

Novel 105.

Concerning consuls
(De consulibus.)

Written to Strategius, glorious Count of the State Finance, Imperial Eschequer, ex-consul and patrician.

Preface. The name and office of consul were devised by the ancient Romans for the uses of war, and by decrees granted them after their election in accordance with the general constitution of the republic, provinces were allotted to them in which the Romans carried on war, and they received the signs of their office (fasces) accordingly. Subsequently, when the power to make war and peace was transferred to the blessed emperors, the consulate was reduced to a display of munificence in a moderate and regulated manner, and not exceeding certain bounds. Gradually some of the men expended money profusely, to show their magnificence, without reflecting that they would have no other example. For it does not often happen that a great fortune is combined with a magnanimity of mind which is not measured by the size of the property but by his greatness. Since, therefore, it seems to us that there is danger that the name of consul may perish, which has continued for so many ages, and for nearly a thousand years has flourished along with the republic, we have thought it best to curb, and reintroduce a fitting measure of, the expenses of consuls, cutting out immoderate largesses, so that the name may always remain with the Romans and be open to all good whom we may think worthy of such honor. So after investigating everything, we have found out how much it is proper to give. A law was enacted by Marcian, the best of emperors,^a and that was his first constitution. We have learned that after the enactment of that constitution, some consuls, obeying it, determined not to throw any money to the people, but that others sought permission to do so and obtained it, and then threw money at will and in an immoderate measure; some, on the other hand, chose a proper median course, and were content to scatter a small, instead of a large, amount. And since to our forebears, the best seemed to lie in the median course, and that there is danger in either extreme, leading to excesses, we, too, have thought it best to define what is

proper in this regard, which will be neither unreasonable nor unregulated, nor unworthy of our law.

a. C. 12.3.2.

c. 1. The amount which is proper for the man who each year is chosen by us as consul to expend in fees, distributions and expenses, we have ordered to be embraced in a schedule attached to this imperial law. We have put it in the form of a law, so that the man who violates it may be visited with suitable punishment. We want them to have seven public processions. For as these have been invented so that public spectacles might be given for the pleasure of the people, and as these have been confined by us to races in the circus, to fights with and slaughter of beasts, and theatrical and musical entertainments, nothing will be taken from the people. The first procession will be on the first of January when he enters the office of consul and receives his letters-patent. The second spectacle will be horse races, which is called "mappa;"^a the third will be the chase (of wild beats) in the theater, to be given not twice, but once; after that follows the so-called "monhemerium,"^b when the people will view with pleasure what is called the "pancarpum,"^c and men fighting wild beasts, splendid in courage and finally killing the beasts. The fifth procession will be that to the show called "pornai,"^d when there will be buffooneries on the stage and tragic performances and stage dancing, and the theater is opened for various spectacles for the eyes, and for performances pleasing to the ears. Next he will repeat the horse races, called mappa, celebrating the sixth festal day. And then he will relinquish this honor, which lasts for a year, and at the time of this so-called relinquishment give the usual entertainment for the people. And so the course of seven nights and processions will be completed without leaving out any kind introduced originally. For it is clear that to give another horse race or to continue the so-called chase in the theater, without being content with the first, would add nothing to the first. And this shall justly be thought to suffice in the matter; each of the shows shall be with magnificence but not to the extent that they will become hateful to the people. Things that happen rarely are generally admired.

These things, then, have been written and determined concerning the expenditures of consuls.

- a. Literally, the signal cloth used for starting the races.
- b. I.e. spectacle lasting one day.
- c. A kind of fight with wild beasts—really a forest; for there were trees put in the circus so that the beasts might appear to be really in a forest.
- d. Literally strumpets—a show at which these women gave obscene exhibitions.

c. 2. If the consul has a wife, the measure of her expenditures has also been regulated for her (in the schedule attached): for she should be able to enjoy the splendor of her husband. If he has no wife, what follows is superfluous, unless he has a mother who had already formerly been honored by the consulate, and he wants her to enjoy the same station with him. For that is permitted only in the case of a mother; but no other woman except a wife or mother may sit with him—the former has such right at all events—for luster is shed upon her along with her husband, which the law permits—the latter only with the consent of the consul. But a daughter or sister or wife of a son have no such right, least of all a woman not even belonging to the consul's family, for that would be absurd. 1. As to throwing money to the people during these seven processions, that is better regulated by us than is done in the constitution of Marcian, of blessed memory. That constitution forbade it entirely. We amend it, leaving that matter to the discretion of the man who has the honor of the consulate. If he does not want to scatter any, we do not compel him; if he wants to do it and wants to honor the people with gifts of silver, we do not forbid him to do so. We do not, however, permit him to scatter gold, either of the smaller or medium or larger coinage or weight, but only silver, as we just stated. For the right to scatter gold is reserved for the emperor, whom alone the pinnacle of his fortune permits to treat even gold with contempt. But silver, next in value to gold, is suitable for the other consuls to show their munificence. We permit them to scatter the coin called miliariensis,^a myloi,^b kaukioi,^c and tetragonioi,^d or the like, for the smaller of the coins, the more people will receive some. The measure thereof shall

