

Concerning Senators.

(De senatoribus.)

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Emperor Justinian to Johannes, again Praetorian Prefect.

Preface.

In ancient times the authority and power of the Roman Senate was so great, that by its government at home and abroad the whole earth was subjected to the Roman sway - extending not only to the rising and the setting of the sun, but also to both sides of the earth (north and south). Everything was done by common deliberation in the senate. But after the rights of the Roman people and of the senate were, for the happiness of the state, transferred to the imperial majesty, it came to pass that those whom the emperors chose and placed at the head of positions, did everything enjoined on them by imperial orders; that they were placed at the head of the army and that everything obeyed their commands, while the remaining senators rested. And after the administrators laid down their posts entrusted to them, it depended upon the imperial will whether to release them from laborious duty and send them back to rest in peace, or employ them in other activities.

c. 1. At present, by reason of the many and various matters in war and peace, in which Our Majesty is known to be engaged, the portion of the senators not in active duty has become very much diminished, and they think that they are greatly wronged and neglected. We have, accordingly, thought it a part of our duty to enlarge their number and associate with them men of nobility and good reputation, so that some members of the senate may show their sagacity in administrative positions, while the others, not on active duty, may display their talents for the benefit of the republic in some other manner. And since integrity in examining cases is of

great benefit to our republic, and some cases appealed from judges reach the imperial council and are examined by the members thereof (proceres),<sup>(a)</sup> we order that not only our judges, but the senators too shall be called into consultation together with the members of the council for the purpose of examining lawsuits and weigh the facts therein and as in case when an assembly (silentium) is called "cum conventu," all the members of the council (proceres) as well as senators are assembled, so when an assembly is called for the purpose of examining some lawsuit, all shall assemble and and participate though the word "conventus" is not added, and in the presence of the holy gospels decide what appears best to them, report their decision to us and await our order; lawsuits of that kind shall, accordingly, be heard not only by the senators but by both bodies of men; for the real law and the light of justice will be more truly found by the consultation of many than of a few. And when the games of the circus are given and an assembly (conventus) is announced, then, too, senators must assemble in the usual manner and perform their duty. These then are the provisions of this part of the law, which, by this constitution, we direct to be always observed hereafter.

(a) Here the term "proceres" is applied to all the members of the imperial council, while in other places (including c. 2 hereof) it seems to apply only to the illustrious palace officials. See Bethmann-Hollweg, 3, 96, 97.

c. 2. In the second part of this law, we have deemed it best to fix the rank of the various dignitaries. And as between the high nobles (proceres) of our palace and the senators, the (city) prefect occupies as it were a middle place, we ordain that the prefect of the city shall, as has been the custom heretofore, preside over the senate and have the first place; after him come the senators who are patricians, and if any of them have also been

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decorated with the honor of the consulate, shall have precedence in the order in which they obtained it, and provided further that those who actually functioned as such shall, in proper order, have precedence over the honorary consuls. 1. But as among our nobles, it is customary for those who are patricians to have precedence over consulars, the same rule shall be observed in the senate.

2. The others, after the patricians, namely the men of consular dignity and praefectorian rank, among whom we count the masters of the soldiers, <sup>(a)</sup> and the other men of illustrious dignity, shall assemble and be seated and give their opinions in the Great Senate, <sup>(b)</sup> according to the time in which they received their dignity.

3. If an official lays down his office at our request, his position shall not become worse on that account, nor shall he be lowered in rank, but he retains his order of precedence also in the senate, which he had while officiating in office, and if we give him a higher rank, he will enjoy that also in the Great Senate. For we cannot permit those whom we call to positions of honor to have their feelings hurt, so that it may not appear that the rest which we grant as a special reward for labor will result in diminution of honor. 4. So each one shall enjoy the undiminished honor which we bestow upon him either while he labors or rests, since men cannot very well either labor or rest all the time, but change and variety and occupation, at intervals, keeps the human mind keen. 5. Any of those who have received the illustrious dignity may aspire to become patricians, although they have not received the consular or praefectorian rank, which the constitution of the divine <sup>(c)</sup> Zeno required to no purpose. It shall suffice, in order to receive the honor as a patrician, to have obtained the illustrious dignity. Although this requirement has been overlooked in some cases, it shall not prejudice those that were promoted (to become patricians).

6. If we confer any dignity upon any persons in order to have them immediately become members of the senate, they shall be required

to pay only a third of the usual fees (paid to officials), so that they may enjoy their dignity without feeling (the promotion to be) a treat detriment; but in case of promotion of all other persons, the whole of the usual fees must be paid.

(a) See C. Th. 6,6.

(b) It is called the Great Senate to distinguish it from the various municipal senates.

(c) C. 12,3,3.

Epilogue.

Your Sublimity and your successors in office and your official staff will hereafter uphold these provisions made by Our Eternity, the penalty of 50 pounds of gold (\$10,800), to be assessed against the persons who violate them or permit them to be violated.

Given January 1 (537).