

Novel 92.

Emperor Justinian to Johannes, Praetorian Prefect of the Orient the second time, ex-consul ordinary and patrician.

Preface. We have already defined what belongs to the Falcidian portion^a and have made no mean increase to it.^b Nor do we like too great an inequality, and while some of the children may be given preference by the father over others, still the portion of the others must not be diminished to an extent which is unbearable.

a. See note to C. 3.28.31.

b. Novel 18.

c. 1. While we, therefore, leave in force the law enacted by us, still if a parent makes a gift of an immoderate proportion to one or more of his children, each of his other children must receive, in distributing the inheritance, the required legal portion which equals the sum to which it would have amounted before the father made the gift to a preferred child or children. Thus they will no longer complain of the gifts, since they receive the required legal portion of their father's property, increased as it is by reason of the fact that it is based on the amount which the father had before it was depleted by the gifts. The children who have been honored by such gift shall not be able to say that they are content with such gift, and renounce the paternal inheritance; for while they are not compelled, if they are content with such gift, to enter upon the inheritance, still they must make up the inequality arising therefrom to their brothers or sisters to the measure herein provided, so that the portion due the latter according to law may not be diminished by such immoderate gifts. For while a father, who has some affection for all of his offspring, may give more to the children whom he loves better, he must not hurt the others through immoderate gifts and so circumvent the limit set by us. This was our thought from the beginning, but deferring the enactment of this law, to probe the minds of men, we find that they are inclined, and give themselves up, to such special affections and hence we make the present addition to the law. **1.** These provisions apply to children who are grateful to their parents, not to those who are ungrateful and to whom the father

justly attributes legal ingratitude. If that appears and the ingratitude is shown, the provisions of law enacted concerning ungrateful persons apply and are not in any manner affected by this law.

Epilogue. Your Sublimity must take care to carry this, our will, and the provisions herein made, into effect.

Note.

While the law specifically refers to fathers, it doubtless referred to mothers and other ascendants as well.