

AUTHENTIC OR NEW CONSTITUTIONS OF OUR LORD THE MOST HOLY
EMPEROR JUSTINIAN.

SECOND COLLECTION.

TITLE I.

CONCERNING THE PROHIBITION OF ALIENATING OR EXCHANGING
IMMOVABLE ECCLESIASTICAL PROPERTY, OR OF GIVING IT TO CREDITORS
UNDER SPECIAL HYPOTHECATION, A GENERAL HYPOTHECATION BEING
SUFFICIENT.

SEVENTH NEW CONSTITUTION.

The Emperor Justinian to Epiphanius, Most Holy and Blessed Archbishop of this Fortunate City, Ecumenical Patriarch, or Patriarch of Constantinople.

PREFACE.

As We are always intent upon correcting anything which We find to be confused or imperfect, or removing it, and making clear what is obscure in Our legislation, We think that it is necessary for everything relating to the alienation of the property of the Church to be included in a single law, which shall replace and amend all others, supply what is lacking, and rescind what is superfluous. Leo, of pious memory, who, with the exception of Constantine, of all the Emperors, added more than anyone else to the Christian religion, and thoroughly established the honor and discipline of the holy churches, enacted a law concerning ecclesiastical alienations, which he, however, limited to the Principal Church of this Most Fortunate City. We applaud the greater portion of this law, because the worship of God is its principal object, but for the reason that it does not generally apply to all churches, We think that it requires amendment. An enactment on the same subject was also published by Anastasius, of pious memory, which, although it did not resemble the former one, is still restricted in its effect, for although it applies to places outside of Constantinople, it is still imperfect for the reason that it has reference only to the clergy and the diocese subject to the authority of the patriarch of this Royal and Most Fortunate City, but is not applicable to sees. The author of the law understood that it should be corrected, as he amended several portions of it, although he left others untouched, for which reason We decree that it shall hereafter be void as being imperfect and limited in scope, and not be included among laws generally as introducing anything that is of value to jurisprudence. Hence, We have corrected all these matters, and think that it is necessary for uniform legislation to be imposed upon all churches, hospitals, monasteries, asylums, infirmaries for the poor, and all other religious foundations; and We desire that the present law shall be an addition to that of Leo, of pious memory, of which We are going to enumerate in a few words such provisions as remain in force. It forbids the archbishop and patriarch of this Fortunate City or of the principal church of the same, as well as the steward, to sell, give, or alienate in any other way any of the immovable property belonging to the holy Principal Church of Constantinople, whether said property consists of buildings, land, serfs, rustic slaves, or grain furnished by the State (for these last items are regarded as immovable), and the law does not permit any transfer to be made by way of compensation, or under any other pretext; and it renders the purchaser liable to restore to the steward having charge of the property of the church whatever he has purchased, together with the profits of the same which he may have obtained since the alienation, and anything else which he may have acquired thereby, as well as to forfeit the purchase money, and it regards the transaction just as if it had never taken place. It also compels the steward who has failed in the discharge of his duty to pay over any profits which he has received from what belonged to the holy church, or to indemnify the latter for the losses which it may have sustained. And, in addition to this, he shall be deprived of his office of steward, and the law grants a right of action to the holy church not only against the stewards themselves, but also against their successors, whether the latter have made the alienation without the opposition of the bishop in office at the time, or of that of any of the other clergy, whether they were aware of it and consented, or remained

silent and suffered it to take place, for they are much more reprehensible if they gave their consent, and knowingly permitted such a thing to be done without preventing it.

It also punishes with perpetual exile the notary who drew up the documents, and refuses him clemency or permission to return; and any judges who consent to the alienation, and preside in cases of this kind, or who permit such donations or alienations to be made, it directs shall be deprived of their insignia, their offices, and their estates.

Although this law strictly forbids the alienation of church property, it, nevertheless, allows the use of the same, which is called usufruct, for a certain time, or even during the life of the person who obtains it, when this is granted by the Most Holy Principal Church, under the restriction that the recipient of this favor shall give to the Most Holy Principal Church a certain portion of the property by way of compensation, from which the Most Holy Church can have the same income as he obtains from the use of said property; and, after the death of the usufructuary, or the expiration of the time prescribed for its enjoyment, the use and usufruct of the ecclesiastical property which has been granted shall revert to the Most Holy Principal Church, as well as the use and ownership of what was given by way of compensation. The law prescribes that a contract of this kind can be made without any risk.

If, however, what has been given by way of compensation should happen to be less than what was transferred by the holy church, the law declares that the contract shall be void, just as if it had never been entered into, and it grants the right of recovery just as if the holy church had been defrauded.

(1) These are, briefly stated, the provisions of the law, and where it imposes a fine, it only has reference to property belonging to the Most Holy Church of Constantinople; and while it disposes of all the fraudulent acts which We have mentioned, it still is not sufficient to restrain the efforts of persons intending to deceive. For, indeed, certain individuals have invented what is called leasehold titles, that is, where anyone received from the church a building whose value was, for instance, one hundred *solidi*, and which yielded an annual income of ten *solidi*, and he paid a hundred *solidi* more or less for the same, and agreed to pay every year out of his own property three *solidi* by way of rent, he was called *parcecus*; and, in consideration of this small payment, he became the possessor of the property, along with his heirs, in perpetuity.

This right was not known to any of Our laws, or recognized by any emperor; and, by means of it, those who invented it could commit great frauds against the law, and make almost constant alienations, which We forbid to be done hereafter, and have promulgated the present law for this very purpose. Those having charge of the administration of the property of said church formerly had recourse to emphyteusis, and by this means, obtained the greater part of the revenues of the same. For this reason We, by means of one of Our preceding constitutions, have limited the duration of emphyteusis to the lives of three persons, that is to say, to that of the one who makes the contract, and his two immediate successors; and We permitted this to be done with reference to the property of the Most Holy Principal Church, but did not allow more than a sixth part of the income obtained under emphyteusis to be collected where unforeseen events occur. We have, however, learned that documents often have been impiously executed by certain persons under which a sixth part was left to the holy church, and all the rest of the property was given in emphyteusis. When Anastasius, of pious memory, decreed that rules should be drawn up with reference to emphyteutical alienations, in order that the time of possession might be determined, and decided that an irregular emphyteusis should last until the death of the emphyteuta, and that where it was regular, it should be perpetual, he enacted a law which was useless and imperfect in every respect, and which, as We have already stated, was only effective within the Patriarchal See of Constantinople.

CHAPTER I.

CONCERNING THE PROHIBITION OF ALIENATING PROPERTY BELONGING TO RELIGIOUS HOUSES.

Hence We decree (for it is now time to come to the provisions of the law) that the Holy Principal Church of Our Most Fortunate City, or any of those which are subject to its jurisdiction, and are maintained by it (as provided by Anastasius, of pious memory), and any other churches in this Most Fortunate City, or within its confines, which are subject to the Patriarchal See, the archbishops of which obey its patriarch or any other patriarch or bishop (We refer to those who reside in the East, in Illyria, in Egypt, in Lycaonia, and in Lycia, together with those who are in the province of Africa, and all who are distributed throughout Our entire dominions, including the bishops of the West, from Rome even to the ocean, who have charge of the holy orthodox churches), as well as superintendents of hospitals, orphan asylums, infirmaries for the poor, abbots and abbesses of monasteries, and presidents of sacred colleges, shall not be permitted to alienate any immovable property, whether it consists of buildings, fields, gardens or anything of this kind, rustic slaves, and grain provided by the State, or deliver it under a special contract to creditors by way of pledge.

We accept the term alienation in its general sense, and hence forbid the sale, donation, and exchange of property, as well as perpetual emphyteusis, which does not differ greatly from alienation. We forbid all ecclesiastics, everywhere, from making transfers of this kind under the penalties prescribed by the Constitution of Leo, of pious memory. We decree that this law shall be valid, and hereby ratify it, and, for this reason, We have proposed and proclaimed it, and have caused it to be written, not in Latin but in Greek, in order that it may become familiar to all, and its interpretation be facilitated.

We leave any alienations which have already taken place in their present condition, for where so many documents have been executed for a long time, interference with them at present must result in much confusion. Hence, those which have existed up to this time shall remain in full force, but, for the future, We prohibit all alienations under the penalties previously imposed.

CHAPTER II.

CONCERNING THE GIFT OF IMMOVABLE PROPERTY TO A RELIGIOUS HOUSE BY THE EMPEROR.

In order that the laws based upon the instability of human nature and events which frequently occur may always remain unaltered (for how can anything be so permanent and immovable among men that it cannot suffer any change, when our entire life is in constant movement?), We have deemed it necessary to formulate some exceptions to the laws, which, being applied with reflection and care, may prove beneficial by preventing their operation.

(1) Therefore We authorize the government, when it is for the common welfare and the general advantage of the State, to obtain possession of any immovable property belonging to churches, religious houses, or associations, where others of equal or even of greater value than what was received is transferred by way of compensation. What excuse can the Emperor have to avoid furnishing greater indemnity? For God has given him possession of enormous wealth, and has made him the ruler of many subjects, and has rendered it easy for him, above all, to give to the holy churches, towards which one cannot be too liberal. Wherefore, if such a thing should take place, the transfer shall be valid, provided it is preceded by a pragmatic sanction authorizing the government to transfer property in compensation, where compensation is provided by reason of the gift of better and more productive immovable property; and those who have charge of the religious establishments whose property is alienated, and the notaries who drew up the contracts, shall everywhere be exempt from blame, and shall not be apprehensive of the penalties prescribed by Leo, of pious memory, and which have been confirmed by Us, since the priesthood and the Empire differ greatly from one another, as sacred things do from those which are common and public, and the

abundance enjoyed by the churches is continually derived from the munificence of the Emperors.

Hence, where compensation is given by either party, neither can legally be blamed by anyone; but, on the other hand, We expressly prohibit every other sale, donation, exchange, or emphyteusis, whether made by the government or any other person whomsoever. Nor do We permit the donation of any real property by way of pledge for the purpose of securing a loan.

We desire this law to be observed by every church, monastery, hospital, house of refuge, hermitage, convent, infirmary for the poor, and all other establishments founded under religious auspices, for no one can legally acquire any property from them. Therefore the constitution of Anastasius of divine memory shall hereafter be of no force or effect, and no law shall be enacted for the purpose of renewing it, nor shall its provisions be cited, as they are all hereby annulled.

CHAPTER III.

