

Novel 109.

Concerning women of heretic faith.
(De mulieribus fide haeretica.)

The same Augustus (Justinian) to Johannes, glorious Praetorian Prefect the second time, ex-consul ordinary and patrician.

Preface. We believe that the only support of our republic and of the duration of our reign lies in the hope of God, and we know that it is the salvation of our soul and of our reign. Hence our legislation must be dependent upon it and have that in view, and should be the beginning, the middle, and the end thereof. Everyone knows that our predecessors and particularly Leo of blessed memory,^a and Justin of blessed memory,^b and our father, forbade, in their constitutions, heretics to be in the imperial service or take part in looking after public matters, lest they might on account of such service and public functions seem to inflict wrongs on the members of the holy and apostolic church of God. We, too, have done so, confirming it by our constitutions. They denominated and we denominate as heretics those who adhere to the various heresies,^c and count among them those who follow the Jewish folly of Nestorinus, and the Eutychianists and the Acephali and those who follow the depraved faith of Dioscurus and Severus, by which the impiety of the Manichaeans and of Apollinaris is renewed, and, further, all those who do not belong to the holy and apostolic church of God, in which all the holy patriarchs of the whole earth, including those of Rome in the west, and of this imperial city, and of Alexandria and Theopolis (Antioch) and Jerusalem, and all the holy bishops under them, with one accord preach the apostolic faith and tradition. Those, therefore, who are not received within the holy communion in the catholic church and by the God-beloved priests therein, are rightly called heretics; for, although they assume the name of Christians, nevertheless, since they have separated themselves from the true Christian faith and communion, are considered as having subjected themselves to the judgment of God.

a. C. 12.60.9.

b. C. 1.5.12.

c. See C. 1.5.2.1.

c. 1. The laws enacted concerning heretics are known to all. And as we want those who embrace the orthodox faith and adhere thereto to have greater privileges than those who have separated themselves from the flock of God—since it would not be right that the latter should be considered worthy of equal privileges as the orthodox—we have, therefore, directed our attention to the present law. We have given privileges to women in connection with dowries, and they have a preference over older creditors, and occupy an advantageous position though later in time,^a having, however, a lien as to prenuptial gifts according to the time when they were given.^b We now want to let everyone know by this imperial law that this preference and the implied liens and everything else given by us to women by various privileges, shall be conceded only to those women—to use and enjoy the benefit thereof—who adhere to the right and adorable faith—that of the catholic and apostolic church—and who belong to the soul-saving communion thereof. Those who separate themselves from the holy catholic and apostolic church of God, and who are not received within holy communion therein by the God-beloved priests thereof shall in no manner enjoy such privileges. For if they separate themselves from the gifts of God and become strangers to the holy and spotless communion, so much the more should we consider them unworthy of privileges, and should not permit them to enjoy the favors bestowed by our laws. Hence the benefits of our laws shall not be open to them, and they shall be deprived of every privilege given them by our constitutions.

a. Novel 97, c. 3.

b. C. 5.12.29.

c. 2. But if they return to a better state of mind, and embrace and persevere in the right and true faith, they shall be permitted to enjoy such gifts and privileges. These provisions shall apply and be observed in the whole empire, especially by the God-beloved priests, and by our magistrates and judges, high or low, and besides, by Your Sublimity, to whom we address the present law. Hence the judges, before

whom suits are brought against women, or by women claiming some privileges, must direct their attention to the provision of our law, and unless they find that such women are orthodox and are received within the spotless and adorable communion in the holy catholic and apostolic church by its venerable priests, they must not permit them to enjoy the privileges of our constitutions.

Epilogue. Your Sublimity, upon receiving knowledge of this, our will, declared by this imperial law, must cause it to be observed in suits before you, and to be carried into force and effect, and to be made known, by customary edicts and orders, to all in this fortunate city and in all the provinces, so that all may know to what extent we have the true faith in our Lord Christ, the true God, and the salvation of our subjects at heart.

Given at Constantinople, May 7, 541.