we find it stated in the ancient histories that the race of Pisidians formerly controlled that whole territory, and because we are persuaded at this time that that province needs a more powerful and sterner government, for the villages therein are large and populous, and they often resist the payment of public tribute. Further, this magistrate was required on account of the hiding places for robbers and cutthroats, situated on top of a mountain, which goes by the name of the head of the "wolf," and is called the habitation of the "wolf-heads." Hence, provision must be made in his case not in the usual, but in an exceptional manner. If the authority is joined and both military and civil power is placed in his hands; if the whole army in the province as well as all the civil cohorts—already made splendid by being honored by the cognomen of praetor—are under his order, who will not fear him, who not revere him, when it is seen that the law and arms go hand in hand, giving each man the option to obey the law and be safe and secure, or alone act otherwise in order to perish immediately, since arms are at hand, assisting the law?

c. 2. Hence, the man who takes this office—which we give to him free and without any money for it, so that he may remain free from corruption and be content with what he receives from the fisc, as stated in a former law—should conduct himself toward our subjects in a manner mentioned in a prior constitution, namely justly, uprightly, and humanely in his severity. He must banish homicide, adultery,

ravishment of virgins and all injustice from the province, chastise perpetrators of such crimes according to law, fear none of them though influential, and refrain from subserviency to those who cannot benefit him, but who might give occasions for wrongdoing. He must preserve justice throughout, be guided by our laws, give judgment according to them and cause our subjects to live and act in conformity with them. He must keep God and the respect due to us in mind, and in fact consider nothing else. He must not let a crowd come from his province to this city and make trouble for us, in unimportant affairs, but he shall himself first investigate and adjudicate everything, and, mindful of the authority which we give him, he must so conduct himself that his office may remain exempt from censure, and he must realize that if anyone comes before him without receiving justice and is compelled to report the matter to us, he must then reckon with us. For as we honor him with an increase of power, so we shall, in the service of God and in the interest of law, visit proper punishment upon him, if we find him unworthy of our confidence in the matters entrusted to him, or that he is guilty of theft (accepting presents), or that he acts through partiality or hatred or that he violates our laws. For we have disregarded finances, and paid such attention to this law, because we want him to encourage our subjects and exterminate the evils hereto fore existing.

c. 3. Not only must he look after the matters mentioned above, but also after the welfare of cities and must see that the citizens are not in want of anything. He must inspect the public works in the cities and prevent the deterioration thereof. He must take care that aqueducts, bridges and walls and highways are repaired. He must not permit collectors of taxes who come there to oppress our subjects, nor shall he carry out the orders issued, pursuant to an unbearable custom, from the office of Your Sublimity concerning the construction of walls, building of roads and a thousand other things. He shall not allow our subjects to be wronged in these matters or in anything of like nature; nor shall any such orders to that effect be issued from your office, as we have already heretofore forbidden; but he himself (the praetor) shall take care of these things. If we sent someone there, pursuant to a special imperial order—which we may, perchance, direct to you—he shall carefully

examine what our pleasure is. But no one whatever shall oppress our subjects, so that we may see the provinces again filled with people, and the citizens again prosperous, and we do not want to see a multitude of men come to this city, fearing to return to their native country on account of the oppressive conduct of the magistrates. We, accordingly, ordain that Your Sublimity will no longer have a divided magistracy of Pisidia; but there shall only be one, that of the praetor of worshipful rank, who shall be a military as well as civil officer and who shall look after the public as well as civil affairs, and he shall have the soldiers under him, so that, through reciprocal assistance, the law may be sustained by arms and the arms ornamented by the law. There will be no further sedition in cities when a man is at the head of the government who is by us considered worthy to administer both branches thereof.

Note.

See note to Novel 17, c. 4; note C. 10.30.4; note C. 8.12.1.

c. 4. Payments from the public treasury (as salary) shall, therefore, be made to such praetor and his official staff according to the schedule attached to this imperial law. We also want him (the praetor) to have a seal engraved with our name, and the Pisidian magistrate shall be Justinian praetor. The praetorian cohort, appointed, as heretofore stated, my imperial certificates of appointment, shall obey him and he shall have jurisdiction over all men in the civil and military service and also of all matters pertaining to either service. Upon him, further, and his staff, shall devolve the collection of taxes; he shall have all the imperial insignia, which he also has now, that is to say the silver chair, the axe and fasces, and he shall, finally, have an adjutant (*adresponsum*) among the soldiers; for we also confer the military government in that region upon him. He shall equip, divide and properly train, the soldiers to pursue robbers, as well as to make the subjects peaceable and obliging toward each other. He must not permit cities to become seditious or the villagers to act insolently toward our fisc and he shall use his authority against all without distinction. He shall have a middle rank and belong to those of worshipful dignity, so that he shall have the privileges possessed by former vicars and by those who

now are Justinian counts of the Pacatian Phrygia and the First Galatia, Count of the Orient and proconsuls. He shall be a worshipful magistrate and appeals from him shall be sent and heard here (in Constantinople), as in case of appeals from other worshipful magistrates, to be filed in the court of the glorious prefect and to be heard by the latter together with the glorious quaestor of the imperial palace, since though the magistracy (of the praetor) has military jurisdiction, it is nevertheless organized along civil (legal) lines, and the same regulation should govern in his case that has long governed worshipful magistrates according to custom.

