

Novel 43.

Concerning shops in Constantinople; that only 100 shops shall be exempted for the Church, but that all the remaining, to whomever they belong, are subject to liturgies according to the custom.

(De officinis Constantinopolis, ut solae mille centum officinae magnae ecclesiae excusentur, reliquae vero omnes cujuscumque sint domini ministerial secundum consuetudinem obeant.)

Headnote.

This Novel and Novel 59 which follows it provide that 100 shops shall be devoted to the performance of liturgies, either by work or by money, in connection with the interment of the dead, relieving these shops from other burdens. These Novels show that the shops in Constantinople were organized into guilds, most of these shops being small, and all were compelled to perform liturgies of various kinds. Constantinople and Rome did not have the curials mentioned in c. 10.32, who performed most of the liturgies in other cities, as shown in the headnote to that title. The city government in the capitals was largely in the hands of the city prefect, who, also, had control of the various guilds. It is not necessary here to mention the various functions which guilds were required to perform, or toward the performance of which they were bound to contribute. Sufficient has been said on that subject at headnote C. 10.32.

It is perfectly clear from these Novels also that although the so-called lustrum tax, mentioned at C. 11.1.1 was repealed by Anastasius, that merchants were not exempt from contributions to the State. For assessment of the property of merchants and others in the cities during a period preceding that here considered, see Marquardt, 2 R. Staats Vw. 228, 231.

In the name of Our Lord Jesus Christ, the Emperor Caesar Flavius Justinianus Alemannicus Gothicus Francicus Germanicus Anticus Vandalieus Africus, pious, fortunate, renowned victor and triumpher, ever Augustus, to Longinus, city prefect.

Preface. Since our subjects are the objects of the care of Our Power both while living as well as when dead, therefore, lest sepultures be costly to them and burdensome to those who belong to decedents, we have made proper provisions in regard to matters pertaining to sepultures. And since Constantine, of sacred memory, founder of this city, as well as Anastasius, of blessed memory, have fixed the number of what are called lexicarii or decani (burial-men) within a definite limit, so that there should be only 1100 decani or that same number of shops, without these being permitted to be increased at any time, and since the number of lexicarii, taken from each guild, is appended to the constitution of Anastasius, of sacred memory, we, too, want these matters to remain in force. But men from the guilds of this, our fortunate and imperial city, in whom we are above all interested, have come before us and have informed Our Potency of the existence of a and unbearable confusion; that the holy Great Church is receiving the income from 1100 shops, free from all (other) tribute, which they do not begrudge it, since that pertains to the common welfare of all; but that they are unable to bear the other burdens; that, though there are many shops in this fortunate city, of different trade or business, not only are the 1100 shops exempt from the aforesaid liturgies, but also many holy churches, hospitals, monasteries and other holy places, some of which formerly belonged to heretics, but which were thereafter transferred to the orthodox church, and that in addition many imperial places and places of magistrates and senators and illustrious persons and of chamberlains are exempt from tribute, and while the owners thereof draw the revenue therefrom, they inflict detriment on the republic, since the matter has become distressful (for others) on account of the many exemptions; that there are but few who perform or are burdened by liturgies, and that the former tributes have been increased three, four, nay even ten times, although Anastasius of sacred memory, in his sanction, gave none immunity except the 1100 shops exempted to the holy Great Church for the purpose of burying persons deceased. We therefore thought it best to have our magistrates and the blessed archbishop of this fortunate city meet, examine the matter and report to us,

and to issue the instant law, directed to Your Sublimity, by which we confirm the provisions which seemed good to Anastasius, of blessed memory, in this matter.

c. 1. And we ordain that the holy Great Church shall retain (the liturgies from) the 1100 shops, free from all (other burden) for the benefit of the decani or lecticarii and expenses of burials, and that no decanus can be called on by heretics or by any holy church (other than the Great Church). The provisions recently made by us shall remain in effect, namely, that 800 shops shall furnish bodily labor, and that the other 300 pay money. How the income therefrom shall be expended has already been provided by our law, and the orders of Anastasius, of blessed memory, have stated that losses shall be compensated and the manner in which that shall be done. We ordain that these, therefore, shall remain immune from every (other) burden, so that neither the shops themselves nor the superintendents of the guilds shall suffer any detriment or pay any tribute by reason thereof. **1.** All other shops in the fourteen regions of this fortunate city, whether belonging to the holy church, hospitals, monasteries, orphanages, foundling institutions, poor houses or to any one else—whether they are imperial places or places of the greater, median, or lesser magistrates, or of glorious senators or of the magnificent or the worshipful chamberlains or of persons in the military service—shall pay the public tribute due from them, and shall do and render whatever is proper for each one to do and render for his guild, and pay everything due to the public treasury, through the president thereof, so that no one can rely upon any privilege or exemption. We do not permit the burden of one to be transferred to another, or have a law so cruel that tribute is daily increased, and require payment, as we are informed of four, five and ten times (of what was paid previously), since Our Potency is anxious that no one be burdened by any new tribute; and under “new” must be counted not only what is now imposed for the first time, but also whatever increases the former amount. Everything shall be on the same footing, and this pragmatic sanction, which may also be called a law, shall apply to all, so that all may be protected. No one will be displeased in this matter, since no exceptions are made except as to the 1100 shops on account of the burial of persons deceased, a matter which above all is

common to, and affects, all men. **2.** But if any one attempts to rely on any exemption and to relieve himself from contribution, or prevent collection being made from his tenants, or extend unlawful military, civil, ecclesiastical or any other patronage, he will be deprived of his shop, which will become public property to be assigned to the guild (to which it belongs). They will thus be careful not to undertake anything unlawful, and the tribute of each, since it is distributed among all, will be small, and will be moderate, light, bearable and more easily brought in, in proportion as the number from whom it is collected is large. For what could be harsher than to impose burdensome tribute on men who support their wives and children and obtain all necessary means of living by the labor of their hands, and to have them suffer hardship in proportion of the number of those who are exempted and which would create a burden which would have no end? **3.** We enact this pragmatic sanction in order to prevent that, and threaten all our subjects with the penalty of confiscation, if they prevent those who are at the head of any guild from collecting the customary tribute, formerly fixed, or attempt to convert the tribute into rent for buildings. Let each enjoy the receipt of his rent, but he must let each shop furnish the customary and lawful liturgy. For as each one looks out for his own interests, so it is necessary for us to look out for the interest and advantage of this great imperial city. And it will not be possible to obtain what is necessary for the common benefit, unless those who have hitherto been compelled to bear such (great) burden, are relieved.

Epilogue. Your Eminence, therefore, and those who, after you, will hold your office, and your official staff, will for all time firmly uphold this our will, declared by this imperial pragmatic sanction.

Given May 17, 536.