

5. The same Augustuses to Studius, Prefect of the City.

If any person should possess slaves in this most sacred City, he shall compel them to abstain from participation in tumultuous conventicles, and he shall know that for each slave who is apprehended while present at these forbidden assemblies, he shall be punished with a fine of three pounds of gold; the slaves, of course, shall be punished also.

1. It is Our will that this general rule shall be observed in the case of the money-changers and all other guilds of this fair City, under a very severe penalty, so that each guild shall be compelled to pay a fine of fifty pounds of gold for those of their number who shall be discovered to participate in these illicit assemblies.

Given on the third day before the ides of September at Constantinople in the year of the sixth consulship of Honorius Augustus and the consulship of Aristaenetus.—September 11, 404.

6. The same Augustuses to Eutychianus, Praetorian Prefect.

Governors⁵ of provinces shall be admonished that assemblies shall be forbidden as illicit if such assemblies are held by persons who rely on the religion of the orthodox churches, but spurn the sacrosanct churches and attempt to convene elsewhere. Persons who dissent from the communion of Arsacius, Theophilus, and Porphyrius, Most Reverend Bishops of the sacred law,⁶ shall undoubtedly be driven from the Church.

Given on the fourteenth day before the kalends of December at Constantinople in the year of the sixth consulship of Honorius Augustus and the consulship of the Most Noble Aristaenetus.—November 18, 404.

TITLE 5: HERETICS¹ (DE HAERETICS)

1.² Emperor Constantine Augustus to Dracilianus.³

The privileges that have been granted in consideration of religion must benefit only the adherents of the Catholic faith.⁴ It is Our will, moreover, that heretics and schismatics shall not only be alien from these privileges but shall also be bound and subjected to various compulsory public services.

Posted on the kalends of September at Gerastus in the year of the seventh consulship of Constantine Augustus and the consulship of Constantius Caesar.—September 1, 326.

2. The same Augustus to Bassus.⁵

We have not found that the Novatians were precondemned⁶ to such an extent that We should suppose that those things which they sought ought not be granted to them. We direct, therefore, that they shall firmly possess, without disquietude, their own church buildings and places suitable for burial: that is, those properties which they have held for a long time either through purchase or through acquisition in any manner whatsoever. Of course, due provision must be made that they shall not attempt to appropriate to themselves any of the property which mani-

⁵ *rectores*.

⁶ *antistites sacrae legis*, representatives of the Christian faith.

¹ CJ 1, 5. Identification of the various heretical sects will be found in the Glossary. In many cases, heresy was not primarily religious dissent but was an expression of social and economic suffering and discontent. Hence, as an expression of latent rebellion, it was all the more sternly repressed by the Emperors, n. 85.

² CJ 1, 5, 1.

³ Vicar, 2, 33, 1.

⁴ *Catholica lex*, 16, 1, n. 5.

⁵ Prefect of the City.

⁶ *praedamnare*, precondemn, previously condemn.

festly belonged to the Church of perpetual sanctity before the schism.

Given on the seventh day before the kalends of October at Spoleto in the year of the seventh consulship of Constantine Augustus and the consulship of Constantius Caesar.—September 25, 326.

3. Emperors Valentinian and Valens⁷ Augustuses to Amelius, Prefect of the City.

Wherever an assembly of Manichaeans or such a throng is found, their teachers shall be punished with a heavy penalty. Those who assemble shall also be segregated from the company of men as infamous and ignominious, and the houses and habitations in which the profane doctrine is taught shall undoubtedly be appropriated to the resources of the fisc.

Given on the sixth day before the nones of March at Trier in the year of the consulship of Modestus and Arintheus.—March 2, 372.

4. Emperors Valens, Gratian, and Valentinian Augustuses to Hesperius, Praetorian Prefect.⁸

Previously, in behalf of the religion of Catholic sanctity, in order that the illicit practice of heretical assembly should cease, We commanded⁹ that all places should be confiscated in which their altars were located under the false guise of religion, whether such assemblies were held in towns or in the country outside the churches where Our peace prevails. If such forbidden practice should occur, either through the connivance of the judges¹⁰ or through the dishonesty of the profane, the same destruction shall ensue in either case.

Given on the tenth day before the kalends of May at Trier in the year of the fifth consulship of Valens Augustus and the consulship of Valentinian Augustus.—April 22, 376; 378.¹¹

5.¹² Emperors Gratian, Valentinian, and Theodosius Augustuses to Hesperius, Praetorian Prefect.

All heresies are forbidden by both divine and imperial laws and shall forever cease. If any profane man by his punishable teachings¹³ should weaken the concept of God, he shall have the right to know such noxious doctrines only for himself but shall not reveal them to others to their hurt. If any person by a renewed death¹⁴ should corrupt bodies that have been redeemed by the venerable baptismal font, by taking away the effect of that ceremony which he repeats, he shall know such doctrines for himself alone, and he shall not ruin others by his nefarious teaching. All teachers and ministers alike of this perverse superstition shall abstain from the gathering places of a doctrine already condemned, whether they defame the name of bishop¹⁵ by the assumption of such priestly office, or, that which is almost the same, they belie religion with the appellation of priests,¹⁶ or also if they call themselves deacons, although they may not even be considered Christians. Finally, the rescript¹⁷ that was recently issued at Sirmium

⁷ And Gratian.

⁸ Proconsul of Africa, 1, 32, 2; 15, 7, 3; 1, 15, 8, n. 26.

⁹ Not extant.

¹⁰ See 16, 1, n. 2.

¹¹ In the year of the sixth consulship of Valentinian Augustus and the second consulship of Valentinian Augustus (378), Seeck. Cf. 1, 15, 8, n. 26.

¹² CJ 1, 5, 2.

¹³ punishable audacity, M.

¹⁴ The death of sin, a rhetorical phrase in rejoinder to the claims of such heretics that such baptism gave renewed life.

