Novel 66.

That new constitutions shall become effective two months after enrollment on the records.

(Ut novae quae fiunt constitutiones postquam insinuatae sunt post duos menses alios valeant.)

Emperor Justinian to Johannes, glorious Praetorian prefect of the Orient the second time, exconsul (regular consul) and patrician.

Headnote.

While the title to this law indicates that all laws should be in force and effect two months after enrollment on the records, it will be found upon examining the contents of this Novel that in truth and in fact it related only to laws made regarding the making of testaments, and particularly two that had previously been made, namely (1) the provision that testators should write the names of heirs with their own hands, a provision made by C. 6,23,26, but repealed by Novel 119, c.9, appended to C. 6,23,29, and later in date than the instant novel; (2) the provision increasing the birthright portion of children, contained in Novel 18, c. 1, heretofore given. On this account, this Novel is appended immediately following Novel 18, supra.

Preface.

Actions in court always give us the occasion for enacting laws. We have been besought by many on account of our constitutions enacted concerning successions, for instance concerning the provision which orders a testator to write the name of the heir with his own hand,(a) and as to how many twelfths make up the birthright portion which must be left to children, whether three, four, or more twelfths;(b) and that many testaments are in danger of not being carried out because the laws, though enacted, have not become known to people either in the provinces or here on account of failure, perchance, to publish them. We have thought advisable, therefore, to regulate these matter by a short law.

Notes to Preface.

(a) C. 6,23,29. See Novel 119, c. 9, appended to C. 6,23,29, which repealed this provision.

(b) Novel 18, c. 1, appended to C. 3,28.

c. 1. We therefore ordain that our constitutions made concerning testaments shall be valid from the time that they were made commonly known, and time in regard to them shall be computed from thenceforward, that is to say, in this city from the time that they become or were made, known to all; in the provinces from the time that they were or hereafter shall be transmitted to the metropolitan cities and there published, so that men may not, through ignorance of the law, as was true heretofore, appear to violate the law when they make a testament. And in order to make the matter more certain, we direct that if any such law is enacted (hereafter), it shall become effective and in force, in this city and in the provinces, two months after the time given it, as this time should, after its enrollment on the public records, be sufficient to make it known to all, so that the notaries (tabelliones) and our subjects should know its contents (within that time), and be able to observe it.(a) In this way no one will have an excuse for not following the law. For we do not want the wishes of decedents to be overturned, but rather take pains to uphold them. How can we blame those who did not know of the promulgation of our constitutions, and who made a testament, perhaps shortly after the enactment of a law which, however, was not then known to them, and who, therefore, did not write the names of the heirs in their own handwriting or give a fourth instead of a third to a child? So long as a law is not yet enacted, or which, if enacted is not yet published, is rightly ignored. 1. So far, though the constitution which directs the name of an heir to be written by the testator's own hand, is already old and is contained in the book of constitutions which bears our name, many have made a testament contrary to its terms, because they did not know that the law was

enacted. Such neglected matters have hitherto been reported to us; and because it happened that these laws had not (yet, in places) been published, we have extended forgiveness to all those who asked for it, issuing rescripts extending just forgiveness to them. In order, however, that we may not be troubled daily concerning these matters, and compelled to write rescripts, we ordain, as already stated, that the said law in the Justinian Code shall be valid here from the time of its publication, and in the provinces from the time that it was transmitted there and published in the metropolitan and other cities thereof. A long time thereafter having elapsed, and our Code having been sent to every portion of the country, it cannot rightly be unknown. 2. The other more recent constitution, part of those issued after the Code, and which defines what portion shall be left to children, shall be in force in this city and in the provinces two months after enrolling it on the public records, as stated before. We made two copies of this law which relates to the appointment of children as heirs, one written in Greek, because more suitable for the multitude, the other in Latin, which, on account of the form of the state, is of the greatest importance. The former is dated on the first of March, but, though enacted on that date, was not immediately published; the latter, written in Latin, to Soloman, Praetornian Prefect of Africa, has the date of April 1st. 3. The copy written in Greek was not made known until the Latin copy was completed and sent out; the former, written to the glorious praetorian prefects here, was enrolled in their court in the month of May and sent out. We accordingly ordain, that the directions of that law, relating to the appointment of children as heirs, shall be in force here as of May first, leaving effective, however, the provision as to two months,(b) and in the provinces from the time that they were made known, leaving also effective the provisions as to two months, after enrollment on the public records. If the constitution

if not yet sent to all the provinces, it and others that have, perhaps, not yet been sent, and constitutions hereafter by God's help enacted by us, shall be sent and caused to be sent there as soon as possible, so as to be known and made known to the people in the metropolitan cities. The presidents of the provinces shall send them, and see that they are sent, to all the cities in the various provinces, so that no one may hereafter set up any excuse of ignorance. 4. What has been done in the past is entitled to just forgiveness; dispositions made by decedents shall be valid, though made only recently, just as they were made, although they did not, as required by laws, (already) formerly in force, write the names of heirs with their own hand or did not make the names of the heirs known to the witnesses, or did not leave more than a fourth to the children. For we do not want to overturn the wishes of decedents, as just stated, but rather declare them to be effective. So although testaments were written soon after the enactment of the law, but before the latter became known, and the testaments were not, perchance, changed during the testator's lifetime, the appointments therein, made according to the laws then in force, shall remain valid, and shall not be attacked because the testators did not change them while living. For not everything is in a man's power; nor is there always time to make a testament, and death often overtakes him and deprives him of the power of making a testament. So what has been legally done from the beginning shall not in any manner be impaired or overturned thereafter because not changed, but shall remain valid and the testator's wishes shall be upheld. For it would be absurd to overturn something that is legally done by subsequent legislation. 5. In a word, if the children are perchance left a fourth by a testament of parents, made before the enactment of the (recent) law or before it was made public before the magistrates, that is the amount they shall receive. If the statement is added to the testament that a deficiency in the legal amount shall be made up, this shall be take

to refer to the quantity due according to former laws, so that if there is a deficiency, it shall be made up to a fourth and not up to a third, which, though provided by a subsequent law, was not then known.

(a) It was the language of the court.

(b) The meaning evidently is that the law should be in force two months after enrollment on the records, and not from May 1st.

Epilogue. Your Sublimity will make this, our will, declared by this imperial law, known by your own edicts, to the people in this great city as well as to those outside, so that all may know what we have done for the protection of all.

Given May 1, 538.