

Novel 26.

Concerning the Praetor of Thrace.
(De praetor Thraciae.)

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

Preface. It is clear that if anyone names the region of Thrace, bravery, military troops, war and fighting come to mind at the same time; for these are indigenous and inherited in that country. Hence, it has long been our plan to regulate matters also in that territory, and we put in this law what we have already theretofore turned over in our mind in reference thereto. It is known that two men, going by the name of vicars, have their seat at the long walls, one in control of the military forces, of which there are many in that country, and the other of civil affairs. One represents the glorious prefect, the other the Master of Soldiers. They are never in accord. The fisc pays both of them salaries and other necessary expenses, but they engage only in one perpetual and never-ending affair, namely in continuous contention among themselves.

c. 1. We think it better, therefore, to do here what we have done in other countries, though less bellicose and less in need of military control, and to consolidate the two offices into one, not letting one be at the head of civil affairs, and the other only of military affairs, but to establish one influential officer there, worthy of respect, who will look after civil affairs as well as military discipline. For the man who governs the province as president^a is in other places and alone is not sufficiently powerful. The guarding of these walls and the management and order of those places, as well as the direction of the army, is in need of an able man who is fit both for equipping the soldiers as well as administering the laws. What suitable ancient name should be given him? What is a fitting appellation for the man who is to hold that office? Is it not clear that he, too, should be called praetor, with the cognomen of our Piety (Justinian praetor), just as in the case of the Prefect of Pisidia and the Rector of Lycaonia? For as the Roman praetor, as leader of war and lawgiver, occupied the

same position in connection with his office, it is plain that the name of praetor is most suitable to this magistrate, since he is at the head of the troops and has not a few subjects under him among whom he will administer justice according to our laws. And surely a man experienced in civil and military affairs is necessary in these places. In former times, too, military men, of the highest rank, were put in control of armies, and gave assistance to all other persons, though not soldiers but civilians. For the invasions of the barbarians call for no small amount of resistance. The matters relating to them should be entrusted to a man who is able to govern them with the laws, for there is a vast difference between order and disorder, and it is clear that a purely military government is haughtier than it ought to be; a purely civil government, not combined with military control, is weaker than is proper. A combination of both make the best and most suitable government, sufficient for both war and peace.

a. Who also had been retained.

c. 2. So these offices, too, shall be consolidated, and its head shall be called the Justinian praetor in Thrace. He will receive the insignia of his office from us and letters-patent issued from here, in the same manner as other magistrates of worshipful rank, as well as imperial orders, called mandates of the emperor by the ancients, which will state in what manner the office is to be conducted and which the men who were selected for a magistracy in the past would carry with them when they went into the provinces and learned from them what they were to do. And this matter went on well, and there were praetors who became famous among many nations of our state, especially in the west, from whence the Romans, proceeding further, conquered almost the whole north, and a great part of the south and the east. What we said in a law recently enacted concerning magistrates, and what we heretofore stated as to the praetors of Pisidia and Lycaonia, namely that they should receive their appointment without paying therefor and should perform their duties toward our subjects without bribery, is known to all; for this law was sent to every part of our realm and everyone knows of it. It also contains the oath, in accordance with which our judges must, when they take office, consecrate their

soul to God, must guard our subjects with justice and equity and must free from any desire of profit and from hatred and partiality. **1.** He shall have an official staff of not more than one-hundred members, and the insignia of a civil as well as of a military magistracy. He shall have an adjutant for the troops under his disposition. He shall have control of these troops and use them for whatever may benefit the state. He, together with his official staff, shall look after the collection of the public tribute. His staff shall be called the praetorian staff, to be appointed by articles of appointment from the imperial bureau of correspondence, from which the staff of the vicars also formerly received their certificates of appointment.

c. 3. He must first of all take care to keep his hands clean of gifts. Next he must, privately and publicly, be just to our subjects, whether in litigation or in connection with contracts which they make among themselves, so that he may induce them to abstain from all sedition. He shall cause the soldiers to be made better and more active by military exercises, and shall make civilians submissive to law and just, abstaining from committing wrong, so that the latter may make progress in being just, the former in being brave. If a military campaign becomes necessary on account of war, she shall be prompt, having both official staffs at hand; the civil official staff shall perform the duties incumbent upon it, and the troops shall, without delay, prevent the invasion of the enemy. **1.** The praetor must hear all proceedings, whether civil or criminal, or involving anything else, and give just judgment according to our law and without partiality, so that litigants may not come here from there to make us trouble. For we do not want our subjects to leave their province and come here, because of being disregarded by the judges. And if any of them, who hereafter come here, give us any trouble, we shall ask those who have been wronged, whether they have laid them before the magistrate of the province; if we learn that they have not done so, we shall send them back to the province, with censure. But if they did so, and the magistrate was remiss in his duty or for some dishonest reason disregarded the laws, we shall turn our wrath upon the latter. And in proportion that we give him larger salary—of both magistracies forsooth—and the government of so many people, we shall, if we find him to conduct his office

improperly, neither pardon him nor visit light penalty upon him, but shall punish him, if he acts contrary to our laws in the same degree that we shall exalt him if he performs his duty properly. He should be subservient to no one, no matter of what rank or how rich the latter may be. For we give this magistracy to men of dignity for the very purpose that they may not cater to men who abuse their wealth and want to wrong others.