¹⁵ *episcopos*.

¹⁶ *presbyteri*.

¹⁷ Not extant, but compare 16, 6, 2; Sozom. 7, 1; Suidas, s.v. *Gratianos*; Joannes Antioch., excerpta Constantiniana 846.

BOOK XVI

TITLE 1: THE CATHOLIC FAITH¹ (DE FIDE CATHOLICA)

1. Emperors Valentinian and Valens Augustuses to Symmachus, Prefect of the City.

If any judge² or apparitor should appoint men of the Christian religion as custodians of temples, he shall know that neither his life nor his fortunes will be spared.

Given on the fifteenth day before the kalends of December at Milan in the year of the consulship of Valentinian and Valens Augustuses.—November 17, 365;³ 364.

2.⁴ Emperors Gratian, Valentinian, and Theodosius Augustuses: An Edict to the People of the City of Constantinople.

It is Our will that all the peoples who are ruled by the administration of Our Clemency shall practice that religion which the divine Peter the Apostle transmitted to the Romans, as the religion which he introduced makes clear even unto this day. It is evident that this is the religion that is followed by the Pontiff Damasus and by Peter, Bishop of Alexandria, a man of apostolic sanctity; that is, according to the apostolic discipline and the evangelic doctrine, we shall believe in the single Deity of the Father, the Son, and the Holy Spirit, under the concept of equal majesty and of the Holy Trinity.

1. We command that those persons who follow this rule⁵ shall embrace the name of Catholic Christians. The rest, however, whom We adjudge demented and insane, shall sustain the infamy of heretical dogmas, their meeting places shall not receive the name of churches, and they shall be smitten first by divine vengeance and secondly by the retribution of Our own initiative,⁶ which We shall assume in accordance with the divine judgment.

Given on the third day before the kalends of March at Thessalonica in the year of the fifth consulship of Gratian Augustus and the first consulship of Theodosius Augustus.—February 28, 380.

3. The same Augustuses to Auxonius, Proconsul of Asia.

We command that all churches shall immediately be surrendered to those bishops who confess that the Father, the Son, and the Holy Spirit are of one majesty and virtue, of the same glory, and of one splendor; to those bishops who produce no dissonance by unholy distinction, but who affirm the concept of the Trinity by the assertion of three Persons and the unity of the Divinity; to those bishops who appear to have been associated in the communion of Nectarius, Bishop of the Church of Constantinople, and of Timotheus, Bishop of the City of Alexandria in Egypt; to those bishops also who, in the regions of the Orient, appear to be communicants with Pelagius, Bishop of Lao-

¹ CJ 1, 1. For technical terms, see the Glossary, and cf. 16, 5, n. 85.

² *Judex* usually means the judge ordinary, the governor of a province but may mean any high administrative official.

³ It is doubtful whether Symmachus was Prefect of the City on this date, M. Valentinian was at Paris on this date, 8, 1, 11; 10, 19, 3; 11, 1, 13.

⁴ CJ 1, 1, 1; Sozom., Hist. Eccl. 7, 4.

⁵ *lex*, rule, law, regulation, statute, faith.

⁶ Or: of Our own animosity (*motus*), which.

dicea, and with Diodorus, Bishop of Tarsus; also, in the Proconsular Province of Asia and in the Diocese of Asia, with Amphilochius, Bishop of Iconium, and with Optimus, Bishop of Antioch; in the Diocese of Pontus, with Heladius, Bishop of Caesarea, and with Otreius of Melitene, and with Gregorius, Bishop of Nyssa; with Terennius, Bishop of Scythia, and with Marmarius, Bishop of Martianopolis. Those bishops who are of the communion and fellowship of such acceptable priests⁷ must be permitted to obtain the Catholic churches. All, however, who dissent from the communion of the faith of those who have been expressly mentioned in this special enumeration shall be expelled from their churches as manifest heretics and hereafter shall be altogether denied the right⁸ and power to obtain churches, in order that the priesthood⁹ of the true Nicene faith may remain pure, and after the clear regulations of Our law, there shall be no opportunity for malicious subtlety.

Given on the third day before the kalends of August at Heraclea in the year of the consulship of Eucherius and Syagrius.—July 30, 381.

4.¹⁰ Emperors Valentinian, Theodosius, and Arcadius Augustuses to Eusignius, Praetorian Prefect.

We bestow the right of assembly upon those persons who believe according to the doctrines which in the times of Constantius of sainted memory were decreed as those that would endure forever, when the priests⁷ had been called together from all the Roman world and the faith was set forth at the Council of Ariminum¹¹ by these very persons who are now known to dissent, a faith which was also confirmed by the Council of Constantinople.¹² The right of voluntary assembly shall also be open to those persons for whom We have so ordered. If those persons who suppose that the right of assembly has been granted to them alone should attempt to provoke any agitation against the regulation of Our Tranquillity, they shall know that, as authors of sedition and as disturbers of the peace of the Church, they shall also pay the penalty of high treason with their life and blood. Punishment shall no less await those persons who may attempt to supplicate Us surreptitiously and secretly, contrary to this Our regulation.

Given on the tenth day before the kalends of February at Milan in the year of the consulship of Emperor Designate Honorius and of Evodius.—January 23, 386.

TITLE 2: BISHOPS, CHURCHES, AND CLERICS¹ (DE EPISCOPIS, ECCLESIIS, ET CLERICIS)

1.² Emperor Constantine Augustus.

We have learned that clerics of the Catholic Church are

⁷ *sacerdotes*.

¹⁰ 16, 4, 1.

⁸ *pontificium*.

¹¹ 359.

⁹ *sacerdotia*.

¹² 381.

¹ Brev. 16, 1; CJ 1, 2-3; Glossary, s.vv. *decurions*, compulsory public services, and cf. 16, 5, n. 85.

