

Justice under Manuel I Komnenos: Four Novels on Court Business and Murder

by

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Four novels of the emperor Manuel I – on rescripts (I), court procedure (II), court recess (III), and murder (IV) – known in Zachariae von Lingenthal's edition as (Coll. IV) N.63, 66, 67, 68, owe their presentation together here in a new critical edition, with translation and commentary, to the manuscript tradition in which they have survived. Although their diplomatic differs, as do their dates of promulgation, the laws present a certain unity in terms of content, providing Manuel I's main surviving legislation not concerned with granting privileges, nor with doctrinal or canonical matters. While Manuel's legislation in these other areas has received some attention,¹ the novels presented here have not until now been studied and evaluated. Their re-edition provides a context for such an examination and also yields information for the study of diplomatic, registration practices, and prosopography.

The aims of the legislation are stated in the prooimia to the laws which also present the emperor's role in the making of law, and describe the abuses which the novels are intended to correct. To ensure 'right judgement' (N. I, II, III) and to check the crime rate (IV) are the objectives of the laws which the emperor promulgates in his desire to bear a conscience 'pure and free of all human suffering' (I) and to vindicate those who have been wronged (II, III). Those responsible for wrong acts or for aiding the perpetrators of such deeds are judges, civil and ecclesiastical, who are accused of negligence (II) and of showing inappropriate kindness (II, IV), provincial civil officials (IV), and other subjects of the emperor who take advantage of loopholes in the law (II, IV).

An analysis of the measures announced in the dispositive part of the novels shows these to be, on the whole, restatements of previous legislation, renewing or 'resurrecting' older laws. Sometimes this reiteration is acknowledged,² but more often a measure is merely stated, with no reference to the earlier legislation of which it is a restatement.³ Where an amendment is introduced (IV) and

¹ For the privileges: SVORONOS, *Les privilèges*, 325–391, and discussion *infra*, pp. 169–172; on doctrinal matters: S.N. SAKKOS, 'Ο Πατήρ μου μείζων μοῦ ἐστίν: Ἐριδες καὶ σύνοδοι κατὰ τὸν ἱβ' αἰῶνα (Thessalonike, 1966) and C. MANGO, *The Conciliar Edict of 1166*, DOP 17 (1963), 317–330.

² E. g. N. II, 83–87.

³ See the commentaries to novels I and II.

a new measure taken (III), the significance and the degree of the alteration is difficult, if not impossible, to ascertain.⁴

The means by which the laws were communicated to those they addressed, and their application and effect are questions of central importance to which answers are rarely forthcoming. N. II and III, concerned with the acceleration of court procedure, are explicitly addressed to judges,⁵ themselves often the cause of delays, in the courts of Constantinople, but no direct information is conveyed by the laws with regard to their dissemination. The judges may have been informed through the head of one of the courts in the capital, the *megas droungarios* who registered these novels.⁶ In N. I, concerning the invalidity of imperial rescripts which are contrary to the law, judges are the implicit addressees⁷ but here provincial judges as well as those in the capital can be envisaged. Although in this case also no explicit directions are given for the law's distribution, registration in 'all the archives of the fisc' is stipulated.⁸ Perhaps it was through the fiscal *sekreta* that provincial judges, who also had fiscal duties,⁹ were informed. N. IV on provincial murderers who seek asylum in the Great Church is directed not only at the patriarch and officials of Hagia Sophia but also, and especially, at those whose responsibility it was to check criminal activity at home, provincial *archontes*, military forces, civil and ecclesiastical judges.¹⁰ The means by which this law reached the provinces is stated explicitly; copies of the novel, signed by the heads of the courts in the capital, were to be sent to provincial churches where they would be stored 'so that all may have knowledge of the things which have been ordained, that they may act in accordance with their content'.¹¹ However, even in this case where it is known how and where the law was distributed, it is not possible to determine what application or effect it had.¹²

Although the effect which the novels had on the injustices they sought to check may elude us, the larger imperial programme to which the legislation contributed can be reconstructed, at least for N. II, III, IV. The three novels were issued in 1166, in the months of March and April, as were two other laws of

⁴ See the commentary on the amendment in N. IV, *infra* pp. 199–200, and the commentary to N. III.

⁵ N. II *passim* and commentary; N. III, 115–127 and commentary, *infra* p. 184.

⁶ On the *megas droungarios* see N. II, 220 and commentary, *infra* p. 181; for his registration of N. II and N. III, see N. II, 234–235, 240–241, 245–246; III, 228–229 and discussion, *infra* p. 106.

⁷ See the commentary, *infra* p. 168–169.

⁸ N. I, 43–44.

⁹ OIKONOMIDÈS, L'Évolution, 148–149, and bibliography in note 314, *infra*.

¹⁰ N. IV, 93 ff., 134–140, 147–148.

¹¹ N. IV, 150–153.

¹² See the remarks in note 315, *infra*.

Manuel, the edict on a doctrinal issue,¹³ and a *prostagma* on prohibited degrees of marriage.¹⁴ This relatively large number of laws which can be dated to the same months of a single year affords an opportunity to examine the range and style of Manuel's legislative activity, as well as the context in which the legislation was promulgated.

Dominating the group of five novels, both by its diplomatic and manner of promulgation and publication, is the edict which contained an interpretation of the passage from John 14:28, 'My Father is greater than I'. Manuel convened the main sessions of the council which met in March, April and May, and it was his view on the question which was adopted and expressed in the edict of March 1166.¹⁵ He had this law inscribed in marble and displayed in Hagia Sophia.¹⁶

Manuel's 'Justinianic' style of handling the doctrinal controversy is conveyed also by the form and content of the law. The diplomatic used for the promulgation of the law was an archaising imitation of the Roman edict.¹⁷ The *intitulatio* of Manuel's 'edict' contained triumphal epithets which had not appeared in imperial titulature since Heraclius.¹⁸ Manuel was not only styled victor over various barbarian peoples and provinces but also 'heir to the crown of Constantine the Great and in spirit holding sway over all of his (Constantine's) rightful possessions, inasmuch as some have broken away from our empire'.¹⁹ Enshrined in marble in the Great Church, Manuel's claim to be the heir of Constantine and Justinian, a *renovator*, has been interpreted as a response and reaction to Frederick Barbarossa's bid for Roman legitimacy.²⁰ At the time of the council sessions and the promulgation of the edict Manuel was negotiating with pope Alexander III for recognition as *the* Roman emperor.²¹

As a group, the five laws of March-April 1166 on civil, criminal, canonical and doctrinal matters convey the impression of an emperor competent in theology

¹³ N. 70: ZACHARIAE, IGR III, 485-492 = ZEPOS, IGR I, 410-416; new edition in SAKKOS (as in note 1), pp. 167-173; DÖLGER, Regesten N. 1469.

¹⁴ N. 69: ZACHARIAE, IGR III, 483-485 = ZEPOS, IGR I, 408-410; DÖLGER, Regesten N. 1468.

¹⁵ For a summary of the controversy and sources, see SAKKOS (as in note 1), 20-38; MANGO, The Conciliar Edict (as in note 1), 320-321, and P. CLASSEN, Das Konzil von Konstantinopel 1166 und die Lateiner, BZ 48 (1955), 339-368.

¹⁶ Kinnamos, ed. A. Meineke, 256. For the surviving inscription see MANGO, The Conciliar Edict, 317-330.

¹⁷ See the discussion by N. VAN DER WAL, *Edictum und lex edictalis*, RIDA 28 (1981), 310-312.

¹⁸ P. CLASSEN, Die Komnenen und die Kaiserkrone des Westens, Journal of Medieval History 3 (1977), 214 ff.

¹⁹ MANGO, The Conciliar Edict, 324,5-8, 330.

²⁰ CLASSEN, Die Komnenen, 214-220.

²¹ Kinnamos, 218-220; F. CHALANDON, Les Comnènes, Études sur l'empire byzantin au XI^e et au XII^e siècles (Paris 1912, repr. London 1962) II, 564-566.

and law-making, a monarch whose restoration of orthodoxy goes hand in hand with the vindication of those who have been unjustly treated. In these novels, Manuel appears as a protector of canon law, at times more vigilant in this role than the church itself.²² He puts justice before all else, rebuking his subjects and complaining that even the barbarians surpass them in their regard for justice.²³ Other accounts of Manuel's reign confirm the image and style projected by his laws.²⁴ The novels of 1166 are as much a monument to his authority as the bronze cross he planted in Hungary to commemorate his victory there in 1165. Both declare him to be the ruler of 'renowned Rome',²⁵ in his empire and abroad.

Diplomatics and Registration

The 'edict' of 1166 is the only law issued by Manuel in that form. Novels II, III, IV of the same year and N. I of 1158 are in the diplomatic most commonly used for general laws: the *protagma* and the *chrysoboullos logos*.²⁶ The originals of the four novels have not survived but the characteristic elements of their diplomatic and additional entries made on them in the course of their registration have been noted and preserved in descriptions of the documents written by officials transcribing the laws into the registers of the *sekreta* or by those copying the laws into manuscripts containing collections of texts.

The descriptions fall into two categories: those transmitted as headings or labels to the law and others which follow the law, at the foot of the text. Both are copyists' additions and do not constitute part of the document issued by the emperor. The headings contain an identification of the document (novel, chrysobull, etc.), the emperor's name, a résumé of the law's content and some-

²² This is the tone of N. IV: *infra*, commentary, 199–204.

²³ For the theme of the 'noble barbarian', see N. III, 97–102 and N. IV, 82–86 with commentary.

²⁴ For Manuel's desire to project himself as a theologian, see the remarks of Choniates, ed. VAN DIETEN, 209–210, 212; for his law-making: Kinnamos, ed. MEINEKE, 275–277; also an oration by Michael *o tou* Anchialou (1165/1167), ed. R. BROWNING, A new source on Byzantine-Hungarian relations in the twelfth century: the inaugural lecture of Michael *o tou* Ἀγγιάλου ὡς ὑπατος τῶν φιλοσόφων, *Balkan Studies* 2 (1961), 196, 320–324 (= *Studies on Byzantine History, Literature and Education*, London 1977). For Manuel's cultural patronage, see P. MAGDALINO and R. NELSON, *The Emperor in Byzantine Art of the Twelfth Century*, *Byzantinische Forschungen* 8 (1982), 123–182, esp. 172 ff. See also the remarks by SVORONOS *Les privilèges*, 380–381, note 295.

²⁵ Kinnamos, ed. MEINEKE, 261, gives the inscription on the cross.

²⁶ DÖLGER/KARAYANNOPULOS, 77; VAN DER WAL (as in n. 17), 312–313. The reason for the use of the diplomatic of the *chrysoboullos logos* instead of that of the *protagma* for N. I may lie in the need to employ a diplomatic of the same status as the imperial rescripts the novel sought to invalidate. See N. I, 29–34, 39–41 and commentary, *infra* pp. 169 ff.

times also its date of promulgation or registration.²⁷ The descriptions which follow the law convey information about its appearance, signs of validation (date, imperial signature, seal), the name and title of the chancery official who handled the document, and the registration entries by the *sekreta*.

The descriptions at the foot of the texts of the novels show that the diplomatic differences between the chrysobull and the *prostagmata* lie in the manner of dating the document, the signature, and the seal. The chrysobull is dated within the text (month, indiction and year of the world), the imperial signature follows, and a gold seal is appended by a red silk cord at the bottom of the document.²⁸ In addition, the chrysobull has the 'customary *kanikloma*', that is, certain words written in red ink – (χρυσόβουλλος) λόγος and γραφή in the text of the law and *Legimus* following the last word in the chrysobull.²⁹ The *prostagmata* have a much simpler diplomatic which consists of the emperor's signature in *menologion* (month and indiction) in red ink,³⁰ and a wax seal, likewise appended.³¹

All four novels, regardless of their diplomatic, had the following entries marked on them: the signature or mark of a chancery official, introduced by the word *διά*, and the entries of the various *sekreta* where the document was registered, beginning with *κατεστρώθη* and followed by the name of the *sekreton*, the month and the indiction. These entries which appear on documents with greater frequency from Alexios I's reign are particularly well documented for Manuel's novels, providing a good source for chancery and registration practices.

²⁷ I have recorded these before the text of the law in groups formed by the manuscripts. For another example of such headings in a law of Manuel (1173) which the editor has not separated from the text of the law, see J. DARROUZÈS, *Décret inédit de Manuel Comnène*, REB 31 (1973), 311–313. These 'headings' do not describe the formal headings which the original documents had, i.e. the *Protokoll* (*invocatio*, *intitulatio* and *pertinentia*). For this see DÖLGER/KARAYANNOPULOS, 120–121, 123 (*chrysoboullos logos*), 110 (*prostagma*).

²⁸ N. I, 46–47, 49–51, 54–55; DÖLGER/KARAYANNOPULOS, 123.

²⁹ N. I, 49, 55; DÖLGER/KARAYANNOPULOS, 35–36, 117–118; F. DÖLGER, *Der Kodikellos des Christodulos in Palermo*, Ein bisher unbekannter Typus der byzantinischen Kaiserurkunde, *Archiv für Urkundenforschung* 11 (1929), repr. *Byzantinische Diplomatik* (Ettal, 1956), 58–59.

³⁰ N. II, 227, 232, etc.; N. III, 219, 223, etc.; N. IV, 162–163, 166–167, etc.; DÖLGER/KARAYANNOPULOS, 110.

³¹ The wax seal on Manuel's *prostagmata* is described as *δίπτυχος* (N. II, 228; III, 224; IV, 163), a term which indicates that it did not seal the document but was hung so that both sides could be seen. See N. OIKONOMIDÈS, *Quelques remarques sur le scellement à la cire des actes impériaux byzantins* (XIII^e–XIV^e s.), *Recueil de travaux de la Faculté de philosophie* 14/1 (Belgrade, 1979), 123–128 (= *Mélanges Fr. Barišić*); G. VIKAN and J. NESBITT, *Security in Byzantium: Locking, Sealing and Weighing*, *Dumbarton Oaks, Byzantine Collection Publications* 2 (1980), 23–24.

Opinions vary as to the function and meaning of the δῖα-entries. The new edition of the novels has produced some additional information which may contribute to the discussion of the problem. On all four novels, the δῖα-entry includes the name and title of a chancery official: N. I (1158) Theodore Stypeiotes, *epi tou kanikleiou* and *dikaiodotes*,³² N. II, III, IV (1166) Michael Hagiotheodorites, *logothetes tou dromou*.³³ These entries show that the official, although in both cases from the chancery, was not necessarily always the *epi tou kanikleiou*, and this is corroborated by other sources.³⁴ Again, according to the descriptions at the foot of the novels, the δῖα-entry was not always made on the same part of the document. In the chrysobull it appears on the back (ἐξωθεν), in the *prostagma* on the bottom, below the date written by the emperor.³⁵ It has been argued that the δῖα-entry had a different function, according to its position on the document.³⁶ This differentiation seems unnecessary. The information given for N. III by one group of manuscripts may help to explain what the δῖα-entry signified. According to one description at the foot of the novel, the word ἀπελύθη, 'released' or 'issued', and the date were written on the back of the *prostagma* in the hand of the *logothetes tou dromou*.³⁷ The

³² N. I, 51–52, 55–56. The chrysobull of 1158 is the last document with Stypeiotes' name and marks the *terminus post quem* for his disgrace. For an exhaustive study of Stypeiotes' career, with all relevant references, see O. KRESTEN, Zum Sturz des Theodoros Stypeiotes, JÖB 27 (1978), 49–103; also note 55 below. Stypeiotes combined a chancery function with that of the *dikaiodotes*, the head of a court in Constantinople: N. II, 221 and commentary.

³³ N. II, 228–229; N. III, 219–220; N. IV, 164. He appears on a list of participants in the council of 1166 as *logothetes tou dromou* and *orphanotrophos*: SAKKOS (as in note 1), 98. On the family see A. P. KAZHDAN, Bratia Aiofeodoriti pri dvore Manuila Komnina, ZRVI 9 (1966), 85–94; KRESTEN, Zum Sturz (as in note 32), 97–99. On the function of the *logothetes tou dromou* see OIKONOMIDÈS, L'Évolution, 131.

³⁴ IDEM, 131 note 35. In 1166, Ioannes Kamateros was the *epi tou kanikleiou*: SAKKOS (as in note 1), 98.

³⁵ N. I, 51, 55. The descriptions of the *prostagma* entries mention the δῖα-phrase after the imperial signature in *menologion* and before the entries on the back (ἐξωθεν) of the document: II, 228; III, 219; IV, 163–164.

³⁶ DÖLGER/KARAYANNOPULOS, 36–38, 120, claim that the δῖα-entry on the front of a document indicates the name of the official who brought to the emperor's attention the matter with which the legislation is concerned (Intervenientenvermerk). When it appears on the back it is an acknowledgement that the official named has been informed of the document's contents (Rekognitionsvermerk).

³⁷ N. III, 221–222: δῖα γραμμάτων τοῦ λογοθέτου. This information is found only in manuscripts D and T (see *infra* p. 108). The ἀπελύθη-entry is described as being 'on the joins of the sheets (of paper)': ἐν ταῖς δέσεσι (προπτύξεσι, συμπτύξεσι) τῶν κολλῶν (N. II, 235, 239, 244; III, 221, 230, 233; IV, 168, 170). Here the ἀπελύθη-entry fulfils the function which has been observed in the case of δῖα-entries on some documents, written on the joins of sheets of paper or parchment to guard against a substitution of one sheet for another: DÖLGER/KARAYANNOPULOS, 36–37 (Klebevermerke).

date of 'release' is three months later than the date of the imperial *menologion* on the document but earlier than any of the registration entries.³⁸ It seems reasonable to infer that the chancery official who wrote the *διά*-phrase on the document (front or back) was responsible for releasing it to the *sekreta* for registration. He may have supervised the drawing up of the document in the chancery, checked it and finally 'issued' it for registration. The *διά*-entry could certify that the document passed *through* his hands on to the *sekreta*.³⁹

The information which the descriptions give about the registration of the novels is sometimes in a summarised form – 'this venerable imperial *prostagma* was also registered in various civil and ecclesiastical *sekreta*'⁴⁰ – but more often a list of *sekreta* is given, with the dates of registration (month, indication), in chronological order, as they appeared on the back of the document.⁴¹ However, these lists cannot be assumed to be always accurate or complete.⁴² Some manuscripts transmit a fuller account of the registration entries than others, something which implies that the copyist (or his model) saw the document at a more advanced stage in its registration rounds.⁴³

Because of the incomplete nature of the descriptions, but also because of the differing registration requirements of the documents, according to the matter being legislated, it is not possible to determine all the *sekreta* in which the four novels would have been registered. Some documents do, however, indicate in the text of the law which *sekreta* are to register it. For N. I it is stated that the chrysobull should be registered in all the archives of the fisc and finally deposited in the *chartophylakeion* of the Great Church.⁴⁴ Although N. II, III, IV have no internal references to registration, according to descriptions of the registration entries transmitted by one group of manuscripts, all three *prostagmata*

³⁸ N. II, 227 ff; N. III, 219 ff: date of promulgation, written in *menologion*: March; date of 'release': June; date of registration: August. N. IV, 162 ff: April promulgation, July 'release', August registration. ἀπελὺθη is sometimes used as a synonym for γέγνε, date of promulgation (Dölger/Karayannopoulos, 38–39) but in this context it cannot have that meaning.

