

Novel 131.

Concerning ecclesiastical canons and privileges.

(De ecclesiasticis canonibus et privilegiis).

The same Augustus (Justinian) to Peter,
glorious praetorian prefect.

Preface.

We enact the present law concerning ecclesiastical canons and privileges and other subjects pertaining to the holy churches and other venerable houses.

c. 1. We therefore ordain that the canons of the holy church which were enacted or confirmed by the four holy councils, that is to say, of the 318 at Nicea, of the 150 holy fathers at Constantinople, and of the first held at Ephesus, at which Nestorius was condemned, and of that held at Chalcedon at which Eutyches and Nestorius were anathematized, shall have the force of law. We accept the dogmas of the aforesaid four holy councils as divine scriptures, and uphold their canons as laws.

c. 2. We further ordain that in accordance with their determinations, the holy pope of ancient Rome is the first of all the priests, the archbishop of Constantinople, the new Rome, occupies the place next after the holy apostolic seat of ancient Rome, and has precedence over the others.

c. 3. The holy officiating archbishop of the First Justinian, our native city, shall always have under his jurisdiction the bishops of the inland Dacia, and Dacia on the river, and of Praevalitana and of Dardania and superior Moesia and Pannonia, who shall be appointed by him. He himself shall be appointed

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by his own synod, and shall occupy the same position in the provinces subject to him, as the apostolic seat at Rome, according to the provisions made by the holy pope Vigilius.

c. 4. And we direct that in like manner the rights which we gave to the pontificate of the Cathaginian Justinian, of the African diocese, since the time that God restored it to us, shall be preserved. The other cities, too, and their bishops, to whom at various places metropolitan rights have been granted, shall enjoy such privilege for all time to come. All privileges, moreover, and benefactions which have been granted to the holy churches and other venerable places by the emperor or in any other manner, shall in every respect be firmly maintained.

c. 5. We furthermore ordain that the possessions of the holy churches and of the other venerable places shall not be subject to degrading burdens or extraordinary levies of taxes. But if the construction or repair of a highway or bridge becomes necessary, such work shall be done by the possessors of the holy churches and other venerable houses, at the places where the work is necessary and where they have any property, in the same way as by other owners. ^(a) If any property of curials has fallen or hereafter falls, according to law to any holy church or other venerable place, it shall be free from the imposition of any ^(b) tax on such gift.

(a) See C. 1, 2, 5 and 7; C. 11, 74, 4.

(b) See C. 10, 35, 1; C. 1, 2, 22.

c. 6. We direct that instead of the prescriptive period of ten or twenty or thirty years, only the prescriptive period of

Novel 131. c. 6 cont'd.

forty years may be set up against the holy churches and all other venerable places, and that shall be true also in the collection of legacies and inheritances given for pious purposes.

Note.

This chapter confirms the provisions of Novel 111, appended to c. 1, 2, 23.

c.7. If anyone wants to build a venerable place of prayer or monastery, he shall not begin it until the holy bishop of the place has said a prayer there and erected the venerable cross. (a)

If a man has once commenced to found a chapel or restore an old one, he, if he survives, and his heir, if he is dead, shall be compelled by the blessed bishop of the place and his steward, and the civil magistrate, to finish the work once commenced.

(a) See c. 1, 2, 15 and Novels appended and c. 10 of this Novel.

c. 8. If anyone dares to carry on or permits others to carry on divine service in his house or his suburban villa or on his landed possessions without the clergy who are subject to the holy bishop of the place, we direct that his house or suburban villa or landed possessions where anything of that kind is done, shall be claimed for the holy church by the God-beloved bishop and his steward and the civil magistrate of the place. But if his procurators or lessees or emphyteuticaries (perpetual lessees) dare to do so or permit others to do so without the knowledge of the owner of the place, such owner shall not suffer any prejudice or damage, but those who do so or permit it to be done, shall be expelled from the province where this is done or permitted, and their property shall be claimed for the holy church of the place. (a)

(a) See Novel 58.

