

Novel VI.

In what manner bishops and presbyters and deacons and deaconesses are to be appointed, and what penalties have been fixed against those who transgress the rule of this constitution.

(Quomodo episcopi et presbyteri et diaconi masculi et feminae creandi sint, et quales sint poenae in eos, qui hujus constitutionis normam transgrediuntur, statutae.)

The same Augustus (Justinian) to Epiphanius, holy archbishop of this imperial city and universal patriarch.

Preface.

The greatest gift among men, made by supernal kindness, are the priesthood and sovereignty, of which the former is devoted to things divine, and of which the latter governs human things and has the care thereof. Both proceed from the same beginning and are ornaments of human life. Nothing, therefore, should receive the same attention at the hands of emperors as the dignity of priests, seeing that the always supplicate God even on behalf of themselves (the emperors). If the one is blameless in every respect, placing trust in God, and the other rightly and becomingly ornaments the state delivered to him, there will be splendid harmony which will give to humanity whatever is for the best. Our greatest sollicitude, therefore, is as to the true dogmas relating to God and as to the honor of the priests; if they guard this, we are confident that through it God will shower much good on us; that we shall (not only) firmly retain what we have, but further obtain what we do not have as yet. Everything, moreover, will be carried on well and becomingly, if only a proper beginning, pleasing to God, is made. We believe that this will be true, if the observance of the holy canons is maintained, which the justly praised

Novel VI. pref. cont'd.

and venerated apostles, witnesses and ministers of the word of God, delivered (to us) and which the holy fathers maintained and explained.

c. 1. We therefore ordain, following the sacred canons in every respect, that whenever at any time in the future a bishop is chosen, his life shall first, according to the divine apostle, be examined, to find out whether it is upright, pure and in every respect irrefragable, with testimonials of good works, and one worthy of a priest. 1. He shall not be a man subject to the condition of a provincial apparitor or of a curial, unless, as already provided, he was taken into a monastery at tender age and was freed from the aforesaid condition, a fourth of his property, nevertheless, being first paid to the curia. 2. He shall not be a man in private station, and, as one of the laity, immediately become bishop; nor shall his ordination (in various ranks of the clergy) be a pretense, so that he is now a private, immediately a clergyman and in a short intervening time a bishop. 3. Nor shall he have a wife; but he shall be a person who either lived a celibate life from the beginning, or, if he had a wife, had married a virgin and not a widow, nor a woman separated from her husband, nor a concubine. 4. He shall not have children, or grandchildren, either legitimate or illegitimate. If he acts contrary hereto, he shall lose the priesthood, and the person who has ordained him shall likewise be removed from his position as bishop, since he has sinned against this law. 5. No more do we permit him to buy the position. We want him to have regard solely for the worship of the Lord God, and not be distracted by many human cares. 6. He shall not come to the episcopacy ignorant of the sacred dogmas. 7. But he shall first have led a monastic life, or taken into the ranks of the

Novel VI. c. 1. cont'd.

clergy, not less than six months before, and he shall not, as previously stated, have a wife or children or grandchildren. These are the things which we require in the case of God-beloved bishops, as was also previously ordained in two of our imperial constitutions, in which we raised no objections against those who already had a wife, overlooking the past, but permitting no one to ordain, after the enactment of the law, a man who has a wife. We also renew this law now, lest, if anyone is made bishop contrary hereto, he brings it about that he himself loses his position, and the person who ordained him is likewise removed. Thus, the person to be appointed bishop, must either come from among the monks or the clergy, provided that he shows by testimony that he was upright during that life and enjoys a good reputation and that he firmly has in mind this essential requirement of the highest priesthood. 8. But though he is thus put in order and prepared for the episcopacy, he should, before the ordination, read the sacred canons, approved in every respect, which our right and blemishless faith accepts and the catholic and apostolic church of God admits and teaches. And when he, who is to be ordained, has thoroughly perused them, then the person about to ordain, shall interrogate him, whether he is able to observe and do what has been provided by the sacred canons. If he answers in the negative, and says that he is not capable of preserving the precepts of the divine canons, he shall not be ordained. But if he takes upon himself to do so, and states that he will fulfill the provisions therein ordained, as far as a man is able to do so, the (the person ordaining) shall admonish him, saying, that if he does not observe them he will be alienated from God, shorn of the dignity