³⁹ On the *mesazon*-like function of chancery officials who wrote the *διά*-entry, see ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 131–132 (n. 35).

⁴⁰ N. II, 229–231, 236–237: only family b manuscripts give this summary description.

⁴¹ See Dölger/Karayannopoulos, 37, and examples *infra*.

⁴² E.g. some manuscripts give a general description of registration in various civil and ecclesiastical *sekreta* (see note 40), yet no ecclesiastical *sekreta* are named by other manuscripts in their list of registration entries, unless a trace of one can be seen in the reference to registration by Kyriakos o tou Anchialou: N. II, 242, and below, p. 107. See also the discrepancies in promulgation and registration dates given by different manuscript groups: for N. II and III compare descriptions given by manuscripts in groups I and II with III.

⁴³ Compare the descriptions for N. I given by manuscript groups I and II.

⁴⁴ N. I, 43–45. On the *chartophylakeion* see DARROUZÈS, 'Οφφίλια, 437 ff.

bore the registration mark of the *megas droungarios*, head of one of the four courts in Constantinople, and an entry for the two *megala logariastata sekreta*.⁴⁵

The descriptions of the registration entry by the *megas droungarios* imply that this consisted of a single word – κατεστρώθη, 'registered' – without a date.⁴⁶ Κατεστρώθη alone appears to have been the mark of the *megas droungarios*, understood and recognised by all as such. Descriptions of other documents from Manuel's reign seem to confirm this.⁴⁷

The other registration notice on all the *prostagmata* is that of the two *megala logariastata sekreta*. Reference to these *sekreta* in this form is found only on four *prostagmata* (1166)⁴⁸ of Manuel and on a Lavra document (*semeioma*) of 1196.⁴⁹ The *sekreta* were most likely the two financial bureaux created by Alexios I in the last decade of the eleventh century, that of the *megas logariastes*, head of the fiscal *sekreta*, and of the *megas logariastes tôn euagôn sekretôn*, for the property of the crown.⁵⁰

The officials in the various *sekreta* who performed the work of registration are sometimes mentioned by name on documents from Manuel's reign.⁵¹ For

⁴⁵ This information is found only in manuscripts belonging to family a: N. II, 240–242, 245–247; III, 228–230; IV, 171–173.

⁴⁶ N. II, 245; III, 228–229; IV, 171: transmitted only by one group of manuscripts: y. That the *megas droungarios* entered the κατεστρώθη himself is stated in a *prostaxis* of 1176: καὶ ἔξωθεν τὸ κατεστρώθη διὰ χειρὸς τοῦ σεβαστοῦ καὶ μεγάλου δρουγγαρίου: E. L. BRANOUSE, Βυζαντινὰ Ἐγγράφα τῆς μονῆς Πάτμου (Athens 1980) no. 22, 220. On the *megas droungarios* see N. II, 223 and commentary.

⁴⁷ A *prostagma* of 1173 contains directions for the *megas droungarios* to see to its registration. The description of the entries on the back of the document states: (εἶχε) καὶ ἔξωθεν τὸ κατεστρώθη. It is quite likely that this lone 'registered' was that of the *megas droungarios*: J. DARROUZÈS, Décret inédit (as in note 27), 317, 94–96, 99. The κατεστρώθη alone appears on a chrysobull (1079) of Nikephoros Botaneiates which has survived, as well as on original chrysobulls from Alexios I's reign: BRANOUSE, Βυζαντινὰ Ἐγγράφα (as in note 46), no. 3, 27; Actes de Lavra I, edd. P. LEMERLE, A. GUILLOU, N. SVORONOS, D. PAPACHRYSSANTHOU (Paris 1970), no. 46, 251; no. 52, 275.

⁴⁸ N. II, 246; III, 229; IV, 172; N. 69: ZACHARIAE, IGR III, 485, 13–14 = ZEPOS, IGR I, 410, 13–14.

⁴⁹ Actes de Lavra I (as in note 47), no. 67, 350, 37; 353, 101; no. 68, 356, 10; 357, 43.

⁵⁰ OIKONOMIDÈS, L'Évolution, 140–141 and note 99. A *lysis* of 1145 mentions registration in each of these *sekreta*: DÖLGER, Regesten 1484; new edition: BRANOUSE, Βυζαντινὰ Ἐγγράφα (as in note 46), no. 19, 192. F. DÖLGER's suggestion (Beiträge zur Geschichte der byzantinischen Finanzverwaltung [Leipzig/Berlin 1927, repr. Hildesheim 1960], 18 note 1) that the *sekreta* in question are those of the *megas logariastes* and the *epi tôn oikeiakôn* can be rejected because of the mention in N. II, 246–247 of registration in the two *megala logariastata sekreta* and *tôn oikeiakôn*. For yet another opinion on the *megala logariastata sekreta* see P. LEMERLE, Notes sur l'administration byzantine à la veille de la IV^e croisade d'après deux documents inédits des archives de Lavra, REB 19 (1961), 266, 267 (= Le monde de Byzance: Histoire et Institutions, London 1978).

⁵¹ E.g. the *lysis* of 1145 (reference as in note 50); *lysis* of 1158: DÖLGER, Regesten N. 1423, BRANOUSE, Βυζαντινὰ Ἐγγράφα (as in note 46), 200.

the four novels, however, there is only one such entry recorded, that of a Kyriakos *o tou* Anchialou, an otherwise unknown official who registered N. II for one of the civil or, more likely, ecclesiastical *sekreta*.⁵²

These descriptions of the registration entries also yield information about the length of time elapsing between each stage in the registration. For the *prostagmata* of 1166 the interval from the date of promulgation to the date of the last recorded registration entry is 4–5 months.⁵³ The longest part of the process seems to have been the period from promulgation to release from the chancery (*ἀπελύθη*-date) – 3 months in each case.⁵⁴ For the chrysobull of 1158 the entire procedure was one of 9-months duration.⁵⁵ These periods seem exceptionally long in comparison with registration dates for Alexios I's documents (1–2 months) and even with those for other documents of Manuel (2–3 months).⁵⁶ However, final judgement on this problem must await the appearance of additional registration information produced in new editions.

Manuscript tradition

The novels have been transmitted in manuscripts which can be classified in three categories: manuscripts which usually contain all four novels as part of appendix B to the Synopsis Basilicorum Major (family b), manuscripts which include three novels (II, III, IV) in collections, mainly canonical (family a), and three single manuscripts, not related to a or b, which have one or more novels.

⁵² N. II, 242. On the meaning of the expression *o tou* see DARROUZÈS, 'Οφφίγια, 85.

⁵³ N. II, III: March promulgation, last registration date, August; IV: April promulgation, last registration date August.

⁵⁴ See note 38.

⁵⁵ N. I: November promulgation, registration in January, March (ll. 56–58) and August (ll. 2, 7). KRESTEN, Zum Sturz (as in note 32), 99–102, thinks that the long gap between the promulgation and last registration date can be attributed to Stypeiotes' removal from office in disgrace as an accused conspirator, sometime after January 1159. According to Kresten, no *sekretion* would have registered a document which had come into being through the intervention of a 'conspirator'. This theory is based on the Dölger/Karayannopoulos explanation for the *διά*-entry of the *epi tou kanikleiou* (Intervenientenvermerk: note 36 above) and assumes that Manuel had not signed the chrysobull before his departure for Cilicia in the autumn of 1158, both of which views are debatable.

⁵⁶ For Alexios I: Actes de Lavra I (as in note 47), no. 43, 240; no. 44, 244; no. 46, 251; no. 52, 274–275. For Manuel: *lysis* of 1145 (reference as in note 50): March promulgation, last registration date, June; chrysobull of 1148: DÖLGER, Regesten N. 1372, SP. LAMPROS, 'Ο Ιατὴρ τοῦ Μανουὴλ Κομνηνοῦ, Νέος Ἑλληνομνήμων 13 (1916) 325: February promulgation, May registration; *lysis* of 1158 (reference as in note 51): September promulgation, last registration date, October. On registration delays and procedure see now C. OTTEN-FROUX, L'Enregistrement du chrysobulle de 1192 aux Pisans, REB 42 (1984), 241–248.

b = DTFVWGKHJLMNR

Family b forms the largest group, with manuscripts which have, for the most part, all four novels in appendix B to the SBM.⁵⁷ In these manuscripts the novels follow each other always in the same order (II, III, IV, I), novels IV and I separated by a novel incorrectly attributed to Manuel in these manuscripts,⁵⁸ and by a law of Nikephoros Botaneiates.⁵⁹ (Some manuscripts which belong to b do not, however, contain all four novels, and these are indicated below in the appropriate context.) The manuscripts which contain appendix B and their relationships have been described by Svoronos, although he did not know all the manuscripts discussed here.⁶⁰

Within b, a number of sub-groups can be identified:

- D Par. gr. 1388, 15 th c., foll. 361v-376r; 382r-383r⁶¹
- T Par. suppl. gr. 1236, 15 th c., pp. 180-196; 204-205⁶²

The relationship of these manuscripts, which contain appendix B but attached to works other than the SBM, is established by a number of common errors, additions and variant readings.⁶³ The possibility that either manuscript is a copy of the other, can be excluded.⁶⁴

- F Vat. gr. 852, 13 th c., foll. 405r-417r; 422v-423r⁶⁵
- V Athen. Mus. Benaki 20, 14 th c., foll. 400v-406v; 409r/v⁶⁶
- W Patm. 390, a. 1570, foll. 175r-180v; 183r⁶⁷

⁵⁷ For a description of this group of manuscripts see N. SVORONOS, SBM 100-102 and 116 ff. For b as a group see the headings and registration descriptions in novels I-IV and N. II 26, 110, 112, 128, 130 (*bis*), 131; N. III 161. In addition, only b manuscripts (apart from K and MR) contain content summaries in the margin for N. II, e.g.: ὅτι εἰ παραδραμεῖται ἡ προθεσμία ἐκ τῆς τοῦ ἐναγομένου δυστροπίας, ὁ τοιοῦτος καταδικασθῆσεται ἀσυμπαθῶς ἀπαιτούμενος καὶ τὰ δαπανήματα παρὰ τοῦ ἐνάγοντος.

⁵⁸ Coll. IV, N. 74; for the attribution see ZACHARIAE, GGRR 33²⁹; DÖLGER, Regesten, N. 1179.

⁵⁹ Coll. IV, N. 12: DÖLGER, Regesten N. 1047.

⁶⁰ L, M, R, W were not taken into account by him.

⁶¹ H. OMONT, Inventaire sommaire des manuscrits grecs de la Bibliothèque Nationale, II (Paris 1888), 34-35.

⁶² CH. ASTRUC/M.-L. CONCASTY, Catalogue des manuscrits grecs, III: Le supplément grec III (Paris 1960), 411-414.

⁶³ N. I, 33; II, 75-76, 80, 127, 165, 186; III, 11, 21, 26, 39, 45, 54, 68, 71, 72, 99, 129, 167, 174, 202, 206, 214; IV, 63, 102, 105.

⁶⁴ D cannot be the archetype for T: N. II, 157, 208, 209; III, 12-13; nor T for D: III, 206.

⁶⁵ R. DEVREESSE, Codices Vaticani Graeci III, (Vatican 1950) 411-414.

⁶⁶ D. GKINES, Κείμενα Βυζαντινοῦ καὶ μεταβυζαντινοῦ δικαίου εἰς χειρογράφους ἐν Ἑλλάδι κώδικας (Athens 1963), 27; A. TSELIKAS, Δέκα Αἰῶνες Ἑλληνικῆς Γραφῆς (9ος - 19ος αἰ.) (Athens 1977), 44-45.

⁶⁷ I. SAKKELION, Πατμιακὴ βιβλιοθήκη ἥτοι Ἀναγραφή τῶν ἐν τῇ βιβλιοθήκῃ τῆς κατὰ τὴν νῆσον Πάτμον ... χειρογράφων τευχῶν (Athens 1890), 176-177.

That F is the archetype of this group is suggested by the fact that F never has a variant reading which is not also shared by V and W.⁶⁸ V and W exhibit common errors⁶⁹ but there is insufficient information to establish the precise relationship between the two. W could be a copy of V but it is equally possible that both have a common model.

G Par. gr. 1351, 15 th c., foll. 389v–401r; 406r–407r⁷⁰

K Par. suppl. gr. 538, 16 th c., foll. 61v–75v; 81v–82r⁷¹

The archetype g for G and K is established by the many variant readings, often omissions, which the manuscripts share.⁷² Svoronos' conjecture that G was the model for K can be rejected.⁷³ His suggestion that G derives from F cannot be demonstrated, at least for the parts of the manuscripts which contain the novels.⁷⁴

L Scor. X. II. 14 (374), a. 1429, foll. 192r–198v; 199r/v⁷⁵

M Vat. Pii II 13, 15 th c., foll. 203r–220r; 221v–222v⁷⁶

N Lips. 42, a. 1541, foll. 352v–364r; 365r–366r⁷⁷

R Par. suppl. gr. 887, a. 1565, N. II: foll. 6v–9v; N. I: 10v–11r⁷⁸

Within family b, LMNR constitute the group (m) with the greatest number of mistakes, exhibiting a large number of additions, omissions and other variant readings.⁷⁹

⁶⁸ The only exception is III, 149 but this is the kind of error (date of the Annunciation to the Theotokos) which would have been caught and corrected by scribes copying the manuscript.

⁶⁹ e.g. III, 37, 159.

⁷⁰ OMONT, *Inventaire* II, 20–21.

⁷¹ OMONT, *Inventaire* III, 274.

⁷² I, 13, 24; II, 26, 79, 106, 158, 162, 168, 182, 218; III, 9, 18, 53, 66, 72, 85, 88, 99, 122, 150, 162, 170, 204, 212; IV, 93, 114, 156.

⁷³ SVORONOS, *SBM*, 118. Against SVORONOS' theory see N. IV, 71.

⁷⁴ See note 68 and L. BURGMANN, above p. 30.

⁷⁵ G. DE ANDRÉS, *Catálogo de los Códices griegos de la Real Biblioteca de El Escorial* II (Madrid 1965), 284–286; C. C. BRACH, *Copisti greci del Medioevo e del Rinascimento*, *EEBZ*, 42 (1975–1976), 241; L. BURGMANN, *FM* II (1977), 105³⁹.

⁷⁶ H. STEVENSON, *Codices Manuscripti Graeci Reginae Suecorum et Pii PP. II Bibliothecae Vaticanae* (Rome 1888), 140–141; P. CANART/V. PERI, *Sussidi bibliografici per i manoscritti greci della Biblioteca Vaticana*, *Studi e Testi* 261 (1970), 290.

⁷⁷ V. GARDTHAUSEN, *Katalog der griechischen Handschriften der Universitätsbibliothek zu Leipzig*, (Leipzig 1898), 56–57.

⁷⁸ OMONT, *Inventaire* III, 320.

⁷⁹ I, 30, 34, 40–41; II, 24, 34, 46, 51, 60, 111, 115, 118, 125, 127, 135, 141–142, 148–149, 156, 170, 182, 188, 206, 225; III, 11, 12–13, 16, 17–18, 34, 36, 52, 54, 55, 74, 106, 114, 120, 122, 129, 136, 136–137, 142, 143, 156, 178, 179, 182, 187, 212; IV, 25, 26, 50, 51, 52, 86, 98, 103, 106, 118, 124, 144. – See also the variants of m for the headings and registration descriptions: N. I, II, IV.

Two groups are evident within m: MR and LN. M and R appear to have a common model,⁸⁰ while the possibility that L is the model for N cannot be excluded.⁸¹

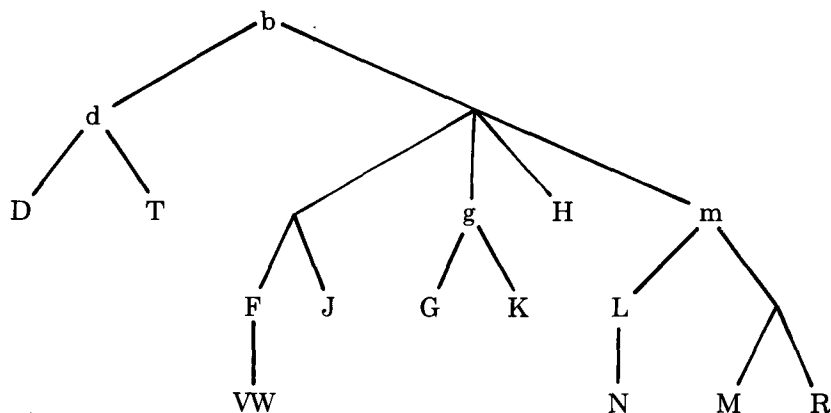
Two additional manuscripts, H and J, contain two of the four novels (II, I), also in the context of appendix B pieces.

H Athon. Iberon 286, 16 th c., N. II: foll. 151r-155v; N. I: foll. 156v-157r⁸²

J Athen. Μετοχ. Παναγίου Τάφου 25, 14 th c., N. II: 53r-55v; N. I: 55v-56r⁸³

Their relationship to family b is evident, especially in the headings to the novels and the registration descriptions.⁸⁴ Moreover, J shows a close relationship with F in particular.⁸⁵

In b, FgHJm exhibit greater similarities amongst themselves than with DT = d, the sub-group of b which contains the fewest errors.⁸⁶ In novels II and III, d has a version of the registration description which differs substantially from that of the other b manuscripts. In addition, d alone of the b manuscripts has the correct attribution of a Biblical citation (N. III, 39) where it is in agreement with family a manuscripts.



⁸⁰ I, 47; II, 60, 147, 168; also, MR do not have marginal summaries (see n. 57 above). M cannot be the model for R: II, 22, 155-156; III, 184-185; the age of R excludes it from being a model for M.

⁸¹ III, 88, 97; IV, 37, 102.

⁸² SPYR. LAMBROS, *Catalogue of the Greek Manuscripts on Mount Athos I* (Cambridge 1895, repr. Amsterdam 1966), 71-73.

⁸³ A. PAPADOPOULOS-KERAMEUS, *Ἱεροσολυμιτικὴ βιβλιοθήκη ἥτοι κατάλογος τῶν ἐν ταῖς βιβλιοθήκαις ... Ἑλληνικῶν Κωδίκων IV*, St. Petersburg (1899), repr. Brussels 1963, 37-39.

⁸⁴ N. I, 1-2, 49-53; N. II, 1, 98, 227-231.

⁸⁵ II, 120, 162, 163, 168, 178.

⁸⁶ For d, see above, n. 63. For Fg(HJ)m: II, 98; III, 30.

$$a = \text{IOU}_1\text{U}_2\text{Yy}$$

Family *a*⁸⁷ is constituted, with one exception, by manuscripts which contain three novels (II, III, IV) in differing sequence, in the context of canonical works.

