

Novel 3.

That the number of clergymen of the holy Great Church (at Constantinople) and of the other holy churches of this fortunate city shall be limited.

(Ut determinatus sit numerus clericorum sanctissimae magnae ecclesiae et certerarum sanctissimarum ecclesiarum felicissimae urbis.)

Note.

The city of Constantinople is time and again referred to by Justinian as the noble (alma) or felicissima (most fortunate) city. The Great Church was St. Sophia, built by Justinian.

The same Augustus (Justinian) to Epiphanius, archbishop and ecumenical patriarch of this imperial city.

Preface. Already heretofore we directed in a common and general law, written to Your Beatitude and the other holy patriarchs, concerning the ordination of holy bishops and of reverend clergymen and of deaconesses, that no more than the number fixed in the beginning should be ordained; and this appeared to us proper and decorous and worthy of holy (ecclesiastical) regulations. We write the present special law to Your Beatitude, regulating the number of clergymen in this city. For since almost nothing is good that exceeds moderation, it is proper that no such number of ordinations of reverend clergymen and deaconesses be made, so as to reduce the holy church, by supporting them, to the necessity of borrowing money, and gradually to extreme want. For we know that the holy Great Church of this imperial city, mother of our empire, is, for that reason, burdened by heavy debt, and that it cannot make the several outlays to the reverend clergymen, unless it incurs a great debt, and puts mortgages and pledges on its beautiful landed and suburban estates. It has, therefore, seemed good to us to investigate this matter, and to find out how the matter stood formerly and what innovation was made in the course of time. Accordingly fully investigating the matter, we find that each one of those who built holy churches in this fortunate city, not only took the building thereof upon himself, but also that the sacred buildings erected by him should have sufficient income, and he defined how many presbyters, deacons, male and female, how many

subdeacons, singers, readers and doorkeepers should be appointed in each church. He defined the outlay of the building in accordance therewith, and added a sufficient and own income for those appointed by him, but which clearly, could not be sufficiently spread out (to suffice), when many were added. These arrangements were observed for a long time, and as long as that was done, there was sufficient for the servants of the holy churches. But as soon as the God-beloved bishops listened to the petitions of some, and increased the ordinations in great numbers, the outlay grew to immense proportions; hence creditors and interest everywhere; finally not even creditors, on account of the loss of faith in the matter, but forced and unlawful alienations and dishonorable transactions, unbecoming even to a private, sound establishment; so that, because of this bad condition, not even the landed and suburban estates sufficed to pay mortgages and pledges, and on that very account, there was no room (even) for creditors, but the situation led to extreme poverty; support could not be furnished even to the servants (of the church), but the matter was reduce to such misery, that all the property was delivered over to the creditors. We hesitate to say this; and we shall see to it to prevent it (in the future). For if a person does not with equanimity bear with one who makes outlays beyond his financial ability, why should we not take it upon ourselves to look after these matters? Property should not be sought after, with which to defray expenses, for this would lead to insatiable cupidity and to impiety, but expenses should be measured by financial ability. Hence we shall enact seasonable laws in regard to these matters, do away with unlimitedness, and apply a definite remedy.

c. 1. We therefore ordain, that the reverend clergymen and deaconesses and doorkeepers in the holy Great Church and in all the other holy houses up to this time, shall remain in the same manner as now. For we make no diminution in what exists, but make this sanction to take care of the future. But no ordination shall be made in the future, until the number of the reverend clergymen is reduced to the former number, fixed by those who build the churches. But since the number of the reverend clergymen fixed [for] the holy Great Church of our imperial city was rather small, since the holy Great Church stood alone, but the venerable house of the holy,

glorious Mary, mother of God, situated in the neighborhood of the holy Great Church, was thereafter built by Verina, of pious memory, and the venerable house of the holy martyr Theodorus was thereafter consecrated by Sporacius, of glorious memory, and the venerable house of the holy Irena was thereafter joined to the holy Great Church, therefore, the number can in no manner be reduce to what it originally was. Nor would the small number, which was so fixed, suffice for so many churches, since none of the foregoing three houses have their own clergymen, but they (that exist) are common to the holy Great Church and to them (the three churches), and who in (a certain) order, and traveling around in a circle, as it were, all perform their services therein; and especially since a large multitude of former heretics have, by the Grace, indeed, of the Great God and of our Savior Jesus Christ and by our labors and exhortations, been led to the Great Church, more than double the original number should be appointed to perform the services in connection with the sacred cult. **1.** We therefore ordain that there shall not be in the holy Great Church more than 60 presbyters, 100 deacons, 40 deaconesses, 90 sub-deacons, 100 readers, 25 singers, so that the whole number of venerable clergymen of the holy Great Church shall consist of 425 persons, aside from 100 of the so-called doorkeepers. This, then, shall be the multitude of clergymen in the holy Great Church of this fortunate city and the three holy houses joined with it; none of the present ones, however, shall be ejected, although the number is much greater than the one fixed by us, but no one shall hereafter be added to the several present orders until the measure is reduced to this number.