Novel VI. c. 1. cont'd.

bestowed, and that his offense will not be left unavenged even by the civil laws, in as much as it has rightly been said by our predecessors and by us that the sacred canons have the force of law. If he remains steadfast in his determination, then, in accordance with his acknowledgments, the holy order of the episcopacy shall be conferred upon him. 9. He shall not buy it with money, nor acquire it by anything given, but he shall receive it pure and without compensation, as though given by God. For although he has all the qualifications which we mentioned above, still, if it appears that he bought the episcopate with money or property, he must take notice that he will lose it, and that the person who ordained him will be repaid by himself being deprived of and losing his bishopric. Thus this matter will bring to the two this recompense; that the one will not obtain what he hoped for, and the other will also lose what he had; and the money or property given for the ordination shall be adjudged to the church; whether it is a bishop who received it -- and who on that account loses his position -- or whether it is one of those who belongs to the clergy; for we also impose a like penalty on the latter, so that he will lose the place occupied by him in the priesthood, and he must give to the church, insulted on his account, the gold or property given for the ordination. And if an outsider who does not belong to the clergy, receives gold or property for furnishing aid in connection with the ordination, particularly if he occupies some magistracy, he, too, will suffer divine punishment, and celestial vengeance will be visited upon him, but, aside from that, whatever was given will be taken from him and he must pay double that amount to the holy

Novel VI. c. 1. cont'd.

church, and if he occupies any magistracy, he will, further, be removed from that and punished by perpetual exile. The, too, the person who buys a bishopric with money or property may rest assured, that if he was previously a deacon or presbyter, and then became bishop through bribery, he will not only be deprived of the episcopate, but not even the prior status of presbyter or deacon will be left to him; for he will lose that at the same time, so that, unworthily striving after what is unbecoming to him, he will also be entirely expelled from the sacerdotal order. At the time of the ordination itself, the ordainer must declare all these matters to the person to be ordained, in the presence of all the faithful of the holy-great-church, and perform the holy rites of ordination only after he knows that he has all the qualifications which have previously been stated by us, and so that the person ordained, who listens to all these matters in the presence of all, may not only have the fear of God, but also religiously keep the statements and confession made in the presence of all. 10.

If a man is considered such (as we have mentioned), and comes to be ordained as bishop, but some one objects and states that he knows of a crime of his, the latter shall not be considered worthy of ordination, till inquiry is made into what was reported, and he comes out entirely innocent. If after such objection is made, the person who ordains fails to permit a regular inquisition to be made in the matter and hastens to ordain, he must take notice that what he does will be void; he also, who has been made bishop contrary to law, will lose his position, and he who ordained without (such) investigation, will likewise be removed from his sacerdotal position, and must render an account to God, who above all things requires purity in his priests. But if the

Novel VI. c. 1. cont'd.

person who objected or prosecuted the matter, is found to be a calumniator, or if he did not, from the beginning, dare to prosecute the matter, the person ready to ordain shall perpetually remove him from the holy communion, so that such mendacity may not go unavenged. For as we require a good name from his who is to be ordained, so, too, we punish the calumny of a rash accuser. If, on the other hand, there is no accuser, or the accuser fails to prosecute the matter, or, if he prosecutes the matter, he is, as stated before, unable to show his accusation to be true, then the person, found to be innocent in so many ways, may be ordained. For a person thus ordained will have been taught many beautiful lessons; nor will he fall into immoderate ways of living, since he has been made wiser by words and deeds.

c. 2. We also further prescribe that no God-beloved bishop shall be away from his church more than a year, unless pursuant to an imperial order; in that case only may he do so with impunity. And the holy patriarchs of the respective dioceses shall compel the God-beloved bishops to remain in their churches, and shall not permit them to go upon a long journey, to stay in foreign countries, or neglect the holy churches, or exceed the year (mentioned), which, indeed, we have fixed an account of a feeling of humanity. If one of them wanders about for over a year without returning to his bishopric, and no imperial order, as stated before, detains him, then the patriarch of that district, to uphold ecclesiastical discipline, shall, if the bishop is a metropolitan, recall him with the customary citations, observing in every respect the precepts of the sacred canons. If he dis-

