

NOVEL XXX

Concerning the proconsul of Cappadocia.

(De proconsule Cappadociae).

Emperor Justinian Augustus to John,  
Glorious Praetorian Prefect the Second  
time, exconsul and patrician.

Headnote.

This novel was one of a series of enactments by Justinian in re-organizing many of the administrative divisions of the empire, and uniting in many cases, as in this novel, military and civil power in the hands of one man. The instant novel has many provisions in regard to the imperial household lands mentioned in headnote C. 11, 62 (3) and in C. 11, 69. The remaining provisions are very similar to the provisions of many others of the novels.

Preface.

How renowned the name and nation of the Cappadocians was, and how much trouble they gave the Romans before they were conquered, is well known to the students of antiquity. They reigned over nearly all of Pontus, and produced celebrated men, worthy of the respect of the Romans; their country is large and admirable and so pleased the emperor that he appointed for the management of his possessions there, a magistrate not of lower but of higher rank than the one in Pontus. The country is very populous, and has a large city which bears a name which is dear to us, namely, that of Caesar (Caisarea) who laid a good foundation for our empire, on account of which he is famous among all the nations of the earth, and of all the names of our majesty, we are the proudest of the name of Caesar.

Novel XXX c. 1.

c. 1. It has appeared to us that to give to this region a magistrate of inferior rank is more unbecoming than is proper, especially since we find that it is always seditious against the magistrate appointed for the imperial property. The city (of Caesarea) indeed is divided (into two parties) one is the imperial, the other is what they call the free, and though it (the city) is encompassed by one wall, it is divided in opinion. This is the cause, we believe of many seditions and dissensions, and other human evils. By eliminating that, we shall restore strength and concord, than which there is nothing finer among men.

1. In the case of the recently established magistracies of Pisidia, Lycaonia and Thrace, we combined two offices in one. We want the magistrate of Cappadocia to rank higher and confer three different powers upon him. For the incumbent thereof shall administer the laws and shall be at the head of all civil affairs, as well as of the soldiers in that region and in the other provinces of the diocese of Pontus which contain imperial household lands (tamiaca praedia), as completely as though he were a military officer. Again he shall govern the men (officials) of the imperial property (tamiacis), and the official staff of the former count -- (comitiani) referring to the appraisers (summarii) and other officials -- shall obey him. His office, accordingly has triple functions, civil and military, and looking after the imperial estates. Both official staffs are under him -- that of the (former) count (comitiani) which will continue in its functions and has nothing in common with civil affairs, and that of the (former) president of the province. The office shall be proconsular and go by that name; the staff, too, shall be known by one name,

that of proconsular, but each division, that of the former count and the civil division, shall act separately, the latter looking after tribute and civil affairs as always, the former, formerly called the staff of the count shall look after imperial property, collecting the income therefrom in the manner hereinafter stated.

Note.

The two provinces of Cappadocia were united under a proconsul. A third function was given him, namely, to look after the household lands of the emperor, which previously had been under the jurisdiction of the count of the household lands (comes domorum). The office of the latter was abolished. Reference to it is found in C. 3, 26. The members of his official staff were called comitiani; under these were the summarii, who, Cujacius, on this Novel, says, were persons acting as appraisers in connection, perhaps, of the collection of the rents from the imperial household lands.

c. 2. The names of epitropos (procurator) and tractator (collector) shall no longer be in use in view of the pattern they set in the past and the many wrongs they inflicted upon our miserable subjects. The comitiani (members of the proconsular staff looking after the household lands), and the thirteen ranking members thereof, the so-called first and second masters, shall, at their risk, select thirteen others, to be under them, one for each of the several domains. These thirteen, so selected by the first, shall look after the income and protect the fisc in what belongs to it. They must also look after the protection of our subjects and that no damage is inflicted upon them by any one, knowing that any damages so inflicted upon our subjects must be so much more be made good by them, as the collection of the income

(a) too, is at their risk. Neither the so-called first and second masters, nor the thirteen under them upon whom the collection of the income devolves, nor any one else of the comitiani shall pay any fee to the officiating proconsul either for the appointment or for any other reason, and each of the thirteen collectors shall only pay 50 solidi (\$150) to the aforesaid 13 masters.