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c. 9. If anyone leaves an inheritance or a legacy to the name of God or Jesus Christ, the Savior, we direct that what is so left shall go to the church of the place where the testator had his domicil. If anyone appoints one of the holy saints as heir or leaves him a legacy, without naming the place where the chapel of such saint is located, and there are several chapels of such saint in the place or city, the bequest shall go to the poorest one of the chapels. But if there is no chapel of the saint named in the city, but there is one in the surrounding territory, the bequest shall be paid to it. If there is no such chapel in the surrounding territory, the bequest shall be paid to the church of the city where the testator had his domicil.^(a)

(a) See C. 1, 2, 25 and note; C. 1, 3, 24 and 28; C. 1, 3, 48, 1-2.

c. 10. If anyone directs by his last will the construction of a venerable chapel or hospital or poor-house or orphanage or infirmary or some other venerable house, we direct that such chapel shall be erected under the direction of the bishop of the place and of that of the civil magistrate within five years, and that a hospital, poor house or other venerable house shall be so erected within a year. 1. If the heirs do not cause such hospital or other venerable house to be constructed within a year as ordered by the testator, we direct them to buy or lease a house where the testator's directions may be carried out, until such venerable house may be erected. 2. And if the testator has directed who shall be managers of the hospital, poor house or other place, or has left the naming of such managers to the heirs shall in every respect carry out what they have been ordered

Novel 131. c. 10 cont'd.

to do. And the blessed bishops of the place shall make an inspection, whether the management is carried on properly, and if they find that the managers are not useful, he may, without damage put others in their place. (a)

(a) See C. 1, 3, 46. See also c. 1, 2, 15; and Novels appended, and c. 7 of this Novel.

c. 11. If anyone leaves an inheritance or legacy, in movable or immovable property, for the redemption of captives or the support of the poor, whether in a lump sum, or by way or annuity, this too, shall be carried out in every respect according to the wish of the testator by those who are ordered to do so. 1. If he does not himself state, to the poor of which place this is left, the holy bishop of the city in which the testator had his domicile shall receive it and distribute it among the poor. 2. If anything is left for the redemption of captives, and the testator has not specifically stated by whom the redemption shall be made, in such case too, the bishop of the place and his steward shall receive the property left, and shall carry out the pious work. For we want the holy bishops of the places to see in connection with such pious gifts that everything is done in accordance with the wish of the deceased, even though especially forbidden by the giver or testator to have anything to do with it. 3. If those who are ordered to do this (for the redemption of captives or the support of the poor), fail to carry out what has been directed to be done after being admonished once or twice by the blessed bishop of the place and his stewards, through public persons, they shall be deprived of every gain left them by the maker of the gift, and the holy bishop of the place shall

Novel 131 c. 11 cont'd.

claim all the property intended for pious causes, as stated, together with the fruits and increase thereof in the meantime and together with the above mentioned gain, and shall carry out what the testator directed, knowing that if he neglects to do this, he will have to render an account to God. 4. If the holy bishop of the place neglects to do what has been stated by us, the holy metropolitan [bishop] may claim such property, and carry out (the testator's wish). And everyone else shall have the right to investigate such matter and see to it that such pious purposes are carried out in every respect. ^(a)

(a) See c. 1, 3, 48, 1-2; C. 1, 2, 25; C. 1, 3, 24 and 28; c. 9 of this Novel.

c.12. If the heir fails to devote to pious purposes what has been left therefor, saying that the property left for that purpose does not suffice therefor, we order that he shall lose the Falcidian fourth (which he would otherwise get), and the whole property shall, under the care of the Holy bishop of the place be expended for the purpose for which it was left. ^(a) 1. If a legacy is left by someone for pious purposes, it shall be paid to those to whom it is left within six months from the publication of the will. ^(b) If those burdened therewith delay to pay such legacy, the fruits and interest and every legal increase thereof from the time of the death of the party who left it shall be demanded from them. 2. If an annual legacy is left to any venerable house, and those who have been ordered to pay it, or the place from which it is to be paid, are in the same or in an adjoining province, such legacy shall in no manner be alienated; but if such persons or place are far away, then those to whom it is left, may, with

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the consent of the person compelled to make payment, exchange the legacy, and in place of it receive fertile land (reditum)^(c) which will bring in not less than a fourth more of what has been left, and which is not burdened with too much public tribute. If they want to sell such legacy they shall receive as a price not less than would be collected out of such legacy, in thirty years, such price to be used for the benefit of the venerable house for which it was left.