*U*₁ Athen. EB 2695, 14 th c., foll. 191r–207r⁸⁸

*U*₂ Athen. EB 1377, 14 th c., foll. 313r–320r⁸⁹

These manuscripts share a very large number of careless errors, including omissions.⁹⁰ They contain the novels in a different sequence from each other and appear to be independent copies of a common model.⁹¹

Y Athon. Dionysiou 121, 13 th c., N. IV, 1–65: foll. 321r/v⁹²

Par. gr. 1321, ca. 1600, foll. 429r–440v⁹³

y Par. Coisl. 39, ca. 1600, foll. 265r–293r⁹⁴

Ambros. A 53 inf. (868), a. 1603, pp. 953–976⁹⁵

A sub-group of *a* with the second largest number of common errors is to be found in *y*,⁹⁶ three manuscripts copied by the Cypriot scribe Ioannes Hagiomauros (Sanktamauros).⁹⁷ These contain the novels in the sequence IV, II, III, and show only minor differences among themselves. They also preserve important information in their description of the registration of the novels, found in no other manuscripts.

⁸⁷ II, 96; III, 62, 66; IV, 22.

⁸⁸ D. GKINES, *Κείμενα* (as in n. 66), 25.

⁸⁹ A: MOMPHERRATOS, *Νομοκάνων τοῦ ΙΓ' αἰῶνος, Δελτίον τῆς Ἱστορικῆς καὶ Ἐθνολογικῆς Ἑταιρείας τῆς Ἑλλάδος*, IV (1892), 309–331.

⁹⁰ II, 13, 14, 15, 16, 18, 20, 27, 34, 39, 41, 56–57, 74, 88, 89, 99, 100, 102, 110, 116, 118, 120, 138, 139, 148–149, 167, 171, 174, 179, 182, 186, 208, 213, 214, 225; III, 7, 14, 14–15, 17, 19, 21, 23, 24, 30, 31, 38, 40, 43, 44, 48, 49, 51, 57, 59, 66, 70, 76, 78, 79, 85–86, 92, 93, 112, 120, 132, 137, 143, 148, 150, 152–153, 159, 161, 169, 177, 182, 185, 199, 200, 201, 205, 207–208, 210, 212, 245; IV, 10, 13, 17, 19, 20, 31, 41–42, 47, 50, 65, 69, 72, 74, 89, 90, 93, 95, 96–97, 100–106, 121, 122, 128, 128–129, 135, 140, 142, 145, 146, 149–150, 157, 160.

⁹¹ *U*₁: II, III, IV; *U*₂: IV, II, III. For their independence of each other see novel II, 81, 122.

⁹² LAMBROS, *Catalogue of the Greek Manuscripts on Mount Athos I* (as in n. 82), 338.

⁹³ OMONT, *Inventaire II*, 3–4; DARROUZÈS, *Ὁφείκια*, 226.

⁹⁴ R. DEVRESSE, *Bibliothèque Nationale, Catalogue des Manuscrits Grecs. II: Le fonds Coislin* (Paris 1945), 35–37.

⁹⁵ AE. MARTINI/D. BASSI, *Catalogus codicum graecorum Bibliothecae Ambrosianae* (Milan 1906), 970.

⁹⁶ II, 10, 11, 14, 24, 49, 61, 72, 77, 81, 90, 97, 108, 118, 121, 127, 130, 132, 153, 154, 159, 161, 166, 174, 182, 185, 189, 190, 197, 199, 200, 205, 219, 221; III, 116, 118, 119–120, 121, 128, 129, 130, 132, 137, 147, 154, 155–156, 159, 168, 169, 175, 189, 190, 201, 204, 210, 211, 212, 215; IV, 27, 29, 32, 35, 49, 50, 51, 55, 57, 67, 69, 70, 78, 79, 81, 86, 102, 118, 119, 120, 121, 135, 139, 142, 151.

⁹⁷ A. D. KOMINES, *Άγνωστον ἔργον τοῦ Κυπρίου ἀντιγραφῶς κωδίκων Ἰωάννου Σανκταμαούρα, Δίπτυχα I* (1979), 7 ff; E. GAMILLSCHEG and D. HARLFINGER, *Repertorium der griechischen Kopisten 800–1600*, I.A (Vienna 1981), no. 179.

The relationship of Y to the Hagiomauras manuscripts can be determined from the context, as well as a common variant reading. y and Y contain Zonaras' commentary on the canons and the same short canonical pieces preceding and following the novels. However, of the three novels in y, only the first 65 lines of novel IV are extant in Y (fol. 321r/v). This is followed on fol. 322r by the same piece which follows the last of the three novels in y (N. III). It is possible, therefore, that the folios missing from Y contained the rest of novel IV, as well as novels II and III. Originally, then, Y would have had the identical contents with y. Another factor which establishes a relationship between Y and y is the identical heading which the four manuscripts have for novel IV. However, the very faint script of Y, barely visible in the photograph available to me, as well as the extreme shortness of the text of novel IV which survives in Y, make it impossible to establish a more precise relationship between Y and y. They may have had a common model, or Y may be the direct or indirect archetype of y.

I Andros Hagias 88, 13 th c.; foll. 395v-404r⁹⁸

I, a collection of canon law and imperial legislation, is related to y.⁹⁹

O Leningrad PB 123, 14 th c.; N. II: foll. 247-250v; N. IV: foll. 252r-254v¹⁰⁰

O, a canonical collection which includes several imperial novels, is the only manuscript in a which contains only two novels (II, IV) of Manuel. In novel II O has readings in common with u.¹⁰¹

However, in novel IV a relationship between I and O is clear. In both manuscripts N.IV on murder is preceded by two novels of Constantine Porphyrogenetos (Coll. III, N. 10, 11) on murder. Likewise for N. IV I and O share a number of common readings, with o as the model,¹⁰² and o is related to y.¹⁰³

⁹⁸ SP. LAMPROS, Κατάλογος τῶν ἐν τῇ κατὰ τὴν Ἀνδρὸν μονῇ τῆς Ἀγίας κωδίκων, Ἐπετηρὶς τοῦ Φιλολογικοῦ Συλλόγου Παρνασσοῦ 2 (1898), 211-220.

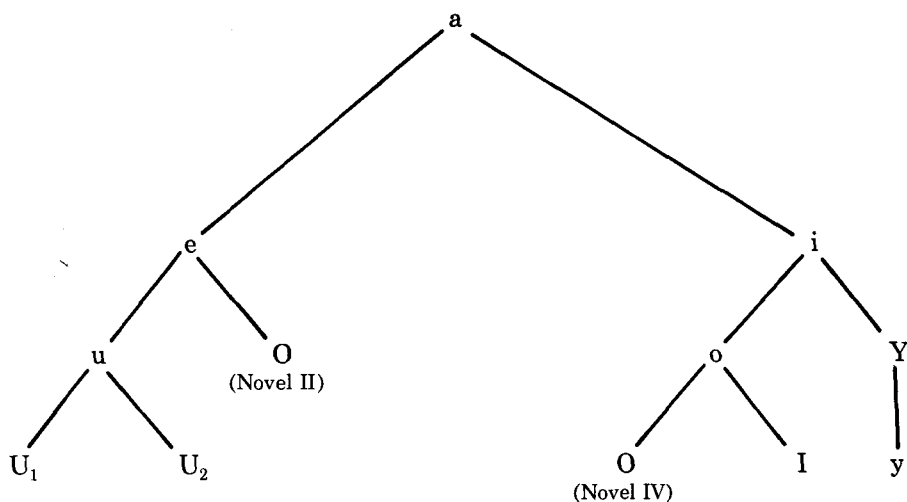
⁹⁹ II, 39, 44, 123, 127, 129, 182.

¹⁰⁰ E. E. GRANSTREM, Katalog grečeskich rukopisej Leningradskich chranilišč, VV 27 (1967), 288-293.

¹⁰¹ II, 26, 53, 56, 74, 89, 94, 103, 137, 140, 141-142, 146, 153, 171, 172, 173, 178, 179, 181, 186, 188, 202, 208, 213, 222, 223.

¹⁰² IV, 24, 50, 51, 56, 57, 71, 73, 78, 83, 105, 130. O cannot be the model because of its age, nor can I be the archetype of O: IV, 34.

¹⁰³ IV, 22, 26, 61, 75, 85, 95, 127.



There remain three single manuscripts, unrelated to a or b.

X Sinait. 1117, 14 th c., foll. 328v–329r¹⁰⁴

This manuscript, basically a collection of canon law, contains only novel I, and is a copy of a good text, exhibiting few variant readings or errors.¹⁰⁵ It might have had as its model a manuscript which itself was dependent on a copy of the novel stored in the *chartophylakeion* of the Great Church.¹⁰⁶ This may explain the source of the additional registration information given by X for novel I, intended to be kept in the *chartophylakeion*, after it had been registered in ‘all the archives of the fisc’ (ll. 42–46).

Z Scor. X. II. 6 (366), a. 1571, foll. 775v–778v¹⁰⁷

A mixed collection of canon law and imperial legislation, Z also contains only novel I, and has a few errors, some of which indicate that the scribe did not understand his text.¹⁰⁸

¹⁰⁴ V. GARDTHAUSEN, *Catalogus codicum Graecorum Sinaiticorum* (Oxford 1886), 229; V. N. BENEŠEVIČ, *Catalogus codicum manuscriptorum Graecorum qui in Monasterio Sanctae Catharinae in Monte Sina asservantur I* (St. Petersburg 1911, repr. Hildesheim 1965), 266–293, esp. 286. EL. PAPAGIANNI and SP. TROIANOS, above, 87, n. 1 (bibliography).

¹⁰⁵ I, 11, 13, 13–14, 17, 20, 29–30, 33, 34, 39.

¹⁰⁶ DARROUZÈS, ‘Ορφίγια, 434 and n. 2, 486; IDEM, REB 24 (1966), 25–26.

¹⁰⁷ G. DE ANDRÉS, *Catálogo II*, 269–272.

¹⁰⁸ I, 32, 34, 43, 44, 47.

C Marc. app. gr. cl. XI 30 d, 16th c., foll. 91r–99r¹⁰⁹

This manuscript of canon and imperial law, with three novels (III [without prooimion], II, IV [without prooimion]), has been seriously damaged and is illegible in places. It contains a large number of variant readings, not related to a or b but with the indirect transmission of the novels through Balsamon.¹¹⁰

Parts of novels II, III and IV have been transmitted indirectly, mainly in the commentary by Balsamon on the canons, undertaken during Manuel I's reign,¹¹¹ and in later legal compilations. Balsamon transmits all three novels, although incompletely, quoting only one section from novel II in full (ll. 163–199: on wills), and a single sentence from the same law (ll. 69–72: judges' voting procedure) and novels III and IV without their prooimia.¹¹² The Prochiron auctum also contains the same passages from the three novels as Balsamon, its source.¹¹³ In addition, Armenopoulos in the Hexabiblos (3.3.113) includes a section from novel II (ll. 155–166: on pre-emption and *antichresis*) taken from a manuscript of the Synopsis minor which contained the passage in the margin.¹¹⁴ The Synopsis minor (Φ 29), and Armenopoulos (6.6.5) following it, also give a paraphrase of a regulation of novel IV (ll. 111–130).

Balsamon's version of the novels, as it appears in the Rhalles-Potles edition, contains striking similarities with C (see above). In most instances, C agrees with Balsamon and not with any manuscripts in a or b. For example, in novel III, only C and Balsamon have the holiday on 23 September (ll. 177–178). Likewise, only C and Balsamon give the texts of novels III and IV without prooimia, both

¹⁰⁹ E. MIONI, *Bibliothecae Divi Marci Venetiarum codices mss. III* (Venice 1972), 152–154; A. DAIN, *Manuscripts de Venise 974–975–976, Miscellanea G. Galbiati* (Milan 1951), 279–280.

¹¹⁰ II, 17, 18, 20, 24, 31, 39, 40, 57–101 (om.), 102, 106, 107, 115, 118, 126–127, 138, 139, 145, 148, 149, 154, 156, 158, 163, 169, 170, 174, 181, 186, 197, 198, 204, 206, 207, 209, 212, 218, 219, 220, 221, 223; III, 115, 118, 129, 132, 135, 140, 145, 150, 155, 166, 167, 174, 177–178, 184, 191, 199, 207–208, 210, 211, 218; IV, 93, 98, 101, 106, 107, 119, 122, 124, 130, 134, 137, 139, 143, 152, 159. The independence of a, b and C from each other is shown in II, 110, 112, 170, 176; III, 171.

¹¹¹ Begun in the patriarchate of Michael o tou Anchialou (1170–1178): see the introduction to his commentary (Rh.-P. I, 31) and below n. 208.

¹¹² Novel II: Rh.-P. I, 84–85; Rh.-P. II, 130, and brief references to the novel in Rh.-P. II, 95; III, 361. Novel III: Rh.-P. I, 136–140. Novel IV: Rh.-P. IV, 116–119, 237–238; references to the novel in Rh.-P. I, 201; II, 520; IV, 237.

¹¹³ Novel II: PrA 36.31; novel III: PrA 40.50; novel IV: PrA 39.222; also a reference to N. II, 47–51, in PrA 40.96 and Blastares (Rh.-P. VI, 224).

¹¹⁴ The passage from novel II has not been transmitted as part of the text of the Synopsis Minor (*pace* M. ANGOLD, *The date of the Synopsis Minor of the Basilics*, BMGS 4 [1978], 1) which contains only a paraphrase of a part of novel IV (Φ 29) and no other legislation from Manuel's reign: see SVORONOS, *Les privilèges*, 380²⁹²; ZEPOS, IGR VI, 328*, 324 (cod. Laurentianus LXXX, 16); ST. PERENTIDIS, *Recherches sur le texte de la Synopsis minor*, *infra*, 246.

indicating, in the case of novel IV, knowledge of the contents of the prooimion.¹¹⁵ Finally, only C and Balsamon attribute Coll. IV, N. 74 correctly to Alexios I Komnenos,¹¹⁶ and not to Manuel, as do the appendix B manuscripts. C could not have had a manuscript of Balsamon as his source, however, since Balsamon contains only one section of novel II (ll. 163–199), whereas C has the entire novel. It is likely that Balsamon and C had a common source.

Editions

In 1573 Bonefidius published the parts of novels II, III, IV transmitted by Balsamon.¹¹⁷

Leunclavius produced the first complete edition of N. II, and an edition of the dispositive parts of III and IV, in the appendix to his 1575 edition of the *Synopsis Major*.¹¹⁸ His source for these novels appears to have been a manuscript related to C: both Leunclavius and C contain the same three novels in the same order (III, II, IV), with identical headings and registration descriptions, and have significant omissions in common (N. II, ll. 57–101; N. III, ll. 177–178).¹¹⁹ His 1596 edition of the three novels, published posthumously, produces essentially the same text as his earlier edition.¹²⁰

The next edition of novels II and III was by Labbé (1606).¹²¹ His text of N. II is based on Leunclavius' but he used, in addition, variant readings from Par. gr. 1351 (G).¹²² It was from this manuscript that Labbé supplied the lines (57–101) missing from Leunclavius' edition. For N. III, Labbé used G for the prooimion, which had not been published before, and Leunclavius' edition for the *dispositio*.¹²³

¹¹⁵ Balsamon quotes a sentence from it (ll. 78–80): Rh.-P. IV, 237. See the heading for novel IV from C: Λείπει τὸ προοίμιον ἐν ᾧ κατὰ λέξιν ἡ ιβ' νεαρὰ Κωνσταντίνου τοῦ πορφυρογεννήτου διείληπται. Ἐχεις δὲ ταύτην ἐν τοῖς ἄνω, ἐπιδιορθωθείσαν διὰ τῆς παρουσίας διατάξεως.

¹¹⁶ See n. 58 above.

¹¹⁷ E. BONEFIDIUS, *Iuris Orientalis Libri III* (1573) I, 78–80 (N. II, ll. 169–199); 80–85 (N. III: text without prooimion); 92–96 (N. IV: text without prooimion). On Balsamon's transmission, see p. 114 above.

¹¹⁸ J. LEUNCLAIVS, *LX Librorum Βασιλικῶν id est ... Ecloga sive Synopsis* (Basle 1575), 73–76 (N. III), 76–81 (N. II), 81–83 (N. IV).

¹¹⁹ See the apparatus for other shared variant readings. Also, Leunclavius transmits the note found in C concerning the prooimion of novel IV: see n. 115 above.

¹²⁰ J. LEUNCLAIVS, *Iuris Graeco-Romani tam canonici quam civilis tomī duo* (Frankfurt 1596, repr. London 1971), I, 160–162 (N. III), 163–165 (N. IV); II, 186–192 (N. II).

¹²¹ CH. LABBÉ, *Observationes et Emendationes in Synopsin Basilicῶν* (Paris 1606), 104–113 (N. II), 127–136 (N. III).

¹²² See the apparatus for N. II and Zachariae IGR III, 460¹.

¹²³ LABBÉ has the same heading as G and shares other variant readings with that manuscript for the prooimion, while in the *dispositio* he omits ll. 177–178, missing also from LEUNCLAIVS' edition.

In 1663 Gothofredus republished Bonefidius' partial edition of novels II, III, IV.¹²⁴

Witte (1840) was the first to publish N. I and the prooimion of N. IV, using Par. gr. 1351 (G) and Lips. 42 (N).¹²⁵

In 1857 Zachariae published all four novels, basing his edition on earlier ones but also noting a number of additional manuscripts and some variant readings.¹²⁶

J. Zepos reprinted N. II and III in his edition of the Basilika.¹²⁷ Finally, all four novels were published by J. and P. Zepos in their 1931 reprint of Zachariae's edition.¹²⁸

¹²⁴ D. GOTHOFREDUS, *Corpus Iuris Civilis* II (Amsterdam 1663), 290–292. See note 117.

¹²⁵ C. WITTE in G. E. HEIMBACH, *Ἀνέκδοτα* II, (Leipzig 1840, repr. Aalen 1969), 285–286 (N. I), 287–289 (N. IV); see also p. 267, where WITTE says he used Zachariae's notes for the variants in Par. gr. 1351.

¹²⁶ C. E. ZACHARIAE A LINGENTHAL, *IGR* III (Leipzig 1857) 455–457 (N. I), 460–468 (N. II), 469–476 (N. III), 476–482 (N. IV). N. I is from Witte's edition; Zachariae mentions variants supplied by D. For N. II, he used Labbé's edition (this is evident from ll. 57–101 in particular), and gave readings from two of the Hagiomauras manuscripts (y). Leunclavius' and Labbé's editions were used for N. III but Zachariae also took into account readings from D, G and y. For N. IV Zachariae used Witte (for the prooimion) and Leunclavius (for the *dispositio*), giving additional readings from y.

¹²⁷ N. II under B. 7.4.2; N. III under B. 7.7.23: J. ZEPOS, *Βασιλική* ..., Athens ²1910–1912.

¹²⁸ J. and P. ZEPOS, *IGR* I, 385–387 (N. I), 389–396 (N. II), 397–402 (N. III), 403–410 (N. IV).

Sigla

- C Marc. app. gr. cl. XI 30 d
- D Par. gr. 1388
- F Vat. gr. 852
- G Par. gr. 1351
- H Athon. Iberon 286
- I Andros Hagias 88
- J Athen. Metoch. S. Sepulchri 25
- K Par. suppl. gr. 538
- L Scor. X.II.14
- M Vat. Pii II 13
- N Lips. 42
- O Leningr. PB 123
- R Par. suppl. gr. 887
- T Par. suppl. gr. 1236
- U₁ Athen. EB 2695
- U₂ Athen. EB 1377
- V Athen. Mus. Benaki 20
- W Patm. 390
- X Sinait. 1117
- Y Athon. Dionysiou 121
- Z Scor. X.II.6

- a ei
- b dF(VW)_gHJm
- d DT
- e Ou
- g GK
- i oYy
- m LMNR
- o IO
- u U₁U₂
- y Par. gr. 1321 / Par. Coisl. 39 / Ambros. A 53 inf.