² G. thinks that this constitution was issued as a letter to Anulinus, Proconsul of Africa (Euseb. Hist. Eccl. 10, 7), but M. rejects this view.

shall be annulled, and there shall remain only those enactments pertaining to Catholic doctrine which were decreed by Our father of eternal memory and which We ourselves commanded by an equally manifold order, which will survive forever.

Given on the third day before the nones of August at Milan.—August 3. Received on the thirteenth day before the kalends of September in the year of the consulship of Auxonius and Olybrius.—August 20, 379.

6.¹⁸ The same Augustuses to Eutropius, Praetorian Prefect.

No place for celebrating their mysteries, no opportunity for exercising the madness of their excessively obstinate minds shall be available to the heretics. All men shall know also that even if some concession has been impetrated by that kind of men through any special rescript whatever, if it has been fraudulently elicited, it shall not be valid.

1. Crowds shall be kept away from the unlawful congregations of all the heretics.¹⁹ The name of the One and Supreme God shall be celebrated everywhere; the observance, destined to remain forever, of the Nicene faith, as transmitted long ago²⁰ by Our ancestors and confirmed by the declaration and testimony of divine religion, shall be maintained. The contamination of the Photinian pestilence, the poison of the Arian sacrilege, the crime of the Eunomian perfidy, and the sectarian monstrosities, abominable because of the ill-omened names of their authors,²¹ shall be abolished even from the hearing of men.

2. On the other hand, that man shall be accepted as a defender of the Nicene faith and as a true adherent of the Catholic religion who confesses that Almighty God and Christ the Son of God are One in name, God of God, Light of Light, who does not violate by denial the Holy Spirit which we hope for and receive from the Supreme Author of things; that man who esteems, with the perception of inviolate faith, the undivided substance of the incorrupt Trinity, that substance which those of the orthodox faith call, employing a Greek word, *ousia*. The latter beliefs are surely more acceptable to Us and must be venerated.

3. Those persons, however, who are not devoted to the aforesaid doctrines shall cease to assume, with studied deceit, the alien name of true religion,²² and they shall be branded upon the disclosure of their crimes. They shall be removed and completely barred from the threshold of all churches, since We forbid all heretics to hold unlawful assemblies within the towns. If factions should attempt to do anything, We order that their madness shall be banished and that they shall be driven away from the very walls of the cities, in order that Catholic churches throughout the whole world may be restored to all orthodox bishops who hold the Nicene faith.

Given on the fourth day before the ides of January at Constantinople in the year of the consulship of Eucherius and Syagrius.—January 10, 381.

¹⁸ CJ I, 1, 2.

¹⁹ Or: The throngs of all heretics must be restrained from unlawful congregations.

²⁰ In 325.

²¹ The sectarian monstrosities that have been increased and are abominable because of their ill-omened names, M.

²² Or: a name that is alien to true religion.

7. The same Augustuses to Eutropius, Praetorian Prefect. If any Manichaean man or woman, from the date of the law²³ as previously and originally issued by Our Fathers, has transmitted his own property to any person whatsoever, by the execution of a testament or under any title of liberality whatever or any kind of gift, or if any one of the aforesaid persons has become enriched by the bestowal, through any form whatever, of an inheritance upon which he has entered,²⁴ inasmuch as We forthwith deprive the aforesaid persons under the perpetual brand of just infamy of all right to make a will and to live under

the Roman law, and since We do not permit them to have the right to bequeath or to take any inheritance, the whole of such property, after due investigation conducted by Our fisc, shall be appropriated to its resources. If by unlawful liberality such property should accrue to a husband, to a near kinsman, to any person who has well deserved it, or even to children, provided that they are connected by participation in the misdeeds of the aforesaid criminal life, or even if through any intermediary the property will profit any of the aforesaid persons who is found to be of such a class and company of men, the aforesaid property shall be vindicated under the title of caducity.

1. The general rule of this law issued by Our Clemency, shall be valid not only for the future but also for the past,²⁵ and if any property has been bequeathed by such persons as owners or has been held by them as heirs, such property shall be confiscated to the advantage of the fisc. For although the order of the celestial imperial statutes indicates to those who must observe them the subsequent observance of the sacred imperial constitutions and is not customarily prejudicial to previous acts, nevertheless, in this sanction only, since it is Our will that it shall be especially forceful, We recognize by Our sense of just inspiration²⁶ what an inveterate obstinacy and a pertinacious nature deserve. We hold as guilty of sacrilege those persons also who, since the issuance of the original law, have not been able to be restrained at least by divine imperial admonitions from unlawful and profane assemblies, in violation of the aforesaid law as written. We sanction the severity of the present statute not so much as an example of a law that should be established but as one that should be avenged, so that the defense of time²⁷ also shall not be of advantage to them.

2. The inheritance of paternal or maternal goods shall be bestowed only upon those children who, although born of Manichaeans, nevertheless are immune from such a crime, since they have been admonished by a sense and desire of their own salvation, have removed themselves from the association of the aforesaid life and profession, and have dedicated themselves to the pure religion.

3. We further add to this sanction that the Manichaeans shall not establish in the conventicles of the small towns²⁸ or in renowned cities their accustomed tombs of feral mys-

²³ 16, 1, 2, G., who considers that 16, 2, 25, is part of the same law.

²⁴ Or: by the bestowal of an inheritance upon which he has entered through any form whatever.

²⁵ A retroactive law, contrary to 1, 1, 3 and the general spirit of Roman jurisprudence. Such retroactive laws are not uncommon in the Theodosian Code. Cf. 1, 1, 3, n. 16.

²⁶ indignation, M.

²⁷ An exception adducing a long period of time that would bar legal action; a prescription of time, a demurrer.

