

Novel 63.

That the view of the sea shall not be shut off by new buildings.
(De novis operibus prospectui in mare officientibus)

Emperor Justinian to Longinus, prefect of this fortunate city.

Preface. We have deemed it advisable to restrain and correct the fraud committed in this imperial city in the erection of buildings. A constitution of Zeno^a, of blessed memory, and a law of our own^b directs that buildings must stand a certain distance apart, and that the pleasant view of the sea should not, in this imperial city, be shut off within a distance of 100 feet. But this provision has been sought to be evaded by a singular trick, although it would be better that the space should be larger without obstruction therein. Some parties leaving an interval of 100 feet and a little more, build nothing there except with which, like by a spreading snail, the effectually obstruct the view to the sea, and without violating the letter of the law because of the interval of 100 feet, they construct a house within (intus)^c, and after they have obtained their end, they tear down what they cunningly erected for this purpose, and so fraudulently rob the owners of the other houses of their pleasure. We do not want this to happen in the future.

Notes.

(a) C. 8.10.12.

(b) C. 8.10.13.

(c) Cujacius, in attempting to explain this trickery says (2, 968): "Suppose a man who wants to build a building within 100 feet which will obstruct his neighbor's view of the sea, which he cannot do according to law, contrives the following scheme in fraud of the law, namely, leaving a space of 100 feet, he builds a high wall by which the neighbor's view of the sea is cut off, and then within (intra) this wall, and accordingly within the 100 feet, he erects a building, which will also obstruct the view of the sea after the wall is torn down, and after he has accomplished his purpose, he tears the wall

down." The phrase "within (intra) this wall" must evidently be understood as referring to the space between the wall and the neighbor's property, and the same meaning must be given to the word "within" or intus, referred to in the translation of the foregoing novel.

c. 1. But ~~if~~ a man cannot commit any fraud of that sort by any such mockery. If he needs any such structure, he must erect a complete building, built 100 feet away, constructing a building that is necessary for him and unavoidable. He must not erect any walls in fraud of his neighbor, and cut off the view by trickery by a sham-building. We consider the man guilty of such trickery to be on the same footing as robbers whom we justly abominate and consider worthy of punishment. And as we punish, in an action on robbery, by a fourfold penalty, the man who robs but a small piece of property, so we compel the man who commits such trickery, not only to tear down the structure he has built, but also to pay a greater penalty, namely ten pounds of gold (\$2160) into the chest of Your Sublimity kept for public games, so that a bad neighbor may not, as the saying is, laugh at the law which is unable to get him within its control.

Epilegue. Your Sublimity will cause this, our will, declared by this imperial law, to be carried into effect and you and your official staff must see that it is always enforced. A penalty of ten pounds of gold (\$2160) hangs over those who violate these provisions or permit them to be violated.

Given March 9 (538).