

Novel 149.¹

That provincial presidents shall become such without paying for it, upon petition of the God-loving bishops and the possessors and inhabitants of the provinces addressed to the most pious emperor, for the person appointed to (be confirmed and) gift a bond to the fisc; if they (the bishops and possessors and inhabitants) do not do this, no one shall come before the emperor against the president, whenever the latter undertakes anything in connection with the collection of public tribute.
(Ut praesides provinciarum gratis fiant ex supplicatione, etc.)

Headnote.

In 554 A.D., by appendix VII, c. 12, the so-called pragmatic sanction of Justinian, appended to C. 1.27 [not appended in this edition], that emperor provided that the provincial governors for the territory of the reconquered Italy should be selected by the bishop and the primates of the places, that is to say, the local nobility. The clergy, and particularly the bishops, were given more and more power during Justinian's reign, and they were constantly used for purposes of government, as for instance in the supervision of municipal affairs. C. 1.26.4; C. 10.30.4. It was apparently recognized that the government had been too centralized, and Justinian deemed it best to vest more power in the local people. Note C. 10.30.4. Rossler, in Grundriss e. Gesch. Roms i. Mittelalter 67, believes that it was Justinian's aim to uphold and strengthen the local nobility, and to correct abuses of provincial magistrates through them, without intervention of the praetorian prefect. In any event, the policy of selection of provincial governors by local people, was in accord with the policy above mentioned in regard to municipalities and doubtless had the same end in view. It was a radical departure from the method of selection theretofore in force.

The rule of Justinian so adopted applied, apparently, only to the provinces of the reconquered Italy, and was not extended to the other portions of the empire.

¹ In Justice Blume's typewritten manuscript, there is penciled in to the upper right hand corner the note "to C. 1.40," meaning this Novel was to be appended to that section of the Code as part his original plan to show how the Code was affected by the Novels.

Justin, however, Justinian's successor, extended the rule to the whole empire, by the instant Novel, Novel 149, for the enactment was made by him in 569 A.D., after Justinian's death.

Preface. Since we look out for the state delivered to us by God, and take pains that our subjects may live in righteousness, we made it our special aim from the beginning to amend and perfect whatever previously was imperfect and in disorder. And as we meditated how the fisc as well as our subjects might remain exempt from damage and wrong, we realized that we might easily attain that object if we could bring it about that the presidents of the provinces, receiving their magistracy free and giving a bond to the fisc, would act justly and legally in everything, abstaining from misconduct, filthy lucre and actions otherwise prohibited.

c. 1. Lest, therefore, foreigners entering the provinces inflict wrongs on them, making us trouble by frequent appeals to us against them, we exhort the holy bishops of the several provinces and those who occupy the first rank among the land-owners and inhabitants, to report to us by a common petition the names of those whom they deem competent to administer the province. For we shall deliver the magistracy to them free of charge, upon giving bond that they will pay over the public tribute, obligating them not to do anything contrary to law, not to extort anything from our subjects, but to be content with their salary, to watch over the collection of the public tribute, treating mildly and paternally those who pay their taxes devotedly, and treating sternly those who are contumacious in the payment thereof, without making any profit of their own on that account. They should not any the less grant equity and justice to all litigants and, duly administering the laws, dismiss them speedily, so as not to burden them with expense and long delay; they should also pursue criminals and inflict punishment upon them according to law, and deal out justice in every respect.

c. 2. We do not direct these orders only to them, but also to the counselors (assessors) of each magistrate, and everyone who renders service to the latter. If

one of them is negligent in the collection of the taxes, or inflicts damage or wrongs upon our subjects, he will be deprived of his property and subjected to the severest punishment. For it is our one earnest desire, under God's guidance, that the provinces shall live under good laws and exist in security and enjoy the justice of the presidents, and that the public tribute is collected properly. For the republic cannot be properly protected, unless the taxes, religiously due, are paid; the army, receiving the portion thereof assigned to it, resists the enemy, frees our subjects from incursion and wickedness of barbarians, defends the country districts and the cities from the wrongs and incursions of robbers and others following a turbulent life; further (when such taxes are collected) the remaining orders will also receive the portion thereof assigned to them, walls and cities will be restored, public baths will be heated, theaters and other things devised for the benefit of our subjects will be cared for; so that the contributions (of our subjects) will be paid out and expended partly for themselves, but we ourselves will have nothing but worry on their behalf, although that is not without compensation, inasmuch as the great God and Jesus Christ, our Saviour, in the greatness of His clemency, has rewarded us with many good things on that account.

c. 3. And while we proclaim all these things to those who live in the provinces, and in that manner show our love for them, God will be propitious and benevolent toward us in bestowing such care to keep our subjects free and from harm. But if those who enjoy this, our liberality, commit a wrong in the choice of a magistrate, they have no one but themselves to blame. If they are negligent in choosing (such magistrate) and in reporting their choice to us, they will no longer justly complain of these who are sent into the province from here, in order to do everything zealously in connection with the collection of taxes, and we shall not permit them (the provincials) hereafter to accuse such magistrates. For if they are in possession of the power of choosing their president, who will be appointed without charge, and who may collect the public tribute and not inflict any wrong upon them, and they are negligent in making their choice, it is not to be tolerated that they should make complaints against him, and that we should be bothered by their complaints against

him. And no one, neither the imperial house, nor the holy church, nor a poorhouse, nor a monastery, and no person of high or low degree, shall delay in paying the public tribute imposed upon him or it. And we release neither the curials, nor the receivers of taxes (susceptores), as they are called, nor any one else upon whom rests any care in connection with the public tribute, from the responsibility arising therefrom. For we give preference to what is for the general benefit over the unjust designs of those who want to be contumacious toward the fisc.

Epilogue. In order that all may know of these provisions, rightly enacted by us, we direct Your Sublimity to put up the present imperial edict in public places in this fortunate city and in every city in the provinces, so that no one may be unaware of the care bestowed by Our Serenity for the benefit of the fisc and to keep our subjects from harm.

Given January 18, 569.