²⁸ *conventicula oppidorum*, an unusual phrase. In the small town settlements?

teries; they shall be kept completely from sight of the throngs in the municipalities. Nor shall they defend themselves with dishonest fraud under the pretense of those deceptive names by which many, as We have learned, wish to be called and signified as of approved faith and chaste character; especially since some of the aforesaid persons wish to be called the Encratites, the Apotactites, the Hydroparastatae, or the Saccophori, and by a variety of diverse names falsify,²⁹ as it were, the ceremonies of their religious professions. For none of the aforesaid persons shall be protected by a profession of names but shall be held infamous and execrable because of the crimes of their sects.

Given on the eighth day before the ides of May at Constantinople in the year of the consulship of Eucherius and Syagrius.—May 8, 381.

8. The same Augustuses to Clicherius,³⁰ Count of the Orient.

We direct that none of the Eunomians and the Arians or the adherents of the dogma of Ethius³¹ shall have the right to build churches in the municipalities or in the country. But if this right should be rashly presumed by any person, the aforesaid house, wherever such forbidden constructions have been made, and also the estate or private landholding shall immediately be vindicated to the resources of Our fisc. All places also which have received either the abode or the ministers of this sacrilegious doctrine shall immediately become fiscal property.

Given on the fourteenth day before the kalends of August at Constantinople in the year of the consulship of Eucherius and Syagrius.—July 19, 381.

9. The same Augustuses to Florus, Praetorian Prefect.

If any Manichean should flee the company of the good under the false pretense of the solitary life and should choose the secret gatherings of persons of the lowest classes, he shall be subjected to the law as a profaner and corrupter of the Catholic discipline, which we all revere. Thus he shall be intestate during his lifetime, while living he shall expend nothing on such outlawed persons, at his death he shall leave nothing to such unworthy persons, and he shall restore all his possessions to those persons who are akin³² to him, not by character but by nature. If statutory successors should be lacking, he shall leave his property to his next of kin to be better managed; or, in the absence of agnate successors, he shall understand that his property will be subject to the ownership of the fisc, without any fraudulent undertaking. So much for the hermits.

1. But those persons who are entitled Encratites, with a monstrous appellation, together with the Saccophori, and the Hydroparastatae, when they have been convicted in court, betrayed by crime, or discovered in a slight trace of this wickedness, We order to be afflicted with the supreme penalty and with inexpiable punishment. With respect to their goods, the condition which We imposed on all this workshop,³³ from the inception of the law³⁴ formerly issued, shall remain.

Your Sublimity, therefore, shall appoint investigators, shall open court, and shall receive informers and de-

nouncers, without the odium attached to informants.³⁴ No person shall destroy the establishment of this accusation by means of the usual defense of prescription.³⁷ No person shall convoke such secret and hidden assemblies; they shall be forbidden in the country, they shall be prohibited within the walls, they shall be condemned in public and private habitations. 2. Furthermore, investigation shall be made with the greatest care, so that if any persons should not convene on the same day for Easter,³⁵ in obedience to religion, they shall undoubtedly be considered as persons whom We have condemned by this law.

Given on the day before the kalends of April at Constantinople in the year of the consulship of Antonius and Syagrius.—March 31, 382.

10.³⁶ The same Augustuses to Constantianus, Vicar of the Diocese of Pontus.

The Tascodrogitae, indeed, shall by no means be evicted from their own habitations. However, this crowd of heretical superstition shall not convene at any church; or, if perchance, such a crowd should convene, it shall be driven out of its conventicles without any delay.

Given on the twelfth day before the kalends of July at Constantinople in the year of the second consulship of Merobaudes and the consulship of Saturninus.—June 20, 383.

11. The same Augustuses to Postumianus, Praetorian Prefect.

All persons whatsoever who are tossed about by the false doctrine of diverse heresies, namely, the Eunomians, the Arians, the Macedonians, the Pneumatomachi, the Manichaeans, the Encratites, the Apotactites, the Saccophori, and the Hydroparastatae,³⁵ shall not assemble in any groups, shall not collect any multitude, shall not attract any people to themselves, shall not show any walls of private houses after the likeness of churches, and shall practice nothing publicly or privately which may be detrimental to the Catholic sanctity. Furthermore, if there should exist any person who transgresses what has been so evidently forbidden, he shall be expelled by the common agreement of all good men, and the opportunity to expel³⁷ him shall be granted to all who delight in the cult and the beauty of the correct observance of religion.

Given on the eighth day before the kalends of August at Constantinople in the year of the second consulship of Merobaudes and the consulship of Saturninus.—July 25, 383.

12. The same Augustuses to Postumianus, Praetorian Prefect.

The vicious doctrines hateful to God and man, namely, the Eunomian, the Arian, the Macedonian, the Apollinarian, and all other sects which are condemned by the sincere faith of the true religion, according to the venerable cult of the Catholic discipline, shall not arrogate to themselves the right to assemble congregations or to establish churches, either by public or private undertakings, within the localities of the cities and of the fields and of the villas. They shall not practice the ritual performance of their own perfidy or the ceremonies of their dire communion; they shall not usurp and have any ordinances for creating

²⁹ *mentiri*, belie, falsify.

³⁰ Glycerius, M.

³¹ Aetius.

³² *sui: sui heredes*, his own, family heirs.

³³ *officina*, workshop, factory, as productive of heresies and false doctrines.

³⁴ The penalty for informers (*delatores*) was severe, 10, 10.

³⁵ convene in the same group on the day of Easter; M.

³⁶ 16, 5, 65. Constantianus in ms. E but Constantianus in the other constitutions that were issued to him. Cf. 7, 18, 7, et al.