I

- I Χρυσόβουλλον καταστρωθὲν ἐν τοῖς σεκρέτοις ἔχον οὕτως·
μηνὶ Αὐγούστῳ ἰδ', ἡμέρᾳ ζ', ἰνδ. ζ', κατεστρωθὴ χρυσόβουλλον περιέχον οὕτως b
- II Χρυσόβουλλον τοῦ αἰοιδίμου βασιλέως κυροῦ Μανουήλ τοῦ Κομνηνοῦ διοριζόμενον μὴ
δέχεσθαι ὅλως οἰονδήποτε πρόσταγμα τῆς βασιλείας αὐτοῦ ἐναντιούμενον τοῖς νόμοις καὶ X
5 τῷ δικαίῳ, καὶ κατὰ λήθην ἴσως γενόμενον
- III Νεαρὰ τοῦ κραταιοῦ καὶ ἀγίου ἡμῶν αὐθέντου καὶ βασιλέως κυροῦ Μανουήλ, ἡ γεγонуῖα
καὶ καταστρωθεῖσα κατὰ ἰδ' τοῦ Αὐγούστου μηνός, ἡμέρᾳ ζ', ἰνδ. ζ', ἥτις καὶ ἐναπετέθη Z
εἰς τὸ εὐαγὲς σέ(κρετον) τῆς τοῦ Θεοῦ μεγάλης ἐκκλησίας εἰς κοινὴν ἐπίθαλψιν

Ἀδικίαν ἐμίσησα καὶ ἐβδελυξάμην, τὸν δὲ νόμον σου ἠγάπησα. ὁ ἐν βασι-
10 λεῦσι προφητικώτατος ταῦτα πρὸς τὸν Θεὸν τὰ ῥήματα διαλέγεται, διὰ τούτων
παιδαγωγῶν καὶ ῥυθμίζων, ὡς ἔγωγε οἶμαι, πάντας τοὺς τὴν βασιλείον περι-
εζωσμένους ἀρχήν, μηδὲν τι τοῦ δικαίου τίθεσθαι προὔργιαίτερον, ἀλλὰ πρὸς
τὰ ἐκεῖθεν ἀφορῶντας δικαιοτήρια τὰς ἑαυτῶν πάσας πράξεις διοικονομεῖν τε
καὶ διυθύνειν κατὰ τὴν τοῦ δικαίου εὐθύτητα, ὅτι καὶ τὸ πρόσωπον τοῦ Θεοῦ
15 εὐθύτητας εἶδεν, ὡς δεδιδάγμεθα, καὶ δίκαιος τυγχάνει ὁ κύριος, καὶ δικαιο-
σύνας ἠγάπησε. ταύτη τοι καὶ ἡ βασιλεία μου ἐξότου πρὸς τὸ βασιλείον ὕψος
ἀννηέχθη παρὰ Θεοῦ, οὐδὲν τι παρὰ τὴν τοῦ δικαίου ἰσότητα ἐνεργῆσαι, ὅσα
γε αὐτὴν εἰδέναι, ἠθέλησε πῶποτε. ἐπεὶ δὲ τὸ τοῦ ἀνθρωπίνου γένους ὀλισθη-
ρόν, καὶ οὐκ ἀπεικός ἐστιν ὑποπτεῦσαι μηδὲ τὴν εὐσεβῆ διαδράναι ἡμῶν γαλη-
20 νότητα, καὶ εἴτε κατὰ λήθην – δυσμαχώτατον γὰρ ταύτην ἅπαντες ἴσασιν – εἴτε
καθ' ἕτερον τρόπον οἰκονομίας διορίσασθαι τι ἐγγράφως τὴν βασιλείαν μου μὴ
τῆς τοῦ δικαίου ἀκριβείας καθάπαξ ἐχόμενον, οὐ πάντῃ ἀνύποπτον τῷ ἀδε-
κάστῳ τοῦ συνειδότος κριτῇ, καθ' ἐκάστην ἀνακρινομένη ἡ βασιλεία μου, καὶ
καθαρὰν τὴν οἰκείαν συνειδήσιν καὶ ἐλευθέραν ἀνθρωπίνου πάθους παντὸς τὰ
25 γε πρὸς εὐθυδικίαν καὶ τοῦ δικαίου συντήρησιν τῷ δικαίῳ τῶν καρδιῶν καὶ
τῶν νεφρῶν ἐταστῇ καρποφορῆσαι πειρωμένη ὡς οἶόν τε ὥσπερ τινὰ θυσίαν
δεκτὴν αὐτῷ καὶ εὐάρεστον, πρὸς τὴν παροῦσαν ἀπεῖδεν ὑπόθεσιν ἡ γαληνό-
της ἡμῶν.

9 Ps. 119(118).163

12–14 cf. Ios. 24.14

14–16 Ps. 11(10).7

25–26 cf. Ps. 7.9

26–27 cf. Sir. 32(35).7

DTFJGKHLNMR=b X Z 1 post χρυσόβουλλον add. τοῦ αὐτοῦ m | καταστρωθὲν:
ἀποτεθὲν H 1–2 ἔχον – οὕτως² om. m | ἔχον – ἰδ' om. T spatio relicto 2 περιέχον: ἔχον H |
οὕτως om. T 8 τὸν εὐαγείσε Z 9 in margine διὰ ταύτην καὶ μόνην τὴν νεαρὰν ἄξιος σωτηρίας,
βασιλέων εὐσεβέστατε adscr. Fd 11 ἔγωγε: γε X 13 ἀφορῶντες MR | δικαιοτήρια:
δικαιώτερος X | ante τὰς add. καὶ Z 13–14 τὰς – τὸ om. X 13 πράξεις πάσας g
15 εἶδεν: g, οἶδεν rell. 17 ἀννηέχθη: ἀνήχθη X | παρὰ': περὶ X 18 γένους: γένος JX
19 καὶ om. HX 20 κατὰ: τὰ X 22 οὐ: codd., καὶ con. Witte 24 πάθους ἀνθρωπίνου g
26 θυσίαν τινὰ FDJ

I

I hate and abhor injustice, but Thy law do I love. The most prophetic of kings utters these words to God, through them instructing and training, as I believe, all those who have been girt with the imperial office, to consider nothing of more importance than justice but, keeping in mind the judgements which come from it, to administer and direct all their actions in accordance with the righteousness of justice because, *the countenance of the Lord doth behold the upright*, as we have been taught, and also *the righteous Lord loveth righteousness*. Likewise My Majesty also, from the time It was raised by God to the Imperial Height, never intended – at least as far as It is aware – to execute anything contrary to the fair dealing of justice. But since the liability to slip exists in the human race, and it is not unreasonable to suspect that even Our Pious Serenity has not escaped and, either because of forgetfulness – all know that this is most difficult to overcome – or in accordance with another kind of measure, My Majesty has prescribed something in writing which does not absolutely hold to the rigour of the law, which is not completely unsuspected by the impartial judge of the conscience, My Majesty, each day examines Itself and attempts to bear to the righteous trier of hearts and reins Its own conscience pure and free of all human suffering – just as, that is, some sacrifice acceptable and well-pleasing to Him – at least with regard to those things which pertain to right judgement and maintenance of justice; (this being so), Our Serenity looked to the present matter.

Διορίζεται γὰρ διὰ τῆς παρούσης χρυσοβούλλου γραφῆς, ἵνα εἴ τι δι' ὅλου
 30 τοῦ καιροῦ τῆς αὐτοκρατορίας ἡμῶν ἐγγράφως ἢ ἀγράφως ὠρίσθη παρὰ τῆς
 βασιλείας μου ἐναντίον τῷ δικαίῳ καὶ τῇ τῶν νόμων εὐθύτητι, ἄκυρον τοῦτο
 διαμείνη καὶ τὸ ἄπρακτον ἔξει παντάπασιν. οὔτε γὰρ ὁ τοιοῦτον πορισάμενος
 τῆς βασιλείας μου ὀρισμόν, ἐν οἰαδῇτινι προστάξει ἢ ἐν χρυσοβούλλῳ γραφῇ
 θεωρούμενον, ἔκτοτε κατὰ τι ὠφελήθησεται, οὔτε τὸ ἐξ αὐτοῦ ὅπωςδῆποτε
 35 βλαπτόμενον μέρος τοιουτοτρόπως ἐκπεσεῖται τοῦ προσόντος δικαίου αὐτοῦ
 ὀθενδῆποτε, κἂν πρόσωπον εἴη τυχὸν ἢ μοναστήριον ἢ σέκρετον εὐαγὲς ἢ οἰα-
 δῆτις ἐκκλησία, ὥσπερ ἂν εἰ μηδὲλως ἐμεσολάβησε μέσον αὐτῶν ἐγγραφος
 οἰοσδῆτις βασιλικὸς ὀρισμός.

Πᾶσα δὲ πρόσταξις γεγонуῖα ἢ καὶ γενησομένη ὅτεδῆποτε καὶ ὅπωςδῆποτε
 40 πρὸς ἐναντίωσιν τοῦ παρόντος τῆς βασιλείας μου ὀρισμοῦ, κἂν ἐν χρυσο-
 βούλλῳ ἴσως θεωροῖτο γραφῇ, τὸ ἄπρακτον ὅσον ἐπὶ τούτῳ ἀποίσεται καὶ ὡς
 μηδὲλως ἐκφωνηθεῖσα μονονουχὶ λογισθῆσεται· τοῦ παρόντος χρυσοβούλλου
 λόγου τῆς βασιλείας μου μετὰ τὸ ἐγκαταστρωθῆναι πᾶσι τοῖς τοῦ δημοσίου
 ἀρχείοις ἀποτεθῆναι ὀφείλοντος τῷ εὐαγεῖ σεκρέτῳ τοῦ χαρτοφυλακείου τῆς
 45 ἀγιωτάτης μεγάλης ἐκκλησίας εἰς ἐπικουρίαν κοινὴν καὶ ἐπίθαλψιν, ὡς βεβαίον
 καὶ ἀσφαλοὺς τυγχάνοντος· γεγεννημένου κατὰ τὸν Νοέμβριον μῆνα τῆς ζ' ἰνδ.
 τοῦ ςξζζ' ἔτους, ἐν ᾧ καὶ τὸ ἡμέτερον εὐσεβεὲς καὶ θεοπρόβλητον ὑπεσημῆνατο
 κράτος.

I Εἶχε τὸ σύνθηδες κανίκλωμα, καὶ ὑπογραφὴν τοῦ βασιλέως ταύτην· *Μανουὴλ ἐν Χριστῷ*
 50 *τῷ Θεῷ πιστὸς βασιλεὺς πορφυρογέννητος καὶ αὐτοκράτωρ Ῥωμαίων ὁ Κομνηνός, καὶ*
κάτωθεν ἀπηρωρημένην βούλλαν χρυσοῦν διὰ μετᾶξης ὀξείας, καὶ ἔξωθεν τὸ διὰ τοῦ ἐπὶ τοῦ
κανικλείου καὶ δικαιοδότου Θεοδώρου τοῦ Στυπαιώτου, καὶ τὸ κατεστρώθη ἐν τῷ σεκρέτῳ
τοῦ μεγάλου λογαριαστοῦ κατὰ μῆνα Ἰανουάριον ἰνδ. ζ'. bZ

II *Μανουὴλ ἐν Χριστῷ τῷ Θεῷ πιστὸς βασιλεὺς πορφυρογέννητος καὶ αὐτοκράτωρ Ῥωμαίων*
 55 *ὁ Κομνηνός· εἶχε καὶ βούλλαν χρυσοῦν, τὸ σύνθηδες κανίκλωμα, καὶ ἔξωθεν ἐπὶ τοῦ κανι-*
κλείου καὶ δικαιοδότου Θεοδώρου τοῦ Στυπαιώτου, τὸ κατεστρώθη ἐν τῷ σεκρέτῳ τοῦ
μεγάλου λογαριαστοῦ κατὰ μῆνα Ἰανουάριον ἰνδ. ζ', ἐν τῷ σεκρέτῳ τῶν οἰκειακῶν, τοῦ
γενικοῦ καὶ τοῦ βεστιαρίου κατὰ μῆνα Μάρτιον ἰνδ. ζ'. X

DTFJGKHLNMR = b X Z 29–30 ὅλου τοῦ καιροῦ: ὅλης X 30 ante τῆς¹ add. παρὰ m |
 ἀγράφως ἢ ἐγγράφως TFgHJ | ὠρίσθη: ὀρισθῇ dFgJm 32 post διαμείνη add. κἂν τῇ
 μακρᾷ συνθηδείᾳ ἐπεκρῶτησεν ὡς εἴρηται Z 33 ante τῆς add. παρὰ d | μου om. R |
 οἰαδῆποτε X 34 θεωδωρούμενον Z | ἔκτοτε om. X | ἐξ αὐτοῦ post ὅπωςδῆποτε
 transp. X | αὐτοῦ: αὐτῆς m 35 μέρος βλαπτόμενον b 36 σέκρετον: οἶκος H |
 ἡ³ om. Z 37 αὐτῶν: X, αὐτοῦ rell. 39 καὶ ὅπωςδῆποτε om. X 40 μου om. M
 40–41 χρυσοβούλλου m 41 τούτῳ: τούτοις Z 43 πᾶσι om. b 44 ἀρχείοις:
 ἀρχῆς Z | εὐαγεῖ σεκρέτῳ: εὐαγεῖσεως Z 45 ἐπίθαλψιν: περίθαλψιν DH | κοινὴν
 post περίθαλψιν transp. H 47 ςξζζ' Z | θεοπρόκλητον MR | ἐπισημείνατο Z 49 τοῦ
 βασιλέως: τῆς βασιλικῆς θείας χειρὸς H | ταύτην: ταύτη F 50 ante καὶ² add. εἶχε δὲ Z
 51 κάτωθεν om. H | χρυσοῦν βούλλαν ἀπηρωρημένην H 52 στυπαιώτου MR | κατεστρώθη:
 κατ' ἔθος Z 53 μῆνα: μηνὶ MR

It is prescribed by the present chrysobull that if something has been ordained, in writing or unwritten, by My Majesty in the course of Our reign, which is contrary to justice and the righteousness of the laws, this is to remain invalid and will be completely ineffective. For neither he who has obtained such an *horismos* of My Majesty, in whatsoever *prostaxis* or chrysobull it is contained, will derive any benefit thereafter, nor will the party injured by it in any way be thus deprived of the lawful claim which belongs to it from any source whatever, be it a person or monastery or pious *sekreton* or any church whatsoever, (but it shall be) just as if no written imperial *horismos* of any kind ever intervened between them.

Every *prostaxis* which has been issued or will be issued, whenever and however, in opposition to the present *horismos* of My Majesty, even if it should be contained in a chrysobull, will obtain ineffectiveness as far as this is concerned, and will be considered as all but never having been promulgated.

After the present chrysobull of My Majesty has been registered in all the archives of the fisc, it should be stored in the pious *sekreton* of the *chartophylakeion* of the most holy Great Church, for common succour and provision, as it is secure and safe, having been issued in the month of November, indiction 7 of the year 6667, in which Our holy and God-promoted Sovereignty has also subscribed.

II

- I Νεαρά τοῦ βασιλέως κυροῦ Μανουήλ τοῦ Κομνηνοῦ περιέχουσα πολλῶν ἀμφιβολιῶν λύσεις b
- II Κατεστρώθη νεαρά διάταξις τοῦ κραταιοῦ καὶ ἁγίου ἡμῶν βασιλέως ἔχουσα οὕτως u
- III Μανουήλ τοῦ Κομνηνοῦ νεαρά περὶ διαφορῶν κεφαλαίων y
- IV Νεαρά τοῦ αὐτοῦ πορφυρογεννήτου βασιλέως κυροῦ Μανουήλ τοῦ Κομνηνοῦ περὶ δικαστῶν
5 καὶ συνηγόρων, δικαστηρίων, ἐπιφωνημάτων, ἐκκλητήτων, λιβέλλων, ἀντιχρήσεως, πλησια-
σμοῦ, διαθηκῶν καὶ προστίμων I
- V Νεαρά διάταξις τοῦ κραταιοῦ καὶ ἁγίου ἡμῶν βασιλέως κυροῦ Μανουήλ τοῦ Κομνηνοῦ
γεγονυῖα κατὰ τὸν Ἰούλιον μῆνα ἰνδ. ιδ' ἔτους ,ςχοδ' O
- VI Μανουήλ τοῦ Κομνηνοῦ νεαρά β' περὶ διαφορῶν ὑποθέσεων C
- 10 Ἐννομον ἐπιστάσιαν οἱ πάλαι σοφοὶ τὴν βασιλείαν ὥρισαντο, χρῆμα γοῦν
ἀτεχνῶς θεσπέσιον· διὰ τοῦτο καὶ πρόνοιαν Θεοῦ μεγαλομερῇ ταύτην εἶναι καὶ
πεπιστεύκασι καὶ διδάσκουσιν. εἰ γὰρ δίκαιος κύριος καὶ δικαιοσύνας ἡγάπησε,
προσῆκει δὴ πού καὶ τὸν ἐξ ἐκείνου λαχόντα βασιλεύειν τῶν ἐπὶ γῆς αὐτόν τε
15 δίκαιον εἶναι καὶ τῶν ὑπ' αὐτοῦ προβαλλομένων εἰς τὸ δικάζειν τὰς εὐθυ-
δικίας περισπούδαστον ἔργον ποιεῖσθαι καὶ ἀποδέχεσθαι. ἡ τί γὰρ ἂν εἴη
βασιλέως ἔργον τιμώτερον ἕτερον καὶ τοῖς βασιλευομένοις λυσιτελέστερον;
ταῦτα τοίνυν οὐδὲ ἡ βασιλεία μου ἀγνοήσασα, μάλιστα μὲν ἡβούλετό τε καὶ
ἡὔχετο, μηδένα εἶναι τὸν ἀδικούμενον ὑπὸ τὴν αὐτῆς ἐπικράτειαν· εἰ δ' οὖν,
20 ἀλλὰ μὴ ῥαθυμοτέρους εἶναι τῶν τὰ παράνομα δρώντων περὶ τὴν τῶν ἀδικου-
μένων ἐκδίκησιν τοὺς εἰς αὐτὴν τεταγμένους παρὰ τῆς βασιλείας μου. νυνὶ δὲ
πολλοὺς ὁρῶσα πλεονεκτικῆς χειρὸς καὶ ἀδίκου τραυματίας γινομένους, καὶ
ἀγρῶν ἀφαιρέσεις καὶ οἰκημάτων ὑπομένοντας καὶ πραγμάτων ἄλλων ἀπο-
στερουμένους, ἔπειτα διηνεκῶς θυροκοποῦντας τὰ δικαστήρια καὶ χρονοτρι-
βοῦντας ἀνήνυτα, καὶ πρὸς τὸ μηδεμιᾶς ἐκεῖθεν θεραπείας ἐπιτυχάνειν εἰς τὸ
25 χεῖρόν τε καὶ ὀδυνηρότερον τὰς πληγὰς ἐπιξαινομένους, καὶ τὸν τρυγίαν
ἐντεῦθεν τῆς ἀδικίας ἀπορροφοῦντας, ἔνθα τυχεῖν τῆς ἐκδικήσεως ἡλπίζον·