UNDER WHAT CIRCUMSTANCES THE EMPHYTEUSIS OF ECCLESIASTICAL PROPERTY MAY BE PERMITTED.

We authorize the Most Holy Principal Church, and all other religious foundations, to lease their property by emphyteusis, provided that the duration of the lease is limited to the life of the emphyteuta, and two of his heirs, that is to say, his children and grandchildren, both male and female; and the said property will revert either to the husband or the wife, if this has been expressly stated in the contract; otherwise, it will not pass to any other heirs, but will be confined solely to the lives of those who received it, when they have neither children nor grandchildren. We, by no means, allow real property belonging to churches or hospitals, or even rustic slaves or supplies of grain to be leased, and We do not permit an alienation made contrary to these provisions to have any force.

(1) The Constitution of Leo, of pious memory, permitted ecclesiastical property to be leased by emphyteusis, where this was done without any loss, but We have decreed in another constitution promulgated by Us that a sixth part of the income should be given to him who took the emphyteusis; and thus We establish a certain rule of diminution, so that the rent of the property leased may be ascertained with truth and accuracy from the beginning, when it was acquired by the holy church and the emphyteusis was granted to the persons whom We have mentioned; for then We concede it to them, scrupulously reserving the sixth part of what they paid. Where, however, the amount is diminished through some accident, or the whole of it is lost, a new rate should be established for the person desiring to lease the property; or, indeed, none at all shall be made where it is decided to be more advantageous to lease it in some other way than to subject it to an excessive diminution of the rent under emphyteusis.

When suburban ecclesiastical property is leased under emphyteusis—which We have ascertained is, in many instances, done in this Most Fortunate City at a high price—and it yields but very little rent, or even none at all, We do not wish the rental to be regulated by the income, but that a just appraisal shall be made of the land, adopting as a standard the income collected for twenty years, and that the rate under emphyteusis shall be based on this appraisal; but We repeat that this must not be done in perpetuity, but only during the lifetime of the person who receives the property, and that of two of his successors; but it will also be revertible to either the husband or the wife, as We have already stated.

(2) It is proper that emphyteutas should be notified that if they do not pay the rent for two consecutive years (for the term of three years is established in the case of other emphyteutas, but We have decided two will be sufficient where ecclesiastical lands are leased), they shall be deprived of the emphyteusis, and the officials in charge of the religious houses shall be permitted to resume possession of them without being liable on account of any improvements which may have been made. But if the emphyteuta has caused any deterioration of the land or suburban property, he can be compelled to thoroughly restore it to its former condition, at his own expense; and he, together with his heirs, will be obliged to return the said property, with

all the income from it which may be due, without delay. It has already been stated by Us that no alienation of real property belonging either to a church or a hospital can take place, and this prohibition has reference to every person in the Empire, and applies not only to houses, suburban lands, gardens, fields, and buildings ruined by fire, earthquakes, or any other calamity, as well as to such as are entirely destroyed and levelled with the ground, whether enough materials remain for their reconstruction or not, for We only permit them to be alienated by means of temporary emphyteusis, in accordance with what has already been stated, and to the three persons whom We have previously mentioned.

In order that no fraud may be committed with reference to ecclesiastical property under such circumstances, an examination shall take place, when said property is in this city, in the presence of two master mechanics or architects, together with ecclesiastical stewards, five reverend priests, two deacons, and the bishop of the diocese; but where the property is situated in a province, this shall be done in the presence of two master mechanics or architects, or of one (if there are no more in the town), who shall assemble on the ground, and decide under oath on the Holy Gospels how much should be paid to the church under emphyteusis, and an emphyteutical contract may be drawn up in accordance with what has previously been prescribed.

The emphyteuta can then erect buildings with the materials, if there are any, and transmit the emphyteusis to two of his successors (as has already been stated), and, after the death of the three persons aforesaid, the property shall revert to the holy church or the venerable religious house by whom the emphyteusis was executed ; and a contract of this kind shall be valid, provided it is not in contravention of the terms of the present law.

(3) The various pretexts which have, up to the present time, been employed to prevent the termination of contracts of this description, shall no longer be permitted; and where the term of the two heirs has expired, permission is hereby given to those who succeed them to lease the property by emphyteusis; and they, in their turn, shall be allowed to transfer it to others. By resorting to such fraudulent methods, the consequence is that the emphyteusis always remains under the control of the same persons, and the church is deprived of its right to the property. Where anything of this kind takes place, the reverend stewards are not obliged to transfer the property to others after the death of the two heirs of the emphyteuta.

CHAPTER IV.

IN WHAT WAY THE USUFRUCT OF PROPERTY BELONGING TO THE CHURCH is CREATED.

If anyone should desire to enjoy the use or usufruct of property belonging to the Holy Principal Church, or to any other church whatsoever situated in Our dominions, or which belongs to a hospital, he can obtain it by observing the rules which have been already laid down, and by complying with the provisions of the Constitution of Leo, of pious memory, which requires that the usufructuary shall be a man of means, and the owner of land, and shall give to the holy church or the religious house, by way of compensation, some other property yielding at the same times a revenue of equal amount and of the same character. This should be done in order that, after the death of the usufructuary, the property belonging to the church or hospital may revert to it, together with the use which was bestowed, and may not be extended beyond the lifetime of the person who acquired it. On the other hand, the usufructuary shall, until his death or for the time agreed upon, enjoy the usufruct of the property which he is given by way of compensation, and after the termination of the usufruct, the ownership and the use of the two pieces of property aforesaid will absolutely belong to the holy church.

CHAPTER V.

TO WHAT PENALTIES PERSONS WHO ALIENATE ECCLESIASTICAL PROPERTY ARE LIABLE.

While the Constitution of Leo, of pious memory, only prescribed a penalty for the sale of ecclesiastical property, We, on the other hand, forbid not only the sale but also the donation, exchange, perpetual lease under emphyteusis, and pledge of real estate; for We are aware that there are certain persons who love to take risks, and make a practice of defrauding the laws, and of doing things which are absolutely prohibited and render those guilty of such conduct liable to capital punishment, hence We have considered it necessary to affix a certain penalty to every contract, and those penalties which were provided for unfaithful stewards by the aforesaid Constitution of Leo, of pious memory, We decree shall also be applicable to all in charge of houses for the accommodation of travellers, hospitals, and orphan asylums, as well as to abbots and abbesses of monasteries and convents, in accordance with what has been previously established. Therefore, if anyone should presume to buy property belonging to either a church or a hospital, he shall lose the purchase-money, and be deprived of whatever he acquired, together with all its income in the meantime; and he shall be entitled to no right of action against the said church or religious house, but he can sue the stewards or other officials who sold him the property, and recover damages out of what personally belongs to them, so that if they are not deterred by the fear of God from engaging in transactions of this kind, the apprehension of losing their own property may prevent them from doing so.

(1) If anyone should presume to accept as a donation anything belonging to a church or a hospital, he shall, by all means, lose what was given, and shall surrender to the said holy church or venerable religious house a portion of his own property equal to that which he received, so that he may realize the wickedness of his conduct in violating this law by suffering the loss of his private fortune.

(2) If any exchange should be made by persons except where the transfer of public lands is involved, as We have previously stated, he who assented to the exchange shall be liable to the penalty, shall lose what he received, which shall revert to the venerable religious house from which it was taken, and whatever was given by way of compensation shall also be acquired by it. He who is guilty of thus violating the law shall thus be deprived of both, and be punished by the loss of his own property as well as of that which he expected to gain; but, in this instance, a right of action will lie against those who made the contract with him.

CHAPTER VI.

IT IS LAWFUL TO ENCUMBER ECCLESIASTICAL PROPERTY BY A GENERAL BUT NOT BY SPECIAL HYPOTHECATION.

Where a creditor chooses to take security for money loaned on immovables belonging to a church or hospital, which consist of buildings, suburban lands, fields, gardens, supplies of grain, or rustic slaves, he shall be deprived of such property, and the holy church which received the money shall keep it. In this case, however, the creditor will be entitled to bring suit against the steward, the official in charge of the hospital or the orphan asylum, the superior of the convent or monastery, or the superintendent of any other religious house responsible for the transaction, and he can also proceed against the abbesses of convents.

(1) Where, however, holy churches or other religious houses, are compelled to borrow money—and this is so necessary that if it is not borrowed they cannot comply with their contracts—or there is any other good cause to induce them to do this, it will be lawful to have recourse to a general hypothecation, but no special pledge of property can be given to creditors.

CHAPTER VII.

TO WHAT PENALTIES THOSE WHO MAKE A PERPETUAL EMPHYTEUTICAL CONTRACT ARE LIABLE.

If, however, anyone should, in violation of the provisions of this Our law, presume to take either a perpetual or a temporary lease

under an emphyteutical contract, he will lose the land in question, as well as what he paid for it, which shall be forfeited to the religious house. He will also be required to pay the rent for which he bound himself, just as if he had made a legal contract, and he will obtain no benefit from the property of the poor which was uselessly transferred to him under the emphyteusis.

(1) All these provisions shall be observed, subject to the abovementioned penalties, and notaries, even though relying upon Imperial authority, must be careful not to draw up any instruments with reference to such contracts, but shall have the fear of exile before their eyes, with the understanding that they never will return; nor shall judges venture to authorize the execution of any false documents, or perform any act for the purpose of confirming those which already have been executed, under the penalty of being deprived of their insignia of office, their rank, and their property, in accordance with the Constitution of Leo.

CHAPTER VIII.

CONCERNING THE PROHIBITION OF ALIENATING SACRED UTENSILS.

The same punishment shall be inflicted upon those who, in violation of Our law, either pledge, sell, or melt for the purpose of alienation, any sacred vessels, for We think that they who presume to commit an impious act with reference to sacred utensils consecrated to God should be punished with the same, or even with a greater penalty. Still, an exception may be made in the case which We have mentioned regarding the redemption of captives, where the souls of men are released from death and chains by the sale of inanimate vessels.

The same rule applies (as We have frequently stated) to the alienation of public supplies of grain, as We have ascertained that such supplies exist not only in this Most Fortunate City, but also at Alexandria as well as at Theopolis, and also, perhaps, in other provinces. Whenever this is the case elsewhere, the present law is applicable and shall be observed.

CHAPTER IX.

CONCERNING HIM WHO PURCHASES THE PROPERTY OF THE CHURCH BY VIRTUE OF A PRAGMATIC SANCTION.