Novel VI. c. 2. cont'd.

obeys and remains away, he shall expel him from the group of bishops and put another, worthy of such respect and dignity, in his place. If the bishop wandering about is not a metropolitan, but one of the others, the matters mentioned shall be done by the metropolitan bishop. It shall be no valid pretext to say, perchance, that they left their church, because they are travelling about, staying at places or going to others, because of litigation or other transactions of their own or pertaining to the church. For that is no just reason to wander in foreign lands with a large retinue of men who necessarily are in the service of bishops, and make outlays, without benefit to the holy churches and without living as becomes priests, in as much as, if the holy churches have, perchance, some litigation, on account of which such pretext is used, that may be brought by the reverend clergymen under them, or by a legate (apocrisarius) or by the stewards, and their wishes may be obtained by supplication laid before the emperor. And we therefore ordain that if at some time a necessary transaction arises in ecclesiastical matters, it shall be made known to the emperor or to our magistrates either by those who carry on the business of the holy churches, called apocrisarii, or by some of the clergymen sent for that purpose, or by the stewards themselves, to obtain what is proper, lest this be a reason for the God-beloved bishops to travel and be absent, to the detriment of the holy churches, since also in the provinces ecclesiastical matters are neglected through their absence and much expense is incurred by them; further, (for a bishop) to live in foreign lands is not becoming, and, in any event, the matter brings no benefit, but rather detriment to the holy churches.

See note to c.3 and Novels 3.

Novel VI c. 3. ~~numm~~

c. 3. Moreover, no God-beloved bishop shall dare to come to this fortunate city (Constantinople) unless, he first has received a letter to the emperor, which, must be obtained from the metropolitan by the (ordinary) bishop, which letter is, according to the sacred canons, called a letter of recommendation (or introduction), which shall state the necessity of the presence of the bearer, If it is a metropolitan bishop who wants to come here, he shall bring a letter from the patriarch of his diocese, which shall declare that his presence is necessary. Upon that condition he may supplicate the emperor and has leave to be here; but he shall not rashly venture to come against the wish of the metropolitan bishop or patriarch, since that is also forbidden by the sacred canons. And when he has arrived here, he shall not venture to immediately announce himself to the emperor, but shall first go to the God-beloved patriarch or the legate of his diocese, ^(a) and communicate to them the reasons of his coming, and together with him come to the emperor, and enjoy the imperial presence whenever it is agreeable to the emperor. But the supplicating bishops may also report to the emperor through the so-called referendaries ^(b) of the holy Great Church or through the worshipful legates (apocrisarii) of the respective dioceses of the holy patriarchs and receive the decision through them. If they ask of the emperor what is just, they will obtain their request; if they ask what is unjust, they must quickly return whence they come.

(a) It appears from this that the patriarchs in the East outside of Constantinople had a legate or legates in that city.

Novel VI c.3 note (b).

(b) Referendaries were secretaries. For referendaries in the civil administration see note C. 12, 7, 2; Novel 57, c. 1 and Novel 67, c. 3 are hereto appended. See also Novel 123 C. 9.

c. 4. Since we have prescribed these things as to the God-beloved bishops, according to the sacred canons, we also ordain that the reverend clergymen subject to them shall, according to the sacred canons, be appointed only after the most searching investigation, and men who are worthy shall be appointed and who are versed in the liberal arts, for we want no man not so versed to belong to any order of the clergy. Presbyters and deacons shall learn the sacred prayers, read the books of the ecclesiastical canons, and shall receive appointment which is irreprehensible, free from crime and obtained without any intercession or gift of money or property. And provincial apparitors or curials shall not be ordained, except according to the laws heretofore adopted regarding them, which laws we also now confirm. And the clergymen, when ordained, shall be made acquainted with the sacred precepts, in the presence of the whole people, for the same reasons for which we directed that to be done in the case of the God-beloved bishops.

