

Novel 5.

Concerning monasteries, monks and abbots.
(De monasteriis et monachis et praesulibus.)

Emperor Justinian to Epiphanius, holy and blessed archbishop and Universal Patriarch of this imperial city.

Preface. The life in a monastery is so honorable and so adapted to conciliate the man entering it with God, that it cleanses him of all human stain, makes him pure, fit (to live according) to a rational nature, generally strong in meditation and superior to human cares. If any one, therefore, is to be a perfect monk, he is in need of training and diligent exercise in the ward of God, so as to become worthy of so great a change. Hence it has also seemed good to us to direct what they must do, to make them true combatants on the way that leads to God. And that is the purpose of the present law, so that, after making laws concerning the God-beloved bishops and the reverend clergymen, we may not leave matters relating to monks destitute of proper order.

c. 1. It is, first of all, to be decided, therefore, that at all times and in every part of our empire, whenever any one wants to build a venerable monastery, that shall not be permitted to be done, till he has called the God-beloved bishop, and he has consecrated the place to God with prayer and hands stretched out to heaven, affixing in it the sign of our Savior—we mean the cross worthy of adoration and the only one to be honored—and he may then, after laying such beautiful and becoming foundation, commence the building. This, then, shall be the beginning of piously building venerable monasteries.

c. 2. After than, we must also give consideration to each of the monks; in what becoming manner they should be made such, and whether only free persons or, perchance, slaves also (may become monks), since the divine mercy receives all equally, expressly declaring, that, so far as the worship of God is concerned, there is no male or female, free or slave; for in Christ, they all are justly considered the same.

We therefore ordain, following the sacred canons, that those who devote themselves to a monastic life, shall not inconsiderately and immediately receive the monastic attire from the reverend abbots of the venerable monasteries, but they shall remain, whether they are free or slaves, for a full term of three years, without as yet being considered worthy of the monastic attire, but they shall be tonsured as, and wear the dress of, the so-called laymen, remaining to learn the word of God. And their reverend abbots shall interrogate them, whether they are free or slave, whence they received the desire for a monastic life; and when they have learned from them (the applicants) that they have been led thereto by no vicious occasion, they shall be accepted among the number of those who are instructed and admonished, and they shall prove their perseverance and honor. For a change in life is not easy, if not made with a mental struggle. **1.** And if they, indeed, sustain that manner of life throughout the three years, proving themselves noble and persevering to the remaining monks and to the abbot, they shall be considered worthy of the monastic attire and tonsure, and if they are free, they shall remain subject to no wrongs, and if they are slaves, they, who have passed over into the common worship of all—we mean the celestial—shall no longer be troubled, and they shall receive their liberty. For if that takes place in many cases or through the law, and liberty of that kind is given, why is the divine favor not able to liberate them from such chains? But if anyone comes during the three years, and wants to claim one of those who devotes himself to monastic practice—a happening recently reported to us from Lycia by the God-beloved Zosimus, a man celebrated in (monastic) practice, and who, nearly 120 years old, flourishes in mental and bodily strength—if any one, therefore, as already stated, comes within three years, to claim one of those who desires to become a monk and who perseveres therein, into slavery, and asserts that such person has stolen property and for that reason betook himself into a monastery, he shall not, we ordain, do so immediately, but he must first prove that such man is in fact a slave, is guilty of theft, perchance, or dishonest life or grave crimes, and has fled and come to the monastery on account of such crime. And if it is shown that he told the truth, and such man is found to have taken up monastic practice for such a reason, or, indeed, perchance became a fugitive on account of a life of turpitude, without in

truth loving the (monastic) practice, he shall be returned to his master with the things which, forsooth, he stole, provided they also are in the monastery. But he who is shown to be the master must pledge, what is called his faith, that he will not wrong him (the slave), and will receive him and take him home. **2.** If the person, however, who claims to be the master, proves nothing of the kind, but the other, who is accused of such crimes, appears from his monastic practice, to be honorable and honest, and also, perchance, has testimonials, that he, while with the master, was modest, and a lover of uprightness, then, even though the period of three years is not yet complete, he shall remain in the monastery, freed from the insolence of those who want to claim him. If the time of three years has once elapsed, the person judged worthy of monastic holiness, shall remain in the monastery. Nor do we give any one liberty to curiously follow up matters pertaining to him, but we want him to continue in his (monastic) practice, whether he is a slave or a free man. And even though he committed some offense in his previous life—for human nature is commonly prone toward offenses—yet the three years' testimonial shall suffice for a proper purging of sins and for having become better; provided, however, that in such case, too, the property taken by theft shall, wherever it may be found, be restored to its owner. **3.** We must next see how to make them worthy combatants in monastic philosophy in connection with their habitation and manner of living. For we want no monastery under our sway, whether having many or few men, to separate the monks, who are there, from each other, using separate houses; but we ordain that they shall eat together and all sleep in a place common to them all, each of them, indeed, sleeping in his own bed, but all of them placed in one house; or if one house has insufficient capacity, to hold them all, (they may be placed) in two houses or more, not by themselves and alone, but together, so that they may be witnesses of each other's honorable conduct and purity and so that they may not indulge in indolent sleep, giving offense to those who see, but may be modest therein; except that those of them who lead a life of contemplation and perfection, who are usually called anchorites and hesychasts, may have their own cottage, as though, excepted from a life in common, reserved for something better. We want the rest, who engage in (monastic) practice among the multitude, to be in

community-houses. In that way their emulation in virtue will increase, especially that of the young men, when associated with their seniors. For the manner of life of the seniors will serve as a careful education of the youths. They shall thus, in their monasteries, obey their abbot, preserving the prescribed (monastic) practice uncorrupted.