³⁷ to accuse, M.

priests.³⁸ The aforesaid houses, moreover, shall be made subject to the ownership and rights of Our fisc, whether in cities or in any places whatsoever where crowds of such teachers and ministers are collected at the time of Easter. Thus those persons who are accustomed to practice either the doctrines or the mysteries of such assemblages shall be diligently sought out from all cities and places. They shall be constrained by the vigor of the published law, expelled from their assemblies, and ordered to return to the countries of their origin, in order that none of them may have the power to go to any other place whatsoever or to wander away to any cities. But if these regulations which have been established by Our Serenity should be very negligently executed, the office staffs of the provincial judges¹⁰ and the chief decurions of the cities in which an assembly of a forbidden congregation should be proved to have been discovered shall be subject to a sentence of condemnation.

Given on the third day before the nones of December³⁹ at Constantinople in the year of the second consulship of Merobaudes and the consulship of Saturninus.—December 3, 383.

13.⁴¹ The same Augustuses to Cynegius, Praetorian Prefect.

The Eunomians, the Macedonians, the Arians, and likewise the Apollinarians are names infamous for their false doctrines among the offices of the holy religion. All men, therefore, who vindicate for themselves the pontificate or the ministry of such professions, who assert that they are priests³⁸ of a name that has been outlawed, and who confer upon themselves the name of ministers of a criminal religion, who say that they teach those doctrines which it would be seemly either not to know or to unlearn, shall be driven from all the hiding places of this City without the intervention of any favoritism, and the hiding places shall be spied out with a diligent search. They shall live in other places and shall be completely separated from the congregations of the good.

Given on the twelfth day before the kalends of February at Constantinople in the year of the consulship of the Most Noble Richomer and Clearchus.—January 21, 384.

14. The same Augustuses to Cynegius, Praetorian Prefect.

We command that the Apollinarians and all other followers of diverse heresies shall be prohibited from all places, from the walls of the cities, from the congregation of honorable men, from the communion of the saints. They shall not have the right to ordain clerics, they shall forfeit the privilege of assembling congregations either in public or private churches. No authority shall be granted to them for creating bishops; moreover, persons so appointed shall be deprived of the name of bishop and shall forfeit the appellation of this dignity. They shall go to places which will seclude them most effectively, as though by a wall, from human association. Moreover, We subjoin to the foregoing provisions that to all the aforesaid persons the opportunity to approach and address Our Serenity shall be denied.

Given on the sixth day before the ides of March at Thessalonica in the year of the second consulship of Theodosius Augustus and the consulship of Cynegius.—March 10, 388.

³⁸ *sacerdotes.*

³⁹ September, Cujacius.

⁴⁰ Sozom., Hist. Eccl. 8, 4.

15. The same Augustuses to Trifolius, Praetorian Prefect.

All members of diverse and perfidious sects, who are driven by the insanity of a miserable conspiracy against God, shall not be allowed to have an assembly anywhere, to participate in discussions, to hold secret meetings, to erect impudently the altars of a nefarious treachery⁴¹ by the offices of an impious hand, and to present the false appearance of mysteries, to the outrage of true religion. In order that this regulation may obtain its appropriate effectiveness, Your Sublimity shall appoint as watchmen certain very faithful persons who shall be able both to restrain the aforesaid persons and to arrest them and bring them before the courts. The offenders, according to the previous sanctions, shall pay the severest penalty both to God and to the laws.

Given on the eighteenth day before the kalends of July at Stobi in the year of the second consulship of Our Lord Theodosius Augustus and the consulship of the Most Noble Cynegius.—June 14, 388.

16. The same Augustuses to Cynegius,⁴² Praetorian Prefect.

We have learned that some of the Arians cite as their defense a general rule of Our regulations⁹ to the effect that they are permitted to usurp those practices which appear to them to suit their advantage. That rule shall be abrogated, and they shall know that no such order has emanated from Our imperial sanctuary. If anything, therefore, should be so cited by them for their own advantage, and if anyone should henceforth circulate such pseudo regulations, he shall be held guilty of forgery.

Given on the fifth day before the ides of August at Constantinople in the year of the second consulship of Theodosius Augustus and the consulship of the Most Noble Cynegius.—August 9, 388;⁴³ 387.

17. Emperors Valentinian, Theodosius, and Arcadius Augustuses to Tatianus, Praetorian Prefect.

The Eunomian eunuchs shall not have the liberty either to make a testament or to take under a testament. It is Our will that this regulation shall be observed with respect to all whom the law may find still living and that no person shall be protected by the privilege of any past will, since, whether testaments are shown to have been previously made or left incomplete, after this sanction of Our sacred imperial response the aforesaid persons shall not have the liberty to possess property or to petition for the possession of such property,⁴⁴ or even to leave any heir, either directly or as beneficiary of a trust, as a legatee, as beneficiary of a secret trust fund, or under any name which the order of the law has established in such matters. But all property which may appear to belong or to be about to belong to such persons⁴⁴ shall be vindicated as caducous to the resources of Our fisc. In short, the aforesaid persons shall have nothing in common with the rest of mankind.

Given on the third day before the nones of May at Milan in the year of the consulship of Timasius and Promotus.—May 4 (5), 389.

18. The same Augustuses to Albinus, Prefect of the City. If any persons whatever should disturb the world⁴⁵ un-

⁴¹ *praevaricatio*, falsehood, treachery, apostasy.

⁴² Tatianus: Cynegius died during his consulship and was buried March 19, 388. Cf. 8, 4, 17, n. 61. The imperial sanctuary, *sacrarium*, was the consistory of the Emperor, 6, 9, 1, n. 2.

⁴³ Theodosius was not in Constantinople this year but marched from Thessalonica into Italy against the usurper Maximus.

⁴⁴ As heirs.

⁴⁵ *mundus*, the world, the universe, as distinguished from *orbis*

Given on the fourth day before the kalends of September at Constantinople in the year of the sixth consulship of Honorius Augustus and the consulship of Aristaenetus.—August 29 (September 11), 404.

