Novel 101.

Concerning curials.
(De curialibus.)

Written to Johannes, glorious Praetorian Prefect the second time, ex-consul ordinary and patrician.

Preface. An appeal by some curials gave us the opportunity for the enactment of a good law, and so we enact this law not (only) for some curials, but for all our subjects who are in the East, upon whom the western sun shines and who are located on both sides. Since our predecessors gave attention to matters pertaining to curials and to persons brought into curia, also as to whose status is that of a curial and who are released therefrom, we ordain that curials shall be permitted to appoint as their heirs not only persons subject to curial duty of the city—which has also been heretofore permitted—but also persons free from that condition, upon condition, however, that the heir or heirs offer themselves to, and perform curial duties in, the curia of the testator, that is to say, the curia to which he belonged. In that event, they may take the inheritance without hindrance. We know that this is an improvement over the former situation, for although at present the curia receives a pecuniary benefit in such matters, it will, by this legislation, in the future have a curial as well as property, and curiae will flourish in having the members and their property.

c. 1. We therefore ordain that curials may in their testament appoint as their heirs persons subject to the curia of the same city—as directed by the (present) law—or relatives or strangers, whether they are subject to the curia or not, and for not less than three-fourths or the whole of the property, provided that they (the latter) become members of the curia and become a part of that body and fully fulfill their duties. And this applies to them and their children, grandchildren and remoter descendants, not, indeed, according to the rule which a constitution recently enacted[a] provides as to those that offer themselves to the curia, and which does not subject the offspring of those that so offer themselves, to the same condition, but

they, together with their offspring, shall be a part of the curia and be on the register thereof the same as though they had been curials from the beginning. For there is no difference whether a man appoints as his heir a person who is (already) subject to the curia of the same city, or a person who immediately will become so.

a. Novel 89, cc.2-6.

c. 2. If a relative who is already a curial, or someone else who is free from that status, is (by law) called to the inheritance of a deceased curial who has made no testament, and the latter offers himself as a member of the curia, he may do so, declare his wish on the records within six months, and so become, together with his offspring and his property, at the same a curial and an heir; nor may a demand be made on him for a fourth or three-fourths, since the person receiving the inheritance is either already a curial or soon will be, and the property is again returned to the curia. And, so, if a curial gives most of his property, or at least not less than three-fourths, to a citizen of the same city or to someone else who offers himself and his offspring already born, or to be born, and his further descendants, to the curia of the donor, such gift shall, under such condition, be valid. For it is worthy of our greatest zeal that the property of curials should not be diverted from the curia of the city of which they are members.

c. 3. In order that these things may not be done in sham, and so that persons made owners of the inheritance of curials either by gift or pursuant to a testament, as stated, or on intestacy, may not delay and put off offering themselves to the curia, and enjoy the property without offering themselves, we ordain that if, as heretofore stated, a gift of property had been made it shall not be delivered, but shall remain with the donor till the donee is presented to the curia in the manner aforesaid by entrance on the records before the president of the province, to be made free and without any expense, and till he is inscribed (as a member) in the register. The property may thereupon be given him. If the donor delivers the property without the execution of the declaration which makes the donee subject to the curia, the curia may recover the property given to the extent of three-fourths thereof, to which

amount we want the curia to be called (by law) in any event. **1.** If anyone who is not a curial becomes the heir of a curial pursuant to a testament or on intestacy, the curia shall meet immediately upon the death of such curial, and, together with the defender of the city, and without any fraud against the property of the deceased, make an inventory of the property, in the presence of the heir, and such property shall be delivered to the curia under the seals of the defender and of the bishop of the place, beloved of God. And when the record is made before the president of the province as aforesaid, and he (the heir), as has often been stated, offers himself and his property and his present and future offspring to the curia, he shall then receive the property and become owner thereof, in the same manner as the former curial, and without any difference. Such record moreover before the president of the province shall be made without any charge or expense. For we enact this law to remain in force forever, not in fraud of, or to the detriment of, the curia, but for its benefit, increasing the property and the condition of the curials with money and members. If a person, not himself a curial, becomes heir of a curial on intestacy, and refuses to appear and offer himself to the curia, the curia shall retain three-fourths, he becoming owner of only one-fourth, which also the former law gave him though not a curial.[a] If several of the same grade are called to the inheritance of the curial, and some of them offer themselves (to the curia) and others do not, he or they that offer themselves shall receive three-fourths, and the others, called by the law as heirs, shall receive one-fourth. For we are determined that three-fourths shall in any event remain in the curia of the same city.

a. Novel 89, cc. 5, 6.

c. 4. If anyone (a curial) dies, leaving a daughter, and she marries a curial of the same city, it is clear that she will receive her father's property without any danger of chicanery, and either all of it, or at least three-fourths, if the father, perchance, wants someone else to have one-fourth. And if she married a man who is not originally a curial, but he wants to marry her upon condition that he becomes a curial and offers himself to the curia, and the marriage is acceptable to her, she shall have three-fourths without any danger of chicanery, on account of her good will toward the

curia, and because a curial is in possession of the property and will manage it; and we therefore want the property given to the woman. If there are several daughters, and some of them have married men who are either curials, or offer to become such, three-fourths shall be divided among them, the others receiving the one-fourth. The husbands shall use the property for the purposes of the curia, although the ownership thereof is in the wives. For we give them the property of their fathers, so that their husbands may, by means thereof, fulfill their duties toward the curia. If the woman, married to a man who has become a curial, happens to die, and she had male children by him, the property belongs to them and they will be curials, and the matter will need no investigation. **1.** But if the children are born girls, and they marry men who either are curials of the same city or offer to become such, they likewise shall receive the property, without any trouble, it being subject to the functions of the curia through their husbands. If they do not marry curials of the same city, or only some of them marry men who either are or offer to become curials, then, according to the distinction mentioned, those that marry curials shall, because of their duties to the curia, receive three-fourths, and the others must be content with one-fourth. But if neither sons or daughters were born, the husband shall, as long as he survives, have the usufruct of the property, performing functions of the curia by its aid. If he remarries and becomes the father of sons or daughters, and the latter are married to curials, the property shall, in like manner, be reserved for the benefit of the curia. If he dies without remarrying, or having (only) daughters who are not married to men who either are or will be curials, the curia shall immediately receive the property. And we do not permit that this portion, destined for the benefit of the functions of the curia, shall ever be alienated, no matter through how many successions it passes; throughout, in its descent (from the curial), three-fourths shall be preserved for the curia, either through male curials or through sons-in-law who offer to become curials. We want this law to apply in the future and in all cases which are still pending and which have not been settled by judicial decision or by amicable settlement.

Epilogue. Your Sublimity, who most of all devote your attention to the public welfare, must be zealous to uphold this, our will, declared by this imperial law. Given August 1, 539.