

Novel 102.

Concerning the Moderator of Arabia.

(De Moderatore Arabiae.)

The same Augustus (Justinian) to Johannes, Praetorian Prefect the second time, exconsul and patrician.

Preface.

Many magistracies of provinces which were formerly insignificant and unimportant and insufficient to meet the requirements, have been already changed for the better; but after we raised them to a higher order, they have everywhere become powerful, and matters have been so conducted therein that everything has been put into a better condition. And we sought out (the names of) proconsuls, praetor and moderator and the dignity of these ancient names, increased their salary, gave them plenary power, and above all forbade them to despoil our subjects and use many hands against them; (a) we also fortified the matter by a specially fear-inspiring oath, and have not delivered the office to them till, having taken this oath, they become worthy of the letters-patent of the magistracy. And we have also directed our attention to Arabia, and as we inquired into the reason why the public treasury (fisc) should be in want, though the country is fertile, and why we should be surrounded by a multitude of people appealing to us, all of them lamenting, some of them reporting thefts, others wrongs, others damages of various kinds, we learned that the occasion and the cause of this evil arises out of the weakness of the magistracy. For the civil magistrate was so unimportant that he was subservient to the military commander, and his safety and his very existence as magistrate depended on the latter. And so it has been a long time since it entirely ceased, and the functions of the civil magistrate have been performed by the military commander who has sufficed neither for himself nor for the civil office; for he has been engaged not in

looking after the welfare of our subjects, but to make a profit out of both (offices).

(a) i.e. use extortion.

c. 1/ These things have aroused us to the present plan, and put the magistracy in better shape by the present law. We give to the magistrate the name of moderator or harmost, as we did in Pontus; we give him the rights of a magistrate of worshipful rank, so that he will in no way be inferior to a duke. He shall attend to the collection of taxes with the utmost severity, look after the interests of private people, and must not permit the worshipful duke or the phylarchus (duke of the Sarscens), or any one out of the houses of the powerful, or (the officials of) the imperial patrimony or (the officials of) the Crown Domain, or the imperial house itself, to inflict any damage on our subjects; he must not be easily swerved from his course, or be in fear, but must govern firmly, and above all keep his hands clean, for God, us and the law - for we want him to be bound by the same oath which we impose upon the other magistrates. He shall, along with his letters-patent, receive the imperial mandates which were known to the legislators before us and to the ancient state, but which, after having been forgotten, were renewed and re-introduced into the state by us, so that he may have them always at hand and follow our orders. For if he obeys them he cannot but have all things turn out well, and, conformidably with the law, will be done fittingly and with just expedition.

c. 2. He shall, therefore, in the first place, as above stated, look after the collection of the public tribute, which shall be made in a humane and paternal spirit toward those who are devoted, but with severity and without indulgence toward those who are contumacious. Next, he shall look after the people and their good conduct, and that the Bostreni and the others are not given to tumult

or sedition, and that what has, from olden times on, been permitted for their pleasure do not turn into frenzy and murder. He shall also have soldiers under his command, according to our imperial mandates - for this, too, will be found therein; and he shall not neglect to attend to anything that is necessary. And as we did in the case of the moderator of Pontus - for he shall follow in the same footsteps as that magistrate - so he will be of worshipful rank, and appeals and other things shall, in like manner, be attended to by him. Nor do we let the salary be the same as formerly; for we want him to have fifteen pounds of gold (\$3240) as his salary and other income; his counselor (assessor) shall have two pounds and his official staff two pounds of gold (\$432). Although, moreover, he is already in command of soldiers, as above stated, according to the imperial mandates, still we take care that one of the troops (numerus) of soldiers stationed there shall be under him, which shall obey him alone and shall carry out and obey his orders. The worshipful duke shall have nothing to do, either with the soldiers which we have specifically assigned to him (the moderator), nor with private persons, or with their lawsuits which they may have with each other, or with cases in which a private person may be defendant (and a soldier the plaintiff); nor shall he have anything to do with private causes. For there is a great difference between a military and a civil administration, and the two should be separated, as the fathers of the state arranged and decided. The worshipful duke must know, that if he dares to mix in civil affairs, he will no longer conduct the military affairs, but deprived of that right, he will become a private person, and subject to this (the civil) magistracy.

c. 3. These then shall be the provisions made for the magistrate of the district of Arabia, and we are confident that, God

willing, the matter will be in better shape. For as we have spared no money, but have increased his salary, we know that the occupant of this magistracy will take pains to appear, in connection with the faithful collection of the public tribute, as a man who does not inflict damage upon, but brings profit to, the fisc. We want it, however, to be observed, that the worshipful duke may take his salary from the source assigned to him by the president, since it is clear that he (the duke) will not be so negligent in his affairs, that he could not even collect his own salary, knowing that if he does anything contrary hereto, he will be punished by a penalty of five pounds of gold (\$1080).

Given May 27, 536.