38. Emperors Arcadius, Honorius, and Theodosius Augustuses to Porphyrius, Proconsul of Africa.

(After other matters.) By this regulation also We decree that the privileges which have been decreed by the authority of the laws in favor of churches and clerics shall remain sacred and inviolate. Further, We confer upon them this special and particular privilege, that if any rights pertaining only to the Church have been specially impetrated from Us, not through tonsured persons¹¹⁰ but by advocates,¹¹¹ by their¹¹² decision such rights shall be made known to the judges⁹⁹ and shall obtain their effect. Priests⁹⁵ of the province,¹¹³ however, shall be very careful that, under this excuse of privilege, as it were, nothing unsuitable may be inflicted upon them contrary to their advantage.

Given on the seventeenth day before the kalends of December at Rome in the year of the seventh consulship of Honorius Augustus and the second consulship of Theodosius Augustus.—November 15, 407.

39.¹¹⁴ The same Augustuses to Theodorus, Praetorian Prefect for the second time.

If a bishop should judge any cleric unworthy of his office and should separate him from the ministry of the Church, or if any cleric should voluntarily abandon his professed service of the sacred religion, he shall be immediately vindicated to the municipal council, so that he may no longer have free opportunity to return to the Church. According to the legal status of the man and the amount of his patrimony, he shall be joined either to his own municipal senate or to a guild of the municipality,¹¹⁵ with the provision that he shall be obligated to the performance of the compulsory public services for which he is suitable, and thus there shall be no opportunity for collusion. For each such person, therefore, two pounds of gold shall be exacted from the ten chief decurions and paid to Our treasury, if these decurions should be guilty of unlawful connivance and foul collusion with any persons; and to the aforesaid most wicked men the avenue to all offices of the imperial service shall be barred.

Given on the fifth day before the kalends of December at Ravenna in the year of the consulship of Bassus and Philippus.—November 27, 408.¹¹⁶

INTERPRETATION: If a bishop should prove that any cleric is a person of evil life and should expel him from his position on account of the depravity of his character or if any cleric himself of his own volition should forsake the clerical profession, he shall immediately be joined by

¹¹⁰ *coronati*, tonsured persons, clerics; so called from the tonsure or *corona* which appears to have been worn by all clerics at this time.

¹¹¹ Thus the legal affairs of the Church were entrusted to secular advocates, who were trained professional lawyers.

¹¹² Of the clerics? Of the advocates? G. thinks the latter.

¹¹³ Africa, since this law was addressed to the proconsul of Africa.

¹¹⁴ Brev. 16, 1, 5; Sirm. 9. Emperors Honorius and Theodosius Augustuses.

¹¹⁵ Members of the guilds were conscripted for labor and personal services, while members of the municipal councils were held financially responsible for the tax collections of their municipalities, and for various public expenditures, Glossary, s.vv. guilds, curials.

¹¹⁶ 16, 5, 45.

the judge⁹⁹ to the decurions, so that, if he should be suitable by reason of his birth status and his property, he shall be compelled to fulfill his duty among the decurions themselves. If, however, he is a person of the lowest class, it is established by this law that he shall serve as a member of the guilds,¹¹⁵ or he shall undertake that duty for which he is suitable in the public service, so that such persons shall by no means be excused by the decurions through any collusion whatever. If any collusion should occur, however, the decurions shall know that they must pay to the fisc two pounds of gold for each such person.

40.¹¹⁷ Emperors Honorius and Theodosius Augustuses to Melitius, Praetorian Prefect.

We have carefully considered the tenor of a reasonable plan, and it is Our pleasure to prescribe by a strict regulation from what compulsory public services the churches of the separate cities shall be specifically held exempt.

Indeed, first of all, the contumely of that well known usurpation must be abolished, that is, the landed estates consecrated to the uses of the heavenly mysteries shall not be vexed by the burden of compulsory public services of a menial nature. The injustice of constructing and repairing roads shall not bind any unit of taxable land which enjoys the lot of such privileges. No extraordinary burden or superindiction shall be required of such units of taxable land; no restoration of bridges, no responsibility for transportation shall arise; no gold and other such taxes shall be required. Finally, nothing in addition to the regular tax payment, which the sudden burden of extraordinary necessity may demand, shall be assessed upon the compulsory public services that are required of such land units. If any person should contravene this statute, he shall incur the severity of due punishment which must be imposed by law upon the sacrilegious, and he shall then be punished¹¹⁸ by the exile of perpetual deportation.

Given on the eighth day before the kalends of June at Ravenna in the year of the ninth consulship of Honorius Augustus and the fifth consulship of Theodosius Augustus.—May 25, 412; June 24, 411.

41.¹¹⁹ The same Augustuses to Melitius, Praetorian Prefect.

Clerics must not be accused except before bishops. Therefore, if a bishop, a priest,⁹⁸ a deacon, or any person of inferior rank who is a minister of the Christian faith⁵¹ should be accused by any person whatever before the bishops, since he must not be accused elsewhere, that man, whether of lofty honor or of any other dignity, who may undertake such a laudable type¹²⁰ of suit, shall know that he must allege only what may be demonstrated by proofs and supported by documents. If any man, therefore, should lodge unprovable complaints about such persons, he shall understand that by the authority of this sanction he will be subject to the loss of his own reputation, and thus by the loss of his honor and the forfeiture of his status he shall learn that he will not be permitted, for the future at least, to assail with impunity the respect due to another. For, just as it is equitable that bishops, priests,⁹⁸ deacons, and all other clerics should be removed from the venerable Church as persons attainted if the allegations against them

¹¹⁷ CJ I, 2, 5; Sirm. 11.

¹¹⁸ *urere*, to burn, brand.

¹¹⁹ Sirm. 15.

¹²⁰ Such a suit, provided that it is laudable, as it is if it is well founded, 16, 2, 39; Sirm. 2 and 9.

can be proved, so that they shall be despised thereafter and bowed under the contempt of wretched humiliation and shall not have an action for slander, so it must appear to be an act of similar justice that We have ordered an appropriate punishment for assailed innocence. Bishops, therefore, must hear such cases only under the attestation of many persons and in formal proceedings.