For the reason that it is probable that someone, for the purpose of evading this law, may attempt to obtain from Us a pragmatic sanction authorizing the purchase of ecclesiastical property, We hereby prohibit everyone, of whatever rank or political station, or those immediately attached to Our service, or anyone residing among the people, from doing anything of this kind; and We decree that it shall, under no circumstances, be lawful to produce a pragmatic sanction for the purpose of acquiring immovable property belonging to churches, monasteries, convents, or any other religious establishments. The quaestor who authorizes such a transaction will be liable to a fine of a hundred pounds of gold. Judges or other magistrates who sanction it will be liable to the same penalty; notaries who have drawn up the agreements shall be punished in accordance with the Constitution of Leo, of pious memory; and bishops and stewards who can refuse to obey any pragmatic sanction of this description shall forfeit the priesthood, if they accept it and allow it to be executed, and ignoring these laws, they comply with the terms of the pragmatic sanction.

(1) It is necessary for laws which are promulgated for the common and general welfare of all to be of more force than those enacted for the benefit of individuals to the prejudice of such as are of general application. It is for this reason that a special enactment for the purpose of leasing or transferring ecclesiastical property by emphyteusis has been deemed necessary.

CHAPTER X.

CONCERNING OFFICIALS WHO ALIENATE PROPERTY BELONGING TO THE CHURCH.

Stewards, or other ecclesiastical officials who are entrusted with the management of church property, cannot be compelled under a pragmatic sanction, by persons who are in authority, to lease or transfer by emphyteusis the said property to anyone who has obtained the pragmatic sanction; and anyone who does so will not only render himself liable to the penalty for sacrilege, but will also be subjected to all the fines and other punishments enumerated in this Our law.

CHAPTER XL.

CONCERNING THE PROHIBITION OF ALIENATING MONASTERIES.

We have ascertained that unusually flagrant violations of the law have been committed by the people of Alexandria and other Egyptians, as well as in other places in the Empire, and that persons do not hesitate to sell the monasteries themselves, or exchange them for other property, or give them away (a place is monastic in which an altar has been erected and religious service is performed, as is customary in churches, -or where the Scriptures are read, or the holy and ineffable communion is administered), so that these buildings consecrated to God are transferred to private ownership and uses; hence We absolutely prohibit this to take place in the future, permitting no one to violate this law, and We declare that everything done in contravention of the same shall be invalid. We impose the forfeiture of the purchase-money upon those who receive the property, the vendor shall lose what he sold, and both the property and the purchase-money shall belong to the church of the diocese and the monastery. By this means it is provided that whatever has been alienated fraudulently shall be returned to the monastery, and that no hypothecation of the property shall be of any force or effect, but shall be void, and the property itself be restored to the monastery to which it belongs.

CHAPTER XII.

WHERE A STERILE FIELD COMES INTO THE POSSESSION OF A CHURCH.

As We forbid injurious alienations to be made, so also We prohibit the acquisition of property which is unprofitable. For many questions have been submitted to Us in cases where persons have bestowed worthless lands upon a church or other religious house, or have sold such lands as being valuable, when this was not the case, as they were barren in the beginning, and, on this account, the religious house suffered a loss. Hence We forbid officials in charge of religious establishments to do anything of this kind, and We require them to inform themselves absolutely concerning the property in question; for if they do not use every effort to this end, when a contract is made and property which is either sterile or injurious is transferred to a church, a monastery, a hospital, or any other religious foundation, the contract shall be void, and he who fraudulently alienated the property shall take it back, and the steward, abbot, or official in charge of the said religious house or orphan asylum shall be personally liable for the loss resulting from the transaction. If, however, the agreement was of such a nature that money was given along with the property, it shall belong to the religious house, and he who paid it will be entitled to an action against the official who made the contract, as We have previously stated.

EPILOGUE.

This law shall, by all means, be observed with reference to the alienation of property belonging to churches or other religious foundations, in accordance with the terms of the Constitution of Leo of pious memory, and if it provides for nothing else, it still neglects nothing on this subject, and shall apply to all the provinces governed by Roman law and subject to the authority of the Catholic Church, and must be perpetually observed and executed by the patriarchs of every diocese as well as by the metropolitans, bishops, priests, stewards, abbots, and superintendents of hospitals, orphan asylums and all other similar

religious institutions, and be maintained by them in all its force; and everyone is authorized to denounce those who violate it, or fail to observe its provisions. For anyone who does this is worthy of praise, as he does not merit the name of a false accuser who exposes any violation of the laws, for he performs a pious action and one which is beneficial to all religious houses.

All judges throughout Our Empire, no matter what their rank, or whether they are in the civil or military service, shall see that this law is enforced; this especially applies to the most glorious praetorian prefects throughout all the dioceses, as well as to those invested with less important jurisdiction, who are designated *spectabiles*, for We include the Augustal proconsular and *spectabile* Counts and other officials of the East, and the magistrates who are inferior to them—that is, those of consular rank or the Governors of provinces—as well as the defenders of cities. All persons in civil, military and public employments are required to observe this Our law, for the promotion of the public welfare and the increase of the piety of the entire country; and those who violate it shall be liable to the penalties which We have previously enumerated.

We hereby confirm whatever has been enacted in former chapters, or by Our predecessors, with reference to the leasing of ecclesiastical property, and it shall remain inviolate; nor shall any innovation take place with reference to this Our present Constitution, for We authorize the preservation of the provisions in other laws when they conform to this one which We have promulgated, as it has greater scope than that enacted by Leo of pious memory, and is sufficient to remove every pretext for the alienation of property belonging to the Church.

Your Holiness, as well as those who may succeed you in the Pontifical See, will take measures to carry into effect the provisions which have been enacted by Us. May the Lord preserve you for many years, most Holy and Religious Father.

Given at Constantinople, on the seventeenth of the *Kalends* of May, during the Consulate of Belisarius.

TITLE II.

JUDGES SHALL NOT OBTAIN THEIR OFFICES BY PURCHASE.

EIGHTH NEW CONSTITUTION.

The Emperor Justinian to John, Praetorian Prefect, twice Consul and Patrician.

PREFACE.

We pass entire days and nights in reflecting upon what may be agreeable to God and beneficial to Our subjects, and it is not in vain that We maintain these vigils, but We employ them in attempting to deliver those who are subject to Our government from care and anxiety; and, undertaking this Ourselves, We attempt, in every way, to do what may render Our people happy and relieve them of all onerous charges and impositions, with the exception of duties and taxes. We have found that great injustice has been committed in many instances, and, if this is not the case at present, it has been so at other times; and this oppression has impoverished Our subjects to such an extent that they have been reduced to indigence, taxes cannot be collected, and the lawful and customary tribute be obtained, without the greatest difficulty; for, when the Emperors try to obtain money from magistrates by selling them their offices, and the latter, in their turn, indemnify themselves by extortion, how can those subject to taxation endure these unjust impositions as well as the lawful contributions for which they are liable?

(1) Hence We have thought that any changes which We make in Our provinces should be liberal, and for the general welfare. We believe that this can be accomplished if the Governors invested with the civil administration of the provinces keep their hands clean, and abstain from accepting anything, remaining content with the remuneration given them by the Treasury. This, however, cannot take place unless they obtain their offices without purchasing them, and give nothing either to officials or to other persons in order to obtain their influence.

Although the suppression of unlawful gains of this kind may cause the Empire some financial loss, We, nevertheless, think that Our subjects will ultimately be benefited by it, if they are not imposed upon by magistrates, and that the government and the Treasury will obtain a great advantage in having wealthy subjects, and that, under such circumstances, there will be a great increase of riches and extraordinary prosperity. For is it not clear to all that anyone who gives money to obtain an office does not merely disburse it for that purpose, but pays out still more to the persons who procure it for him, or promises to do so?

Where money is thus corruptly used in the first place, many hands are required to aid him who made the donation, and if he does not make the payment out of his own property, he must borrow, and in order to do so will appropriate that of the public, as he must obtain enough from his province to pay his debts, both principal and interest, and indemnify himself for what he has borrowed; and he will also, in the meantime, incur greater expense, and the judges and subordinates attached to his office will do the same thing; and he will make secret acquisitions with a view to providing for the future when he will no longer be in authority. For which reason he collects three times the amount of what he has paid out, and sometimes more, or even ten times as much if the truth be told, and the revenues of the Treasury are diminished to this extent, for what should have been paid into it if they had been entrusted to honest hands is collected for the private use of the official, which renders Our taxpayers poor, and their indigence which is caused by his conduct becomes a source of reproach to Us. How impious is such conduct, and of how many thefts is it the immediate cause?

Those who administer the affairs of the provinces, thinking incessantly of what their offices will cost them, discharge many criminals by selling them freedom from prosecution, and convict many who are innocent, in order that they may profit thereby; and this not only occurs in pecuniary cases, but also in prosecutions for crime in which the death penalty is inflicted; and many persons in the provinces, including priests, decurions, various officials, owners of property, citizens, and farmers, flock to this city with good cause, complaining of injustice, and accusing the magistrates of theft.

Not only do these things occur, but also the seditions in cities, and public disturbances which take place everywhere, go unpunished, in consideration of money paid. Corruption is undoubtedly the cause of these evils, it being the beginning and the end of all wickedness, confirming the truth of the sacred precept that avarice is the mother of all crime; especially when it is not confined to private persons, but even takes possession of the minds of magistrates. For who cannot steal without danger? Cannot anyone commit robbery with the certainty of appearing innocent in the eyes of the magistrate when he knows that he has purchased everything with gold, and that no matter what illegal act he may commit, he can escape by the payment of The result of this condition of affairs is homicide, adultery, violence, wounds, the rape of virgins, commercial difficulties, contempt of the laws and judges, all of which are attributable to venality, and the immunity sold to criminals in the same manner as a vile slave. We are unable to consider or enumerate the evils resulting from thefts committed by the Governors of provinces, and still no one is courageous enough to accuse them of having corruptly purchased their offices.

CHAPTER I.

CONCERNING MAGISTRATES WHO SHOULD BE CREATED WITHOUT EXPENSE.