c. 5. No person who has or had a second wife, shall be ordained as deacon or presbyter; nor, if he lives with a wife who divorced and left her husband; nor, if he has a concubine. But only those shall be ordained, who either live chastity or have no wife, or who was or is married but once to a wife, whom he married as a chaste woman and a virgin. For there is nothing in connection with holy ordinations that is so laudable as chastity, which, according to the sacred canons, is the first beginning and sound foundation

Novel VI c. 5. cont'd.

of all other virtues. But if a presbyter or deacon or subdeacon has taken a wife or concubine either openly or secretly, he will immediately be expelled from his order and thereafter be a private person. And if a reader has married a second time through some, almost inevitable necessity, he shall not be advanced, nor enjoy a higher rank in the priesthood, but he shall perpetually remain in the same rank. And he shall not enter into a third marriage; two marriages are enough. If he does anything of the kind, and, having contracted a second marriage, he aspires to a higher rank, he shall at once become a private person and a layman, shown of his holy ministry; for we want chaste living above all. If that kind of persons are ordained as clergymen, the rise to the episcopate will be open to them, since among many that are good, some will be easily found who are worthy to be promoted to the episcopate.

c. 6. Whatever has been said by us concerning the reverend clergymen, we want also to be done in the case of the God-beloved deaconesses, so that they, too, shall not be appointed except under certain conditions. In the first place they shall not be of youthful or flourishing age, inclined to sin, but shall already have passed middle age, and, according to the divine canons shall be of about the age of fifty; and they shall, in order to be ordained, either be virgins or shall have been married but once. We do not permit women who have married a second time, or who lead a life, which we shall not say is reprehensible, but is not above suspicion, to engage in holy ministry and minister at holy baptisms or be present at other secrets to do what is customarily

Novel VI c. 6 cont'd.

done by women in connection with the venerable mysteries. If the necessity arises to ordain a deaconess of younger years than we have stated, she may be ordained and live in some holy hermitage, in which there is no intercourse with men, and in which she shall live, not according to discretion, but a continent and well regulated life, approved by the testimonial of the multitude who live with her. We do not want women who are ordained as deaconesses, whether as widows or virgins, to have men with them under the appellation of brothers, relatives or the so-called intimate friends (agapetoi) ^(a) -- for those using that name besmirch their life with every kind of suspicion -- but they shall either live alone or only with parents, children or brothers and uncles in fact, in whose case, the person who dares to suspect them of any evil, will rather himself be justly considered as flagitious and impious. Hence if any woman, who wants to be ordained as deaconess, is said to have a man with her under a fictitious, though well-sounding appellation, but under suspicion, such woman shall not be ordained as deaconess. And though she is ordained, but does anything of the kind and has a man with her under the aforesaid appellation, or of the foregoing species, she shall lose her position as deaconess, and she herself and the man shall be punishable under this our law and the remaining laws which punish defilers. All deaconesses, moreover, to be ordained, must also, at the time of the ordination, be admonished and listen to the sacred precepts in the presence of those who are already deaconesses, so that they may have the fear of God, stand in awe of the reliance ~~to~~ be placed in the sacred precepts, and blush to lose their holy order, since they must take notice,

Novel VI c. 6 cont'd.

that if they dishonor their ordination, or leave their holy order and enter into matrimony, or choose any dishonorable mode of life, they will be subject to capital punishment and their property will be adjudged to the holy churches or monasteries in which they are. And those who dare to defile or marry them, shall also be subject to the sword and their property will be taken by the fisc. For if under the ancient (heathen) laws, ^(b) virgins, called by the ancients thus, in their heathen error, were subject to capital punishment if defiled, how much more should we not prescribe the same punishment for those who follow the true faith in God, since we want to especially preserve chastity, the greatest ornament of women, among the reverend deaconesses, so that they may guard what is proper according to nature and preserve what is owing to the priesthood.

(a) Agapetoi -- intimate friends -- were monks who were taken in by, and associated with, deaconesses as house-keepers or under other pretexts, and with whom they were said to associate unlawfully.