c. 2. It should also be added that, what has heretofore been done with small propriety, should no longer occur, namely, that many reverend clergymen should disdain to remain in the holy churches, here and in the provinces, in which they were ordained, but come to the holy Great Church, becoming one of its clergy through some patronage. We altogether forbid this to be done hereafter. For if we forbid in connection with monasteries, that no one shall pass from one monastery into another, much less shall we permit that (in connection with churches) to the reverend clergymen, deeming a desire of that kind to have the mark of gain and

business. But if Your Beatitude or the reigning emperor shall at some time deem such transfer to be for the good, it shall not be made unless (the clergy) has been reduced to the number stated by us, and the transfer shall be made (for the person transferred) to take the place of one deceased, and no one whatever shall be admitted beyond the (fixed) number. For we do not permit that to be done by any trickery or in any manner. These, then, are the provisions as to the holy Great Church. **1.** As to all the other churches, moreover, whose expenses are furnished by the Great Church, we ordain that their present clergymen, too, shall, similarly, remain as they are, but no one shall hereafter be ordained until the number of presbyters, deacons, deaconesses, sub-deacons, readers, singers and doorkeepers has been reduced to that fixed originally for each church by the builder, and in the meantime no one shall be added. We, ourselves, shall avoid doing anything of the kind and to send persons to be ordained, nor shall anyone of our magistrates do anything of the kind, fearing our law. And the blessed archbishop and patriarch of this imperial city shall have leave to oppose an ordination, though an order (to do so) proceeds from the imperial court. For the person directing it, and the person directed, will suffer ecclesiastical punishment, if he does anything of the kind. And as to the remaining churches which do not receive their expenses from the holy Great Church, no unlimited number shall be ordained, and the limit set for them originally should not be exceeded, lest the persons consecrated in them increase to an infinite number, and dividing with them the income left by pious men, will find that it will not suffice by reason of the number and will be put into great straits. And if the holy archbishop, who, for the time being is head (of the church), ordains persons beyond the fixed number in the holy Great Church or in the other churches, and the stewards of the same church give them support from the income of the church, they, and the holy patriarch who permitted them to do so, must furnish the outlay out of their own property (indemnifying the church). For they must take notice, that if they do anything of the kind, we give power to the holy patriarchs who succeed the one who does it, and to the future stewards and to all the remaining clergymen, to investigate such acts and to prohibit them, if they are done, and to report to the emperor, so that he, having knowledge of the matter, may order the

mounts to be made good to the holy church out of the property of the stewards who did so, and that of the archbishop who permitted it, so that no such confusion and disorder in this matter will happen again. When the situation is reduced to its former limit, then ordinations may be made to the point that the aforesaid limit is not overstepped, and the number shall not be exceeded; nor shall any fraud be committed in the matter. We do not permit, as is said, ordinations, but forbid the furnishing of support.¹ That again belongs to those things that would create confusion, and by the addition of supernumeraries would make a second list of names (of clergymen), especially since this matter would bring about many circumventions, and in place of supplying support, other ways would be found of (satisfying) their greed. Hence we also entirely forbid this to be done, and subject such act to what is called ecclesiastical punishment, thinking that it is of great advantage to us, when we see to it that the holy Great Church is not subject to debt and is not reduced to straits and to perpetual want, but is flourishing at all times.

c. 3. As, moreover, we have limited the outlay pertaining to this matter, so, too, it is proper that the holy officiating patriarch should see to it, that the other expense which is made out of the income of the church, should be paid out for pious purposes pleasing to God, and should be paid to those who in fact are in want and have no other means of support—for this will placate God—and the money of the church paid out should not, through patronage and favor, be given to rich men, leaving the indigent without the necessary support. And the God-beloved stewards, who are such at present, and who will be such at any future time, must take notice that if they do anything in violation hereof, they will suffer divine punishment, and must indemnify the holy church out of their own property.

Epilogue. We therefore ordain that Your Beatitude, who from the beginning and almost from infancy has, in every holy order and dignity, been an ornament to the

¹ It appears as if the thrust of this sentence should be that no ordinations will be permitted until they can be properly supported. Scott has this as “For We by no means permit anything to take place by means of which someone may have the right to confer ordinations without providing funds for the support of the incumbents.” See, 7 [16] Scott, *The Civil Law* 20 (photo. reprint 1973)(1932).

holy church, and who also descended from a holy family, should perpetually maintain these provisions, thinking that what is for the advantage of the church has at your heart no less than the (safety of) souls themselves.

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