Having reflected upon all these matters, and discussed them with Our Most August Consort whom God has given Us, as well as conferred with Your Highness, and been advised by you, We enact the present law, by which We direct that no one of proconsular rank, nor any Imperial Deputy who, up to this time, has been appointed; nor any Count of the East, nor the incumbents of any other offices, whether they are proconsular or governmental (which derive their names from Consuls and Governors), who have been especially mentioned in the notice following the present law, shall give anything for his appointment; and that no donation whatsoever shall be made to any judge, magistrate, or any of those charged with the administration of the government, in order to obtain an office, or shall be bestowed upon

anyone for the sake of his influence, but all offices shall be obtained gratuitously, and very little be expended for the procuring of commissions; for We have placed at the end of this Our law a statement setting forth what ought to be paid for this purpose to the Imperial *Laterculus*, and what to the court of Your Highness; which We have done in order that the proceedings may be simplified, and no loss be sustained by the magistrates.

CHAPTER II.

CONCERNING THE VICEGERENT OF ASIA AND THE GOVERNOR OF PHRYGIA, AND THE TRANSFER OF THEIR OFFICES TO THE COUNT OF PACATIAN PHRYGIA.

We decree that it is necessary for the Vicegerent of Asia, who is also the Governor of Pacatian Phrygia, to be no longer designated in this manner, but for the future to be called the Count of Pacatian

Phrygia, and to receive from the Treasury under that title what he formerly received by way of subsistence and emoluments, without any diminution thereof; nor shall he hold the two offices, but those of Governor and vicegerent shall be combined, and he shall be styled Count, and, along with his subordinates, shall be responsible for the discharge of public duties and other requirements without the division of his office in any way, all official services being performed by the exercise of a single authority. He shall be liable for the collection of both subsistence and taxes. He will be entitled, as We have previously stated, to the salaries of both offices with which he was formerly invested, and as he is now Count of Pacatian Phrygia, he shall no longer be Vicegerent, and his jurisdiction will not hereafter extend to the other dioceses of Asia, but he shall bear the title of Count of Pacatian Phrygia, and must remain content with the same.

CHAPTER III.

CONCERNING THE ABOLITION OF THE OFFICE OF VICEGERENT OF PONTUS, AND THE TRANSFER OF THE SAME TO THE COUNT OF GALATIA.

We decree that the same thing shall take place in the government of Pontus, for We order that hereafter two administrations shall not exist there, but only one magistrate, who shall be styled the Count of Galatia, shall have jurisdiction. He shall command the military forces, just as he does at present, and shall be entitled to the emoluments of both offices, but his jurisdiction shall not extend beyond the limits of Galatia, for We do not give him authority over any of Pontus, but over Galatia alone; nor will he be responsible to other magistrates, but shall have but one court in which he will preside over a single province, and, together with his judge, shall be liable for the collection of taxes.

CHAPTER IV.

NO MAGISTRATE SHALL BE PERMITTED TO APPOINT DEPUTIES.

We do not grant any magistrate, either civil or military, the right to appoint deputies in any city of the province of which he is Governor; and if any of those appointed to this office should knowingly commit an act of this kind, they shall be deprived of their places, and others shall be appointed in their stead.

CHAPTER V.

THE OFFICES OF COUNT OF THE EAST AND GOVERNOR OF ANTIOCH ARE HEREBY CONSOLIDATED.

We hereby decree that the offices of Count of the East and Governor of Antioch shall be consolidated, and constitute a single administration, under the name of Count of the East, who shall administer the affairs of Syria and Syristensis, and be entitled to the emoluments of both offices. We confer upon the incumbent the rank of vicegerent, and he, with his subordinates, shall be liable for the collection of taxes and the maintenance of civil and public order.

CHAPTER VI.

ALL PRIVATE INDIVIDUALS AND THE EXECUTIVE OFFICERS OF THE CITY OF CONSTANTINOPLE SHALL BE SUBJECT TO THE GOVERNORS OF PROVINCES.

We desire all persons to be subject to the authority of the Governors of Our provinces; and this applies to all cases, whether pecuniary or criminal matters are involved. Those who are appointed for the discharge of civil functions by special judges shall also be responsible in fiscal and criminal cases. Governors of provinces must not permit officers despatched from Our court, or from any other, to carry sentences into execution, or to receive fees beyond those prescribed by Our law; and if they should knowingly permit this to be done, they themselves will be liable for any damages sustained by Our subjects.

We grant the latter authority to have recourse not only to the magistrates by whom the said officers were sent, but also to Ourselves, so that We, being informed, may take such measures as may be proper. Where the Governors ascertain that any of these officials have employed their authority to commit acts of violence against Our subjects, We grant them authority to make investigations, and deprive those who are guilty of their employment, and to execute Our commands in the provinces in the manner stated in former laws. For We forbid them to use any unlawful means for the acquisition of gain, and where they discharge their duties properly, We direct that they shall be honored and respected in every way, and enjoy the fruits of their fidelity.

CHAPTER VII.

CONCERNING THE OATH TO BE TAKEN BY GOVERNORS DECLARING THAT THEY HAVE NOT PAID ANY MONEY FOR THE PURPOSE OF OBTAINING OFFICE.

Therefore, where anyone has been appointed to office by Us, he must call God to witness in Our presence—and if We should be absent, in the presence of Your Highness and the Officials who administer your See, the Count of Our Sacred Largesses, the Quaestor of the Imperial Palace, and the Count of Private Affairs, and also in the presence of the Chartulary of Our Bedchamber, who is charged with appointments—and swear that he has never offered to give anything to obtain either office or influence; that he did not promise anything, or agree to send anything into a province, or offer anything to the prefects or other officials, or their attendants, nor has bestowed anything upon anyone for the purpose of obtaining his support, but has obtained his position absolutely without expense to himself; and that he will not take anything from the public except his regular emoluments, which are all that We allow him to accept; that he will administer his office with clean hands, and be accountable to God and to Us.

Your Highness, as well as those who will succeed you, are hereby notified that if you, or the officials attached to your office, should accept anything from candidates beyond what has been established by Us as customary, and which We have decreed should be considered sufficient, you will be subjected to severe punishment; and where any superior magistrates have presumed to receive anything from persons who are seeking office, or permit any of their subordinates to do so, and, having been informed of it, do not take measures to correct this abuse, they shall not only pay quadruple the amount which they have received, but shall also undergo Our just indignation, and be deprived of their offices; and if their attendants and subordinates should attempt to collect more than what has been prescribed by Us, they also shall be subjected to the penalty of quadruple restitution, and shall forfeit their offices and their property, and, in addition, be liable to the penalties which their offences deserve.

CHAPTER VIII.

GOVERNORS SHALL DILIGENTLY ATTEND TO THE COLLECTION OF TAXES.

Those who in this manner assume the duties of government, without having incurred any expense, must by all means give special attention to the collection of taxes, and, by the exercise of severity, compel those who are negligent to make payment, and be absolutely in-

flexible in this respect, without considering the gain which they might acquire by being lax in the discharge of their duty, and treat those who are prompt with paternal kindness. They should also not display any violence towards Our subjects, nor exact anything unjustly from them, but be equitable in their decisions, as well as in the maintenance of public order, prosecuting crimes, but everywhere guarding the rights of those who are innocent, inflicting punishment according to law upon such as are guilty, and treating Our subjects generally as fathers do their children, discriminating between the innocent and the guilty and punishing the latter, dispensing justice in all public and private matters, not acting alone and independently, but always consulting with their attendants and subordinates, so as to avoid punishing the innocent, which is more dishonorable than if they themselves had participated in the illegal acts.

Hence Your Highness must be careful to select for the service of the government honest men who are experienced in financial matters, and have already held office in the *curia*, or discharged some other magisterial employment. For who does not respect and honor a man for his integrity when he has been appointed to office by Us, or by Your Highness, and has a good reputation because he is of the highest character, above all when he has obtained the office gratuitously, and does not attempt to enrich himself by acting dishonestly in the province, or plan to acquire wealth with the connivance of some one who pays out money, but is solely influenced by the desire to commend himself to God and to Us, and enjoy the greatest distinction with the expectation also of receiving a great reward?

(1) If anyone should violate this law and be proved guilty of theft during his administration, and it should be established that he had either paid money to obtain his place, or had received it for any cause while he was in office (as both of these acts are equally reprehensible), he is hereby notified that he will be liable to the confiscation of his property and to exile, as well as to the penalty of being scourged. A person who accepts anything from him (as We have previously stated) shall be subjected to severe punishment, for We require the hands of provincial magistrates to be clean, in order that We may protect Our subjects.

We also desire that the laws which impose penalties upon persons occupying the offices aforesaid shall be enforced against all who are guilty, without distinction. And if an official charged with the administration should be guilty of an illegal act, or if he should inflict any injury upon, or permit any false charge to be brought against, any of Our subjects, We hereby authorize the inhabitants of the province to apply to the bishops and primates of the diocese, that they may address petitions to Us setting forth the offences of the said official. For as soon as We are informed of this, We shall send someone into the province to make an examination of the case in which injustice was said to have been committed, and inflict the penalty for the same, in order to serve as an example, and deter anyone else from acting in this manner hereafter.

CHAPTER IX.

GOVERNORS OF PROVINCES SHALL REMAIN FOR FIFTY DAYS IN THEIR FORMER JURISDICTION, AFTER THEIR SUCCESSORS HAVE ARRIVED.

In accordance with former constitutions, every Governor, after he has relinquished his office, must remain for the term of fifty days in the province which he formerly ruled, showing himself publicly and ready to answer any demands which may be made upon him. If, however, he should take to flight before the said term of fifty days has expired, he shall be arrested in the same manner as a dishonest slave; and We give Our subjects permission to detain him in the province, and to exact from him everything which they may illegally have given him in the presence of the bishop (the examination not being committed to writing), until he returns everything he is proved to have stolen; and if the inhabitants of the province should find that any theft has been committed by the Governor, they shall have the right, or rather be required to communicate the matter to Us; so that, being informed that he has sold justice for money, We may subject him to the penalties aforesaid, in addition to which he will be liable to punishment by Heaven for having violated the oath which he took at the time of

his inauguration.

But if the Governor should, for some reason or other, make up his mind to flee from the province before the said fifty days have elapsed, then he shall be arrested wherever he may be found, and be returned to the province in which he administered his office, and he shall return fourfold the amount which he is proved to have received.

CHAPTER X.

ALL THE PEOPLE OF THE PROVINCE SHALL SHOW THEIR GOVERNOR THE HONOR AND RESPECT TO WHICH HE IS ENTITLED.

It should, under all circumstances, be observed that Our subjects are not authorized to proceed against their magistrates except in case of extortion, and not even then unless the Governor has been extremely active in the illegal exaction of sums of money, or corrupt in the execution of persons guilty of crime, for only in such cases do We authorize them to take measures against him.