c. 4. He must look after the public works in his province, and must not permit ports, walls, bridges, roads or anything else, to fall to pieces, but must see to it that they are restored, as far as possible, with municipal funds, and that accounts are rendered, as far as possible, with municipal funds, and that accounts are rendered thereof according to the provisions of our laws. If a greater outlay is required, he should report to us. We do not any longer want men sent into the province from your^a office, who customarily looked after these matters—the examination of aqueducts, public gardens, walls, statues and other similar things—which we already heretofore determined should cease. But he himself—the praetor—shall examine those things, and order those (in charge thereof) to render an account according to our imperial constitution. **1.** If we want to send someone else to attend to this, we shall make an order to that effect by an imperial order, directed, if we deem proper, to your office. For we disregard money, as you know, in order that we set our subjects free from every wrong, and we put the minds of magistrates, of their official staff and of others about them, at ease by no small salaries, in order that they may not act dishonestly through poverty or other similar reason, but that they may be possessed of influence and be members of the great senate,^b and thus go into the province mindful of God and of us. If the praetor does not forget this, he will make himself more distinguished in everything than he is (by virtue of his position). **2.** And since the ancient Romans gave the magistracies to men of consular and praetorian ranks, we shall not act wrongly when we give them to men who suppress abuses and who, when collectors who are sent into the provinces from here and who attempt to inflict unjust damages on our subjects, liberate the latter from misfortune. For we give him—the praetor—permission to investigate and prevent

such matters and report them to us, so that if he is unequal to deal with some of them, his power may be increased and supplemented by our counsels and orders.^c

- a. I.e. from the office of the praetorian prefect.
- b. In Constantinople—of which such officers were members.
- c. See notes to C. 8.12.1; C. 10.30.4; Novel 17, c. 4.

c. 5. We shall also direct them in these things in the imperial mandates, delivering them along with the insignia of the magistracy, in order that they (the praetors), mindful of the oath which they must take and the orders which we shall give them, may lead a life worthy of us and of our wishes and may conduct their office according to our laws. These are the conditions under which we entrust the magistracy to them, giving them, as stated, all authority in civil and criminal cases and other matters. Appeals from them shall be sent to our glorious prefect and glorious quaestor who shall jointly hear the appeal according to the manner of appeals carried to the imperial court (ad sacrum auditorium). IF an appeal is taken in these places in a case involving less than 500 solidi, though heard upon assignment made by the emperor or by (the higher) magistrates, it shall, unless the case was tried by a man himself of worshipful rank, be heard by the praetor in the manner that appeals are heard in the imperial court (in sacro auditorio). For we also bestow this honor upon this magistrate and put him upon an equality with the worshipful Count of the Orient, the proconsuls, and the counts of Phrygia and Galatia; making him, too, of worshipful rank, the same as them, and enjoying the same position. This law, however, shall in no manner diminish the (authority of the) honorable president of the province, but as the praetor (ille) shall do in the other places in the province what the law contemplates, the president shall perform the duties assigned to him by us in the places in which he is located. **1.** Attached to this law is a schedule which shows that fees the praetor shall pay for the insignia of his office and what salary he himself and those about him shall receive from the fisc, and with which they shall be satisfied, abstaining from receiving compensation from others. For we confer greater honor upon them, with larger salary so that they may, in return therefor, protect our subjects in all things and be mindful of the oath which

they must take. This law shall be part of our code of laws, and you will, after you receive and learn of it, see to it that it is carried out.

Given May 18, 535.

To the praetor of Thrace shall be paid as salary and for supplies for horses and other necessities, 800^a solidi; to his assessor, 72 solidi; to his official staff five^b pounds of gold. He himself shall 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 his aide, 3 solidi; to the office of the glorious prefect, for the orders (giving notice of the appointment) and everything else, 40 solidi.

a. Note ^a to Novel 24 applies here.

b. Note ^b to Novel 24 applies here.

Note to Novel 26.

This vicar of Thrace was abolished, and the whole civil and military power was vested in the Justinian Praetor of Thrace. The reason for this lay in the fact that the civil and military authorities had been in constant conflict, which was dangerous on account of the constant invasion of the barbarians.

The powers of the Justinian Praetor here mentioned were, however, soon curtailed by the withdrawal of Lower Moesia and Scythia from his jurisdiction. These two provinces were placed under a Justinian Quaestor of the army who enjoyed an authority independent of the praetorian prefect as well as the master of the soldiers, and the institution of that office was, in the opinion of Bury, intended to curtail the power the praetorian prefect of the East. Strange to say, under his jurisdiction were also placed Caria, Cyprus and the Cyclades Islands in the Aegean Sea, and Bury conjectures that the only reason for this strange union of provinces could have been to place the financial expenses of Lower Moesia and Scythia, exhausted by invasions, on provinces which were exceptionally rich. Bury, 2 History of the Later Roman Empire 340. Inasmuch as it was tremendously burdensome for litigants from Cyprus, Caria and the islands to go to the Danubian lands where the quaestor of the army ordinarily resided, the provisions were made by Novels 41 and

50 appended to C. 7.62 [not appended in this edition], whereby appeals from these places could be heard in Constantinople. See also C. 12.40.6, and note.