

Novel 86.

If the presidents fail to listen to legal claims of those who go before them, they shall be compelled to do so by the bishops. If anyone mistrusts the president, he may ask the bishop of the city to hear the case with him; those who have been wronged by the president may go before the bishop; and concerning protection which the bishops must cause the presidents to give.

(Ut praesides si supersedeant audire jura ejus qui ipsos adiret ab episcopis id agree compellantru; utque qui praesidem suspectum habet, episcopum civitatis petat litem simul auditurum; et ut ii qui a praeside injuria affecti sunt episcopum adeant; et de alia custodia quam episcopi omnino firmare debeant (a praesidibus praestari).)

Headnote.

This novel is inserted at this place to show that the president of a province, the ordinary and regular judge with plenary jurisdiction, could be rejected as the sole judge in a cause, and because it shows the emperors attempted to grant their subjects protection against the arbitrary power of the governors—who acted also as judges. The bishop had even the power to punish the president. Defenders of the cities were, in a measure at least, municipal magistrates.

In the name of the Lord Jesus Christ, our God, the emperor Caesar Flavius Justinian, etc.

Preface. Since the time that God put us at the head of the Roman empire, we have been zealous to do everything for the benefit of the subjects of the Republic entrusted to us, and to liberate them from all trouble, damage and vexation, so that they may not be compelled, on account of lawsuits and other things, to leave their country and live under difficulties in a foreign land.

c. 1. Hence, we have also deemed it well at the present time to send this edict to all our subjects and make it known to the inhabitants of all cities and villages, that if they have any dispute with another, whether in a matter involving money, movable, immovable or self-moving property, or in a criminal case, they shall first go before the president of the province, so that he may examine into the matter reported, and protect each person in his rights. If the person who goes before the president fails

to obtain his rights, we direct him to go to the holy bishop of the place, so that the latter may communicate with the president or personally meet him, to induce him to send the claimant from his court, with the rights under the law granted him, so that the latter may not be compelled to leave his fatherland for a foreign land. If the president delays the matter even after the bishop has urged him to decide the transaction of the claimant justly, or decides the cause without protecting the rights of the litigants, then we permit the holy bishop of the city to write a letter to us and give it to the person who failed to obtain his rights, advising us that though he had urged the president, the latter had neglected to hear the claims and to decide the suit between him and his adversary, so that we, when we learn these facts, may impose a penalty on him for not deciding the case when called on by the person wronged and when urged by the holy bishop.

c. 2. If any one of our subjects, perchance, mistrusts the president, the holy bishop shall hear the cause jointly with him, so that they may end the litigation by effecting an amicable agreement, or hear the case informally by making simple notations in writing,^a or trying the case in the regular, formal way and then deciding it and giving their decision according to law, so that our subjects may not be compelled to leave their fatherland because thereof.

a. See Novel 82, c. 5.

c. 3. But if anyone, thinking that he has any right of action against another, fails to go either before the president or the holy bishop of the place and thus comes before us without a letter of the holy bishop, he shall suffer the same punishment as the president would have suffered for not taking care, when called upon to preserve the former's rights. We have thought best to enact these provisions for the benefit of those who live in cities and villages, so that they may not leave their fatherland and suffer in a foreign land and so that they may not be damaged in their property rights. On that account, presidents are appointed without paying for their positions,^a and they must take an oath to protect everyone who comes before them in accordance with the laws.

a. Novel 8.

c. 4. If any one of our subjects is, perhaps, wronged by the president of a province, we direct him to go before the holy bishop of that city, and the latter shall decide between the president and the party wronged. And if it happens that the president is legally and justly condemned by the holy bishop, the former shall fully indemnify the claimant; and if he refuses to do so, the matter shall be reported to us, and if we learn that the president, justly and legally condemned by the holy bishop, has not complied with the latter's decision, he shall be subjected to the severest punishment, because he who should avenge the persons who suffer wrong, is himself convicted of wrongdoing.

c. 5. And we also order that the official staff and employees of the president shall zealously attend to and complete the transactions of those who come before them, and take no compensation other than that provided for in our constitutions. If they fail to do so, they shall be subjected to the severest punishments—namely to repay fourfold the amount in addition to a penalty.^a

a. As to fees, see C. 3.2.

c. 6. If we find that one of the holy bishops has used the law as favoritism, we order that the appropriate canonical punishment be visited upon him, so that they may be zealous, through fear of God, in giving just decisions, and so that men may not be compelled to leave cities, provinces and places, and come here because they cannot obtain their rights.

c. 7. We order that those who live in and have disputes in cities where there is no president should go before the defender, who shall decide between the litigants. But if they want the holy bishop rather than the defender to adjudicate the matter, that shall be done.

c. 8. Neither a monk nor clergyman nor bishop shall come before us without a letter from their holy patriarch; if they do so they will make themselves unworthy of their station.

c. 9. If any imperial messengers (agentes in rebus), or any employee in the office of the praetorian prefect or anyone else, accepts larger fees than those fixed by our constitutions, we order that the president of the province shall avenge such act according to law and inflict punishment upon the violators. If the president fails to do so, then permission is granted to the holy bishop of the place to report the names of the violators and their position of service or rank to us, so that we may cause the president, who permitted it to be done and who failed to execute the law, to feel the consequences of his acts, and order the violator above mentioned to be visited with punishment.

Given April 17, 539.