On the other hand, where Governors have clean hands, and have collected taxes with honesty, We prescribe the severest penalties against those who presume to bring charges against them after they have relinquished their office; and when, having left the province after the time prescribed by law, they are not treated with honor on their return. For those who, subsequent to the enactment of this law, may be appointed Illustrious Provincial Judges, must consider what distinction they will attain if they observe it, as well as what difficulties they will encounter if they disobey it. For it would be absurd for magistrates, who torture vile thieves and do not relax their efforts until the stolen property is returned, to themselves remain unpunished after having committed the most flagrant thefts, and who do not blush at the evil example they afford to persons who are honorable, free, and everywhere respected, and being worthy of Our esteem are justified in cherishing the hope of promotion.

(1) Nor do We permit the distinguished judges or other magistrates to inflict oppression or injustice upon anyone, or to countenance the institution of any civil proceedings against them, in order that We may preserve Our dignity, and that they may manifest the purity of their intentions and their devotion to Our service. For all Our subjects are informed that, in order to promote their welfare, guard them everywhere against loss, and contribute to their repose, so that they may not be compelled to leave their respective provinces and travel into foreign countries, We have enacted the present law, which We dedicate to God to be published on festival days by the reverend ecclesiastical authorities, and especially by those of the same communion, in order that all persons may regard their magistrates rather as fathers than as thieves and persons plotting to deprive them of their property.

(2) It is also necessary for you, who are Our subjects, being conscious of Our anxiety for your welfare, to pay your taxes without diminution, and with all punctuality, and not compel the officials to adopt extreme measures, but to act in such a way as to show Us by your conduct that you are deserving of Our indulgence, and that you are not insensible to the favor and solicitude which We are inclined to manifest for you. Being aware of this, and knowing that the magistrates are responsible for the payment of taxes, and that it is clear that their administration is at their own risk, you must avoid all improper delay, and not willingly violate the laws to the extent of provoking harsh acts of the Governors, which may be necessary to secure the inevitable fiscal exactions; and you also know that diligence is required to meet military expenses, including those contracted through the invasion of the enemy, and that these things cannot be accomplished without money, and admit of no delay, We, not consenting to the diminution of the territory of the Roman Empire, have recovered all Lydia, reduced the Vandals to servitude, and, with the assistance of God, hope to achieve still greater results, for whose accomplishment, however, taxes must be promptly paid without diminution at the times prescribed. Wherefore, if you notify the magistrates and they assist you in the payment of what is due, We shall praise their zeal, and approve your good intentions, and the concord existing between you and them will be for the advantage and

welfare of all.

CHAPTER XL.

ALL PERSONS SHOULD RENDER THANKS TO GOD ON ACCOUNT OF THIS LAW.

All Our subjects should sing hymns of praise to God and to Our Saviour Jesus Christ for this law, which gives them the free exercise of their faculties, permits them to live in their country with safety, and to obtain justice from magistrates. When We promulgated it, We intended to dedicate to God the justice which it contains, and also to commend Ourselves and Our Empire to Him in order that We may not seem to depise oppressed persons whom He has entrusted to Our care, but, imitating His kindness, exercise benevolence towards them in every respect. Therefore, as far as We are concerned, this law shall be consecrated to God, since in framing it We have omitted nothing which We could think of that would be available for the protection of Our subjects. For, desiring to repress all dishonesty and base thefts, and retain Our subjects in peace through the agency of provisional magistrates, We have gratuitously bestowed government upon them, in order that there might be no inducement to oppress those for whose benefit We have exerted Ourselves; disdaining to imitate such of Our predecessors as made appointments in consideration of the payment of money, and, concealing the gifts bestowed upon them, granted permission to Governors to abuse their authority; and while they were considered just, still could not protect their own subjects from corrupting magistrates, nor consistently proceed against the latter for the reason above stated. We believe that the government will receive sufficient revenue from the taxes imposed upon the people, and that no necessity will arise to annoy Our subjects by the imposition of other burdens.

CHAPTER XII.

IN WHAT CASES PERSONS DETAINED BY A GOVERNOR CAN HAVE NO LEGAL RECOURSE AGAINST HIM.

We think that what has already been decreed by Us should be included in legislation of greater scope, and set forth in more explicit terms, in order that Our meaning may be clear to all; for We decree that the illustrious Governors of the provinces of Our Empire who, mindful of their official oath, have been appointed without expense, shall be so favored by Us that no one in their jurisdiction can institute legal proceedings against them, whether for violence, for criminal offences, or for such as arise from injuries, public sedition, or the collection of taxes; but all persons shall be subject to their authority, and they shall not expect the ordinary judges to proceed against guilty persons, nor shall they file any accusations before them, but shall remain content with this Our law, by which We have conferred full power upon them; and no one shall, in the cases aforesaid, be permitted to avail himself of any special privilege for the purpose of committing crime with impunity. For if one has reason to fear magistrates who, because they have received money from Our subjects, prefer everything else to God and Our law, he, on the other hand, need not apprehend anything from those who act honorably, dispense justice to Our subjects, and observe the law under all circumstances.

(1) For this reason We place the soldiers stationed in the provinces under the control of the Governors, so that the latter may not require any order from Us or from Our magistrates in order to avail themselves of their services, but they shall make use of the present law, and show it to them, and call upon them for aid in enforcing their commands. If, however, the latter, being aware of these facts, should fail to obey, they shall lose their military emoluments, as well as run the risk of corporeal punishment, and We have made this provision in order that there might be no need for other magistrates to send officers to pursue thieves, or prevent violence, who, summoned for this purpose, themselves are frequently guilty of greater offences, and, availing themselves of plausible pretexts, are instrumental in causing the commission of the most atrocious deeds. For where the Governors of provinces, discharging the duties of the highest magistracy, perform the functions prescribed for them by Our law, who would be so bold as to file an exception against them in court, or adopt any other measures of this kind?

CHAPTER XIII.

CONCERNING OFFICIALS DESPATCHED IN THE PURSUIT OF THIEVES.

We forbid the glorious Commander in Chief and all Our magistrates to send into the provinces officers in the pursuit of thieves, or for the purpose of suppressing violence, or dispersing persons who are armed. Those who have been appointed for this purpose and, after the promulgation of this law, presume to do anything of this kind, are hereby notified that, if arrested by Our provincial magistrates, they shall be placed in chains, and that We, after the matter has been brought to Our attention, will subject them to severe penalties. Those who have despatched them on such an errand shall be liable to a penalty of thirty pounds of gold and shall, in addition to this, suffer the consequences of Our righteous indignation.

Hence the Governors of provinces must, to the extent of their authority, act in such a way as to render themselves justly and lawfully feared by all, constantly bearing in mind that if they should unworthily abuse the administration and authority conferred upon them by Us, they will be liable to the punishment which We have previously prescribed, and that not only while they remain in office, but even after they have relinquished it, they will be liable to prosecution. For We do not give them permission to depart from the provinces over which they had jurisdiction until the fifty days prescribed by law have expired, whether this is done on account of their being recalled, because they have taken to flight, or for any other reason whatsoever; they being well aware (as We have previously stated) that they shall be returned to the province which they governed, and undergo all the penalties which We have previously enumerated, whether they come to this Most Fortunate City or betake themselves elsewhere.

CHAPTER XIV.

HOW, AND BEFORE WHOM, MAGISTRATES SHOULD BE SWORN, AND CONCERNING THE SECURITY WHICH SHOULD BE REQUIRED OF THEM.

Magistrates shall take the oath which We have mentioned above. Where commissions are sent to any provinces, magistrates must be sworn in the presence of the archbishop and other principal ecclesiastics, and in this way they will be invested with official authority. Any magistrate appointed either in this city or in a province shall, as soon as he has received his commission from Your Highness, execute a bond to the Treasury to insure his proper levy of taxes, in such terms as you may approve.

This law shall be applicable to all magistrates subsequently created who, from the present time, shall be appointed without any expense, and will only be subject to the laws already enacted. No penalty established by this Our law shall hereafter apply to those already in office, unless they are detected in dishonest practices after its publication.

EPILOGUE.

Therefore, Your Highness, being informed of the present law, will proceed to have it published everywhere throughout the provinces in your jurisdiction, and see that it is formally executed by the Governors; so that they, being aware of Our solicitude for Our subjects, and the care which We have exercised in the selection of honest magistrates, and considering how much has been undertaken for the public welfare, may not fail to assist the government in this good cause.

Given on the sixteenth of the *Kalends* of May, during the Prefecture of Belisarius.

Edict Addressed to all Pious Archbishops and Holy Patriarchs Throughout the Earth.

We, "having in view the interests of the government entrusted to Us by God, and desirous of living in the practice of justice toward all Our subjects, have enacted the present law, which We think proper to address to Your Holiness, and by your agency have published to all the inhabitants of your province. We therefore commit it to the care of Your Reverence and the other ecclesiastics, and if any of its provisions are disregarded by magistrates the matter should be referred to Us, in order that none of those regulations which have been piously and

justly approved by Us may be violated with impunity. For as Our unhappy subjects have been subjected to illegal fiscal exactions, and have suffered violence through the dishonesty of magistrates, due to the sale of the administration of provinces, We have attempted to remove these evils by the enactment of the present law.

You must not fail to report to Us any violation of this constitution, otherwise you will be responsible to God (to whom We have consecrated it) for all the injustice committed in Your diocese; and when you are present in any of the provinces, you will communicate to Us the names of such magistrates as are just, as well as those of such as disobey Our law; in order to enable Us to punish or reward them, as the case may be. When this law has been published and becomes known to all persons, you will deposit it in the holy church along with the sacred utensils, as being itself dedicated to God, and written for the security of the men created by Him.

Your Highness will act even more advantageously for all persons in your jurisdiction if you should cause this law to be engraved upon tables or stone, and placed at the portals of the holy church, as this measure will be beneficial by affording all persons the opportunity of reading it, and making themselves familiar with its contents.

CHAPTER XV.

CONCERNING THE DEFENDERS OF CITIES.

If, indeed, We require purity in the life of judges, it is clear that there is much more reason that We should not permit defenders of cities to either give or receive anything whatsoever. For as soon as they have obtained their commissions, they will be required to pay into the court of the Most Glorious Prefect (where they are appointed in large cities) the sum of four *solidi*, and if the cities are small, three *solidi*, and nothing more than this. They shall receive nothing from anyone where their salaries are paid by the Treasury. Where they receive nothing from the Treasury, they can accept only what is provided by Our Constitution; otherwise, if they themselves, or those who are called *chartularii*, or anyone attached to their service, should take anything, they must refund fourfold the amount and be deprived of their offices; and, in addition to this, they shall be punished by perpetual exile, be subjected to corporeal punishment, and be compelled to surrender the defence of the province to men who are better than they are.

