

Novel 45.

That Jews and Samaritans or heretics shall not be liberated from their curial condition on account of their religion, but that they shall indeed be subject to curial duties without enjoying the privileges of curials; that they may, however, give testimony against the orthodox who are subject to the curial condition, since they may also give testimony in favor of an orthodox state.

(Ne Judaei et Samaritae vel haeretici nomine religionis eorum a curiali condicione liberentur, sed ut muneribus quidem curialibus obnoxii sint, privilegiis vero eorum non fruuntur. Iidem autem ut possint contra orthodoxos curiali condicioni obnoxios testimonium dicere, quipped qui etiam pro orthodoxa republica recte testimonium decant.)

---

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

Preface. Your Sublimity recently reported to us that there are among the curials, Jews or Samaritans or Montanists or other detestable men whom our right and pure faith has not even now enlightened, but who sit in darkness and into whose souls the true mystery does not enter, and that because we hate heretics, they consider themselves on that account exempt from curial duties, and that it is necessary to make an adjudication concerning them. But we have wondered, how your wisdom and acumen has tolerated any such statements of theirs and has not immediately torn men talking in that way to pieces. For if there are men who deem themselves worthy of such reward which we have reserved for the highest dignities alone, who would not despise their stupidity and ignorance? Hence, they all shall be curials, though they may lament vehemently, and subject to curial duties, as well as subject to duties as official apparitors, as formerly provided by law, and no religion shall exempt them from this condition—for no ancient or recent law so states—but they shall be deemed unworthy of any curial honor. And since the laws have conferred many privileges on curials, such as that they may not be beaten and may not be exhibited in or taken to another province and a thousand others, none of these privileges shall be enjoyed by them; but if any provision is made concerning curials which does not confer a privilege on them, that shall also apply to them (the Jews, Samaritans and heretics), and they must perform all duties, corporal and pecuniary,

nor shall any law relieve them therefrom. On the other hand, they shall enjoy no honor, but their condition shall be one of infamy, in which they also want their souls to be. You will treat them in this matter in the manner stated.

c. 1. You have also reported another matter to us which you consider not unworthy of our investigation. For since we forbade heretics to give testimony in lawsuits between the orthodox (C. 1.5.21), we permitted them that if they should quarrel and litigate among themselves and both parties, the plaintiff and the defendant, should be heretics, they should be able to give testimony, since the litigants and the witnesses are (then) equally worthy; again, if it is a heretic and an orthodox (who litigate), they may give testimony against the heretics for the orthodox, but not also against the orthodox; if the orthodox litigate among themselves, they can in no event be admitted to give testimony—and you have shown us that some orthodox deny that they are of curial condition and that it is necessary that there should be witnesses who are allied to them by blood or in some other manner know their condition; and that since the law forbids the testimony of heretics against orthodox, the judges hesitate to admit it. However, those who refuse to admit such testimony are in unnecessary fear. For in the first place, it is given in favor of the orthodox, and the laws do not forbid heretics to do this; and in the next place, if anyone brings others who are curials and who deny their curial condition, back into the curia and calls heretics to witness, does he not do this for the state? And as the state which is the litigant is orthodox, especially since God has granted us the reign over it, therefore those who give testimony on that account, give testimony in favor of the orthodox. For our state is as it should be, full of orthodox faith, hating all heresy.

Epilogue. Your Sublimity, therefore, who knows our mind must also uphold this, further the interests of our state, and bear in mind that we have labored to do and order that which is for the benefit of our state.

Given August 18, 537.