(b) The vestal virgins of heathen Rome were put to death, if found guilty of sexual intercourse. The manner of death was by being buried alive. For details, see Smith & Cheetham, Dict. of Greek & Roman Antiq. under "vestales."

c. 7. Those who have once been made deacons or presbyters according to these provisions, must not leave the priesthood. We prescribe this not only as to presbyters and deacons, but if anyone, perchance, becomes subdeacon or reader, he shall not abandon his status for another mode of life, knowing that

Novel VI c. 7. cont'd.

if he does so, he, together with his property will, according to enactments already made, be joined to the curia (municipal senate), or if he is poor, he will be forced to become a provincial apparitor.

c. 8. Ordinations of reverend clergymen shall not hereafter be unlimited. What has been done, we leave untouched, because of the exigency, though it ought to be corrected; but in the future, appointments shall not be made rashly, and shall not be turned to the detriment of the holy churches. Whatever provisions are to apply in that respect to the holy Great Church of this, our imperial city, and the holy churches under it, and the others situated here, have been embodied in a special law. As to all outside places, if the person who originally founded and built the church defined the number of appointments to be made, and fixed the income accordingly, no one shall be ordained in such church till the number has been reduced to that fixed originally. If that was not done, and a church of a city supports itself, and (perhaps) other churches, then the number of its clergy shall not be rashly increased, and the income shall not be burdened by the outlay to some persons on account of favoritism, for such transactions are not pious and unworthy of priests; but whatever the Lord God has given, shall be given (the clergymen), in so far as it reaches and the ancient custom (as to the number of clergymen) shall be preserved, and no innovation shall be made. Hence the God-beloved patriarchs and metropolitan bishops must look after this; they must leave the persons who now are clergymen in their stations, but they must investigate the financial ability of each church; the holy patriarchs shall put the churches

Novel VI. c. 8 cont'd.

under them on a proper basis; and the metropolitan bishops, admonished by the holy patriarchs, shall do the same, and they, in turn, shall cause that to be done by the other bishops under them; and they shall take pains, that no appointments of clergymen are made beyond the measure of income. For we know, that many holy churches are in poverty on account of the unnecessary number of ordinations and excess of expenses along other lines; that we ourselves have, with difficulty, kept some of them going, and that others are so burdened as to be unable to come out of their straits. Hence the holy patriarchs, the metropolitan bishops, and the other God-beloved bishops, must look after this matter, so that we, informed of their action, may laud them, because they show that this our law, reduced to writing, is in force also in fact.

Epilogue.

These provisions, preserving the holy order and its status, according to the authority and rule of the sacred canons, shall in the future forever be maintained in force by the holy patriarch of each diocese and the God-beloved metropolitan bishops and the other reverend bishops and clergymen, preserving the worship of God and the holy discipline inviolate in all things; the penalty hanging over the transgressor shall be, that he will be estranged from God and will lose the dignity of the priesthood conferred upon him; for he will be shorn of it, as one who is unworthy. And we give permission to everyone, in whatever order or condition in life he is, to report to us and to whoever is emperor in the future, whenever he notices any violation hereof,

Novel VI. Epilogue cont'd.

in which event, we, who have made these provisions according to the precept of the divine canons and the apostolic tradition, will visit upon the transgressors our indignation which is due them. And, of course, the provisions made by us as to the inheritance of the God-beloved bishops, must be observed. 1. The holy patriarchs, therefore, of the dioceses, must post up these provisions in the holy churches under them, and must communicate our orders to the God-beloved metropolitan bishops; they, in turn, must post them up in the holy metropolitan church, and make them known to the bishops under them; and finally, the latter, too, must each post up these provisions in his church, so that no one in our empire may be unaware of the provisions made by us in honor and to the glory of the Great God and of our Saviour Jesus Christ. Your Holiness, therefore, obedient hereto, will make these provisions known at the same time to all the holy metropolitan bishops.

2. Copies have been sent to Timothens, holy archbishop of Alexandria, to Ephraimius, holy archbishop at Theopolitanus, to Peter, holy archbishop of Jerusalem, to John, glorious praetorian prefect the second time, exconsul and patrician, and to Dominicus, glorious praetorian prefect of Illyria.

Given at Constantinople March 16, 535.