

Novel 37 (Authenticum 39).

Concerning the African Church.
(De Africana ecclesia).

The same emperor (Justinian) to Salomon, Praetorian Prefect of Africa.

We hasten night and day to aid the venerable church of our Carthago Justiniana and all the other holy churches of the African diocese by imperial favors, so that, after they were torn from the tyrants and made a part of our state, they, too, may enjoy our bounty. Since, therefore, Reparatus, holy bishop of our Carthago Justiniana, who is known to preside at the venerable council of the holy churches of all Africa, together with the reverend bishops of the same province, have begged our majesty, by a letter sent through Theodorus, reverend deacon and deputy (responsalis or apocrisiarius) of the same venerable church of the city of Carthago Justiniana, that they might firmly in accordance with the tenor of the law already promulgated in connection therewith, hold the possessions of the churches of all Africa, which were taken from them in the time of the tyrants, and which, after the victories granted us by the help of God, over the Vandals, were returned to them by a pious order of our majesty, subject to the payment of the taxes fixed in each place, we deem it proper, willingly and gladly to grant their request.

We therefore direct that Our Sublimity make proper orders, that the venerable church of Carthago Justiniana and those of all the cities of the diocese of Africa, shall, subject to the aforesaid tribute, firmly and unshakably hold the aforesaid possession, which shall in no manner be taken from them. If, moreover, it shall be shown that other possessions, whether houses or church-ornaments, are withheld by any one, whether Arians, pagans or other persons, these, too, shall be taken without delay and given to the holy churches of the orthodox faith, and those who unjustly withhold them shall not be able to set up as a defense the prescriptive period of any length of time, but, setting every device (to prevent it) aside, they shall be compelled to make restitution thereof, for we do not permit holy vessels or ornaments of holy churches or other possessions to be withheld by pagans or other persons. The law previously enacted by us makes sufficient and abundant provision

on this subject. We direct that the venerable churches of Africa shall also enjoy the privilege mentioned in another of our constitutions, which we enacted in favor of church-property and possessions, and according to its tenor we give them authority to recover their own property and possessions held by any person in the province, so that they may reclaim from persons unlawfully detaining it, whatever of their property was or shall be taken from them.

Your Sublimity must take care that no Arians, Donatists or Jews or others who are known not to adhere to the orthodox religion, share in any manner in ecclesiastical rites, but that impious persons are entirely excluded from sacred things and temples and no permission whatever shall be granted them to ordain bishops or clergymen, or to baptize any persons, making them adherents of their error, because such sects have been condemned not only by our, but also by former laws and are followed only by impious and polluted men. According to our laws which we enacted, all heretics are forbidden to perform any public acts, and they shall not be permitted to occupy any public office, or through any unlawful solicitation hold any administrative post, lest heretics may seem to govern the orthodox, since it is enough to let them live, without them claiming any authority, and in that way inflict detriment upon the orthodox and the true worshippers of the omnipotent God.^a We do not in any manner permit persons re-baptised to hold any position in the imperial service, but we do not reject their penitence, if they want to join the orthodox faith with a pure mind, but give them permission to do so, since nothing is so acceptable also to God as the penitence of sinners.

We further deny Jews the right to have any Christian slaves, as is also forbidden in former laws, and which we are anxious to uphold unimpaired, so that they shall not [have] slaves of the orthodox religion, and if they perchance, receive catechumens, they shall not dare to circumcise them.^b Nor do we permit their synagogues to stand, but we want them to be changed to the form of churches. Nor do we permit Jews, pagans, Donatists, Arians, or any other heretics to even have grottos, or to perform any sort of ecclesiastical rite, since it is not in conformity with reason that impious persons should be permitted to perform sacred rites.

We, moreover, give to the holy church of our Carthago Justinia all privileges which metropolitan cities and their bishops are known to have, and which are stated in the first book of our Code and are known to bestow upon churches the honor due them, so that the city, which we deemed proper to be honored by our cognomen, may be ornamented by, and increase through, imperial privileges. Refugees, too, who fly to venerable churches and their boundaries, looing to it for safely, and their boundaries, looking to it for safety, shall not be permitted to be dragged therefrom by sacrilegious hands, but they shall enjoy the reverence due to venerable places, unless they are murderers, ravishers of virgins or violators of the Christian faith. For who would not acknowledge that persons who commit such crimes are not worthy of any privileges, in as much as the holy church cannot at the same time aid impious men and also extend their help to the persons injured.^c

If, further, anything has been or shall be offered by any person, for the safety of his soul, to the holy church of the oft mentioned Carthago Jusiniana, or to any of the other churches of the African diocese, whether consisting of land any other property, that also shall firmly remain the property of the venerable churches, and shall not be taken away by impious hands, since men who do such praiseworthy acts, pleasing to God and make such pious offerings, are at the same time praised by us and will be rewarded by God's clemency.

These provisions, therefore, granted in honor of the holy churches of the whole African diocese, through the present pious and ever-enduring law, which we thought should be dedicated to the omnipotent God, must when you know of it, be firmly maintained by Your Sublimity, and must be made known to all in the usual manner, by edicts posted up everywhere, so that our orders, made in the greatest piety, must in every respect be observed unchanged. Violators thereof will undergo a penalty of ten pounds of gold, and the greatest displeasure of our majesty will be visited upon those who attempt in any manner or at any time to violate our disposition or permit it to be violated.

Given August 1, 535.

Notes.

- a. See also C. 1.5.18 and C. 1.9.18.

- b. See also C. 1.10.1.
- c. See C. 1.12.

This novel deals with the African churches, that is to say, that part of Africa, which, a century previously, had been taken by the Vandals—here called tyrants, and which was reconquered under Justinian. A good many of the Vandals, like other Teutonic nations were Arians. So, too, in the beginning of the 11th [4th] century¹ a so-called party of Donatists arose in this portion of the country. Their name was derived from Donatus. This sect came to be regarded as heretical. They demanded absolute purity of the church, though they admitted that repentance was a means to regain church fellowship. They held that those not holding the same views as theirs could not, with any affect, administer the sacraments, and they rebaptised those who had Catholic baptism. They also maintained that the kingdom of God had nothing in common with the world, and that the state should not interfere in religious matters. As to decrees against rebaptism, see C. 1.6.

¹ This must be a typographical error. Donatists “were members of a puritanical church of the martyrs in 4th- and early 5th cent. Roman Africa.” The Oxford Classical Dictionary 493 (Simon Hornblower & Anthony Spawforth eds., rev’d. 3rd ed. 2003).