In the observance of the present law, it will be your duty to ascertain every act done in contravention thereof, in order that no violation of the same may remain undiscovered, and that the culprits, by concealing their offences, may not go unpunished, but Our subjects be treated at all times with equity and justice. If, however, after the promulgation of this law, any judges should not abstain from illegal acquisitions, they are hereby notified that they will, in accordance with its provisions, render themselves liable to punishment.

The Edict Addressed to the Inhabitants of Constantinople is as follows:

The law which We have just enacted and communicated to Our Most Glorious Prefects shows you how much interest We take in your welfare. We have published it in the form of an Edict, in order that all persons may become aware of Our solicitude; and you should render thanks to God, and sing hymns of joy to Our Saviour Jesus Christ, because of the exertions which We have made for your benefit.

NOTICE OF PAYMENTS TO BE MADE BY MAGISTRATES APPOINTED TO OFFICE.
NO ONE SHALL BE ALLOWED TO EXACT MORE THAN IS HEREIN SPECIFIED.

Done at Constantinople, on the seventeenth of the *Kalends* of May, during the Consulate of Belisarius.

This Copy of the Law is Addressed to Dominick, Most Glorious Praetorian Prefect of Illyria.

Magistrates shall be sworn in accordance with the form of oath communicated to Your Highness. Those whom you appoint to office shall be installed by virtue of commissions

issued by Us, which commissions you will give them; and they shall take the above-mentioned oath before the Bishop of the city in which they are, and the inhabitants assembled in your palace, as well as in the presence of members of your court, and those who exercise curial or other public employments, to whom We desire that Your Highness shall show all proper consideration.

You must be careful not to obtain any profit by the appointment of magistrates, and not permit them to be injured by anyone, and see that those who are serving in Our army, or who are invested with curial offices are promptly paid their salaries; for We expressly charge Your Highness and your successors to provide for their necessities. Hence, when you send their commissions to the Governors whom you appoint, you, as well as Your successors, must direct them to protect in every way magistrates who are exercising curial employments, and to exact absolutely nothing from them, and not cause them any loss; and you must notify the said magistrates that if they do not comply with what We have decreed they will incur the severest penalties.

We also wish you to restrain and punish the avarice of the defenders of cities, who have no right to take anything from Our subjects, and who must be content with what is allotted to them by the government. If, however, any of them should not, in accordance with ancient custom, be entitled to any salary under these circumstances, they may receive some small compensation from Our subjects, which should be given to them voluntarily rather than exacted by compulsion; and they must accept nothing more than what is necessary to maintain them in a moderate condition of life. If they should accept anything more than this, they shall be condemned not only to make quadruple restitution, but also to undergo perpetual exile as well as corporeal punishment.

TITLE III.

THE OATH TO BE TAKEN BY MAGISTRATES APPOINTED TO OFFICE.

"I swear by omnipotent God, by his only Son Our Lord Jesus Christ, and by the Holy Spirit, by the glorious, perpetually Virgin Mary, by the four Gospels which I hold in my hand, by the holy archangels Michael and Gabriel, to be faithful to Our Imperial Masters Justinian and Theodora his wife; to discharge with the greatest fidelity the duties of the administration of that part of their Empire and government that their kindness has entrusted to me; and that I will devote all my efforts to that end, without any fraud or deceit whatsoever. I also swear that I am a communicant of the Most Holy Catholic and Apostolic Church, and that no time I will oppose it, or permit anyone else to do so, as far as lies in my power. I also swear that I have neither given nor will give anything to anyone for the sake of obtaining my office, or in consideration of his influence, and that I have promised to send nothing out of the province, and shall, by way of contribution, send nothing either to the Emperor, to the Illustrious Prefect, or their subordinates, or to anyone else whomsoever. As I have received my appointment without having paid anything for it, I swear to act honorably with the subjects of Our Imperial Majesties, and to be content with the allotment of subsistence made to me by the Treasury. I also swear to devote especial attention to the levying of taxes; to collect them inexorably from persons who are not prompt in payment; to show no leniency to them; and not to have in mind any profit which I might be able to obtain in case I were more indulgent. I promise not to extort anything from anyone whomsoever; or grant anything to anyone either through favor or dislike, beyond what he legally may be entitled to; to treat with paternal kindness taxpayers who are prompt in discharging their duties, and to protect as much as I can the rights of all the subjects of Our Most Pious Imperial Magistrates. I also swear to be impartial in deciding the cases of private individuals, as well as those which concern the maintenance of public order, and only to compel my subordinates to do what is equitable; to prosecute crimes; and in all my actions to practice the justice which may seem to me proper; and to preserve the innocence of virtuous men, as well as inflict punishment upon the guilty, in conformity to the provisions of the laws. I also swear (as I have already done) to observe the rules of equity in all public and private transactions; and if I should ascertain that

depredations have been committed against the Treasury, that I will not only see that they are punished, but will also supervise the officials under my control, and induce them to exert the same honest efforts in the performance of their duties that I do; and if any of them should be found to be dishonest, I promise that his delinquency shall be made good, and that he shall be immediately dismissed.

"If I should not observe all these things which I have sworn to, may I, in the future as well as at present, undergo the terrible punishment of Our God and Saviour Jesus Christ, share the fate of Judas, the leper Gehazi, and the anxiety of Cain, as well as undergo the penalties imposed by Our pious magistrates."

A copy of this oath has been sent to Dominick, Most Glorious Praetorian Prefect of Illyria.

TITLE IV.

THE ROMAN CHURCH SHALL ENJOY THE PRESCRIPTION OF A HUNDRED YEARS.

NINTH NEW CONSTITUTION.

The Emperor Justinian to John, Most Blessed and Holy Archbishop and Patriarch of Ancient Rome.

No one is ignorant of the fact that, in ancient Rome, legislation originally emanated from the head of the Pontificate. Hence We now deem it necessary to impose upon Ourselves the duty of showing that We are the source of both secular and ecclesiastical jurisprudence by promulgating a law consecrated to the honor of God, which shall be applicable not only to this city but to all Catholic Churches everywhere, and exert its salutary vigor over them as far as the Ocean, so that the entire West as well as the East, where possessions belonging to Our churches are to be found, or may hereafter be acquired by them, shall enjoy its advantages.

The ancient law permitted temporary exceptions to be filed within thirty years, and, where an hypothecation existed, it granted a slightly longer time; but We do not consent for the rights of the holy churches to be affected by such a restriction—especially in matters through which they may sustain injury, or where something is due to them— but We decree that an exception can be pleaded against them only after the lapse of a hundred years; that all ecclesiastical privileges shall remain intact during the aforesaid term; and that, as aforesaid, no exception will be available in opposition to them until after the expiration of a century, as this is considered to be the utmost term of human life.

Therefore Your Holiness will extend the benefit of this law to the Catholic Churches of the entire East; and to those parts of the West in which they have any possessions, so that the protection of Divine property may be an act worthy of Omnipotent God, and wicked men will no longer be secure in the perpetration of wrong, and the means of committing sin will be taken from them; but anyone who is innocent shall not be molested where his rights are not based upon some false allegation dependent upon lapse of time. This Our law, enacted in honor of Omnipotent God and the venerable See of the Apostle Peter, shall be observed in all lands of the entire West, and be applicable to the most distant islands of the Ocean; and Our solicitude for the subjects of Our Empire induces Us to declare it to be perpetual. Returning to the privileges granted by this law (as has been stated above) We desire that it shall be observed not only in the Western provinces subject to the Roman Church, but also in the East where are situated any possessions of the said Church, or which the latter may hereafter acquire; that is to say, that it must be observed by all superior and inferior magistrates who are Christians and profess the orthodox faith, or may hereafter do so, under the penalty of being subjected to celestial punishment, and of being liable to a fine of fifty pounds of gold.

This law shall not only be applicable to cases which may hereafter arise, but also to such as are at present pending in court.

EPILOGUE.

As soon as Your Holiness has received the present law, which We have dedicated to God, you will place it among the sacred utensils; and We shall see that it is executed, and that all ecclesiastical possessions remain inviolate.

Given at Constantinople, on the sixth of the *Kalends* of May, during the Consulate of Belisarius.

TITLE V.

CONCERNING THE REFERENDARIES OF THE PALACE.

NINTH NEW CONSTITUTION.

The Emperor Justinian to Hermogenes, Master of the Imperial Offices, Ex-Consul and Patrician.

PREFACE.

As We have made suitable provision with reference to other matters, We have thought it advisable to pay attention to Our referendaries, and especially because they are extremely useful to Us. These officials were not numerous in the first place, but We have appointed more than formerly existed, in order that We might be of assistance to many of Our subjects, who, through them, address petitions to Us.

(1) But on account of the multitude of petitions presented to Us, certain persons have requested an increase of the number of *referendarii*, and have not desisted until We have raised it to fourteen. Having, from time to time, been influenced by these applications, a great number of *referendarii* have been appointed, and now, being apprehensive that the honor of the position may be diminished, We think that the number should be reduced; but it is not Our intention to deprive those at present in office of their employment (which would be an act unworthy of Imperial Majesty), but We shall make no further appointments, not even of persons who are agreeable to Us, and faithfully discharge the duties required of them; and We shall retain the present *referendarii* in office, until their number is reduced to eight, which number shall always remain the same hereafter, and shall not be increased for any reason at any time; these officials being exhorted to make up for the deficiency by the exercise of their diligence and zeal in the service of Us and Our Empire. Nor shall anyone hereafter demand that this number be increased, for an application of this kind will not only not be entertained, but he who presents it shall be subjected to a fine of ten pounds of gold, and also be deprived of his office.

We desire that the *referendarii* restricted to the number aforesaid shall be endowed with justice and all other virtues, and be prepared for any emergency. We are satisfied that nothing honorable can be accomplished by a great multitude, because among so many few will be found who live in consonance with the rules of justice. Hence the number of *referendarii* shall, in accordance with what We have previously stated, be limited to the number aforesaid.

EPILOGUE.

