

Novel 25.

Concerning the praetor of Lycaonia.
(De praetor Lycaoniae.)

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

Preface. We have deemed it advisable to give a more important magistrate than the present one to the Lycaonians, bearing in mind the beginning when, as related by the writers and interpreters of antiquity, these people were established, and because they are related to the Romans and came into existence nearly in the same manner. For Lycaon, once King of Arcadia, in Greece, also lived in Roman territory, gathered the cenotrii about him and established the beginning of the Roman power—speaking, of course, of the older time, much preceding that of Aeneas and Romulus—sent a colony to this region, which occupied part of Pisidia, gave it his name and called it Lycaonia after him. Hence it is fitting that this land should be graced by a magistrate honored with the ancient insignia of Roman rule, combine the present civil and military magistracies into one, and give its incumbent the name of praetor. It is a name peculiar to the Roman power and was in use in the great Roman State even before that of consul. For the ancient Romans called their leaders in war by the name of praetors, and not alone placed them at the head of armies, but also obeyed the laws made by them. The praetor's magistracy was of mixed nature, representing and displaying not only courage in battle but also the discipline of the law.

c. 1. Since we purpose, accordingly, in this instance also, to combine the two magistracies into one, we justly give its head the name of praetor, so that those who hear this may, along with the name of praetor, have in mind the condition and nature of the magistracy, which is not a simple one, having only military or only civil jurisdiction, but having both, so that (its head) may be severe and fearless by reason of his military power, and mild and approachable by reason of his civil power, and who, accordingly, may act severely toward the unjust, and equitably and moderately

toward the honest. Nor do we act artlessly, paying attention merely to the name, but establish magistracies for their usefulness. For the region aforesaid has virile men and is not distant from (but adjoins) Isauria; it is inland, without restraint, adapted for pasturing horses, and nourishes many men and horses. It has many large villages and men who know how to ride and use arrows, who are easily aroused to harsh action, quickly taking to arms, probably having little regard for a military magistracy, wanting private (unconstrained) life, subjected only to civil magistrates, but in turn having contempt for these, since an office engaged only in administering the law, not equipped with the power of execution, is not very formidable in the eyes of audacious men. These things have moved us to combine these magistracies into one, as we have done it in the case of Pisidia, and to give its occupant the name of praetor, in addition to what he takes from us;^a for we want him to be called the Justinian Praetor of Lycaonia, just as in the case of the praetor of Pisidia. The official staffs, too the military and civil, are combined into one; we call it by the name of praetorian, appointed by imperial certificates of appointment, combining, as usual, from the imperial bureau of petitions here, from which apparitors of dukes also formerly received theirs. The staff shall consist of one hundred members. And we give the praetor the salary of both magistracies, likewise to his counselor (assessor) and to the others, as stated in the schedule attached to this law. The praetor shall also have an adjutant for military discipline, although we have already ordered that he shall have command of the soldiers in his province.

a. By naming him "Justinian" Praetor.

c. 2. We shall select for this magistracy a man of approved character from among our presidents, from which praetors were also formerly selected, and who, by reason of what they did, were a credit to the republic, sometimes remaining in Italy, sometimes sent abroad. For such magistrate should always be mindful of himself and from what source he receives his position, revered by our subjects, feared by robbers and wrong-doers, and doing everything with greater confidence. It needs no mention that he should keep his hands clean, since he receives his position free

of charge and a law recently enacted by us specifically directs all magistrates mentioned therein not to hold their hands out—as to which they also take an oath—and to judge according to our laws and deal out justice and equity to our subjects. In that manner the ancient Romans, shedding luster on the state, conquered all other countries. For who will not at the same time revere as well as fear a magistrate whom he seems endowed with a double authority—a magistrate who readily puts into effect what the law provides and who, by means of arms, can easily punish any violation of the law? **1.** The same orders which we gave to the praetor of Pisidia, in a law concerning that magistrate, shall apply to him. Receiving his office without paying therefor, he must be incorruptible, must be satisfied with what he receives from the fisc, as already stated in the law enacted concerning magistrates, and must act uprightly and justly. And as he has a mixed magistracy, his mind must be attuned accordingly, responding to notes that are sharp and strong at one time, and to notes that are soft and mild at another. He must hate and punish adultery, homicide more so, and the rape of virgins more severely. He must visit immediate punishment upon wrongdoers, if they are incurable, but seek to heal them if they are curable. He must fear no none who does wrong, however rich such person may be or with whatever title he may be endowed. For we select him from among the nobles as a man who carries with him from home no zeal other than for us and for the laws and to give judgment, and take care that our subjects live according to law.

c. **3.** He must not be negligent, nor inflict any wrong, so that men in the province which he governs may not leave it, on account of wrongs done them, to make continuous trouble for us. But he shall first investigate and adjudicate the matters brought before him, and always be mindful of the honor which we bestow upon him, and perform the duties of his office as a praiseworthy and upright magistrate. And he may accept as certain, that if anyone comes to us without having laid his wrongs before him and without attempting to get justice from him, he will be sent back to him without answer from us. But if such man went before him without getting his rights and then comes before us, we shall no longer judge him, but the man who occupies the magistracy, and we shall come to the aid of the law and punish him in

proportion that we have conferred greater authority upon him, if we find that he has acted carelessly and has used his authority negligently, and as he had no regard for our orders, for the laws and for the honor of his office, so we shall have no regard for him, and will treat him in the same way that he treated the duties of his office. And if we find that he has not kept his hands clean, or that he has been partial or that he has violated our laws, we shall proceed against him according to law, demanding an accounting from him. For we have spared neither money nor anything else to protect our subjects.

