

Novel 54. (537 A.D.)

That the constitution concerning adscripticii (unfree serfs) shall apply from the time of its publication; that sacred houses and religious places, may, upon interposition of a defree exchange their immovable property.

(Ut constitutio de adscripticiis lata locum habeat inde a tempore quo publicata est. Et ut omni aedi sacrae aliique loco pio cum similibus permutationem facere immobilium possessionum decreto interposito liceat.)

Emperor Justinian to Johannes, glorious Praetorian Prefect the second time, exconsul and patrician.

Preface.

Questions have been raised concerning one of our constitutions, ^(a) which while not at all obscure, is purposely and for personal reasons said to be not clear. Favoring liberty, as we do, we recently enacted a law providing that a child born of an unfree male serf and of a free woman, such child should not, as formerly, have the status of a serf, but that, as in the case of slaves, the child should follow the status of its mother. Our law has justly never been willing that the child of a free mother should be a slave. So we stated in the law, that it should apply to the children of those who had already married as well as to those who would marry thereafter. So some men interpreted the law so senselessly and maliciously as to claim that children, also, born before the enactment of the constitution, even though gray-haired, should be considered free, just the same as those who were born just a short time before the enactment of the law. On the contrary, it was our intention, that children of men already married, but born after the enactment of the law, and children of men married thereafter, born after the enactment of the law, should be free in accordance therewith.

(a). C. 11, 48, 24.

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c. 1. I order, therefore, that no trickery or spite may be used and that the owners of lands may not be damaged by such interpretation, we ordain that only the children born after the enactment of said law shall be free from the status of serf, if born of a free mother. The former law governs the children born before that time.

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Pref. and c. 1 appended to C. 11, 48)

c. 2. Since, moreover, we recently enacted a law by which we to some extent amended the provisions relating to alienations of church-property, giving power to churches that wish to do so make an alienation in case of a public debt, to be made, however, with every care according to the rule of the law, and to give immovable property in payment, in case of a private debt, (such permission) not appearing in any way to be contrary to a law previously enacted, which prohibits all alienation. And we add, that if it appears good at any time to a venerable house, to make for some unavoidable reason, an exchange of immovable property, and that appears to be beneficial to both houses, as in case of an exchange between a church and another church, between a poorhouse and another poorhouse, between a hospital and another hospital, and generally between one pious house and another venerable house, that is so to say between a church and a poor house, or between a monastery and a chapel, or between a hospital and infirmary, or between them and a church, or between each other, or between them and one of those previously enumerated by us, or between any pious houses whatever, we give permission by this law to their chiefs to make the exchange, and it shall be valid, and the emperor shall not alone have the right to make an exchange, as provided by a prior law, but such right shall also be possessed by the holy houses dedicated to God, the king of all; provided, however, that a decree shall also (in this case) be entered (by the provincial governor), with the greatest care, and upon an oath being taken, and the metropolitan bishop of the place being consulted, and if it is in truth shown, under

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oath, that such exchange is beneficial to both parties, it may be made and shall be valid, nor shall it require a special (imperial) order, or a pragmatic sanction. However, judgment of the great God will hand over those who do this, if they neglect any part of their duty, or if there is any collusion, or if anything is done that is not beneficial to both parties. For curses will hang over them, the most terrible of all, which the sacred scripture pronounces against sinners. And if anything here prescribed is violated, and is thereafter proven to have been wickedly done, it shall be considered as void. We also, however, except the holy Great Church from this law, as from the previous one; for it shall be governed by the previous prohibition of alienation; since that seems good also to the holy chiefs of the church themselves.

Epilogue.

These provisions, which seemed good and holy to us, and which are declared by this imperial law, must be made known by Your Sublimity, by your own order, in the accustomed manner, to all the people over whom you preside.

Given at Constantinople September 1 (?) 537 A.D., in the 11th year of the reign of the emperor Justinian.