Your Eminence, having been informed of these matters, must see that what has been decreed by Us is at no time disobeyed, and that those who violate this law shall pay the penalty prescribed by it, without being allowed to ask that it be remitted, nor shall this be done. This law of Ours, while reducing the number of *referendarii*, affords an opportunity for the practice of virtue, which never occurs in a numerous body of officials, and especially among those whose duty it is to report to Us the requests contained in the petitions of Our subjects, whose morals, indeed, may be good, but who, like their fathers, have passed their lives in petitioning Us for relief. Your Eminence will exert yourself to carry into effect the measures which We have decreed and promulgated in this Imperial law.

Given at Constantinople, on the *Ides* of May, during the Consulate of Belisarius.

All churches in the neighborhood of Viminacium, which are under the jurisdiction of a special archbishop, shall no longer be subject to the authority of the Archbishop of Thessalonica.

TITLE VI.

CONCERNING THE PRIVILEGES OF THE FIRST JUSTINIANIAN ARCHBISHOP, AND THE PATRIARCHAL SEE OF ILLYRIA IN SECOND PANNONIA, WHICH IS NOW TRANSFERRED TO THE FIRST JUSTINIANIAN ARCHBISHOP.

ELEVENTH NEW CONSTITUTION.

The Emperor Justinian to Catollianus, Most Blessed Archbishop of the First Justinianian.

PREFACE.

We, being desirous of conferring many and various benefits upon the province in which God first permitted Us to see the light, do hereby establish there the center of sacerdotal authority; intending that the temporal head of the first Justinianian shall be not only a metropolitan, but also an archbishop; and that his jurisdiction shall include other provinces, that is to say Dacia upon the Mediterranean, as well as Dacia Ripense, Second Mysia, Gardania, the province of Prasvali-tana, Second Macedonia, and that part of Second Pannonia in which is the City of Bacense. After the establishment of the Prefecture of Firmia, all the authorities of Illyria, civil as well as ecclesiastical, resided in that city; but after the time of Attila, when this country was laid waste, the Praetorian Prefect Appennius fled from Firmia, and took refuge in Thessalonica, where the bishop followed him; from which date the said city became the seat of the prefecture as well as of the episcopal authority. The bishop of Thessalonica, however, did not thereby obtain any prerogatives over the other bishops merely through the exercise of his own authority, but acquired supremacy by being in the shadow of the Prefecture.

Now, as by the aid of God, the public territory is increased, and both banks of the Danube are occupied by towns subject to Our Empire, and Viminacia, Recidua, and Litterata, situated on the other side of the Danube, are subjected to Our dominion, We have deemed it necessary to establish in the province of Our birth the glorious prefecture formerly situated in Pannonia, for the reason that it is not far distant from Mediterranean Dacia, and Second Pannonia; and, moreover, while Our subjects were occupied with the hardships of war, the public welfare suffered because of the great distance which separated Macedonia from the seat of the Prefecture, it appeared to Us necessary to bring this seat nearer to the upper provinces, in order that they might obtain the advantages incident to its proximity.

Hence Your Holiness, and all the prelates of the first Justinianian diocese, shall have the rank of archbishop and enjoy the superior privileges, power, and authority that this title confers over other ecclesiastics, and it will be your duty to ordain them; and you will enjoy the first sacerdotal dignity in all the aforesaid provinces, and the highest honors of the priesthood will attach to your See; the provinces will have no other archbishop; and you will, in no way, be subject to the Bishopric of Thessalonica.

When any dispute arises between the judges and other magistrates, you and your successors must decide and finally dispose of it, without recourse being had to anyone else; and all the provinces above mentioned, while recognizing you as the head of the Church, shall obey your orders, whether they are issued by you personally and of your own authority, or whether this is done by members of the clergy whom you may designate for that purpose; for you are invested with supreme power, unlimited sacerdotal supervision and the right of appointment.

We desire Your Highness to select a bishop for the City of Aquis, situated in the province of Dacia Ripense, so that the said city may no longer be subject to the spiritual jurisdiction of the Bishop of Southern Thrace, as We "desire that his authority shall only be exerted in the South, and, under no circumstances, at Aquis. The Bishop of Aquis shall have that city with all its castles, territory, and churches under his jurisdiction, so that he can banish the heresy of the Bono-sians from that city and country, and bring them into the orthodox faith.

We communicate this law to your venerated See, in order that Your Holiness may become acquainted with these provisions, and that the church of Our country may forever preserve the remembrance of a benefit which We have bestowed upon it for the glory of Omnipotent God. When anyone who happens to occupy your See shall have departed from life, We order that his successor shall be ordained by the Venerated Council of Metropolitans; and, as it is proper for the archbishop to be honored by all the churches of his jurisdiction, the archbishop of Thessalonica shall not be allowed to participate in the proceedings of the said Council.

EPILOGUE.

Your Holiness will not delay to see that this law is carried into execution.

Given on the twentieth, during the Consulate of Belisarius.

TITLE VII.

CONCERNING INCESTUOUS AND EXECRABLE MARRIAGES.

TWELFTH NEW CONSTITUTION.

The Emperor Justinian to Florus, Most Glorious Count of Private Affairs.

PREFACE.

We consider the laws heretofore promulgated with reference to incestuous marriages to be imperfect, as they permit persons who contract such marriages to go unpunished, and deprive any offspring resulting from them of the property of their father; so that those who have committed the sin do not suffer any penalty, and those who are innocent are punished as if they were guilty.

CHAPTER I.

CONCERNING INCESTUOUS AND WICKED MARRIAGES.

Hence, for the future, We decree that if anyone should contract an unlawful marriage, and one contrary to nature (which the law characterizes as incestuous, abominable, and prohibited), and has no children by a former legal marriage, he shall at once forfeit all his property, and shall have no control over anything given to him by way of dowry; but his entire possessions shall be confiscated to the Treasury, on the ground that when he could have contracted a legal marriage he preferred to violate the law, confuse his descendants, and wrong his family; and yielding to such passions as for the most part influence animals who are deprived of reason, committed an impious and wicked act.

He shall not only be liable to the confiscation of his property, but shall also be deprived of his office, and sent into exile; and if he is of inferior rank, he shall be scourged, in order that he may learn to live chastely, restrain himself within natural bounds, and not delight in transgressing the laws of nature which have been prescribed for Our conduct.

If any woman, who is aware of this law, should disobey it, and contract an incestuous marriage, she shall be liable to the penalty established by the same.

CHAPTER II.

LEGITIMATE CHILDREN SHALL BECOME INDEPENDENT WHEN THEIR FATHER IS PUNISHED FOR CONTRACTING AN INCESTUOUS MARRIAGE, AND SHALL BE ENTITLED TO HIS PROPERTY.

Where any man who contracts an incestuous marriage has any children or grandchildren who are the issue of a former matrimonial union, or any more remote descendants, they will be entitled to the estate of their father as soon as he has been punished, and will be released from his control; but they shall be required to furnish him with food and with the other necessaries of life, for even if he has violated the laws and acted in an impious manner, he is still their father.

CHAPTER III.

WITHIN WHAT TIME THIS CONSTITUTION SHALL BECOME OPERATIVE, AND TO WHAT PORTION OF THEIR FATHER'S ESTATE CHILDREN BORN OF AN INCESTUOUS MARRIAGE SHALL BE ENTITLED.

This Constitution shall take effect from this very day, and no one living in chastity shall be affected by it, and where persons are innocent they shall not incur its penalties. Those who have already contracted incestuous marriages shall, by no means, go unpunished, although We do not subject them to the full measure of Our indignation. Hence where incestuous marriages have taken place, but have subsequently been dissolved, no matter in what way, the parties concerned shall not be liable to prosecution; but if, on the contrary, this Our law should find anyone who has already contracted such a marriage, he shall be permitted to leave his wife within the term of two years, and when the separation is not feigned but genuine, she shall not be permitted to return to him.

If, however, he should resume his relations with her, a fourth part of his property shall be confiscated to the Treasury, and the remainder shall go to his children, whom We consider as innocent of the offence of their father; for if they are alone, and there are no other legitimate children the issue of a former legal marriage, they shall not be deprived of the estate of their father; unless the latter, justly prejudiced against them for a good reason, on account of some offence which they have committed, excludes them from the succession to his estate.

(1) But where there are any children, the issue of a former lawful marriage, three-fourths of the estate shall go to those who are legitimate and innocent, unless they have been guilty of some injury which, according to the law, renders them unworthy of succeeding to their father; and the latter shall be permitted to leave the remaining fourth of his property to the children born of the incestuous marriage, who, sustaining an injury, shall be considered as free from blame; and We, under these circumstances, order that they, rather than the Treasury, shall be entitled to the said fourth. We grant these different shares to the respective children not only where they are bequeathed by will, but also in case of intestacy, in accordance with the rule of inheritance which We have established. These provisions shall not only be observed where the father abandons the woman he illegally married, but also where he afterwards contracts a legal marriage with another, having issue by both. We grant this delay in the exercise of Our clemency, allowing the woman who contracted the former marriage to retain her dowry. But if he who is living in a criminal union does not dissolve it within the two years hereinbefore prescribed, he shall lose his property, his wife shall be deprived of her dowry, and the penalty aforesaid shall be imposed; nor shall the children born of the marriage be entitled to any share of their father's estate or of their mother's dowry. If, in this instance, any children should have been born of a preceding lawful marriage, they will be entitled to the entire estate (after the fourth due to the Treasury has been deducted), and they will be released from his control without, however, being freed from the obligation of supporting him, and providing him with the necessaries of life, as We have previously stated; and the dowry of the incestuous wife shall be confiscated to the Treasury. Where, however, there is no issue by a former legitimate marriage, then the Treasury will be entitled to the entire estate; for We order that, where anyone who has married illegally in this way, he shall be placed on the same footing as one who did not leave his wife in the time prescribed by Us, Who, in Our law, have declared marriages of this kind to be both incestuous and abominable.

CHAPTER IV.

CONCERNING NATURAL CHILDREN BORN BEFORE DOTAL INSTRUMENTS HAVE BEEN EXECUTED.

As doubt has arisen in certain localities with reference to the legitimation of children as set forth in one of Our laws, We, as the author of the same, have thought it proper to make some additions to it, and thereby remove the doubt referred to. We promulgated the law for the following reason, namely: where a father has any legitimate children by a first wife, who died,

or from whom he was separated, and then forms a connection with another woman, with whom he could contract a legal marriage, and, in consequence, children are born to him, either before or after any dotal agreement has been drawn up; or where children are born before the dowry has been provided for, but none are born afterwards; or if, after having been born, they should die; certain authorities have held that such children are not legitimate, as other legitimate children, the issue of the first marriage, are living, which opinion is consonant with neither justice nor reason. For if We have shown that children of this kind are rendered legitimate by the execution of a dotal contract, there is no doubt that those born before the said contract was drawn up are also legitimate in every instance.