(a) If damaged, these tenants might not be able to pay their rent.

c. 3. The collectors shall not exact from the serfs or others from whom they make collections, any more (fees) than the amounts specified in the schedule of Niceta of magnificent memory (former praetorian prefect) and prescribed for them. They must not invent pretexts under which to extort something as salutation gifts, fees for collection or other money, referable to custom, or by which wrong is inflicted. For we want our subjects to be exempt from all these, especially from the bad and pernicious gifts which they have paid to the functioning collectors (tractators), and which disabled them from paying what belonged to the fisc and from supporting themselves. So whatever order or custom there may have been according to which gifts were made to such collectors, is abolished, and we grant to our subjects the special benefit of extinguishing with the name of tractator (collector) everything connected with him. If a collector (exactor) dares to receive anything more than is fixed in the schedule of the blessed Niceta -- which amounts only are permitted by us to be taken -- they will be deprived of their position, their rank and their property.

c. 4. Since it may easily happen that one of the thirteen

Novel XXX c. 4 cont'd.

collectors --- whose position is attained by advancing grades --- will not be fitted for the duty, we permit him to retain the position received by advancement in his grades, but the thirteen first masters above him and those under them, shall, at their and their property risk, give him an assistant who may properly perform such duty, so that the imperial treasury may not suffer on account of the former's incapacity without depriving him of the salary which he receives by reason of his advancement in grade in the course of time --- the appointment of an unfit assistant being made, as stated, at the risk of the thirteen magistrates and those under them, and the collectors (exactors) should extend thanks to us that we have released them from making the many gifts which they previously made to the masters, to the officiating count, and to his staff. But we have released them therefrom, so that they in turn will not inflict any injury on our subjects upon any pretexts invented by them in order to oppress the former, as by entrance fees <sup>(a)</sup> and other burdens, by which they destroy the life of the farmers, but they must be content with what is given them by the schedule of Niceta of illustrious memory, and must keep their hands off everything else.

(a) fees for an officer when he entered a province. See Pauly Wissowa undes comos domorum.

c. 5. He himself, the worshipful proconsul must look after everything, including civil and military matters and affairs pertaining to the imperial domains, and must not neglect anything, since we want his office to be of greater power than that of the others. For as it was the custom of the Romans to distribute the provinces by lot among the consuls or those delegated in place

of them, called proconsuls, so we want the Cappadocian magistracy to be a proconsulate, as the Roman magistracy in Africa formerly was, and we exalt it so that its occupant will be considered equal to the praetorian prefect. He will, in the Roman tongue be called the Justinian proconsul of Cappadocia, his magistracy will be sui generis, his name suggesting his power. He will gladly be known by this name, since his power is great, extended over the imperial household domains, a man who governs so many things and so many men will be respected and he will govern easily, since he also has military power. He will attend to civil affairs according to custom and will have no trouble in commanding the soldiers who also are under his control. 1. He must give particular attention to the imperial household domains which have fallen into such bad condition through corruption that they are hardly worth anything. We blush to say with what audacity the managers of persons of power scour the country serving as satellites, accompanied by an unbearable multitude and audaciously plundering the country; and we are astonished how our subjects in that region have been able to hold up under the wrongs inflicted on them. So we are daily, whether attending divine service or looking after public affairs, approached by a crowd of wronged Cappadocians, among them clergymen and many women, all of them mourning and complaining of being deprived of their property because there is no one there to prevent it. The fiscal domains have almost all passed into private hands, sold even with their herds of horses. No one raises ap- position, each man's mouth being closed with gold.

Note.

The brigandage common in the Roman empire is vividly portrayed in the section. The officials must have been certainly corrupt, derelict in their duty and audacious in permitting the imperial domains to pass into private hands, as here stated.

Novel XXX c. 6.

c. 6. We accordingly want to put a man, known to us to be notable, in charge of this region, a man at the head of three staffs, who unites all power in himself, who uses the badges of civil administration, namely, that of the curule chair, the axe, the fasces and the other ancient badges of the law; a man who will be in control of the soldiers and will look after the returns of the imperial household domains, so that they will, without delay, get into the hands of those appointed to handle them, and particularly as heretofore, into those of our palace, for the purpose of providing us and the pious empress, our spouse, with money and vestments; the supply of which we do not want diminished. But we do not want this to be done, as heretofore, by robbery and oppression of, and extortion of gifts from, our empire, but by lawful and just ways, mention of which we also have ordered to be attached to this law. And the officiating magistrate shall, when such income is received, pay, as we have prescribed 50 pounds of gold (\$10,800) to the Augusta, our spouse. The appointment of such magistrate will be made without payment therefor, and no gift in connection therewith shall be made or received. 2. He shall receive a salary of 20 pounds of gold (\$4320), as mentioned in the schedule attached; his assessor will receive 2 pounds of gold (\$432). The two official staffs will receive what has heretofore been paid them, without diminution. We do not want to take anything from this magistracy, but no more do we want to do so in the case of the Grand Chamberlain. (b)

He and his palace-department under him shall retain their authority, and position in Cappadocia; but must not accept from

Novel XXX c. 6, cont'd.

the proconsul or his staff any gift of money, vestment or anything else, either under a custom or as compensation; otherwise, corruption would creep in. But the affairs of the province must be managed by one magistrate, so that the administration may not be weak by being divided.