Given on the third day before the ides of December at Ravenna in the year of the ninth consulship of Honorius Augustus and the fifth consulship of Theodosius Augustus.—December 11, 412; 411.

42.¹²¹ The same Augustuses to Monaxius, Praetorian Prefect.

Whereas, among other useless claims of the Alexandrian delegation,¹²² this request also was written in their decrees, that the Most Reverend bishop should not allow certain persons¹²³ to depart from the City of Alexandria, and this claim was inserted in the petition of the delegation because of the terror of those who are called attendants of the sick,¹²⁴ it is the pleasure of Our Clemency that clerics shall have nothing to do with public affairs and with matters pertaining to the municipal council.

1. We further direct that the number of those who are called attendants of the sick¹²⁴ shall not be more than five hundred. Moreover, the wealthy and those who would purchase this office shall not be appointed, but the poor from the guilds,¹²⁵ in proportion to the population of Alexandria, after their names have been submitted, of course, to the Respectable Augustal Prefect and through him referred to Your Magnificence.

2. We do not grant to the aforesaid attendants of the sick¹²⁴ liberty to attend any public spectacle whatever or to enter the meeting place of a municipal council or a courtroom, unless, perchance, they should appeal to a judge⁶⁰ separately in connection with their own cases and interests, when they sue someone in litigation or when they are themselves sued by another, or when they are syndics¹²⁵ appointed in a cause common to the entire group. The condition shall be observed that if anyone of them should violate the foregoing provisions, he shall be removed from the registers of the attendants of the sick and shall be subjected to due punishment, and he shall never return to the same office.

3. Furthermore, We grant to the Respectable Augustal Prefect the power to appoint successors to the deceased attendants of the sick, under the condition that is designated above.

Given on the third day before the kalends of October at Constantinople in the year of the seventh consulship of Theodosius Augustus and the consulship of Palladius.—September 29 (October 5), 416.¹²⁶

¹²¹ 12, 12; CJ I, 3, 17.

¹²² Embodied in their petition to the Emperor, as stated in the decrees of their municipal council, 12, 12, n. 3.

¹²³ M. suggests a lacuna; his emended text would read: should not allow from the City of Alexandria any . . . not to depart. As to the claim that was inserted in the petition of the delegation, because of the terror of those who are called attendants of the sick, it is the pleasure of Our Clemency.

¹²⁴ *parabolani*. See Du Cange, s.v. *parabolani*. Because of the nature of their work these clerics were possessed of a reckless disregard for personal danger. They were often religious fanatics and espoused the cause of the poor and oppressed. Thus they were potential sources of sedition, and the provisions of this law were designed to restrain them, 9, 40, 16; 16, 3, 1, n. 2.

¹²⁵ Legal representatives, official advocates.

¹²⁶ 12, 12, 15.

43.¹²⁷ The same Augustuses to Monaxius, Praetorian Prefect.

We formerly directed¹²⁸ that there should be five hundred attendants of the sick,¹²⁴ who are assigned to care for the suffering bodies of the sick. But since We have learned that this number is insufficient at present, We command that six hundred instead of five hundred shall be established as the number. Thus, according to the judgment of the Most Reverend Bishop⁹² of the City of Alexandria, there shall be chosen for such responsibility six hundred attendants of the sick from among those who had been attendants formerly and¹²⁹ who are experienced in the practice of healing, excluding, of course, dignitaries¹³⁰ and decurions. Moreover, if anyone of the aforesaid attendants should be removed by the common lot of man, another shall be chosen in his place, according to the will of the aforesaid priest,⁹⁵ excluding dignitaries and decurions. Thus, these six hundred men shall be subservient to the commands and regulations of the most reverend priest and shall continue under his supervision. The rest of the provisions included in the general rule of the law¹²⁸ formerly issued with respect to the aforesaid attendants of the sick and their attendance at public spectacles and courts and all other matters, shall be observed, as has already been decreed.

Given on the third day before the nones of February at Constantinople in the year of the twelfth consulship of Honorius Augustus and the eighth consulship of Theodosius Augustus.—February 3, 418.

44.¹³¹ The same Augustuses to Palladius, Praetorian Prefect.

It is not seemly that a man who lives a commendable life of stern discipline in this world should be tarnished by the association¹³² of a so-called "sister." If any person, therefore, relies upon any rank whatever in the priesthood, or is distinguished by the honor of the clergy, he shall know that consorting with extraneous women is forbidden to him. This concession alone is granted to him, that he may have within the bounds of his own home his mother, daughters, and sisters german; for in connection with these, the natural bond permits no perverse crime to be considered.

1. Chaste affection, moreover, demands that those women who obtained lawful marriage before their husbands assumed the priesthood should not be deserted; for those women who have made their husbands worthy of the priesthood by their association are not unsuitably joined to clerics.¹³³

Given on the eighth day before the ides of May at Ravenna in the year of the ninth consulship of Our Lord Theodosius Augustus and the third consulship of the Most Noble Constantius.—May 8, 420.

INTERPRETATION: Those persons who hold clerical office are forbidden to have intimate association with extraneous women. They shall know that within their homes the consolation of mothers, sisters, and daughters alone is granted to them, since the law of nature allows nothing shameful to be committed or contemplated in the case of such persons. Those women, moreover, who were wedded before the assumption of clerical office by their husbands shall be kept as a solace.

¹²⁷ CJ I, 3, 18.

¹²⁸ 16, 2, 42.

¹²⁹ Add: and from others, M. ¹³⁰ *honorati*.

¹³¹ Brev. 16, 1, 6; CJ I, 3, 19; Lex Baiuvar, 1, 1, 12; Sirm. 10.

¹³² *consortium*.