C. 5. And since we have in a recent constitution^a provided that appeals involving up to 500 solidi should be heard in the emperor's stead by worshipful magistrates, we ordain that if any such case arises within the confines of Pisidia, whether tried upon assignment made by the emperor or by one of our glorious magistrates, in so far as the referee is not himself of worshipful rank, it shall not be referred to the worshipful Justinian Count of the Pacatian Phrygia, as we provided in a former law, but to the praetor of the province, to hear the appeal in the emperor's stead—for we also confer that honor upon that magistrate—and he shall finally determine the matter and shall not send it to this city, so that the litigants may not suffer great trouble and damage in unimportant affairs.^b

a. Nov. 23, appended to C. 7.62.39, after Novel 20 [not appended in this edition].

b. This and part of the preceding paragraph is also appended to C. 7.62.39, after Novel 23 [not appended in this edition]. Cases might be specially delegated to certain individuals by the emperor or other magistrates. See C. 3.3 and 4 and notes.

c. 6. In order, moreover, that those who assume the praetorship and the other magistracies heretofore or hereafter established by us, may know in what manner they should becomingly manage their office, it pleases us not only to give them the insignia of their office in what are called their letters-patent, but also to state them in what previous lawgivers termed mandates of the emperors, the manner in which they must administer their office, so that they may manage it according to the rule

thereof and look after the interests of our subjects in all things. We have ordered these imperial mandates to be deposited in the imperial registry, and shall be given to the magistrates along with their letters-patent, upon taking an oath provided by our constitution and complying with everything according to our directions. There will be attached to this law a schedule of fees which the future magistrate must, for the insignia of his office, pay to [the] imperial registry and the office of the glorious prefect, and a schedule of salaries which such magistrate and his assessor and this official staff will receive, so that when everyone is informed of the care we have taken with reference to such magistracies, such magistrate may administer his office uprightly and in a manner that meets approval. **1.** While this law may become known to all by the reading of our imperial constitutions—for we have ordered it also to be enrolled among them—your yourself will see to it to carry it into effect, so that it may become noted and conspicuous by its results.

Given May 18, 535.

To the praetor of Pisidia must be paid as salary for supplies, fodder and other necessaries, 800 solidi,^a to his official staff five^b pounds of gold. He himself should pay for the insignia of his office as follows: to the three worshipful record-keepers (chartularii) of the imperial bed-chamber, 9 solidi; to the chief of the honorable tribunes of the notaries and the clerks of the registry, 25 solidi; to the aide, 3 solidi; to the office of the glorious prefect, for the order (announcing the appointment) and everything else, 40 solidi.

a. The Authenticum—Latin version—has this amount. The Greek version has 300. The moderator of the province of Helenspontus [Helenopolis] received 725 solidi, and it is incredible that there should be such a difference. The Authenticum has doubtless the correct version (see Nov. 28, c. 3).

b. The Greek version has 2 pounds; the Authenticum has 5 pounds. The staff of the moderator of Helenspontus [Helenopolis] (Nov. 28, c. 3) received 447 1/3 solidi. Hence five pounds is likely to be more correct here.¹

¹ This novel is one of the few for which we have an earlier draft of Blume's manuscript. In this draft he added the following note:

Value of money. It will be noted that here (and in Novels 25-31) the appeals to be heard by the worshipful magistrates were to involve not to exceed 500 solidi. But Nov. 23, c. 3, to which reference is here made, provides that appeals involving up to ten pounds of gold might be heard by such officials. The amounts mentioned in the respective laws to not seem to correspond. After the time of Constantine, a solidus, a gold coin, contained 4.55 grams of gold. Marquardt at 70. Figuring a gram as 15,432 grains, would make 69,215 grains, and figuring the United States gold coin to contain 23.22 grains fine to the dollar, would make the value of the solidus roughly at \$3.00, consequently making 500 solidi, or gold pieces the sum of \$1,500. But a pound of gold contained 72 solidi (Marquardt, *supra*) or, roughly, \$216. Ten pounds of gold, therefore, would make \$2,160. If the ten pounds of gold mentioned in Novel 23, and the 500 gold pieces mentioned in the present law were supposed to represent the same amount, as they evidently were, then reference was made to a gold piece that was worth more than \$3. In such event, one pound of gold would represent fifty gold pieces, which was the coinage under the emperor Caracalla. Marquardt, *supra*. The situation here pointed out speaks to be inexplicable. [Justice Blume's attempts to correlate the value of solidi to the U.S. dollar have not been otherwise reproduced in this edition. The editor deemed them to be more confusing than helpful, and Blume was did not always include them himself when solidi amounts are stated in a law.]