(a) civil, military and that of the former count of the imperial household laws.

(b) He was the highest officer in control of the imperial household lands, and in this respect the superior of the proconsul of Cappadocia.

c.7. The proconsul appointed by us must, accordingly, carefully look after the imperial household domains. He must see whether anyone has ventured to possess himself of, or detains any portion thereof, pasture or arable lands, vineyards, buildings or grounds, and (if so) reclaim them to their former status, without the right (on the part of any person) to set up prescription against such reclaim, for no man can do so as against the imperial treasury for the purpose of gain and to increase his own property. It is to be called a diminution rather than an increase when a man has acquired anything with unclean hands which he must thereafter return with shame. 1. He must keep the city free from disturbance and see that no sedition takes place in the state. He must collect the taxes diligently and with justice, must not be negligent in anything pertaining thereto, and must not permit either the treasury or private individuals to be damaged in anything, for he has jurisdiction over all -- soldiers or bureau --- employees (scriniarii) of the glorious prefects and of the masters of the soldiers, men



Novel XXX c. 7 cont'd.

engaged in civil affairs or in connection with the imperial household domains, men of high and low degree and even those belonging to the church. He is the magistrate set over all, and he must be mindful of his own good name, of our laws and of God. He must see that the public tribute is collected by the proconsular staff and that the rent from the imperial household domains are brought in through the officials in that department, and he will also attend to the orders which are customarily given by the Grand Chamberlain. The special collectors (canonicarii) sent out by the latter shall not take a nickel on the pretense of custom or for any other reason from the officiating appraiser (summarius) or the collectors of the public income or the worshipful proconsul or his staff or the so-called catesceuasti (tax official), nor from the provost (praepositus) or other person engaged in connection with the imperial patrimony. He will make use of the military forces, infantry and cavalry, repress the satellites of magnates, and prevent land from being devastated and plundered; he must not neglect these things as was done by the former counts. He must appoint no substitutes (vicars), but must make use of the defenders of the cities and of his official staff. 2. If he has need of the soldiers, he must order them to give assistance in places where their presence is required. They, the soldiers, must attend to their duties at their own expense, must not inflict any damage on our subjects, nor take any gift. The proconsul, too, must refrain from taking gifts, must live on his own money wherever he may be, although we may order him to go to another province. The assessor too and the remaining officials of the proconsul and of the army must do the same though they have slaves and cattle in their train. All, as stated before, the soldiers, special agents (scholarii)

Novel XXX c. 7 cont'd.

(from the office of the Grand Chamberlain) and secretaries (domestici) who happen to be in the province, must obey the proconsul's orders, at the risk of losing their position and their property. For the proconsul has power to deprive them thereof, unless they comply with his orders, because we want the man who occupies this position to be feared and respected by our subjects. If a soldier, or an apparitor of the proconsul or special agent or palace-official inflicts any damage on any of our subjects in carrying out any orders, the proconsul must, at his peril, indemnify such subject so injured out of the salary of the wrong-doer. For we do not permit anyone, not even those who are sent from here, to inflict any injury upon our subjects,

3. The proconsul must also look after the public post, for there is nothing which we withdraw from his jurisdiction. He also must punish any official sent from any office into the province who commits wrong and demands more than the law allows.

c. 8. He must also look after the city and the food supply and the public works of the city (Caesarea); see that accounts are kept according to our law and that imperial and municipal income is (properly) expended. If he finds one of those who files one of the (formerly) customary orders <sup>(a)</sup> (giving direction) to divert some aqueduct or to investigate the condition of walls, bridges, highways or other matters, as was formerly, but wrongly, customary, he must expect him from the province, not permit him to hand in such order, and prevent him from receiving anything by reason thereof. If we want to have an inspection made at any time, we shall order that to be done by a pragmatic sanction, communicated to the proconsul and to you, and take care that the collection of

Novel XXX c. 8 cont'd.

such money (as gift) will not be easy for any one. The proconsul must use his authority to the fullest extent, but if his power is deficient in any respect, he must report it to Your Sublimity, to the Grand Chamberlain and to the other great magistrates in any way concerned therein, and to us, so that we may give him the necessary instructions. 1. He must prevent placards from being put up in his province (on the property of others) in any other name than the imperial house or the imperial treasury, must confiscate the goods of owners of property who, while present, dare to do so and cause their hands to be cut off; if the procurators of these men do so, he must subject them to severe punishment. He must tear down any such placards and break them over the heads of those who have dared to put them up, knowing that if he neglects to do so, he stands in risk of having his own property confiscated.