10 cf. e. g. Bas., PG 29, 345 A; PG 31, 389 B; Max., PG 91, 776 B

12 Ps. 11 (10). 7

Iy OU₁U₂ = a DT FJGKHLNMR = b C 1 post Νεαρά add. νομοθεσία m (ante νεαρά transp. N)
2 ante κατεστρώθη add. τῇ αὐτῇ ἡμέρᾳ U₂ 3 rubr. om. Par. gr. 1321, Ambr. A 53 inf.
10 οὖν y 11 ταύτην: ταύτη y | καὶ² om. y 12 ante κύριος add. ὁ Cd 13 ἐκείνου:
ἐκουσίῳ u | λαχόντος M, λαχόντως R^{ac} | τῶν ἐπὶ: ἐπὶ τῆς D^{ac}y 14 τὸν ... προβαλλο-
μένον y, τοὺς ... βαλλομένους u 15 ἡ om. u | τί om. O 16 βασιλείας u | τιμω-
τέρου U₂, τιμώτατον O | ἕτερον om. OU₁ 17 οὐδὲ om. C | ante ἀγνοήσασα add. οὐκ C |
μὲν: δὲ O | τε om. CW 18 post μηδένα add. μὲν C | αὐτῆς: αὐτὴν u, αὐτοῦ O
20 αὐτὴν: αὐτὸν u, αὐτὰ O | μου om. C 21 ὁρῶσα: Ce, ὁρῶ rell. 22 ὑφαιρέσεις M
23 θυροκοποῦντας διηνεκῶς C 24 ἀνήνυτα: ἀνίατα C | τὸ¹: CeyHJ, τῷ dfgmI |
τυγχάνειν m | εἰς om. y 25 τὰς πληγὰς: codd., ταῖς πληγαῖς Leuncl.^{im} 26 ἐνταῦθα b |
ἀπορροφῶντας C, ἀναρροφῶντας g | τυχεῖν: τυχαῖς O | ἐκδικήσεως: ἀδικίας e

II

The wise men of old defined the imperial office as a *lawful dominion*, indeed a truly divine thing. Because of this they believed and teach that it is a magnificent act of God's providence. For if *the righteous Lord loveth righteousness*, it is doubtless fitting that he who has been chosen by Him to rule as emperor over those on earth be righteous and, also, that he make right judgement a much desired act of those put forward by him to sit in judgement and that he acknowledge it (as such). For what other deed of an emperor could be more worthy or better for those ruled by an emperor? Now this, My Majesty also did not fail to recognise; indeed, It has wished and desired that no one be wronged in the course of Its reign. But if it should happen, (It wished that) those appointed by My Majesty to the vindication of those who have been wronged should at least not be more negligent with regard to this than those who commit illegal acts. As it is, (My Majesty) sees many men becoming wounded by a greedy and unjust hand, enduring the loss of lands and dwellings and being deprived of other things, then knocking on the doors of the courts continuously and wasting no end of time, and in addition to obtaining no treatment from that place, irritating their sores to a worse and more painful degree, swallowing the lees of injustice from the source where they were hoping to obtain legal remedy.

καὶ γάρ, ἵν' ἐρῶ τὸ τοῦ Σολομῶντος, εἶδον ἀνομίαν ὑπὸ τὸν ἥλιον, ἄνθρωπον
 ὀνητὸν ἀθανάτῳ δίκῃ περιπεσόντα, καὶ ταύτην ὥσπερ τινὰ κλῆρον πατρῶν
 εἰς τρίτην πολλάκις καὶ τετάρτην γενεὰν τοῖς ἐκγόνοις αὐτοῦ κατὰ διαδοχὰς
 30 παραπέμπσαντα· ταῦτα τοίνυν, ὡς εἴρηται, κατανοοῦσα ἡ βασιλεία μου, ἤλγησε
 μὲν ὡς εἰκὸς ἐπὶ τοῖς γινομένοις καὶ τὴν ψυχὴν ἐπαθήνατο, αἰτιασαμένη μὲν
 τὴν τῶν δικαστῶν ῥαθυμίαν, οἰκτειρήσασα δὲ καὶ τοὺς ἀδικουμένους τῆς ἀπο-
 γνώσεως. διὸ καὶ κατὰ τὸ δυνατόν τὴν τοῦ κακοῦ τούτου περισκοποῦσα
 διόρθωσιν, καὶ τοῖς τὰ χεῖριστα πάσχουσι κατὰ τὸ ἐγγωροῦν ἐπαμύνουσα,
 35 πρὸς τὴν ἐφεξῆς ρηθησομένην οἰκονομίαν ἀπέβλεψε.

Βούλεται γὰρ ἀπὸ τῆς σήμερον τοὺς ἐφ' ἐκάστῳ δικαστηρίῳ συνεδριάζειν
 ὀφείλοντας καὶ συνδιαγινωμονεῖν τῷ τούτου προϋσταμένῳ τεταγμένους εἶναι
 καὶ ἀφωρισμένους, τοὺς μὲν εἰς τοῦτο, τοὺς δὲ εἰς ἐκεῖνο τὸ δικαστήριον, ἵνα
 μὴ πάντων εἰς ἓν κατὰ ταῦτόν συνερχομένων ἀργεῖν ἐπισυμβαίνει τὰ λοιπὰ
 40 δι' ἐρημίαν τῶν δικαζόντων· οὕτω δὲ καὶ τὸ νῦν ἐπικρατοῦν ἔθος περιαιρεθί-
 σεται, τὸ ἐκ διαλειμμάτων δικάζειν αὐτούς. εὐδοκοῦμεν γὰρ τρισσάκις ἀπρο-
 φασίστως μιᾶς ἐκάστης ἑβδομάδος δικάζειν ἕκαστον τῶν προκαθημένων τῶν
 δικαστηρίων, συνερχομένων παρ' αὐτοῖς τῶν ὑπ' αὐτοὺς δικαστῶν. ἐπικεῖσθαι
 δὲ καὶ τοῖς ἐναγομένοις ἀνάγκην, δι' ὅλου παραβάλλειν ἐν τοῖς δικαστηρίοις
 45 καὶ μὴ ἀπολιμπάνεσθαι, μέχρις ἂν ἐκπερατωθῇ τὰ τῆς ὑποθέσεως, εἴγε τέως
 καὶ οἱ ἐνάγοντες διηνεκῶς προσεδρεύοντες ἐπισπεύδουσι τμηθῆναι τὴν προσ-
 αρμόσασαν αὐτοῖς ἀγωγὴν. δεῖσθαι μέντοι τοὺς ἐναγομένους καὶ διαμνηνμά-
 των οὐχὶ συχνῶν καὶ κατατριβόντων ἐπίτηδες τοὺς ἐνάγοντας, ἀλλὰ μετὰ τὴν
 τοῦ λιβέλλου δόσιν καὶ τὴν εἰδήσιν τῆς κατ' αὐτῶν φερομένης ἀγωγῆς εἴ τινας
 50 ἴσως ἀπειθοῦσι, τρισὶν αὐτοὺς τριακονθημέροις καλεῖσθαι προγράμμασι· καὶ
 εἰ μὴ ἐντὸς αὐτῶν ἀπαντήσουσι, καταδικάζεσθαι ἀκολούθως τοῖς νομοθετη-
 θεῖσι παρὰ τοῦ αἰοιδίμου πάππου τῆς βασιλείας μου καὶ τοῦ μακαρίτου βασι-
 λέως κυροῦ Λέοντος τοῦ σοφοῦ. καὶ ταῦτα μὲν οὕτω γίνεσθαι διαταττόμεθα.

27 Eccl.6.1

51-52 cf. Coll. IV, 46

52-53 cf. Leonis VI nov. 108

Iy OU₁U₂ = a DT FJGKHLNMR = b C 27 ὑπὸ: ἐπὶ u 29 ἐγγόνοις Ci | διαδοχὴν Cd
 30 ὡς εἴρηται post μου transp. O 31 γενομένοις C | ἐπαθήνατο: ἡνιάθη C | αἰτιασαμένη C
 32 οἰκτεῖρασα mVWi 34 τοῖς: γὰρ u | ἐκχωροῦν m 35 ante πρὸς add. καὶ O |
 ἐπέβλεψε R, ἀνεπέβλεψε M 36 ἀπὸ τῆς σήμερον om. O 39 κατὰ ταῦτόν: κατὰ ταυτὸ i,
 κατ' αὐτόν u | ἐπισυμβαίνειν C 40 δικασόντων bi | περιαιρήσεται C 41 post τὸ
 add. δὲ u | ἐδοκοῦμεν FgJm | ἀπροφασίστερον R 43 ὑπ' αὐτοῖς C 44 ἀνάγκην,
 δι' ὅλου: ἀνάγκη δόλου C | ἐν om. i, difficile lectu in O 45 ἐκπερατωθῇ H 46 καί:
 μὴ I, difficile lectu in O | προσεδρεύοντες om. C | τμηθῆναι: λυθῆναι m 47 διὰ
 μηνυμάτων CDJmVWey 49 κατ' αὐτόν y, κατ' αὐτοῦ D 50 προσκαλεῖσθαι τρια-
 κονθημέροις O 51 μὴ: μὲν m 53 ταῦτα: m, ταυτὸ FJ, ταυτὶ dgi, ταυτησί e, τοῦτο H,
 παντὶ Leuncl.

For, to quote Solomon, *I have seen injustice under the sun*, mortal man caught in an eternal lawsuit and transmitting this like some paternal inheritance to his descendants in succession, even to the third and fourth generation. Now then, as was stated, My Majesty, observing this, grieved, as is fitting, with regard to the things which take place, and suffered in Its heart, on the one hand censuring the negligence of the judges, and on the other pitying those who have been wronged for their rejection. Wherefore, My Majesty, considering the correction of this evil to as great a degree as is practicable, and coming to the aid of those who suffer the worst, as far as is possible, looked to the measure announced immediately below.

(My Majesty) wishes that from this day on those who are obliged to sit in council at each court of law with him who has been put at its head, and deliberate with him, be posted and appointed, some to one, some to another court, so that it does not come about that all convene at one and the same court, making the rest idle because of the absence of those who sit in judgement. So, also, the habit which prevails at present – their sitting in judgement intermittently – is to be removed; for we resolve that each of those who preside over the courts should sit in judgement three times each and every week without fail, the judges subordinate to them convening with them. (We also resolve) that the defendants be impressed with the necessity to attend court throughout (the entire trial) and not to leave until the business of the case is concluded, if, that is to say, during that time the plaintiffs, also attending regularly, hasten to terminate the action brought by them. Further, the defendants are not to require many summonses, which deliberately wear out the plaintiffs, but if some (defendants) should refuse compliance after the preferment of the indictment and the notification of the action being brought against them, they are to be summoned by three thirty-day citations. And if they do not appear within (the time of) these summonses they are to be convicted in accordance with the laws which have been promulgated by the celebrated grandfather of My Majesty and by the blessed emperor Kyr Leo the Wise. We ordain that this be carried out in this manner.

Ἐπεὶ δὲ καὶ τῇ τῶν συνηγορούντων ἀπεραντολογία καὶ τῇ πολλῇ τούτων ἐν-
 55 στάσει προσωχθίκει ἡ βασιλεία μου – σπούδασμα γὰρ αὐτοῖς κατεφώρσε
 πολλάκις ὥρας ὑποσπλᾶν καὶ σεσοφισμένως φυγοδικεῖν, οἷς τὰς αὐτὰς πολλά-
 κισ δικαιολογίας ἀνακυκλοῦσι, καὶ τῶν προτέρων δυσασποπιάτως ἐξεχόμενοι
 προκόπτειν οὐκ ἔωσι τὸ δικαστήριον – διορίζεται μετὰ συστολῆς ἱσταμένους
 60 τοὺς συνηγόρους ὡς τὸ πρὶν δικάζεσθαι καὶ μὴ συγκαθῆσθαι τοῖς δικασταῖς
 ἐν τῷ δικάζεσθαι, καὶ μὴ κατὰ ταῦτόν τοις λόγοις χωρεῖν, ἀφ’ ὧν συγγεῖται
 μὲν ἡ ἀκρόασις, ἐκκρούεται δὲ καὶ τῶν δικαστῶν ἡ ἀκριβὴς καὶ συντετηρη-
 μένη διάγνωσις, ἀλλὰ θατέρου μέρους ἐφησυχάζοντος μετ’ εὐταξίας καὶ κατα-
 στάσεως τὰ οἰκεῖα δίκαια προτείνειν τὸν προλογίζοντα, εἴτα τὸν μὲν ἡρεμεῖν,
 65 ἀντιδικαιολογεῖσθαι δὲ μετὰ τῆς ἴσης ἀδείας τὸν ἕτερον· καὶ οὕτω λέγειν τοὺς
 δικαστὰς ἃ διαγινώσκουσι. κἂν εἰ μιᾶς γνώμης ἅπαντες γένοιτο, ἐπὶ τὰ
 πρόσω χωρεῖν τοὺς δικαζομένους. εἰ δὲ διαφωνήσουσι πρὸς ἀλλήλους, τοὺς
 μὲν συνηγορούντας καὶ ἄλιν ἐν ἡρεμίᾳ μένειν, τοὺς δὲ δικαστὰς καθ’ ἑαυτοὺς
 σκοπεῖν τὸ ἀμφήριστον καὶ δίχα τῆς οἰασοῦν προσπαθείας εἰς ἓν συνέρχεσθαι
 πάντας καὶ ἀποφαίνεσθαι τὸ παρ’ αὐτῶν διαγινωσκόμενον. εἰ δέ γε μὴ ὁμο-
 70 γνωμονήσουσι πάντες, ἀλλὰ τινες διαφωνοῦσι τοῖς πλείοσιν ἢ ἐξισοῦνται οἱ
 διαφωνοῦντες, ἐκείνων τὴν ψῆφον προκρίνεσθαι, οἷς καὶ ὁ τοῦ δικαστηρίου
 προεστὼς συμφωνεῖ. οἱ δὲ μὴ στοιχοῦντες τοῖς παρ’ ἡμῶν διατεταγμένοις περὶ
 αὐτῶν, ἀλλὰ τὰ αὐτὰ δικαιολογοῦμενοι, καὶ μὴ παραδεκτέοι μὲν ὄντες τοῖς
 δικασταῖς, ὅμως δὲ τοῖς αὐτοῖς ἀνερυθριάστως ἐπιμένοντες κἀκεῖνα λέγοντες,
 75 ἃ καὶ προδικαιολογοῦσάμενοι ἀπεπέμφθησαν – ἔστι μὲν ὅτε καὶ αὐτολεξεῖ, ὅτε
 δὲ καὶ τὰς λέξεις πρὸς τὸ λαθεῖν ὑπαλλάσσοντες, ὅποια καὶ τῆς βασιλείας
 μου δικαζούσης γεγόνاسι – καὶ τὸν ἡμέτερον διορισμὸν παραβαίνοντες τοῦ
 συνηγορεῖν κωλυθήσονται· πάντως γὰρ ἀδικεῖσθαι οἰόμενοι ἐπὶ τὴν ἐκ νόμων
 ἀποτεταμειυμένην τούτοις τῆς ἐκκλήτου βοήθειαν καταφυγεῖν ὥφειλον. μελή-
 80 σει δὲ πάντως καὶ τοῖς δικάζουσι, ἐμμερίμνως τὰς διαγνώσεις ποιεῖσθαι καὶ
 τὰς ἀποφάσεις, εἰδὸσιν ὅτι μεγάλαι ζημίαι, πολλάκις δὲ καὶ σωμάτων ἀκρω-
 τηριασμοὶ ταῖς αὐτῶν ἀποφάσεσιν ἐπακολουθοῦσιν.

69–72 Bals. ad Nic. I can. 6 (Rh.-P. II, 130,8–11)

Iy OU₁U₂=a DT FJGKHLNMR=b C (ll. 54–57) 54 συνηγορούντων: codd., συνηγόρων
 Leuncl. 55 προσωχθίκει: προσωχθίκα G, προσωχθήκει O 56 πολλάκις ὥρας: πολλὴν ὥραν e |
 ἀποσπλᾶν C 56–57 τὰς αὐτὰς πολλάκις: πολλὴν (πάλιν O) τὰς αὐτὰς e 57–101 καὶ –
 προϊσταμένοις om. C Leuncl. 57 ἐξερχόμενοι g 60 καὶ om. R | κατὰ ταῦτόν: κατ’ αὐτόν MR |
 συγγεῖται m 61 μὲν om. y | καὶ¹ om. D 65 κἂν: καὶ H
 67 ἐν ἡρεμίᾳ: ἡρέμα O 68 ἀμφήριστον LMR 70 πάντες: πάντοτε R 71 ἐκείνῳ H |
 ψῆφον: codd., ψήφων Labbé, Zach. 72 οἱ: εἰ mO | τοῖς om. U₁ 73 δικαιολογούμενοι O
 74 ἐπιμένοντες: ἐπεγκαλῶντες O, ἐπεγκλῶντες u | λέγουσιν I 75 ὅτε μὲν H 75–76 ὅτε δὲ:
 ἔστι δ’ ὅτε d 76–77 ὅποια – παραβαίνοντες om. W 77 ὁρισμὸν y 79 ὥφειλον g
 80 ἐμμερίμνως d 81 ὅτι – πολλάκις om. U₂ spatio relicto | μεγάλη ζημία y | πολλάκις:
 πολλὴν U₁ | ἀκρωτηριασμός y

Since My Majesty is weary of the endless speeches of those who plead in court and their great obstruction – for It detected in them many times an attempt to while away time and cunningly shirk trial, in which they often repeat the same arguments and, clinging to their previous pleas with great tenacity, they prevent the case from making progress – It determines that the advocates should conduct the case as formerly, with economy, standing up, and should not sit with the judges during the litigation, and should not proceed to speak at the same time – in consequence of which on the one hand, hearing is confused, on the other, the precise and strictly observed examination of the judges is frustrated. Instead, while one party remains silent the first speaker should put forward his own proofs with good order and discipline, then, keeping still, the other should plead the opposing case with equal license. And then the judges say what they decide. And if all should be of one opinion, the litigants go forward. But if they disagree with one another, the advocates should remain quiet in this case also, while the judges examine the disputed matter among themselves and without partiality of any kind all come together in one (opinion) and declare what has been decided by them. However, if again they are not all of one mind, but some disagree with the majority, or the disagreeing (parties) are equal in number, the vote of those is to be preferred with whom the head of the court also agrees. Those who do not submit to that which has been ordained by Us concerning them, but produce the same pleas, and ought not to be allowed by the judges, but all the same persist in this unblushingly, saying those things which they had also pleaded before, when they had been dismissed – sometimes word for word, sometimes changing the words in order to escape detection, as has happened even with My Majesty sitting in judgement – and disobey Our ordinance, will be prevented from advocating. For, assuredly, believing themselves to be unjustly treated, they ought to have had recourse to the appeal which has been laid up for them in the laws. At all events, it will also be an object of concern for those sitting in judgement to reach their resolutions and decisions with extreme care, in the knowledge that great penalties, in many instances even mutilations, accompany their decisions.

