

Novel 64.

Concerning gardeners.
(De hortulanis.)

Emperor Justinian to Longinus, glorious city prefect of this blessed and imperial city.

Preface. Many complaints have for a long time been brought to us from all sides against the gardeners of this blessed city and its suburbs, all of them bearing their frauds illy. The complaints are about as follows:

c. 1. They say that the appraisers are generally from among the guild of gardeners and this has brought about a grievous situation. For when the owner of a garden is about to deliver it to the lessee thereof, nothing else but the garden-herbs planted in it are appraised and the payment of the value thereof imposed on the gardener or lessee. But when the lessee, upon the expiration of the lease, is about to surrender the property, a much closer appraisal is made and the amount thereof is increased six or more times, so that if the garden-herbs were formerly appraised at fifty gold pieces, they will later be appraised at not less than 300 or more gold pieces. Nor is that the stopping point, but the greed goes beyond that, and the lessees assert that they have put manure on the garden and made betterments thereon, fix the price at whatever amount they wish, and further add to the appraisal an amount for planting trees, although nothing of that kind was appraised when they received the garden from the owner, and although the gardeners generally promise in the lease that they will take care of the trees already planted and will plant others. The appraiser, thinking that he himself will shortly be placed in a similar situation, permits such greed to be exercised really for his own benefit, so that if the unhappy and inexperienced owner, acquiesces in paying such damage and receive his property back, lets the garden to another gardener and suffers the same treatment, and perhaps suffers the same greed to be exercised the third and fourth time, he stands in danger of being deprived of the ownership of the garden and losing his property. And the lessees carry the absurdity to a greater length. For if a

subsequent lessee adds anything to the former returns, he, too, at the end of his term, demands a valuation as though (the increase were) made by his betterments, when, in fact, the addition was not made through his industry, but when the garden was let, perchance, from the beginning for less rent than proper because of the leniency or negligence of the owner. All this fraud and audacity has passed beyond all bounds, and we want Your Sublimity to repress it pursuant to this pragmatic sanction. The gardener shall return the garden to the owner as he received it. If there were garden-herbs, when the gardener receives the property, an appraisement thereof shall be made; when it is turned back, only the garden-herbs shall be valued and with the same care as when the property was received; if the owner has no garden-herbs, but simply the garden, whether manured or not, it shall be returned in the same manner. In a word, the same rule shall govern in the return or in the delivery of the garden and no valuation other than that made at the delivery shall be made at the time of the return. Further, the appraisement of the garden-herbs shall not be made solely by gardeners, but also by the so-called imperial appraisers (summarii), who are experienced in such matters, and with the Bible laid before them. We do not want the possessions of the owners to be useless to them on account of the wickedness and greed of the lessees. You will, therefore, limit the gardeners to one standard, and not permit the owners to suffer injury but in every respect protect them from being harmed. We want the property that is delivered by the owners to the gardeners, and the property returned by the gardeners to the owners, to be governed by the same rule, since equality of treatment is dear to us so that neither party will be wronged.

c. 2. If anyone lets an uncultivated piece of ground, and the lessee cultivates it, he shall receive the income therefrom and the value of the garden-herbs which he leaves thereon, as his reward; and he shall depart without dispute so that no greed or fraudulent conduct may take place in this respect, to the end that by reason of this pragmatic sanction and the rules made by Your Sublimity pursuant to it, we shall not be troubled by such matters in the future, and not have these cares added to our other cares on behalf of the republic, great or small, but watch over all,

wishing to leave nothing disarranged, disordered or doubtful. You will threaten those who violate, or permit the violation of, these provisions with a fine of five pounds of gold.

Given January 19 (18), 538.

Note.

As noted in headnote to C. 4, 65, lessees were entitled to be paid for expenses justly incurred. The foregoing Novel shows that they also had received the value of all improvements made by them.