

Novel 167.

A general order of Bassus, glorious prefect, in what manner possession should be given.

(Generalis maxima forma quomodo debeat mitti in possessionem, etc.)

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Flavius, Comitas, Theodorus, Bassus, glorious praetorian prefects, order the following:

Preface. Whatever directions have been given by us and have been made known by public letters or by our general orders which speak of the manner in which provincial magistrates and their apparitors and collectors of taxes must treat the people, or which treat of honest conduct of the people in contracts and in the payment of taxes, shall remain in force after this, our present order, but we know that we should make more definite provisions as to the following matter.

c. 1. If anyone, desirous to take possession of (vacant) immovable property, obtains a decree of a judge (for that purpose), it shall suffice, in this fortunate city, if the official staff testifies to the fact that the property is not in anyone's possession, or of the same official staff states that it has been learned from neighbors that no one is in possession; but as to property located in the provinces, it is necessary to execute protocols before the defender of the place, which state the same thing, and are fortified by the testimony of neighbors. Upon that being done, we permit those who have sought a decree, to take possession. And we also deem the testimonial of provincial defenders necessary for those who are about to take over possession or ownership of property pursuant to contract, and the records made before such defenders shall state that the delivery was made, whether a written order (for delivery) was sent to the manager or whether delivery is made without such order, and further, the serfs or manager shall acknowledge upon the records that they know the new possessor and owner (to be such), and that they will obey the wishes of the person making the delivery who ordered them to do so. If there is no defender present, the record shall be made before the honorable president of the province, or if he is far away from the place where the delivery is made, before the

holy priest of the city, where the property, with reference to which this is done, is located. We think that in this imperial city the so-called court-executions and the attestations made in connection with delivery are sufficient authority for the receiver of the property.

Epilogue. We therefore direct Your Magnificence and the official staff obedient to you, and all (officials) who live in the province administered by you, to assist in like manner those who make a delivery of property.

Note.

It is apparent from this new law that in order to take possession of vacant property it was necessary to get a court order to that effect; and further, to prevent any mistake, the fact of the property being vacant must be shown by reliable evidence. This law further shows that it was deemed advisable to have record-evidence of the delivery of any property upon sale etc., both, perhaps, for the purpose of preventing violence, as well as the advantage afforded by such records. A special custom evidently prevailed in Constantinople in connection with the transfer of such property; which was sufficient to carry out the basic idea of this law.