Ἴνα οὖν μὴ τοῦ λοιποῦ ἀπέραντα εἴη τὰ δικαστήρια, τὸν ἐν διαφόροις βιβλί-
 85 μένοις τῶν βασιλικῶν ἐγκατεστρωμένον ἀναζωπυροῦμεν νόμον, καὶ νενεκρω-
 μένοι οἷον εἰπεῖν καὶ ἀργίαν παντελῇ κατεψηφισμένον ἀνιστῶμεν, διοριζό-
 μενοι κατ' ἐκείνον, τὰ μὲν ἐγκληματικὰ τῶν δικαστηρίων ἐντὸς διετίας περα-
 τοῦσθαι, τοῖς δὲ χρηματικοῖς τὸν τῆς τριετίας χρόνον ἐξαπλοῦμεν· αὐταρκες
 γὰρ αὐτοῖς τὸ τοσοῦτον διάστημα τοῦ καιροῦ, κἂν εἰ καὶ ἴσως τινὲς ὑποθέσεις
 90 πολὺ τὸ γρίφον ἔχουσαι καὶ τὸ δυσχερὲς εὐρίσκοντο καὶ τὴν λύσιν οὐκ εὐ-
 μαρῶς παραδεχόμεναι. εἰ δὲ παρ' αἰτίαν τοῦ ἐνάγοντος ἡ προθεσμία ἐκμετρη-
 θήσεται μὴ λελυμένης τῆς ὑποθέσεως, ἀπεντεῦθεν ἔσται καταδεδικασμένος,
 προσκαταβάλλων τῷ ἐναγομένῳ καὶ τὰ δαπανήματα. εἰ δὲ τοῦ ἐνάγοντος ἐπ-
 αγρυπνοῦντος καὶ ἐπισπεύδοντος ἡ δυστροπία τοῦ ἐναγομένου τὸν τοσοῦτον
 95 χρόνον ἐπὶ κενοῖς ποιήσει παραδραμεῖν, ἐκ τούτου καὶ μόνου καταδικασθή-
 σεται ἀπαιτούμενος καὶ τὰ δαπανήματα, καὶ οὐδεμιᾶς ἐτέρας ἀξιωθήσεται
 βοηθείας ἢ δικαιώσεως. εἰ δὲ τῶν μερῶν σχολαζόντων αἴτιοι τῆς ἀπράκτου
 παραδρομῆς τοῦ καιροῦ οἱ δικάζοντες γένοιτο, τῶν προσόντων αὐτοῖς δικα-
 στικῶν ὀφικίων μετακινηθήσονται· ποῦ γὰρ ἂν εἴη δίκαιον, τοὺς ἐπὶ σωτηρίᾳ
 τῶν κακῶς πασχόντων τὸ δικάζειν λαχόντας, εἴτα πρὸς συντριβὴν αὐτῶν
 100 κεχρημένους τῷ λειτουργήματι, καὶ ἔτι δικαστικῶν ὀφικίων προϊστασθαι, ἢ
 συνδικάζειν τοῖς τούτων προϊσταμένοις; ἐπεὶ δὲ τεταγμένοι ὀφείλουσιν εἶναι
 ἐφ' ἐκάστῳ τῶν δικαστηρίων δικασταί, τοῦ μὲν δικαστηρίου τοῦ κατ' αὐτοῦς
 δικάζοντος ἐξ ἀνάγκης παρ' αὐτῷ συνελεύσονται. τούτου δὲ ἴσως διὰ τина
 αἰτίαν μὴ ἐνεργοῦντος, παρὰ τοῖς ἐτέροις πολιτικοῖς δικαστηρίοις ἀκωλύτως
 105 ἀποπληρώσουσι τὸ οἰκεῖον λειτουργήμα.

Πάντα δὲ κάλων, ὃ φασι, κινουσα ἡ βασιλεία μου ἐπὶ τῷ περαιορεῖν τὰς ἐν
 δικαστηρίῳ γινομένας ὑπερθέσεις, καὶ ταῦτα θεσμοθετεῖ, μηκέτι τριακονθῆ-
 μερα τὰ τρία ἐπιφωνήματα γίνεσθαι, ὅτε ἀπόφασις καὶ διάγνωσις γίνεται δι'
 110 ὄρκων τέμνουσα τὰ ἀμφίβολα· ἀλλὰ τὰ προκλητικὰ τῆς τε τῶν ὄρκων ὑπο-
 δοχῆς καὶ τελεσιουργίας τρία μὲν γίνεσθαι, πλὴν πεντεκαίδεκαήμερα· καὶ εἰ

83–84 cf. B.7.6.13

106 cf. *Paroem. Graec.* II, 104, 287, 600

IyOU₁U₂=a DTFJGKHLNMR=b C (ll. 101 sqq.) 83 μῆ: μετὰ H | βιβλίων J
 87 χρηματικὴν O 88 τὸ om. u | εἰ om. yH 89 γρίφον: codd., γρυφὸν Zach. |
 εὐρίσκονται O, εὐρίσκονται u | εὐμαρῇ u 90 ἐκμετρηθεῖ y 91 διαλελυμένης H
 92 καταβάλλων O 94 κενῆς e 96 μερῶν: καιρῶν b 97 παραδρομεῖν y 97–98 ὀφικίων
 δικαστικῶν O 98 γὰρ: δ' FgHJm 99 κακῶν J | δικάζειν: δικάζόντων U₁ | εἴτα: εἰ τε O |
 post πρὸς add. τὴν W | τριβὴν u | αὐτῶν: αὐτοῦς O 100 ἔτι: ὅτι O | δικαστῶν u |
 ὀφικίῳ J 101 δὲ: δὴ O 102 ἐκάστου u | δικασταί—δικαστηρίου om. C | κατ' αὐτοῦ H,
 κατ' αὐτὸν OU₂y 103 συνελεύσεται e 104 δικασταῖς I 106 κάλων: κάλον C Leuncl.,
 Labbé | ἐπὶ: ὅτι C | διαρεῖν g 107 δικαστηρίοις I | ὑποθέσεις CHm | νομοθετεῖ m |
 τριακονθήμερον C Leuncl. 108 τὰ: τὴν F | ὅτι y | γίνεται: u, γένηται rell. 109 προκλητικὰ:
 προβλητικὰ y^{ac}H 110 τελεσιουργίας: aC, τελεσιουργὰ b | πεντεκαίδεκαήμερα u | καί² om. O

So that, then, hereafter lawsuits are not endless, we resurrect and restore to life the law which is registered in various books of the Basilika and which is, so to speak, dead and has been condemned to complete disuse, ordaining in accordance with that law that criminal suits be terminated within two years, while with regard to the civil suits we extend the time to three years; for this length of time is sufficient for these, even if perhaps some cases, being very obscure, should meet with difficulty and not easily admit a solution. If, by fault of the plaintiff, the fixed time is exceeded without the case having been solved, at this point he will have the judgement given against him, paying, in addition, the expenses to the defendant. If the plaintiff is alert and diligent but the perversity of the defendant causes the allotted time to run over to no avail, for this reason alone he will be convicted and be liable for the expenses, and will not be deemed worthy of any other appeal or (plea in) justification. If the parties are conscientious but the judges are responsible for the unprofitable passing of time, they will be removed from the judicial offices which belong to them. For how can there be justice when those chosen to sit in judgement for the salvation of those who fare ill then use the function to oppress these people, yet still head judicial offices or sit in judgement along with their heads? Since judges have to be assigned to each of the courts of law, when their court is in session they will perforce meet at it. Should this for some reason not be functioning, they will perform their service unhindered at the other civil courts.

My Majesty, *letting out every reef*, as they say, with regard to removing the delays which occur in court, decrees this also, that the three summonses no longer take place at thirty-day intervals, when a decision and resolution is made which settles disputes through oaths. Instead, there are to be three summonses for the acceptance and swearing of the oaths, but at fifteen-day intervals. And if

μη ἐντὸς αὐτῶν τὰ τῶν ὀρκῶν συντελεσθεῖη, καταδεδικασμένον εἶναι καὶ ὡς ἀναποδίσαντα λογίζεσθαι τὸν ἐπιφωνηθέντα καὶ τοὺς ὀρκους μὴ ὑποδεξάμενον ἢ μὴ πληρώσαντα.

Ἄλλὰ καὶ τὰς ἐκκλητοὺς τὰς ἐν δικαστηρίοις γινομένας ἐν τῇ βασιλευούσῃ
 115 τῶν πόλεων καὶ τοῖς πέριξ αὐτῆς ἐνιαυτῷ κλείεσθαι· καὶ τὸν καταδικασθέντα
 παρά τινος καὶ ἐκκαλεσάμενον ἐντὸς χρόνου ἀναγκάζεσθαι τὴν ἐκκλητον
 γυμνάζειν καὶ συμπληροῦν, ἢ μὴν μὴ οὕτω ποιοῦντα ὑπεύθυνον γίνεσθαι καὶ
 τὰ ἀπὸ καταδίκης διδόναι. εἰ δὲ ἐν ἑτέρᾳ τινὶ ἐπαρχίᾳ καταδικασθῇ, καὶ ἢ
 εἰς τὸ βῆμα τῆς βασιλείας μου ἐκκαλέσεται ἢ εἰς ἕτερον πολιτικὸν δικαστή-
 120 ριον, σὺν τῷ προγραφέντι ἐνιαυτῷ ἔχειν πεφίλοτιμῆμενον καὶ τὸ νόμιμον διά-
 στημα, ὥστε διὰ τοῦτου καταλαβόντα τὴν μεγαλόπολιν πρὸς ἀνάγκης ἔχειν
 καὶ αὐτὸν ἐντὸς τοῦ δηλωθέντος ἐνιαυτοῦ καὶ γυμνάζειν καὶ περατοῦν τὴν
 ἐκκλητον, ἢ μὴν ἀναγκάζεσθαι στέργειν τῇ προτέρᾳ ἀποφάσει καὶ ἀπαιτεῖσθαι
 τὰ ὀφειλόμενα.

Ἔτι καὶ τοῦτο προσκείσθω. τινὲς θεματικοὶ ἐν τε τῇ βασιλίδι τῶν πόλεων
 125 καὶ ἀλλαχοῦ, ἐνθα διάγει ἡ βασιλεία μου, παραβάλλοντες ἐνιστῶσι κατὰ τινων
 δικαστήρια ἢ παρεισπράξεις ἢ ἄλλας ἀδικίας τινὰς ὑποστάντες ἢ παρὰ πρακτό-
 ρων ἢ θεματικῶν ἢ ἑτέρων τινῶν. διοριζόμεθα γοῦν, τοὺς μέλλοντας δίδοσθαι
 λιβέλλους ἐν τοῖς τοιοῦτοις δικαστηρίοις ὀκταμήρους εἶναι, παντοίως ὀφεί-
 130 λοντος τοῦ δικάζοντος τὰς τοιαύτας τῶν ὑποθέσεων ἐπισπεύδειν συντόμως
 αὐτὰς λύειν, ὥστε μὴ ἀναγκάζεσθαι τοὺς θεματικούς διὰ τὸ παρατεταμένον
 τοῦ καιροῦ καὶ τὴν τῶν δαπανημάτων ἔνδειαν τὴν τῶν δικαστηρίων ἀποφυγὴν
 τιμωτέραν τῆς τούτων γυμνασίας λογίζεσθαι.

Ἔτι καὶ τοῦτο νομοθετήσθω. πολλοῖς τὸ οἰκεῖον περίεργον, ἢ μᾶλλον εἰπεῖν
 135 πανοῦργον, ὑποτίθῃσι τὴν νεαρὰν τὴν νομοθετήσασαν τὸ περὶ τῆς προτιμή-
 σεως δίκαιον περιγράφειν προσχῆματι ἀντιχρήσεως· κἀντεῦθεν τὰ ἀκίνητα,
 ἐφ' οἷς ἕτερος προτιμᾶται, κατὰ ἀντίχρησιν λαμβάνειν τινὲς μηχανῶνται, καὶ

135-162 Coll. III, 2

IyOU₁U₂=a DTFJGKHLNMR=b C 111 μὴ: μὲν m | ἐπιτελεσθεῖη I 112 ἀνα-
 ποδίζοντα o | λογίζεσθαι: aC, λογίσασθαι b 113 ἐκπληρώσαντα dm 114 δικαστηρίους: by,
 δικαστηρίῳ ouC 115 τοῖς: ἐν τοῖς m, ταῖς C Leuncl. | αὐτῆς: αὐτοῖς mH 116 ἐκκλητον:
 ἐκκλησιᾶν u 117 ποιοῦντος W 118 τὰ: τὸ u | διδόναι: πληροῦντα m | δὲ: γὰρ y |
 post δὲ add. καὶ C Leuncl. | ἢ: εἰ C Leuncl., Labbé 119 ἐκκαλέσεται Cd Leuncl., Labbé
 120 προγραφέντι: προγράμματι u | ἐνιαυτὸν u | πεφίλοτομημένον FVJ 121 μεγάλην πόλιν y
 122 περατοῦν: συμπληροῦν U₁ 123 ἀπαιτηθῆναι i 124 ἐποφειλόμενα I 125 προ-
 κείσθαι O | θεματικούς H | τε om. m 126-127 τινων δικαστήρια: τινὰ δίκην C Leuncl.
 127 δικαστηρίων y | τινὰς ἀδικίας i | τινὰς om. m | ὑποστάντες om. d | παρὰ: περὶ dFgJm
 128 οὖν b | τοὺς μέλλοντας om. H 129 τοιοῦτοις om. H | δικαστηρίους om. i | ante
 εἶναι add. δεῖ H 130 συντόμως om. y 131 παρατεταγμένον Fmy 132 ἔνδειαν:
 ἄδειαν y | ἀποφυγεῖν O, φυγὴν y 134 νενομοθετήσθω H 135 post νεαρὰν add.
 νομοθεσίαν m | τὴν² om. bu 137 λαμβάνειν: λέγειν e

the business of the oaths is not completed within that time, he who has been summoned and has not accepted the oaths or executed them is convicted and considered as having retracted.

Further, the appeals made in courts in the Reigning City and in the area around it are to be completed in a year. And he who has been found guilty by someone and has appealed is required to carry out the appeal and complete it within a year; if he has not so acted, he becomes liable, and pays the penalty of the sentence. If he has been found guilty in some other province and he appeals either before the court of My Majesty or another civil court, in addition to the above-mentioned year he has the legal period of time awarded so that, having arrived at the capital within this time, he has of necessity both to carry out and complete the appeal within the mentioned year; otherwise he is constrained to acquiesce in the former decision and to render that which is owed.

Let this also be added. Some provincials, coming to the Queen of Cities and wherever else My Majesty sojourns, bring lawsuits against people, having suffered illegal exactions of money or some other injustices, whether from *praktōres* or (other) provincial officials, or others. We prescribe, then, that the bills of indictment which are to be submitted in such lawsuits be eight-day ones, the judge being bound in every way to hasten to conclude such cases in a short time, so that the provincials are not forced, because of the protracted time and the lack of resources, to consider avoidance of the courts more worth-while than recourse to them.

Let this also be ordained by law. The deviousness or, rather, knavery which is inherent in many, disposes them to circumvent the novel which enacted the claim concerning pre-emption, with the pretext of *antichresis*. In consequence, some contrive to get the property with regard to which another has pre-emption

ἐκ τούτου τὸν προτιμώμενον ἀποκλείειν ἐπιχειροῦσιν, ὡς τάχα τοῦ ἀκινήτου, ἐφ' ᾧ ἡ προτίμησις, μέλλοντος πρὸς τὸν δεσπότην ἐπανελθεῖν μετὰ τὸ ἀντι-
 140 μετρηθῆναι τὸ δάνειον. καὶ τούτῳ τῷ τρόπῳ τὸν προτιμώμενον περιγράφονται, καὶ τὰ τῆς νεαρᾶς ἀναποτέλεστα μένουσι, τοῦ ἀκινήτου ἀπομένοντος παρὰ τῷ κατὰ ἀντίχρησιν τάχα τοῦτο λαμβάνοντι. πολλάκις δὲ καὶ ἕτερόν τι ποιοῦσι περίεργον· πεφύκασι γὰρ τῶν ἀνθρώπων οἱ δύστροποι καὶ ἐν τοῖς προδήλοις πράγμασι μηχανὰς ἐπινοοῖσθαι καὶ δόλους συρράπτειν, καὶ πᾶν ὃ ἂν εἴπη τις
 145 ἐφευρίσκειν εἰς τὴν τοῦ ἀληθοῦς καὶ δικαίου ἐπήρειαν ἢ καὶ τελείαν ἀναίρεσιν. ποῖον δὴ τοῦτο; ὅτε μέλλει ἐκποιηθῆναι ἀκίνητον, ἐφ' ᾧ τις ἔχει πλησιασμόν ἢ ἀνακοίνωσιν, τὸ μέρος τοῦ πωλουμένου ἀκινήτου τὸ πλησιάζον τῷ ἔχοντι τὴν προτίμησιν γείτονι παρακρατοῦντες οἱ κήτορες τὸ λοιπὸν πωλοῦσι πρὸς ὃν βούλονται, καὶ τούτου τὸ περὶ τῆς προτιμήσεως ἀπόλλυται δίκαιον, ἅτε
 150 τοῦ πλησιάζοντος μὴ πραθέντος. καὶ συμβαίνει τὰ τῆς νεαρᾶς νομοθεσίας περιγράφεσθαι, ὡς τῆς ἐννοίας τοῦ νόμου παραβαίνομένης, τῶν δὲ ῥημάτων τάχα φυλαττομένων· περιγράφει γάρ, φησιν ὁ νομικός, ὁ ποιῶν ὅπερ ὁ νόμος οὐκ ἐκώλυσεν, οὐ μὴν αὐτὸ βούλεται γίνεσθαι. τὰς τοιαύτας τοίνυν κακο-
 155 διακόπτουσα, διορίζεται καὶ ἐπὶ τῆς ἀντιχρήσεως τὸ τῆς προτιμήσεως εἰσ-
 ἀγεσθαι δίκαιον, καὶ ἐπὶ τῇ ἀντιχρήσει ἐκεῖνα κρατεῖν, ἃ καὶ ἐπὶ τῶν δωρεῶν ἐν τῇ προμνημονευθείσῃ νεαρᾷ διωρίσθησαν. ὡσαύτως τὸ τοῦ πλησιασμοῦ δίκαιον δοθήσεται, ἅν τις μέρος μὲν πωλήσῃ ἀκινήτου, ἐφ' ᾧ ἕτερος προ-
 160 τιμᾶται, μέρος δὲ τι ἐλάχιστον καταλείψῃ ἀδιάπρατον, τὸ πλησιάζον τυχὸν τῇ οἰκίᾳ τοῦ γείτονος ἢ τῷ ἄγρῳ, ἐν οἷς ὁ πλησιασμός θεωρεῖται· καὶ μὴ τὰς τοιαύτας περιεργίας νικᾶν τὴν ἀλήθειαν καὶ ἄπρακτον μένειν τὸ τὰ περὶ τούτων νομοθετήσαν διάταγμα τῇ περιεργίᾳ νικώμενον καὶ περιγραφόμενον.

