

Novel 76 (Authenticum 77).

This constitution interprets a former constitution concerning those who enter a monastery and consecrate their property (and defines) from what time it should be in force.

(Haec constitutio interpretatur priorem constitutionem de iis qui monasteria ingrediuntur et bona sua consecrant, ex quo tempore eam valere oporteat.)

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

Preface. A matter has been reported to us to which we think a proper interpretation and elucidation should be given. For we have learned that some woman, who has a son from a legitimate marriage, separated herself from the ordinary association with people and decided to stay in a hermitage for women, bestowing many benefits upon the religious women there assembled. And as the law of our Piety^a provides that those who shall consecrate themselves to a hermitage, whether men or women, might dispose of their property in any manner they wish previous to entrance into the monastery, but that they cannot decide anything as to their property after entering therein, because no longer owners of the property, we deciding by our law that by entering into the monastery they consecrate themselves, body and soul, and their property, and that if they should leave, their property should remain in the monastery, no longer being owners thereof, now, though our constitution is much later than the entrance of the woman mentioned into the holy house, still we fear that some persons might deprive her of the power to provide for her own son. On account of this fear, that constitution should be interpreted and it should be made known to all that the woman herself, and the son in connection with the inheritance from her, are in no way prejudiced by the foregoing constitution.

a. Novel 5, c. 5.

c. 1. We therefore ordain, that if any persons lived in a monastery, men or women, before the enactment of our constitution above mentioned and live therein even to this time, it shall not be necessary for them especially if there are surviving children, to make their property over to the monastery, but they may transmit all or part of

their property to their child or children, and may dispose of it in any manner they wish, seeing that we interpret the former constitution by another constitution. Those who entered the monastery before the enactment of the aforesaid law, are not affected by the law subsequently enacted, and it takes away no rights which they previously had. Our former law is no obstacle, and it cannot in any manner be admitted that it is. The enactment comes first; entrance into the monastery (in order to be affected thereby) comes later. Now when some one entered a monastery while no law had been enacted, how can it be that the order should be inverted, and that it should be demanded of those who entered the monastery previously, that they should do that in the monastery, which, being previously unknown, was subsequently provided for by our imperial constitution? Each matter should be governed by its time; matters done after the enactment of the law, should be done in accordance therewith; but anything done before the enactment, should not be troubled or scrutinized, but should remain as it was before.

1. This law, therefore, has been enacted to give a seasonable interpretation of the former constitution, namely, that it shall apply from the time of its enactment, and that it was enacted for the men and women who thereafter renounced the world, and asserts its authority over them, but disturbs nothing existing previously, so that those men and women who lived in a monastery previously, and live there even to this time, especially if they have children surviving, may dispose of their property as they wish.

Epilogue. Your Sublimity, therefore, must zealously make these provisions, declared by this imperial law, known to all in the accustomed manner by your own edicts.

Given at Constantinople October 15, 538.