

Novel 55.

Concerning the exchange of church property and emphyteusis.  
(De permutatione rerum ecclesiasticarum et emphyteusi.)

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The same Augustus (Justinian) to Mena, holy archbishop of this fortunate city and  
Universal Patriarch.

Preface. We have already enacted a law, which indeed prohibits alienations of church-property, which moreover permits exchanges (to be made) by the holy churches, including the holy Great church in this fortunate city, when the emperor wants any of the property of the venerable houses. And we afterwards enacted another law, from which we excepted the holy Great church, permitting some alienations referred to in the law. But since we have learned that some persons have use the (foregoing) provision of the first constitution, in which we provided for an exchange of property belonging to venerable houses to be made with the emperor, for the purpose of committing fraud, and have asked us to receive such property from the holy church, and, in turn, to give it to them, and that, by the use of many petitions they have worked to circumvent our imperial constitution, (we ordain) that the things done by us up to this time shall remain as they are, and nothing done by us in connection with contracts of that kind with the holy church, or with those persons who received such property from us in turn, shall be rescinded.

c. 1. In the future, however, no one shall have any permission to do anything of the kind, but only those exchanges shall be valid, which are made with the imperial house upon condition that (the property received by the imperial house thereby) shall remain the property of the emperor and shall not be transferred to private persons, and they shall not become owners thereof through the medium of the emperor. And if anything of the kind takes place, we give the reverend stewards permission to reclaim the property and again make it that of the holy church, as if no exchange had been made with the emperor from the beginning. And this rule shall be preserved forever, beginning with this day, everything, as stated above, done after the enactment of the first law, in the manner which we have stated, remaining

valid, since those things, indeed, thus done, have been done by men without trickery or fraud, but urged thereto by us; but now some persons, using that as an example, trouble us and want to commit fraud upon the holy Great church of this fortunate city. We do not want that to be done at any time; but (if done) it shall be void, in whatever manner it was done, so that the holy Great church of this fortunate city reclaim (such property), and no period of prescription can be set up against it.

c. 2. We also ordain, preserving in force everything concerning emphyteusis in connection with the holy Great church and all other venerable houses, holy churches and venerable houses shall be permission to make perpetual emphyteutic leases between themselves, a decree (of the provincial governor) being entered also in such cases. However the holy Great church is also excepted in this case; and the contract shall be made upon condition that it can never pass into the hands of a private person.

Epilogue. Your Beatitude must maintain these, our provisions, and must make them known to those who hold the metropolitan sees under you, and they, knowing of our provisions must not neglect any of them. The judgment of God, and the future punishment arising therefrom, will and overall, if they do anything contrary hereto or permit it to be done.

Given at Constantinople, October 18, 537, in the 11th year of the reign of the emperor Justinian.

Note.

As to petitions made to the emperor continuously, see note C. 1.14.4. The instant law shows that the emperor was continually harassed to grant special privileges. On this account the rule was that no special favor was valid as against a general law. C. 1.14.4. The rule, here laid, down, however, that no grant of church property, through the emperor, was valid, was repealed by Novel 119, c. 10, which is as follows:

Novel 119, c. 10.

c. 10. We want the law which we enacted to the effect that property coming to the imperial house from the venerable church should not be transferred to others to cease to have validity, both as to the property which has already legally come to our house, and as to that which will come to our house hereafter.