

Edict 5.

(Constitutio quae centum annorum praescriptionem in aedibus sacris abrogat.)

[Blume's manuscript omits Edict 5. He penciled in at the top of Edict 7: "Edicts 5 and 6 just titles." He does not mention there that the texts of these edicts, like that of Edict 1, are found elsewhere in the Novels. However, just below the Latin title of Novel 111 in his manuscript there is typed: "Note—This is the same as Edict 5." Thus, he was aware of that fact concerning this edict.

Schoell and Kroll note that Edict 5 is found in the Codex Marcianus in Greek, being the original Greek Novel 111, and that it is close to the Latin version, which is transmitted solely in the Greek Collection of 168. (Despite its name, the Greek Collection of 168 contains 18 novels in Latin only and another in both Latin and Greek.)¹ The text of Edict 5 is included in the Schoell and Kroll edition with the Novels; only its title is shown in their Edicts section. The version given below is Blume's translation of Novel 111.]

Novel 111.

A constitution which abolishes the prescriptive period of one hundred years in regard to holy places.

(Constitutio quae centum annorum praescriptionem in aedibus sacris abrogat.)

Preface. What medicine is to the sick, that the laws are to causes (in court). So it is readily perceived, that frequently something which some one thought good had an opposite effect, and what was thought to be useful was found, by experience, to be otherwise. This is shown by the necessity of the present law, by which we make an amendment to the constitution recently enacted with pious intentions, bestowing a privilege upon the holy churches, monasteries and other venerable places.^a Long ago we had ordered^b that defenses (to be opposed to the claims) of venerable churches should exist for a hundred years (in order to be valid), and by reason of the permission of this law many cases have already been brought, by which old wounds that were healed were reopened, and there was no cure for them because of the difficulty of proof, since after a period of more than a hundred years rather than

¹ See Timothy G. Kearley, *The Creation and Transmission of Justinian's Novels*, 102 LAW LIBRARY J. 377, 387 (2012), available at <http://uwacadweb.uwyo.edu/blume&justinian/AJCNovels2/NovelsArt.LLJ.ed.pdf>.

a shorter time neither the genuineness of records, nor the credit due to, or age of, protocols could be of assistance.

a. Nov. 9.

b. C. 1.2.23.

c. 1. Hence since our liberality is out of harmony with natural limitations connected with cases, and treating the aforesaid privilege sensibly and piously we found that it is necessary to reduce it to proper limits, and direct that in cases formerly defeated by the defense of the limitation of thirty years, shall as to venerable churches, and monasteries, hospitals, orphanages, foundling hospitals and poor houses, be extended to forty years, but the force of the thirty years' limitation shall remain in effect as to other persons and property, since we give the additional ten years only, as stated, to the venerable places and to their rights and contracts, so that after the lapse of this time, all personal and hypothecary action shall be at rest forever. We detract nothing from other defenses, but all prescriptive periods of one year, or three years, or those extending during a long or short period, shall retain their vigor; for as stated, the sacred contracts of the venerable places shall enjoy the privilege of forty years only in cases in which our constitution had given them the privilege of one hundred years.^a It is clear, however, that if a judicial decision or a compromise has put an end to cases brought, before the enactment of this constitution, by the churches or other holy places, [they] shall not be reopened, but that this shall apply to future cases which, barred by the silence of forty years, have not commenced, or if commenced, have not been terminated.

a. It would seem from this that the prescriptive period of forty years, as formerly that of a hundred years, applied only in those cases where the ordinary periods of thirty and forty years applied. The instant Novel was confirmed by c. 6, Novel 131, appended to C. 1.3. [Not so appended in this edition.]

Epilogue. Your illustrious and magnificent Authority must, by edicts, bring these provisions made by Our Serenity by this general law, to the knowledge of all.