c. 4. He should, besides, see to it that cities are kept in order, first of all clear all cities under his jurisdiction of all seditions, preserving justice everywhere and taking care that our subjects are not in want of anything. He must not neglect public works of cities, see to it that no diminution thereof or of the care of aqueducts, bridges, walls and roads takes place, but he shall cause all these to be repaired or report to us so that some of them may be put in proper condition by the funds of the cities, some of them by our funds. He must not permit collectors, sent by magistrates from this city, to damage or trouble our subjects, or allow parties to bring the usual orders formerly issued from your office to ruin the people in moderate circumstances, directing now the repair of walls or roads, again the renovation of statues, bridges, ports and public aqueducts, again the taking away of places as though belonging to the public, again the destruction of houses as though not built in the proper place and other things calculated to cause even greater wrongs. He shall himself attend to that matter, and do everything without causing damage. If it appears to us that these matters need a fuller inspection, we shall issue an imperial order directing it, if we wish, to your office, and direct someone else to make an investigation in accordance therewith. Thus our subjects will breathe more freely, the cities will flourish again, the inhabitants thereof will prosper as much as possible, and will not flee from their native country as something to be specially feared, shrinking to live there on account of the evil conduct of the magistrates.

Note.

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

c. 5. Your Sublimity must, accordingly, know that hereafter there shall be only one and not two magistrates in that country; that everything heretofore paid by the fisc to the tow offices, shall, according to the schedule attached to this law, be paid to such magistrate and to those about him and to his official staff, just as has been heretofore done. **1.** The collection of tribute shall devolve upon him and upon his praetorian staff under him; he shall have the insignia of both offices. And though he is rather a military officer, he shall be carried in a silver carriage, the axe shall precede him—tis being also a sign of consular power—and the fasces shall be solemnly carried before him, and the whole military force in the province shall obey his orders. He shall exterminate robbery, aid those who suffer wrong, and establish peace among our subjects. **2.** He must not permit villagers to refuse to pay the public tribute. He shall be listed among the worshipful magistrates, although the occupant of the office may, perchance, have a higher title; for we shall appoint as magistrates, to govern the provinces, parties whom we shall deem worthy thereof, and he shall be numbered as one of the worshipful magistrates like proconsuls, and the Counts of the Orient, of Galatia and of Phrygia. **3.** Thus he shall also hear civil and criminal cases in the province and cases involving liberty, as is permitted all the magistrates. Appeals taken from his decisions shall, according to the custom heretofore in vogue concerning worshipful magistrates, be examined here by our glorious praetorian prefect and the glorious quaestor, as formerly arranged, since his office is more in the nature of a civil office, governed by the laws by which we also want arms to be governed.

c. 6. According to the law recently enacted by us, if any suit in his province does not involve more than 500 solidi, and is appealed, such appeal shall be heard by himself and not, as heretofore, by those that govern the Pacatian Phrygia, whether the case has been heard upon assignment made by us or by one of our glorious magistrates, provided that the judge is not of worshipful rank, upon the grounds mentioned in the constitution lately enacted concerning appeals. He shall have the honor to act as judge in place of the emperor, making an end of the case without sending it here, as

formerly, so that this matter may not furnish our subjects with the cause for great damage in unimportant affairs. We shall make such magistrate also acquainted with these matters. For we have taken care not only to furnish the proper insignia of the office, by what are called the letters-patent, such as are given to magistracies of worshipful rank, but also to furnish them along with the letters-patent, the imperial orders, called mandates of the emperor by former rulers and lawgivers, which we have ordered deposited in writing in our imperial registry, so as to be furnished from that place along with the letters-patent, the latter conferring the magistracy, the other giving the manner in which it shall be administered. By the schedule subjoined to this imperial law, will appear what the person who becomes magistrate shall pay for the insignia of his power, and what shall be paid to him, to his counselor (assessor) and to his officials. If you find any presidents of provinces in his neighborhood to be negligent in fiscal matters, you must not send a special delegate but must entrust the matter to the worshipful magistrates, so that they may get after the presidents, if negligent, to cause them to collect all the tribute.¹

Epilogue. We have, accordingly, caused this law to be made a part of the collection of our constitutions; you yourself, upon receiving it, must act according to its provisions, which will always serve as a reminder of the benefit conferred by us. Given May 18, 535.

The praetor of Lycaonia must be paid as salary and for supplies for horses and other necessaries, 800^a solidi; to his assessor, 72 solidi; to his official staff five pounds of gold.^b He himself must 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 tribunes of the notaries and his clerks (laterculenses), 24 solidi; to

¹ In an earlier draft of this novel, Justice Blume appended the following note: "Similar provisions are found in Novel 26, concerning the Praetor of Thrace; Novel 27, concerning the Count of Isauria; Novel 28, concerning the Moderator of Hellespontus; Novel 29, concerning the Praetor of Paphlagonia; Novel 30, concerning the Pro-consul of Cappadocia; and Novel 31, concerning the four presidents of Armenia. These Novels are appended in full in book 1 of the Code." [Not appended in this edition.]

his aid, 3 solidi; to the office of the glorious prefect, for the orders (making the appointment known) and everything else, 40 solidi.

a. Note ^a to Novel 24 applies here.

b. Note ^b to Novel 24 applies here.