c. 4. If a man, however, after consecrating himself, and after obtaining the (monastic) attire, wants thereafter to leave the monastery and follow a life by himself, perchance, he must know what account he must render thereof to God. All the property that he had when entering the monastery, will pass into its ownership, and he shall carry nothing away with him.

c. 5. We further direct, that the person who wants to enter a monastery, shall have the right, before he does so, to dispose of his property in whatever manner he wishes. For his property follows him in his entrance, although he has not expressly stated that he was bringing it, and he will no longer be its owner. If he has children, and he has, perchance, already given them some property, either as a prenuptial gift or as dowry, and in an amount of a fourth of his property (which they would have received) in case of intestacy, the children shall have no part in remaining property. But if he has given them nothing or less than such fourth, such fourth shall be due the children even after he (the father) renounced the world and entered the monastery, either to make up the deficiency, if they, perchance, already received something, or to supply the whole thereof. If he has a wife, and enters a monastery after leaving her, the dowry and the agreement (making provisions) in case of death, shall be preserved, as is also ordained in another of our constitutions.^a Everything, moreover, said in regard to this matter, concerning monks, shall also apply to women who enter a monastery (nunnery).

a. C. 1.3.54. See also Novel 76, which follows, interpreting this chapter. [Novel 76 followed in Blume's original manuscript, but it has been placed in its proper numerical order in this edited version.]

c. 6. But if he leaves the monastery and takes up imperial service or other manner of life, his property shall also in such case, as previously stated by us, remain in the monastery; he himself shall be compelled to join the order of provincial apparitors of the honorable president of the province, and the result of the change shall be, that as he despised the divine service, he shall remain in the service of a worldly judge.

Note.

The provincial apparitors were bound to their station, which was considered as of comparatively low degree. See also C. 1.3.52.9-10. [This appears in Blume's manuscript as C. 1,3,5,2,9-10, which makes no sense; the citation above appears to be what was intended, based on its content.] It evidently does [sic] not—frequently at least—have been included in the term “militia,” which might refer to the service as soldier or service in the civil service of the empire. See sec. 8.

c. 7. If he leaves the monastery in which he engaged in (monastic) practice, and goes to another monastery, in that case, too, his property shall remain with and be claimed by the former monastery, where he, renouncing (the world), left it. The reverend abbots, moreover, ought not to receive a person who does this. For such a life is a vagrant one, not at all that of monastic perseverance, nor that of a firm and constant mind, having the mark of a wandering life, seeking one thing in one place, another in another. Hence the God-beloved bishops and the so-called abbots should also prohibit this, persevering monastic dignity according to the divine canons.

c. 8. If one of those professing monastic practice, is considered worthy of ordination as clergyman, he shall also in such case persevere in the purity of such practice, so that if he abuses the freedom of the clergy and dares to marry—occupying a grade as clergyman which permits him to marry, namely, that of singer or reader—for we forbid all others, according to the divine canons, to marry or have a concubine, or in any way give themselves to a life of luxury—he shall be expelled from the order of the clergy, as one who has dishonored the monastic practice and life; he shall thereafter be a private person and shall not dare to aspire to any imperial service or

to any office, unless he wishes to incur the penalty previously threatened; he shall live the life of a private person and see what account he is to render to God in this matter.

c. 9. If a monastery is in need, at some time, of an abbot, the ordination shall not be made according to the rank occupied by the reverend monks, and the person who is next in rank shall not at all be made abbot (by reason of that fact), nor the person who is the second or third after him, or others—as also stated in another of our laws^a—but the God-beloved bishop of that place shall thereafter look them all over—time and rank, consequent thereon, not being disregarded of course—and the person who appears to be the first—best among the monks and worthy to be over the other shall be chosen, since human nature is so made, that not all are either placed in the highest or in the lowest position. The examination, therefore, for abbot, shall proceed according to rank, and whoever is first found to be the best among those examined, shall be abbot, supported for that both by reason of rank and virtue. For it behooves those who separate the good from the bad, to give the one the opportunity for commanding, the other the opportunity to obey, in order that the latter, by discipline, may gradually rise to what is better. **1.** Whatever provisions, moreover, have been made by us in all our constitutions, formerly or now enacted, concerning the clergy or monks or monasteries, shall equally apply to males and females, monasteries and hermitages, and we do not, in this respect, separate the male from the female, because, as we said before, all things are one in Christ.

a. C. 1.3.40 and Novel 123 c. 34 appended to this title. [Not appended in this edition.]

Epilogue. All these provisions the holy patriarchs shall make known to the God-beloved metropolitan bishops under them, and the latter shall inform the God-beloved bishops under them thereof, and these (in turn) shall communicate with the monasteries under their control, so that the worship of the Lord God may everywhere and perpetually remain uncorrupted. Heavenly punishment will hang

over those who transgress these provisions; we mean celestial punishment, which needs must hang over those who despise correct dogmas. But the magistrates of our empire must, if these provisions are announced to them, be zealous in every respect to carry the provisions contained in the divine canons, and which our law enacted by us follows, into effect. And punishment will not fail them, if they neglect these provisions. Thus it is proper that Your Sanctity, following these provisions, should make them known to the metropolitan bishops under you.

Given at Constantinople March 17, 535.