It is still more reasonable to hold that, if the father should predecease his legitimate children, and his natural children born before the dotal contract was made, although none may have been born afterwards, or, if this is the case, they should be dead, Our law will permit him to follow his own inclinations when making his will in favor of his descendants; provided he does not, in any respect, violate the rules which reserve for all children a certain part of his estate. The result of this is that both these classes of children succeed to their father equally, whether *ab intestato*, or under the terms of his will (that is to say, by testamentary disposition or by operation of law). Why should We decree anything additional, when what is allowed by the laws, even against the provisions of the will, is sufficient to confer upon them the lawful name and rights of proper heirs, and render them competent to take all to which they are entitled under this appellation?

EPILOGUE.

Your Eminence, to whom this law has been communicated, will hasten to put it into execution and bring it to the attention of the Governors of provinces, in order that all persons may learn of the care which We take to protect pure and innocent children, and how odious to Our laws illicit unions are.

Given at Constantinople, on the sixth of the *Ides* of October, under the Consulate of Belisarius.

TITLE VIII.

CONCERNING PRAETORS OF THE PEOPLE.

THIRTEENTH NEW CONSTITUTION.

The Same Emperor to the Inhabitants of Constantinople.

PREFACE.

We do not know the reason why the title bestowed by the ancient Romans upon magistrates charged with the preservation of order has been exchanged for another. For in the part of the country in which We were born, such officials were styled Prefects of the Watch; and in the Greek language they are called, We do not know why, Prefects of the Night, just as if it were necessary to call them to the discharge of their duties at sunset. The name of night seems to be added to that of Prefect, for the purpose of designating the officer whose duty it was to patrol the streets, and preserve order during the hours of darkness, but We think it is advisable to change this name; because, if the offices could be divided, and the Prefect of this Most Fortunate City only took cognizance of acts committed during the day, and another should be appointed having jurisdiction over offences committed during the night, a conflict of authority would inevitably result. Hence all magistrates dislike this obscure and unintelligible title of Nocturnal Prefect, and regard the discharge of its functions as resembling a penalty, thinking that such an office is unworthy of appointment by the Emperor.

CHAPTER I.

Therefore We, having carefully considered this matter, have come to the conclusion that this public employment should be entirely recreated, and committed to persons who may administer it without any reference to their nocturnal duties; for they shall hereafter have

jurisdiction by day as well as by night.

(1) Hence, as the name of Praetor was very acceptable to the ancient Romans, We have thought that that of Praetors of the People should be conferred upon officials whose duty it is to maintain public order, as well as to suppress popular seditions. And just as the other Praetors preside in the Senatorial Court, where questions having reference to guardianships, freedom, and other matters of this kind arise, in like manner, the Praetors whom We create shall have jurisdiction in cases in which the rights of citizens are involved, and they shall hereafter be called in Latin, as well as in Greek, Praetors of the People.

The designation of Praetor is as honorable as that of Consul, and, indeed, does not differ greatly from the latter; it is connected with the law, for the Praetors are obliged to publish edicts, they decide the law in unison with it, and they are attached to the Consulate. Thus, as formerly the Consuls presided over the principal *curia*, and were at the same time the princes of the people who governed them, so, likewise, there are at present Praetors who discharge in the Senate the official functions which We have just referred to, and at the same time the Praetors of the People will be charged with the preservation of peace and will provide for the public welfare.

(2) This office, indeed, was one of great dignity and honor in ancient Rome, and was exercised with distinction not only under the Emperors, but for a long time afterwards; and the Great City in receiving it was far from considering it as unimportant. We have not been able to ascertain the time when any of these offices at the disposal of the government we're not thought to be entitled to the same respect; they were, by degrees, divested of the eminence once attaching to them, and being no longer bestowed by the Emperor, they passed under the control of the Prefects of this Most Fortunate City, from whom their incumbents received orders; the consequence of which was that the duties of this branch of the magistracy were very badly performed. If, however, anyone should compare the conduct of public affairs in ancient times with that of the present day, in this respect, he will learn that a private tribunal of cohorts existed which possessed almost all the attributes which now attach to the municipal magistracies.

CHAPTER II.

Therefore, We, having given the subject due consideration, hasten to restore everything to its former honorable condition, and promulgate the present law, in order that thefts and associations of thieves may be less frequent, and that the decisions of magistrates, being no longer based upon unworthy motives, may cease to be regarded with contempt. For as pecuniary cases, in the determination of which litigants do not run any other risk than that of losing their money, are heard by magistrates of superior rank, and We take particular pains to see that cases of this kind are disposed of, there is still more reason for Us to exercise every precaution in the appointment of officials, whose duty it is to decide concerning the lives of Our subjects, because when they condemn any of them to death, they can no longer restore to him that of which he has been deprived.

CHAPTER III.

Hence We decree that We Ourselves shall appoint the Praetors of the People, and that no one can exercise the functions of this office unless by virtue of Our Imperial Letters. We shall only select for this place the illustrious or respectable Consistorial Counts or the distinguished Praetorian Tribunes and Notaries, or such other persons as have already been in office, and whom We regard as qualified, and worthy of Our confidence; which rule We establish in order that the Praetors of the People may practice what is honorable in all things, and especially in the administration of justice; since, when hearing cases of homicide, adultery, felonious assault, robbery with violence, and other crimes of this kind, they have the right to inflict the penalty of death.

(1) Hence it is necessary for magistrates having jurisdiction of offences of this kind to be honest, irreproachable in character, and worthy of public confidence; and they must abstain

from extortion, or the acceptance of bribes, and keep their hands clean. They shall have a Council which has been approved by Us, and will receive an annual salary of a certain sum of *solidi* sufficient to prevent them from having recourse to theft or venality, beyond which they shall be entitled to no compensation whatever.

(2) No money or presents of any kind shall be bestowed upon anyone for the purpose of influencing his decisions, as was customary in former times. For he who gives anything to a magistrate because of his office is guilty of a crime equal in its enormity to that of which the magistrate himself is guilty who, in consideration of the money given him to render judgment in a criminal case, decides in accordance with the oath of the defendant.

CHAPTER IV.

We have learned that the Prefects of the Night Watch have been in the habit of employing persons of bad character, such as informers, poisoners, pickpockets, and a number of other criminals whom it is much more preferable to punish than to afford a living in this way. Such informers do not accomplish anything beneficial, as the thieves know who they are, and this enables them to steal with more safety, and corrupt their judges. Hence those whom We now appoint to the Prefecture of the People shall hate and avoid persons of this kind, and make use of agents who are of good reputation in the prosecution of thefts and other crimes, clear the city of robbers, and only employ men who are skillful—whom, however, they should treat with severity—to arouse their fears, and compel them to perform their duties with diligence and good will. If the Praetors properly discharge their duties, there will be no thieves; stolen property will be easily recovered; those who are guilty apprehended; their number will be diminished; and they will have cause to fear a body of magistrates whom no one can purchase with money.

The Praetors of the People shall take cognizance of all crimes, no matter how serious they may be; they shall repress popular seditions; and being obedient to Our orders should render themselves worthy of honor; the inferior judges shall, in their turn, exert themselves to assist their superiors in rank, and do everything with a view to meriting the esteem of the Imperial Government, and the respect of all good citizens.

(1) If a fire should happen to break out in this city, at any time (which, however, is something We do not wish to occur), the Praetors are required to be present and take measures to prevent thieves from stealing the property of the unfortunates whose houses are burned, and to save as much as they can from the violence of the flames. If they are diligent in performing their duty under such circumstances, the increased distinction of their office will be reflected upon them, and they will see how much better it is to act honestly than to incur contempt by employing numerous persons in the commission of injustice; and they will also learn that gain acquired in an unlawful manner is of no permanent advantage, and that what has been improperly obtained is soon lost.

Thus, by appointing Praetors of the People for Our subjects, We have intended to provide for their welfare, so that they may receive the benefit of an honest administration. The said eminent Praetors of the People shall have the advice of a Counsel worthy of their office, as We have previously stated.

CHAPTER V.

We decree by the present law that twenty soldiers and thirty firemen shall assist the Praetors of the People, shall obey their commands, and be authorized to arrest any persons behaving improperly, as well as to maintain public order. They are hereby notified that, if they discharge their duties as they ought to do, they will have the aid of God and enjoy Our approbation, as well as deserve a longer term of office; for who indeed would wish to remove anyone who acts with propriety and justice?

CHAPTER VI.

Whenever the Illustrious Prefect of this Most Fortunate City sends anyone to be punished by the Praetors of the People, the latter shall ascertain with certainty the rank and position of the culprit; the reasons which have induced him to kill a man, to deprive him of some member, or to perpetrate any similar offence; they can obtain their information from the Prefect himself, if the latter is aware of the circumstances; and, after their investigation, they must condemn the accused person by a just sentence either to the loss of life, or of one of his members.

(1) As We concede to the respectable Praetors of the People such dignity as may render them worthy of holding their office from Us, and as We grant them subsistence, a title suitable to their rank, and the other advantages already mentioned, We, on the other hand, require them to serve Us with honesty and vigilance, and perform their acts with pure and disinterested motives; because if they should be guilty of malfeasance, of theft; or of giving thieves immunity and not using every effort to detect them; or if they should subject honorable men to the penalty of death; and if, in conclusion, they should not expel persons guilty of minor offences from this city, the Capital of Our Empire, they are notified that they must render an account of their behavior, not only to God, but also to Ourselves; that they will be responsible for all the evils which Our subjects may suffer; that they will incur Our indignation, and be rendered infamous, as well as be dismissed from the office which We have bestowed upon them. For We perform great labors and incur great expense, in order to preserve Our subjects from false accusations, and to prevent them from losing their lives or their fortunes, without knowing why this has taken place.

EPILOGUE.

Therefore, this law having been brought to Your attention, and being convinced that We have omitted nothing therein which may be advantageous to you, you must pray for the prosperity of Our Empire which protects you, and provides for the welfare of everyone, thus extending its paternal care over all of you. This law shall be communicated to all the citizens within the jurisdiction of Constantinople.

Given at Constantinople, during the tenth of the *Kalends* of October, during the Consulate of Belisarius.