152-153 cf. B.2.1.40

155-162 H. 3.3.113

IyOU₁U₂=a DTFJGKHLNMR=b C 138 ἀποκλείειν τὸν προτιμώμενον C Leuncl. |
 ἐπιχειροῦντες u 139 ἐφ' οὗ C Leuncl. | ἐπελθεῖν u | μετὰ τὸ: codd., μετὰ τοῦ Zach. |
 ἐκμετρηθῆναι J 140 παραγράφονται e 141-142 τῷ... λαμβάνοντι: τῷ... λαμβάνοντος m,
 τοῦ... λαμβάνοντος e | 142 τάχα om. Oy | ποιήσει dFJm 143 δύστροποι O 145 εἰς
 om. N | καὶ¹ om. C Leuncl. | τελείως C Leuncl. 146 δὴ: δὲ e 147 τῷ μέρει eR |
 πλησιάζειν MR 148 γείτονι: ἀκινήτου C 148-149 πρὸς ὃ u, πρὸς οὓς m 149 καὶ
 ἐκ C Leuncl., Zach. | περὶ om. DgH | τῆς om. C Leuncl. 150 τὰ: τὰς IOy, om. MR
 151 περιγεγράφθαι C Leuncl. 153 αὐτὸ: αὐτῷ y | γίνεσθαι: γενναίως e 154 περιαιρούσα: a,
 περιαιρούσα dFgHJ, περιαιρούσα m, καταλαβοῦσα C Leuncl. | τῶν om. y 155 ἐπὶ:
 περὶ U₂ | 155-156 τὸ — ἀντιχρήσει om. M 156 ἐπὶ τῇ ἀντιχρήσει: ἐπὶ τῆς ἀντιχρήσεως m,
 om. C Leuncl. | καὶ² om. C | ἐπὶ²: περὶ I 157 διωρίσθησαν νεαρᾷ D | post ὡσαύτως
 add. καὶ IOm 158 ἀκινήτου πωλήσῃ C Leuncl. | ἀκινήτου om. g | ἐφ' ὧν N | ἕτερος:
 τις I 159 τι om. y | καταλείπει O | ἀδιάπρακτον HJ 161 ἀπράκτας O | τὰ om. y
 162 τούτων: τούτου g | διατάγματα FJ

in *antichresis*, and they attempt to exclude from it the person who has the pre-emption, as if the property, in reference to which the pre-emption exists, is destined to return to the owner after the loan is paid back. And in this manner they defraud the person who has pre-emption and the terms of the novel are not carried out, for the property remains with the person who received it supposedly in *antichresis*. Often they do another devious thing, for perverse people are disposed by nature to contrive and machinate, even in indisputable matters, and to invent everything which one can name in the abuse, or even complete destruction, of truth and justice. What is this then? When immovable property, with regard to which someone has proximity or participation, is about to be alienated, the owners, retaining the part of the property being sold which lies in proximity to the neighbour who has pre-emption, sell the rest to whomever they wish, and from this too the lawful claim concerning pre-emption is undone, inasmuch as the land in proximity is not sold. And consequently the terms of the novel are circumvented, since the spirit of the law is transgressed, while the letter of the law is perhaps observed. *For, the jurist says, he is circumventing the law who does what the law did not forbid but did not intend to take place.* Accordingly, My Majesty, removing such mischief and cutting short the machinations of those who are wise in evil ways, decrees that the legal claim of pre-emption is to be applied also in the case of *antichresis* and that those things which were prescribed in the aforementioned novel with respect to gifts, are to hold also with regard to *antichresis*. In like manner, the legal title of proximity will be granted even if someone should sell a part of a property with regard to which another has pre-emption but should leave a very small part unsold, the part which happens to lie in proximity to the neighbour's house or field, in which places the proximity is observed. Such devious behaviour is not to prevail over truth nor is the ordinance which legislates concerning these matters to remain unenforced, defeated and circumvented by deviousness.

Σὺν τούτοις καὶ τοῦτο θεσπίζοντες τοῖς προγραφεῖσι προστίθεμεν. πολλοὶ τῶν ἀνθρώπων ἐν τοῖς ἐπιτελευταίοις αὐτῶν διατάγμασιν ἐπιτρόπους ἤγουν
 165 διοικητὰς τῶν παρ' αὐτῶν διορισθέντων καταλιμπάνουσι, καὶ τούτοις ἀνα-
 τιθέασιν τὴν τῶν πραγμάτων αὐτῶν οἰκονομίαν τε καὶ διοίκησιν, τὸν Χριστὸν
 κληρονόμον γράφοντες, τὸ γλυκὺ τοῦτο καὶ κοσμοσωτήριον ὄνομα. τοῦτο δὲ
 δοκοῦσι ποιεῖν, δι' ὧν τοῖς πένησι τὰς περιουσίας αὐτῶν καταμερισθῆναι προσ-
 170 τάττουσι· τοῦ γὰρ αἰτοῦντος λαμβάνοντος, ἴσταται καὶ Χριστὸς συγκοιλαίνων
 τοῦτω τὴν χεῖρα, ἐφ' ὅσον γάρ, φησὶν, ἐνὶ τούτων τῶν ἐλαχίστων ἀδελφῶν
 ἐποιήσατε, ἐμοὶ ἐποιήσατε. παρακελεύομεθα γοῦν, ὅταν ἐπιτροπικαὶ τοιαῦται
 διοικήσεις πρόκεινται, καὶ εἰς εὐσεβεῖς αἰτίας διανομαί, καὶ πρὸς ψυχικὰς
 οἰκονομίας καὶ ὀρφανῶν, ἀφελίκων τε καὶ πενήτων ἀναγωγὰς καὶ διατροφὰς
 175 τείνουσαι, μὴ χώραν ἔχειν καὶ ἐν ταύταις τοὺς τῶν δικαστηρίων ὑπερβιβα-
 σμοὺς καὶ τὰς ἐντεῦθεν χρονοτριβήσεις. συμβαίνει γὰρ ἐντεῦθεν τὰς τῶν
 τελευτώντων ζημιοῦσθαι ψυχὰς, καὶ τοὺς ἐπ' ἀγαθῇ καὶ κοινῇ λυσitelείᾳ τοῦ
 παντὸς τεθέντας νόμους εἰς τούναντίον περιῖστασθαι. οὐδὲ γὰρ δίκαιον κρίνει
 ἡ βασιλεία μου, τὴν ἐπὶ τοῖς λοιποῖς δικαστηρίοις κρατοῦσαν ἀκολουθίαν καὶ
 ἐπὶ τοῖς τοιοῦτοις πολιτεύεσθαι, ἀλλὰ τὰς ἐπὶ ταῖς τοιαύταις ὑποθέσεσιν ἀμφι-
 180 βολίας ἀπεντεῦθεν λύεσθαι, μὴ λιβέλλου διδομένου, εἰδήσεως δὲ τριημέρου,
 ἢ καὶ ἐς τετάρτην παρεκτεινομένης. μή τις γὰρ δικαστικῆς ὑπερθέσεως
 ἐπεισαγομένης ἢ τῶν προσόντων ἐκάστω δικαίων γενήσεται κατεξέτασις, καὶ
 μετακληθήσεται καὶ ἄμφω τὰ μέρη δίχα τινὸς ὑπερμερίας, καὶ ἀπαιτηθήσεται
 185 ἐκάτερα τὰ μέρη τὰ δοκοῦντα συντείνειν αὐτοῖς προβάλλεσθαι, καὶ οὕτω δι'
 ὀλίγου καιροῦ, μηνιαίου τυχὸν ἢ καὶ εἰς δεύτερον παρεκτεινομένου, κατὰ τὸ
 δόξαν τῷ δικαστῇ προσήκουσαν δέξοιτο λύσιν τὸ ἀνακύψαν ἀμφίβολον· τηρου-
 μένων δηλονότι τῶν νόμων ἐπὶ τῆς οἰκείας ἔδρας καὶ παγιότητος, ὅσοι μὴ

170–171 Matth. 25.40

163–199 Bals. ad Nomoc. 2.1 (Rh.-P. I, 84–85); PrA 36.31

Iy OU₁U₂=a DT FJGKHLNMR C 163 καὶ τοῦτο om. I | τοῖς: τῇ U₁, om. FVJ |
 προστίθεμεν: συντάττομεν C 164 ἐν: ἐπὶ O | ἐπιτελευταίους MR^{im} Bals. | ἤγουν: C Bals.,
 Leuncl., ἦτοι rell. 165 παρ' αὐτοῖς d 166 αὐτῶν om. y | ante τὸν add. καὶ C
 167 γράφουσι u | κόσμιον H | ante ὄνομα suppl. καὶ πρᾶγμα καὶ Leuncl.^{im}, Zach. 168 δοκοῦσι:
 φιλοῦσι I | τοῖς πένησι om. MR | τῆς περιουσίας MRW, τοῖς περιουσίας FVJ, τὴν περιουσίαν H |
 αὐτῶν: αὐτῷ H | προτρέπουσι I 169 καί: ὁ C Bals., Leuncl., om. J 170 τοῦτω: Ciu Bals.,
 τούτου b, om. H | φησὶν: C Bals., Leuncl., om. ab | τούτων — ἀδελφῶν: τῶν ἀδελφῶν τούτων
 ἐλαχίστων m 171 οὖν dHC Bals. | ἐπιτροπαὶ u, ἐπιτροπῇ O | τοιαύτῃ O 172 ante
 διοικήσεις add. καὶ e 172–173 ψυχικὴν οἰκονομίαν ou 173 τε om. H | ἀναγωγῇ καὶ
 διατροφῇ e 174 τείνουσα FJm, τείνωσι C Bals., Leuncl. | καὶ om. y | τῶν om. u 175 καὶ
 om. I 176 post καὶ add. τὸ ab | ἀγαθῷ Ci Bals. 176–177 τοῦ παντὸς om. I 177 οὐδὲ:
 οὐ uC Bals. 178 τοῦ λοιποῦ δικαστηρίου e | δικαίοις H | κρατοῦσιν FJ 179 post ἀλλὰ
 add. καὶ u | ὑπόθεσιν M, ὑποθέσεις e | ἀμφιβολίᾳ O 180–181 εἰδήσεως — παρεκτεινο-
 μένης om. H 180 εἰδήσεως δὲ: εἰ δ' ἴσως δὲ F, εἰ δ' ἴσως gmJy | τριημέρα FgmJ 181 ἐπὶ

With these, we decree this also, adding it to the aforementioned. Many people leave executors, that is to say, trustees of the things prescribed by them in their instructions at death, and they entrust to these men the administration and management of their effects, naming Christ as heir, that sweet and world-saving name. This they seem to do for the sake of prescribing that their property be distributed among the poor. For, when he who asks receives, Christ also stands cupping his hand for this, *for*, He said, *inasmuch as ye have done it unto one of the least of my brethren, ye have done it unto me*. We recommend, then, that when such executor-administered matters are to be settled, and distributions having to do with pious motives and salvation of the soul, that is, sustenance and support of orphans, the elderly and the poor, there be no possibility in these cases also for delays of the courts and the resulting waste of time. For, from this it comes about that the souls of the dead are damaged, and the laws laid down for the common advantage of all turn out to the contrary. Neither does My Majesty consider it just that the procedure which prevails in other lawsuits should hold in these as well, but rather the matters in dispute in such cases should be resolved at once, without the preferment of a bill of indictment, but with a three-day notification or even one extended to a fourth day. For when no judicial delay is introduced, the examination of the claims pertaining to each will be made and both sides will be summoned without any deferment and each party will be required to put forward that which it thinks contributes to it. In this way, in a short time, perhaps a month or extended to a second, the dispute which arose should receive an appropriate resolution, in accordance with the opinion of the judge, that is, with observance, in their proper fundament and stability, of the laws which declare that the descendants of the deceased are not

τέταρτον C Bals. | παρεκτεινομένου e | υποθέσεως Bals. 182 έπαγομένης g, εισαγομένης i, παρεκτεινομένης m | ή: καί γ | έκάστῳ — γενήσεται: δικαίων έκάστῳ δικαίων γίνηται u | ή εξέτασις H 183 μετακληθήσεται: —κληθήσονται I Bals., —βληθήσεται Oy, difficile lectu in C | άπαιτηθήσεται: —θήσονται gHJl Bals., difficile lectu in C 184 έκάτερα τὰ μέρη om. dI 185 τυχεῖν γ 186 προσήκουσαν δέξοιτο: προσδέξοιτο (—ται O) u | δέξεται d | τηρουμένων: κυρουμένων C Leuncl.^{im} 187 μῆ om. U₂

- μετὰ τὸν τοῦ τελευτήσαντος θάνατον εὐθὺς τοὺς ἐκείνου διαδόχους εἰς δικαστήριον ἔλκεσθαι διορίζονται, ἀλλὰ μετὰ παραδρομὴν ἡμερῶν τινων, καθὼς
 190 τὰ περὶ τούτων πλατύτερον τοῖς βασιλικοῖς διηγόρευται. εἰ δέ γε ἐπίτροπος εἰς ὑπερθέσεις φανείη χωρῶν καὶ τοιαῦτα σκαιωρῶν φωραθείη, καὶ πρὸς ὑπερβιβασμοὺς χωρήσει μὴ ποιῶν, καθὼς ὁ διαθέμενος διατάξατο, τῆς ἐπιτροπῆς καὶ οἰκονομίας τῶν τοῦ τελευτήσαντος πραγμάτων μετακινήσεται· ἀνατεθῆσεται δὲ αὕτη οἷς ἂν ὁ βασιλεὺς διορίσῃται, ἢ τοῦτου ἴσως ἀποδημοῦντος ὁ
 195 τῆς πόλεως ἑπαρχος ἅμα τῷ τῆς ἀγιοτάτης ἐκκλησίας οἰκονόμῳ τὴν τοῦτου ποιήσονται οἰκονομίαν τε καὶ διοίκησιν, ὀφείλοντες εἶδῃσιν διδόναι τῶν ἐπὶ ταῖς τοιαύταις ὑποθέσεσιν οἰκονομουμένων τῷ βασιλεῖ, ἢ τῷ κατὰ τὴν ἡμέραν ἀγιοτάτῳ πατριάρχῃ, εἰ τύχῃ τὸν βασιλέα ἀπόδημον εἶναι, καὶ μὴ κατὰ πρόσταξιν αὐτοῦ τὰ τοῦ τελευτήσαντος πληρωθῆναι θελήματα.
- 200 Ἐπεὶ δὲ καὶ τὰ πρόστιμα τὰ τοῖς ἐγγράφοις ἐντιθέμενα ἐξ ὁμολογίας τῶν συναλλαττόντων δι' ἀσφάλειαν καὶ παραφυλακὴν τῶν συμπεφωνημένων ἐγγράφονται, ὥστε τὸν ἀθετοῦντα τούτοις ὑποπεσεῖν, νῦν δὲ καὶ τοῦτο εἰς παντελῇ ἀχρησίᾳ ἦλθεν, ἅτε τῶν δικαστῶν ἐφ' οἷς οὐ χρὴ φιλανθρωπευομένων, καὶ ἐν ἀλλοτρίαις συμφοραῖς μαλθακιζομένων καὶ χαννουμένων, ἐπὶ τῷ τοῦ
 205 καλοῦ ζήλῳ καὶ τῇ τῶν ἀδικουμένων ἐκδικήσει διοριζόμεθα, καὶ ταῦτα ἀπαιτεῖσθαι ἐκ παραβάσεως κατὰ τὴν τῶν νόμων δύναμιν, ναὶ μέντοι καὶ καρποὺς καὶ διαφέρον, καὶ πᾶν ἄλλο τοιοῦτον ἀκολούθως ταῖς νομικαῖς διατάξεσιν, ἀλλὰ καὶ τὰ κατὰ βίαν ἢ φόβον ἢ ἄρπαγὴν καὶ τὰ παρὰ τῶν ἄλλως ἁμαρτανόντων μεθ' ὅπλων ἢ καὶ χωρὶς τούτων ἀφαιρούμενα μετὰ τῆς νομίμου ποινῆς
 210 ἀντιστρέφειν, ὥς ἂν τῇ τούτων ἀπάντων ἀπαιτήσει ἀναστολὴ γένηται τῶν βουλομένων πλεονεκτεῖν, καὶ μὴ πρόχειροι εἰς κακίαν οἱ πολλοὶ γίνοντο, βλέποντες ἀκόλαστον τὸ κακὸν καὶ μηδεμίαν ἐπὶ τούτοις γινομένην τὴν ἐπεξέλευσιν. πάντα μὲν γάρ, εἰ δυνατόν, ἠβούλετο ἡ βασιλεία μου πρὸς τὸ βέλτιον μεταρρυθμίσαι· ἀλλ' ἐπεὶ τοῦτο ἐργῶδες, ἢ τό γε ἀληθέστερον καὶ ἀδύνατον,
 215 καθ' ὅσον ἐστὶν ἐφικτὸν διὰ θεσπισμάτων νεαρῶν καὶ τῆς ἀπὸ τούτων ἀνάγκης διορθωτέον τὰ κακῶς γινόμενα καὶ πραττόμενα.

190 cf. B.23.2.2

IyOU₁U₂=a DT FJGKHLNMR=b C 188 μετὰ: κατὰ mC | τὸν om. Cy | τοῦ om. e | τετελευτηκότος m 189 διορίζοντο y 190 τούτων: τούτου y | δέ γε: δὲ O, μέντοι I | ante ἐπίτροπος add. ὁ oH 191 ὑπερθέσιν Cy | ὑπερβιβασμόν ey 194 οἷς: πρὸς ὃν I 196 ποιήσεται ou Bals. | ὀφείλοντες: codd., ὀφείλοντος Labbé, Zach. 197 οἰκονομοῦντων y | ἢ: καὶ C 198 εἰ τύχῃ om. C 199 πρόσταξιν αὐτοῦ: πρὸς τιν' αὐτῷ J | πληρωθῶσι Bals. | θέλημα y 200 τὰ² om. y | ἐντιθέμενα: Cey, ἐπεντιθέμενα b, τιθέμενα I 202 τούτοις: τούτῳ e 203 χρῇ: aC, δεῖ b 204 ἐν: ἐπ' I | μαλακιζομένων C Leuncl., Zach. 205 καλοῦ: κακοῦ y, κακοῦσθαι I | ζήλῳ καὶ om. I spatio relicto | ante ἀπαιτεῖσθαι add. ἐκδικεῖσθαι καὶ H 206 παραβάσεως: παρὰ βασιλέως C Leuncl. | ναί: καὶ m 207 ante διαφέρον add. πᾶν C Leuncl., Zach. 208 τὰ¹ om. u | ἦ¹: καὶ D | ἄλλως: ἄλλων e

to be brought to court immediately after his death, but after the lapse of a few days, as has been stated in greater detail concerning these matters in the Basilika. But if an executor should appear to be proceeding to delays and should be detected devising such mischief, and by his proceeding to postponements does not act as the testator ordered, he will be removed from the executorship and administration of the property of the deceased. This will be entrusted to those whom the emperor might name or, should he be away, the eparch of the city with the *oikonomos* of the most holy Church will procure his administration and management, being obliged to give notification of the things being administered in such cases to the emperor, or to the most holy patriarch of the day, if it should happen that the emperor is away and it is not according to an ordinance of his that the wishes of the deceased have been carried out.