¹³³ This law may represent the influence of Pulcheria.

Jovinianus¹²⁰ holds sacrilegious meetings outside the walls of the most sacred City. Therefore, We command that the aforesaid person shall be arrested and beaten with leaden whips and that he shall be forced into exile along with the remaining adherents and ministers. He himself, as the instigator, shall be transported with all haste to the island of Boa;¹²¹ the rest, as seems best, provided only that the band of superstitious conspirators shall be dissolved by the separation of exile, shall be deported for life to solitary islands¹²¹ situated at a great distance from each other. Moreover, if any person with obstinate depravity should repeat such forbidden and condemned acts, he shall know that he will incur a more severe sentence.

Given on the day before the nones of March at Milan in the year of the ninth consulship of Honorius Augustus and the fifth consulship of Theodosius Augustus.—March 6, 412; 398.¹²²

54. The same Augustuses to Julianus, Proconsul of Africa. We decree that the Donatists and the heretics, who until now have been spared by the patience of Our Clemency, shall be severely punished by legal authority, so that by this Our manifest order, they shall recognize that they are intestable and have no power of entering into contracts of any kind, but they shall be branded with perpetual infamy and separated from honorable gatherings and from public assemblies.

1. Those places in which the dire superstition has been preserved until now shall surely be joined to the venerable Catholic Church, and thus their bishops¹⁵ and priests,¹⁶ that is, all their prelates⁵³ and ministers shall likewise be despoiled of all their property and shall be sent into exile to separate islands¹²¹ and provinces.

2. Moreover, if any person should receive the aforesaid persons for the sake of harboring them as they flee from the proposed punishment, he shall know that his patrimony will be added to the resources of Our fisc and that he will incur the penalty which has been proposed for the fugitives.

3. Furthermore, We manifestly impose the loss of their patrimony and pecuniary penalties on each such man and woman, whether a private person or a dignitary, and the penalty must be assessed in accordance with their status.¹²³ Therefore, if any person should be invested with the rank of proconsul, vicar, or count of the first order, unless he should turn his mind and purpose to the observance of the Catholic religion, he shall be compelled to pay two hundred pounds of silver which shall be added to the resources of Our fisc. No person shall suppose that the foregoing penalty alone can suffice for checking their design, but as often as any person shall be convicted of having joined such a communion, so often shall the fine be exacted of him, and if it should be proved five times that he is not recalled from his false doctrine by such fines, then he shall be referred to Our Clemency so that We may judge more rigorously concerning his entire property and his status.

4. We bind the remaining dignitaries, moreover, with conditions of this kind, namely, that if a Senator who is fortified by no additional privilege of rank should be found

in the herd of Donatists, he shall pay one hundred pounds of silver; those of the rank of civil priest¹²⁴ shall be forced to pay the same sum; the ten chief decurions shall be assessed fifty pounds of silver; the remaining decurions shall pay ten pounds of silver if they should prefer to continue in the heresy.

5. Moreover, if the chief tenants of the estates of Our household should permit the aforesaid practices on the landed estates of Our venerable substance, they shall be forced to pay by way of fine whatever amount they have been accustomed to pay as rental. Emphyteuticaries shall also be bound by the same authority of Our sacred imperial decree.

6. If, indeed, chief tenants of private persons should permit conventicles to be held on their landed estates, or if through their lenience, the sacred mystery should be desecrated, the judges¹⁰ shall refer the matter to the knowledge of the owners, whom it shall behoove, if they wish to avoid the penalty of Our sacred imperial mandate, to reform those who err or to replace those who persist and to provide for their landed estates directors who will obey Our imperial commands. But if the owners should neglect to make this provision, they shall be fined, by the authority of Our order as issued, the amount of the rentals which they have been accustomed to receive, so that what could have accrued to their profit shall be added to Our sacred imperial treasury.

7. Moreover, if the apparitors of the various judges¹⁰ should be apprehended in such false doctrine, they shall be held to the payment of thirty pounds of silver by way of fine; and if, after five condemnations, they should be unwilling to abstain therefrom, they shall be chastised with blows and sent into exile. 8. Slaves and coloni shall indeed be restrained by the severest punishment from such daring acts, and if coloni should be constrained by flogging but should still persist in their course, then they shall be fined a third part of their peculium. 9. Moreover, everything which can be collected from such classes of men and from such places shall be dispatched forthwith to the sacred imperial largesses.

Given on the fifteenth day before the kalends of July at Ravenna in the year of the consulship of Constantius and Constans.—June 17, 414.

55.¹²⁵ The same Augustuses to Julianus, Proconsul of Africa.

It is Our will that the proceedings as held against the Donatists through the judicial investigation and supervision of Marcellinus,¹²⁶ a man of Respectable memory, and as transferred to the public records, shall have permanent validity. For the trustworthiness of the State must not perish on account of the death of the trial judge.¹²⁷

Given on the third day before the kalends of September at Rome¹²⁸ in the consulship of Constantius and Constans.—August 30, 414.

¹²⁴ sacerdotales.

¹²⁵ CJ 7, 52, 6.

¹²⁶ A tribune and imperial secretary who was sent to Carthage in 411 to settle disputes between the Catholics and Donatists, 16, 11, 3; Gest. Collat. Carth. a. 411, coll. 1c. 4 and 3c. 29 (Mansi vol. 4, pp. 53, 186); Ambrose, Epist. 64 (46, Ed. Paris), G.

¹²⁷ cognitor.

¹²⁸ Probably at Ravenna, as were the other laws issued in this consulship.

¹²⁰ A heretic who was condemned first at Rome and then at Milan; Ambrose Epist. 81. See G.

¹²¹ Cf. the exile of the Apostle John to Patmos.

¹²² Both the content of the law and the place of issue oppose 412; cf. 6, 2, 21.

¹²³ and We decree the penalties that must be assessed in accordance with their status, M.