(a) See C. 1, 3, 48; Novel 1, c. 2, 2 (appended to c. 6, 50).

(b) See C. 1, 3, 45, 5.

(c) See Novel 72, c. 7 appended to C. 3, 37.

c. 13. We forbid the holy bishop, moreover, to transfer any movable, immovable or self-moving property, which in any manner comes to them after assuming their bishopric, to their cognate relatives or to any other persons. But they shall have power to use this property for the redemption of captives, the support of the poor, or for the advantage of the church. 1. And if any of such property remains in their hands after their death, we direct that it shall belong to the holy churches over which they presided as bishops. They shall have the right to transfer or leave to whomever they wish, the property which is shown to have been theirs before they assumed the bishopric, or which, thereafter, they receive from those to whom they are related, and which they are able to inherit up to the fourth degree.^(a) 2. All that we have said, as to the property that comes to the holy bishops after assuming the bishopric, shall also be in force as to the pious managers of orphanages, poor houses, hospitals, old men's homes, infirmaries or other venerable houses, in so far as the property

Novel 131 c. 13 cont'd.

which they receive in the manner aforesaid during their administration is concerned. 3. If any bishop, clergyman, or any servant of the church in any of the ecclesiastical grades, or a deaconess dies without a testament and legal successors, their inheritances shall belong to the church in which they were employed. (b)

(a) See C. 1, 3, 41, 3.

(b) C. 1, 3, 20.

c. 14. We direct, moreover, that no heretic shall in any manner, either by lease (conductio), emphyteusis (perpetual lease), purchase or otherwise, receive any immovable property from any holy church or other venerable place. If anything of that kind takes place, the heretic who paid anything on that account, shall lose what he paid; the property shall be reclaimed for the venerable place from which it was given, the manager of the house who gave such property to the heretic, shall be removed from his post of administration and shall be thrown into a monastery, and he shall be denied holy communion for a year, for having betrayed the Christians to the heretics. 1. If an orthodox person alienates or leaves possessions on which there is a holy church, either by emphyteusis (perpetual lease), lease (conductio) or for any other purpose, to a Jew, Samaritan, pagan, Montanist, Arian, or other heretic, the holy church of the place shall claim the ownership thereof. 2. If anyone of the heretics, among whom we number the Nestorians, Acephali and Eutichianists, should dare to build a hiding place for his impiety, or Jews should construct a new synagogue, the holy church shall claim ownership thereof. 3. If anyone lets out his possession on emphyteusis (perpetual lease), lease (conductio) or in some other way to such person, and the owner

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of the possession knew that he was giving it over to a heretic, the church of the city in whose jurisdiction the possession is, shall claim the income of the time specified in the contract. If the owner of the possession did not know that he was giving it over to a heretic, he shall, on account of such want of knowledge, be kept harmless, but the heretic shall in either case be shorn of his possessions, and his property shall be confiscated to the fisc.

(a) See C. 1, 5, 10;

(a)
c. 15. The managers of orphanages shall act as guardians and curators, but they may sue and be sued in reference to property which belongs to the orphans or to the orphanage without giving surety. They shall receive the property belonging, perchance, to any orphan, in the presence of public notaries, and by having a public record made thereof -- in the imperial city before the master of the census, and in the provinces before the president thereof or the defender of the place -- and they shall guard it. If they think it necessary they may sell it, keep the price thereof for the orphans or invest it in other property for them, and they shall not be compelled to render an account such as guardians and curators do. 1. We direct that the privileges which the holy Great Church of Constantinople has, shall be preserved for the venerable orphanage of this imperial city, and for the hospital, which bears the name of Samson ^(b) of blessed memory, and for the chapel which is under its management, and for the infirmaries and other venerable houses.

(a) See C. 1, 3, 32;

(b) See Novel 59 c. 3 (to C. 11, 13, 1).

Novel 131. Epilogue.

Epilogue.

Your Sublimity must take care to bring provisions contained in this ever-enduring law of Our Serenity to the knowledge of all by publishing edicts in this imperial city in the accustomed manner. For we shall take care that they will be made known in the provinces without any damage to our subjects (i.e. without payment of fees).

Given at Constantinople March 13, 545 A.D.