be in the power and wish of the giver, so that he may distribute nothing or a moderate amount or much. This, then, is provided as to the consuls, not compelling them to scatter any money against their wish, nor prohibiting them from being liberal if they wish. This, however, is provided by us as to scattering silver if anyone wants to do so, he has permission to distribute gifts of silver in his procession as he things right, only forbidding him not to give or distribute gold, which is permitted only to the emperor. **2.** We do not, on the contrary, permit him to exceed, increase or diminish any of the other things fixed by us and stated in the schedule attached to this law. What is not fixed—we speak of throwing money to the people—we leave entirely to his wishes, letting him give any amount in his discretion, but this law forbids the violation of what is fixed and decided herein. If any one dares to exceed what is fixed herein, violating our orders and destroying the whole purpose of this law, in so far as he can, he must pay a penalty of one hundred pounds of gold. For this law is enacted for the sole purpose that we may not, on account of excessive gifts, lack in consuls, on that account reducing superfluous gifts and expenses and setting a limit to the processions and spectacles that had gone to extremes, perchance having devised something better in relation to the number thereof, leaving it, however, so the discretion of the consuls whether to scatter money to the people or not—so that there may be many by whom our times may be adorned.^e The person, accordingly, who exceeds what has been fixed will justly be punished as a violator of our law. In that way we shall always have men for consuls who will not be in dread of an immediate display of magnificence, fleeing from and shunning the consulate as a peril. We accordingly ordain that this law shall be firmly upheld. **3.** And no one shall dare to circumvent it, whether he is a man abounding in riches, or is one of our magistrates, or belongs to the Great (Imperial) Senate, or holds no office at all. For having considered everything we have established an equality of giving for all, and give no one permission to exceed the measure stated in this law, except that we grant permission to scatter or not to scatter silver in the procession according to the discretion of the consul, as has already been frequently stated. And a great kindness is contained in this law also for those who have been accustomed to receive it (the money). For if there would be danger that they would receive

nothing by reason of the lack of consuls, but that now they will receive a moderate amount, they will justly be very thankful for this law, when they receive, instead of nothing, an amount that is enough. And even this, that we do not permit consuls to scatter gold or large objects of value (*vasa*), but have ordered them to distribute their gifts in *miliarienses*, *myloi*, *kaukioi* and *tetragonioi*, of small value, and the like, has been devised by us out of kindness and for the benefit of the people. For if the men who distribute the consular gifts obey this, and scatter this only (i.e. small coins) among the people, the latter will no longer, as we though fighting over large gain, get into quarrels among each other and to mutual blows, which they have often done with cudgels, sticks and stones—a matter very hateful to us. We were wont to see them engage in quarrels and inflict terrible injuries on each other because of what was scattered among them, and snatched away from them; but would take nothing home, but spend everything on the same day in drunkenness and carousal; and if someone would make expenditures on the strength of great gain, and then would receive nothing or little, he would suffer damage, and (besides might) be compelled to undergo blows and wounds arising therefrom. But if what is scattered is moderate in amount, they will not struggle too much and will not, in the hope of great gain, inflict excessive wounds and blows on each other. Our forethought for all is also by this law directed to the general status of our republic, so that the designation of time, may also, after the emperor, forever contain the memory and name of the consul among our glorious magistrates and those who belong to the Great Senate, since the honor may be conferred on the worthy ones of their number without requiring them to make immoderate expenditures; and we give a suitable solace to our people and to others and to those who have already despaired of the matter, insasmuch as we do away with the superfluous, in order to make the consulate of our republic perpetual. **4.** There shall be appended, therefore, to this law, as stated before, our direction, a copy of which, to be transmitted to your office along with this law, shall be kept in the office of Your Sublimity. We direct that the officiating consuls shall receive a copy of the order attached to this law only from your office, so that their gifts shall be in accordance with it. We want a copy of the order to come from your office, so that they (the consuls) may not be permitted to

violate it, and that those who are called abbreviators may not change any of our provisions, but a (correct) copy shall be furnished at the peril of those who are custodians of this order, signed by the magistrate at the head of the office which you now occupy, so that everything that has been ordered by us may remain uncorrupted. The men who receive the dignity of the consulate should not bear illy the fact that after thus limiting the expenditure, their name marks the time. For everything which those who have the honor of the consulate have heretofore received from the office of Your Sublimity and of our glorious prefects and otherwise through our liberality, we also give them now, having indeed reduced the expenditures to be made by them, without diminishing our generosity to be extended to them. Excepted, however, from everything that has been said by us, is the emperor, to whom God has even made the laws subservient, when He sent him among men as a living law, since the consulate is ever in His hands, and He gives to all the cities and people and races in each instance whatever seems best to Him, so the (consular) toga (trabea) comes to (another) whenever the emperor wishes; hence the consulate of the emperor is in all things united with the scepter.

a. A coin, 1,000 of which made a pound of gold.

b. Probably a cup-shaped coin.

c. A coin probably taking its name from its bent shape.

d. Probably a quadrangular coin. For these coins see Sophocles, Greek Lexicon; notes to translation of Otto, Shilling & Sintenis, and annotation of Cujacius of this Novel.

e. Namely that the year be named after the name of the consul.

Epilogue. Your Sublimity, therefore, must see, when you receive this law, that it will forever remain in force according to its provisions. Read.^a A copy has been made for Johannes, glorious praetorian prefect the second time, ex-consul and patrician. A copy has been made for Longinus, the learned and glorious prefect of this fortunate city.

Given December 28, 537.

a. In the Novel itself is “legatur:” let it be read. In the Authenticum it is “legi:” I have read—either referring to the fact that the quaestor, whose name was required on all laws, had read it, or that the official to whom it was sent, had read it. Cujacius accepts the former