

Novel 79 (Authenticum 80).

Before whom monks and nuns should defend cases.
(Apud quos causam dicere oporteat monachos et sanctimoniales.)

The same Augustus (Justinian) to Mena, holy archbishop and universal patriarch.

Preface. Having found out that a wrong was being committed in this imperial city, we thought that we should correct it by a general law, which, taking its beginning in this fortunate city, should be extended to our whole empire. For some persons, wanting to diminish the dignity of the orthodox faith, when they have, perchance, some claim against monks and nuns, go before civil judges, who, in turn send enforcement officers, who enter the holy places, and dare to drag the monks out, and to disturb nuns and female ascetics, whom, perhaps, they ought not to see at all, and thereby create no little wrong and disturbance in the holy houses.

c. 1. We therefore ordain that if anyone has a suit with one of the religious monks or nuns or, in general, with women in monasteries, he shall go before the God-beloved bishop of the city, who shall send (for the defendant) and with dignity and propriety decide the matters relating to the presence of the person (of the defendant), and whether he (or she) should appear by the abbot, deputy or some one else; and he shall, with sacerdotal dignity examine and decide the case; civil judges shall have nothing to do with them, and shall not inflict any insult upon their dignity, since, the God-beloved bishops suffice for making orders in regard to what pertains to the suit and the bond to be given in connection therewith, and to decide the suit in a dignified and priestly manner, according to our laws and the sacred canons. In this way, persons who think they have a just claim will obtain their rights, and the dignity of the holy person will be preserved unimpaired and unharmed.

c. 2. Let the law, therefore, be a general one, and maintained by the glorious prefects in all dioceses—that is to say, of Illyria, Libya, Italy and the whole Orient—and by the magnificent praetor of the people and by the presidents of the provinces, and by

their staffs; and it shall suffer no impairment, but shall fully preserve the dignity of the religious monks. Your Beatitude, learning of these provisions, must maintain it in this fortunate city and its confines, and use your own letters, appended to this, our imperial law, sent to the God-beloved metropolitan bishops of the cities, whose appointment is under your jurisdiction; and these, in turn, will announce these provisions to the bishops under them, so that by this short writing, the whole tenor of the law may be made known in all the regions under our sway. And we ordain that suits brought against monks shall be accelerated, lest their minds be occupied by the cares of the suit, but they shall be liberated from them quickly, so as to be free for holy work.

c. 3. Whoever acts contrary hereto must take notice that if he is a magistrate who dares to make a decision in such matter, he will be shorn of his position, as insulting God, and he, together with his official staff, will be fined ten pounds of gold to be paid into the imperial treasury. Enforcement officers who dare to bring a summons, shall be forbidden by the God-beloved bishops themselves, and shall be confined in the so-called church-prison, to suffer the punishment of which they are worthy, and they shall not thereafter be permitted to execute any process on anyone.

Epilogue. This law shall apply if anyone has a suit with a religious monk or nun, or any consecrated woman and living in a venerable monastery. We have already enacted laws concerning clergymen and the manner in which they are to be sued, which laws shall be valid and in force in every respect.

Given at Constantinople, March 10, 538.