- (a) See Novel 17 c. 4; Novel 25 c. 4.
- (b) See note C. 2, 15, 2.

c. 9. He must give careful attention to disputes and must not permit the farmers to be oppressed as heretofore. The Cappadocians must give us no further trouble, clamoring, supplicating and lamenting, but the proconsul himself must deal out justice to them. If we find anyone coming here who has not first laid his complaints before him, he will be censured and sent back to the province for running to us instead of going before the proconsul. But if they go before him and name their oppressions, and he, living licentiously, given to luxury, pays no attention to them and lets the suppliants moan, so that they are compelled to come to us, particularly if they are women, and we learn that they have been before

Novel XXX c. 9 cont'd.

him but that he gave them no help, we shall suspect that he failed to do so for profit or by reason of partiality or for some one's benefit, and we shall firmly oppose him, and as he has three-fold authority, so he shall have the three-fold opposition -- right, us and the laws. 1. If he considers these and is mindful of our orders which we deliver to him along with the insignia of his magistracy - anciently called the mandates of the emperor - he should follow our advice, keep his conscience and his hands clean and cherish justice, than which there is nothing more powerful and beautiful among men, and which would be extremely pleasing to God and to the emperor. If he shows himself to be that sort of man and wins our approval, he shall govern the province alone. No one else shall hear disputes. We shall not readily assign them to anyone else, nor send out anyone to punish violence or for any other purpose, and although that has been done at times by order of the emperor or of magistrates. That shall all cease, and the proconsul shall manage everything in the province and he shall not permit anyone else to participate therein.

c. 10. And we place this magistrate, as becomes proconsuls, among those of worshipful rank. Appeals from him shall be heard by Your Sublimity, together with the glorious quaestor of the imperial palace. Appeals in the two Cappadocias, taken in cases involving less than 500 solidi, whether tried by a judge assigned for that purpose by us or by some magistrate, provided such judge is not himself of worshipful rank, shall be heard by the proconsul himself according to the rules applying in appeals heard in the manner of consultation. <sup>(a)</sup> For we give him this right, too, and honor this magistrate with such privileges as never before was known in Cappadocia. He should, therefore, be just and upright,

bear us and the law in mind, and realize that if he performs his duty he will long retain his office and perhaps receive one of higher rank; if he neglects our orders and is subservient to the powerful, rather than obedient to us and to the laws, he will soon see himself deprived of what he received, and will thereafter, be placed among the condemned, and unworthy of our esteem.

(a) Headnote C. 7, 62.

c. 11. He must punish adultery, rape of virgins, greedy conduct, homicide and other like crimes so severely that by the punishment of a few the remainder may immediately become better. He shall, by aid of the law, be a stern judge of evil-doers. It is not inhumane, but humane to save the multitude by the punishment of a few. If he leaves one of them unpunished in the hope held out for the purpose of escaping punishment to receive at such man's hands an office, dignity, priesthood or something else of that nature, he will be unworthy of our favor. No one must escape the law by reason of his own power or by reason of the protection extended to him by another. And if anyone extends such protection, he will suffer the same punishment as the perpetrator of the crime, since to commit a crime and to seek to snatch the criminal from the leashes of the law is the same thing.

1. Annexed to this law is a schedule which states what the proconsul and the men under him will receive from the imperial treasury, what he himself should give for the insignia of his office and what amount he should pay into the palace of the empress, our consort, namely, 50 pounds of gold (\$10800), in three portions as has been and is now the custom.

Novel XXX c. 11, cont'd.

2. He must deal honestly with our subjects, as we have often stated. This is our most earnest desire, and because of it we have disregarded the large amount of money and the expenditures in great wars, in which God permitted us to bring the Persians to terms of peace, to subjugate the Vandals, the Alans and the Moors and to recover all of Africa as well as Sicily, so as to give us hope to retain the government of the other countries between the confines of the two oceans, subject to the ancient Romans, but thereafter lost by sloth. We shall, with the aid of God, make a change in that respect, for we do not seek to avoid even the gravest difficulties, but submit to sleeplessness, hunger and hard labor for the benefit of our subjects. The proconsul must study our mandates which we shall give him when he receives the insignia of his office, as stated before. If he does everything in accordance therewith, he will be entitled to praise and will show himself worthy of our reign and of our selection of him.

Epilogue.

Your Sublimity will, upon learning these provisions, give him the salary herein stated, and recognize him as so honored that many may rightly and eagerly seek the honor and dignity now conferred upon him.

Given March 17, (536).