And since the fines inserted into the documents are written in by agreement of those who have entered into contract, for the security and safeguarding of the things agreed, so that he who has broken faith falls subject to them, but now this too has fallen into complete disuse, because judges show kindness where it does not befit, and are softened and weakened by others' misfortunes, in the desire for honour, and in vindication of those who are wronged, We prescribe that these be exacted in the case of breach of contract, in accordance with the authority of the law, yes indeed, profits also and that which appertains, and all such things, in accordance with the legal decrees. Also, those things which are taken away by force or threat or seizure and also (things taken) by those doing wrong in another way, with arms or even without these, should be returned together with the penalty of the law, so that with the demand for the return of all these things there may be restraint of those who wish to claim more than their due, and people may not become handy at vice, seeing evil unbridled and no punishment exacted in such cases. For My Majesty had wished to reform everything, if possible, for the better, but since this is difficult or, more truthfully, even impossible, the things which occur and are done with evil intent should be corrected, in so far as is possible, by new laws and the constraint (resulting) from these.

209 καὶ om. i | ἀφαιρούμενα: ἀφαιρουμένων C Leuncl.^{im}, ἀφαιρεθέντα I, ἀναιρούμενα D
 210 ἀπαιτήσει: ἐκδικήσει καὶ I 211 πρόχειρον O | οἱ πολλοὶ om. I | γίνονιντο m,
 γένονιντο CT, φαίνονιντο I 212 γενομένην C Leuncl., Zach. | τὴν om. Dm 213 εἰ:
 ἢ m | ἐβούλετο dJ | τὰ βέλτια e 214 μεταρρυθμίσαι: dHU₂, μεταρρυθμίσαι rell. |
 ἀλλ' — ἀδύνατον om. u

Ἐπεὶ δὲ ἀνωτέρω διωρίσατο ἡ βασιλεία μου, μερισθῆναι τοὺς πολιτικοὺς δικαστὰς καὶ ἀφορισθῆναι ἐκάστῳ δικαστηρίῳ τοὺς μέλλοντας παρ' ἐκείνων συνέρχεσθαι, ἐν ταύτῳ δὲ ἀναγκαῖόν ἐστι καὶ τοὺς συνηγόρους ὁμοίως ἐπι-
 220 μερισθῆναι, φροντιοῦσιν ὃ τε πανσέβαστος σεβαστὸς καὶ μέγας δρουγγάριος καὶ οἱ μεγαλεπιφανέστατοι ὃ τε πρωτασηκρήτης καὶ ὁ δικαιοδότης ἐνωθέντες ποιῆσαι τὸν τοῦτων ἐπιμερισμὸν ἐξ ἴσου ἐφ' ἐκάστῳ τῶν τεσσάρων δικαστηρίων, τοῦ τε μεγάλου δρουγγαρίου, τοῦ προκαθημένου τῶν δημοσιακῶν δικαστηρίων, τοῦ πρωτασηκρήτης καὶ τοῦ δικαιοδότου, ὡς ἂν οὕτως ἕκαστον
 225 τῶν τοιούτων δικαστηρίων ἀνεμπόδιστον τὴν οἰκείαν ἔχη ἐνέργειαν, καθὼς ἡ βασιλεία μου ὑπετύπωσεν.

- I Εἶχε τὸ μηνὶ *Μαρτίῳ* <ινδ.> ιδ' δι' ἐρυθρῶν γραμμάτων τῆς βασιλικῆς καὶ θείας χειρός, καὶ τὴν συνήθη δίπτυχον προσκυνητὴν βούλλαν, καὶ τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδωρίτου *Μιχαήλ*, καὶ ἔξωθεν τὸ ἀπελύθη μηνὶ *Ἰουνίῳ* ινδ. ιδ' ἔτους ,*ζχοδ'*. ἦν δὲ τὸ τοιοῦτον βασιλικὸν προσκυνητὸν πρόσταγμα καὶ ἐν διαφόροις κατεστρωμένον πολιτικοῖς τε καὶ ἐκκλησιαστικοῖς σεκρέτοις. FgHJm
- II Εἶχε τὸ μηνὶ *Μαρτίῳ* ινδ. ιδ' δι' ἐρυθρῶν γραμμάτων τῆς βασιλικῆς καὶ θείας χειρός, καὶ τὴν συνήθη δίπτυχον προσκυνητὴν βούλλαν, καὶ ἡ διὰ κηροῦ συνήθης σφραγίς. εἶχε διὰ τοῦ λογοθέτου τοῦ δρόμου Ἀγιοθεοδωρίτου *Μιχαήλ*, καὶ ἔξωθεν τὸ κατεστρώθη ἐν τῷ σεκρέτῳ τοῦ μεγάλου λογαριαστοῦ κατὰ μῆνα *Αὐγουστον* ινδ. ιδ' καὶ ἐν ταῖς δέσεσι τῶν κολλῶν εἶχε τὸ ἀπελύθη μηνὶ *Ἰουνίῳ* ινδ. ιδ' ἔτους ,*ζχοδ'*. ἦν δὲ τὸ τοιοῦτον βασιλικὸν προσκυνητὸν πρόσταγμα καὶ ἐν διαφόροις κατεστρωμένον πολιτικοῖς τε καὶ ἐκκλησιαστικοῖς σεκρέτοις. d
- III Τὸ δὲ μηνὶ *Μαίῳ* ινδ. ιδ' τοῦ βασιλέως, ἡ διὰ κηροῦ σφραγίς, τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδωρίτου *Μιχαήλ*, καὶ ἔξωθεν ἐν ταῖς προπτύξεσι τῶν κολλῶν ταῦτα· ἀπελύθη μηνὶ *Ἰουλίῳ* ινδ. ιδ' ἔτους ,*ζχοδ'*, τὸ κατεστρώθη ἐν τῷ σεκρέτῳ τοῦ μεγάλου δρουγγαρίου, καὶ τὸ κατεστρώθη ἐν τῷ τοῦ μεγάλου λογαριαστοῦ σεκρέτῳ κατὰ μῆνα *Αὐγουστον* ινδ. ιδ', κατεστρώθη χειρὶ *Κυριακοῦ* τοῦ τοῦ Ἀγγιάλου. u
- IV Τὸ μηνὶ *Μαρτίῳ* ινδ. ιδ' τοῦ βασιλέως, καὶ ἡ διὰ κηροῦ σφραγίς, τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδωρίτου *Μιχαήλ*, καὶ ἔξωθεν ἐν ταῖς προπτύξεσι τῶν κολλῶν ταῦτα· ἀπελύθη μηνὶ *Ἰουλίῳ* ινδ. ιδ' ἔτους ,*ζχοδ'*, τὸ κατεστρώθη μόνον τοῦ σεβαστοῦ καὶ μεγάλου δρουγγαρίου, καὶ τὸ κατεστρώθη ἐν τοῖς δυοῖς μεγάλοις λογαριασταῖς σεκρέτοις κατὰ μῆνα *Αὐγουστον* ινδ. ιδ' καὶ ἐν τῷ σεκρέτῳ τῶν οἰκειακῶν κατὰ τὸν αὐτὸν μῆνα. y
- V Τὸ μηνὶ *Μαρτίῳ* ινδ. ιδ' τοῦ βασιλέως καὶ ἡ διὰ κηροῦ συνήθης σφραγίς, τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδωρίτου, καὶ ἔξωθεν ἀπελύθη μηνὶ *Ἰουλίῳ* ινδ. ιδ' ἔτους ,*ζχοδ'*. ο
- 250 VI Τὸ μηνὶ *Μαρτίῳ* ινδ. ιδ' δι' ἐρυθρῶν γραμμάτων τῆς βασιλικῆς χειρός, καὶ ἡ διὰ κηροῦ σφραγίς εἶχε τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδωρίτου *Μιχαήλ*, ἔτους ,*ζχοδ'*. C

IyOU₁U₂=a DT FJGKHLNMR=b C 217 ἐπιμερισθῆναι I 218 ἀφορισθῆναι εἰς ἕκαστον δικαστήριον C Leuncl. | μέλλοντας post συνέρχεσθαι transp. g 219 ἐν ταύτῳ: ἐνταῦθα C Leuncl. | ἀναγκαιῶς LMN | καὶ om. I | ante ἐπιμερισθῆναι add. καὶ y 220 φροντίζουσιν C 221 μεγαλοεπιφανέστατοι C Leuncl., Zach. | τε om. y 222 ἐκάστων e, ἐκάστου C Leuncl. 223 τε om. C | δημοσιακῶν: δημοσιῶν C Leuncl., βασιλικῶν e | δικαστῶν y 225 τὴν οἰκείαν om. W | ἔχη ante τὴν transp. Hi | ἔχοι m, ἔχιν FTC, ἔχων u 226 διετύπωσεν CH 228 προσκυνητὴν: βασιλικὴν m 245 κατεστρώθη: κατ' ἔτος y 246 λογαριασταῖς Par. Coisl. 39, Ambr. A 53 inf. 248-249 ινδ. nec plura O 250 κηροῦ: καιροῦ C Leuncl.

Since My Majesty prescribed above that the civil judges be distributed, and those destined to convene at each court of law be appointed to it, and since in the same way it is necessary that the advocates too be distributed in like fashion, the *pansebastos sebastos megas droungarios* and the *megalepi-phanestatoi*, the *protasekretis* and the *dikaiodotes*, meeting together, will see to it that the allocation of these men is made equally for each of the four courts of law, that of the *megas droungarios*, of (the official) who presides over *demosiaka dikasteria*, of the *protasekretis*, and of the *dikaiodotes*, so that in this manner each of these courts may have its own function, unhindered, just as My Majesty outlined.

III

- I Τοῦ βασιλέως κυροῦ Μανουῆλ τοῦ Κομνηνοῦ περὶ τῶν ἡμερῶν τοῦ ὅλου ἐνιαυτοῦ, ποῖαι μὲν τούτων ἀπρακτοί, ποῖαι δὲ ἐν μέρει μὲν ἀπρακτοί, ἐν μέρει δὲ ἐμπρακτοί b
- II Νεαρὰ τοῦ αὐτοῦ βασιλέως περὶ τῶν ἐμπράκτων καὶ ἀπράκτων καὶ μέσων ἡμερῶν, ἵνα μὴ τῷ παραλογισμῷ τῶν ἀπράκτων ἐπὶ πλεον ἄδικοῦνται οἱ ἀδικούμενοι I
- 5 III Μανουῆλ τοῦ Κομνηνοῦ τοῦ πορφυρογεννήτου καὶ μεγάλου βασιλέως νεαρὰ α΄ C
περὶ ἡμερῶν ἀπράκτων

Σκοπὸς μὲν τοῖς ἀνθρώποις τοῦ ἐορτάζειν ἢ τοῦ Θεοῦ θεραπεία προηγου-
μένως ἐστίν· οὐκ ἄλλω δὲ τινι τῶν ἀπάντων ἴσμεν Θεὸν τοσοῦτον θεραπευό-
μενον, ὅποσον ἐλέω καὶ οἰκτῷ τῷ περὶ τοὺς μεταλαχόντας τῆς αὐτῆς ἡμῖν
10 ζύμης παρὰ τοῦ κεραμέως τῆς διαρτίας ἡμῶν καὶ πλάστου τῆς φύσεως. καὶ
μαρτυρεῖ τῷ λόγῳ αὐτός, ἔλεον θέλειν καὶ μὴ θυσίαν διὰ τοῦ προφήτου
φθειγγόμενος. δῆλον οὖν ἐντεῦθεν καὶ ἀναμφίλεκτον, ὅτι καὶ τὸ ἐλεεῖν ἄμεινον
πάντως ἂν εἴη τοῦ ἐορτάζειν, καὶ Θεῷ μᾶλλον θυμῆρες καὶ πάσης εὐαρεστό-
τερον ἀπαρχῆς καὶ σπονδῆς καὶ θύματος καὶ ὀλοκαυτώματος. ἔλεος δὲ ἄλλοις
15 μὲν ἄλλος ἀρμόττει, καὶ τὸ ἐντεῦθεν φάρμακον ἕτερον ἐτέροις κατάλληλον
πρὸς τὰς τῶν καμνόντων διαθέσεις μεταπλαττόμενον. τοῖς γε μὴν τραυματίαις
ἐξ ἀδικίας, καὶ ὧν ἡ πλεονέκτις κατεκαυχήσατο χεῖρ καὶ πυκνὰς αὐτοῖς ἐπ-
έθηκε πληγὰς τε καὶ μώλωπας, οὐχ ἕτερον πάντως ἱάμα προσφυέστερον ἢ τὸ
παρὰ τῆς εὐθυδικίας καλῶς διορθοῦσθαι, ἃ κακῶς εἰς αὐτοὺς πεπαρῶνται.
20 πῶς δ' ἂν ἡ δικαιοσύνη καὶ ἡ πάρεδρος αὐτῇ θέμις κατὰ τῶν ἀντιπάλων
αὐταῖς, τῆς ἀνομίας φημί καὶ τῆς ἀδικίας, πρὸς συμπλοκὴν καὶ ἄμιλλαν κατα-
βήσονται καὶ τὸ στέφος κατ' αὐτῶν ἀναδήσονται, τοῦ τῶν δικαστηρίων στα-
δίου τὰ πολλὰ κεκλεισμένου μηδ' ἀναπεπταμένην καὶ ἄφετον τὴν εἴσοδον
ἔχοντος· προφάσει δῆθεν τῆς περὶ τὰς ἐορτασίμους τῶν ἡμερῶν εὐλαβείας
25 καὶ τῆς ἐν αὐταῖς θεραπείας τοῦ κρείττονος; ἢ δὴ λέληθεν οὐ μᾶλλον αὐτὸν
θεραπεύουσα, ἢ τοῖς μὲν ἀδικουμένοις τοὺς μώλωπας ἐπιξαίνουσα καὶ τὸ
ἄλγος ἀνακαινίζουσα καὶ τὴν ὀδύνην ἐπαύξουσα, τοῖς δὲ ἀδικεῖν ἐλομένοις
τὴν ἐφ' οἷς ἠδίκησαν ἀπόλαυσιν πολυπλασιάζουσα, καὶ τῇ τῶν ἀνεσίμων
ἡμερῶν ἀφθονίᾳ καὶ τῷ πλατυσμῷ τῆς τῶν δικαστηρίων σχολῆς ἐπὶ μακρὸν
30 αὐτοῖς ἀποπληροῦσα τὴν ἔφεσιν.

11 cf. Os. 6.6-7

15 sqq. cf. N. 111

IU, U₂ = a DT FGK LNM = b 1 Τοῦ βασιλέως: τοῦ αὐτοῦ βασιλέως m, τοῦ αὐτοῦ g, νεαρὰ T
1-2 ποῖαι ... ἀπρακτοί¹: ποῖα ... ἀπρακτος M 2 ποῖαι - ἀπρακτοί² om. g | post δὲ¹ add.
καὶ W 7 μὲν: μέντοι u 8 δέ om. I 9 αὐτῆς: αὐτοῦ Fm | ἡμῶν g 10 παρὰ:
περὶ FU₁ 11 μάρτυς m | μὴ: οὐ d 12-13 ἄμεινον - εἴη: πάντως ἄμεινον ἂν εἴη D,
ἄμεινόν ἐστι πάντως m, μεῖζον ἢ ἄμεινον ἂν εἴη πάντως I 14 ὀλοκαυτώματος u
14-15 ἄλλος μὲν ἄλλοις DI, ἄλλοις ἄλλως u 15 ἀρμόττων I 16 ante μεταπλαττόμενον
add. καταλλήλως m 17-18 πυκνὰς - πληγὰς: πληγὰς αὐτοῖς πυκνὰς ἐπέθηκε m 17 αὐτοῖς:

III

Man's purpose in keeping holiday is principally service of God. Yet we know that God is served not so much by any other of all the possible means as by mercy and pity for those who have been allotted a share of the same dough as ours by the Moulder of our form and the Creator of nature. And He Himself bears witness in so many words, uttering through the prophet that He desires mercy and not sacrifice. It is therefore clear and indisputable that showing mercy may be altogether better than keeping holiday and rather more pleasing to God and more acceptable than any first-offering, libation, sacrifice, or burnt-offering. However, compassion suits different people in different ways, and the medicine from it is appropriate in another manner in other cases, being adapted in accordance with the condition of the patient. Truly, for those wounded by injustice, over whom the greedy hand has raised itself and on whom it has inflicted numerous blows and bruises, there is surely no more suitable remedy than making good by right judgement that which has been badly injured in them. For how are Justice and her assessor Themis to enter into engagement and contest with their rivals, I mean Lawlessness and Injustice, and wear the crown (won) against them, when the arena of the courts is for the most part barred, its entrance closed and inaccessible, on the pretext of reverence for the festal days and the service of the Almighty on those days? Indeed, the service has failed, not so much serving Him as irritating the sores of those who have been wronged, reviving the pain and increasing the suffering, while multiplying the advantage of those who have chosen to do wrong in the things in which they did wrong, satisfying their appetite a great deal by the superabundance of holidays and the extension of the recess of the courts.

αὐτῇ u 18 προσφύεσταιον g 19 παρὰ: περὶ u 20 αὐτῇ: αὐτῷ uFm 21 κατα-
 βήσεται dFGm 22 ἀναθήσεται d, ἀναδύσονται u 23 μηδ': καὶ οὐδ' u 24 τῆς: τῶν u
 25 αὐτὸν: codd., αὐτὸ Zach. 26 μὲν om. d 28 οἷς: codd., ἧς Labbé, Zach. 30 αὐτοῖς:
 αὐτῇ u | ἀποπληροῦσι Fgm

Τοιγαροῦν καὶ ἡ βασιλεία μου – τοῦτο μὲν καὶ τοῦ θεοπάτορος καὶ βασι-
λέως Δαβὶδ εἰς ἄσμα κυρίου τῷ ἔλέῳ τὴν κρίσιν παραzeugνύντος ἀκούουσα,
κάντεῦθεν μὴ τοσοῦτον ὕμνοις καὶ ᾠδαῖς καὶ λογικαῖς λατρείαις χαίρειν Θεὸν
ἐν ταῖς ἑορταῖς τῶν ἡμερῶν συλλογιζομένη, ὅποσον ἄρα τῷ ἐκ τοῦ ἔλεου καὶ
35 τῆς κρίσεως ἔσματι, τοῦτο δὲ καὶ τὸ ἐν εὐαγγελίοις οὐαὶ καὶ τὸν ταλανισμὸν
ἐκείνον ὑπορωμένη, ὃν εἰς τοὺς ὑποκριτὰς Φαρισαίους ὁ Σωτὴρ ἀπετείνατο,
ὅτι προσωπεῖω τῆς τῶν ἑορτάδων ἡμερῶν φυλακῆς μεγίστην ἔνδον ἀνομίαν
περικαλύπτομεν, τὴν κρίσιν παρὰ φαῦλον τιθέμενοι καὶ τὸν ἔλεον, πρὸς
40 *μεμίσσηκα, ἀπῶσμαι ἑορτὰς ὑμῶν, καὶ οὐ μὴ ὀσφρανθῶ ἐν ταῖς πανηγύρεσιν*
ὑμῶν – εἰς τὴν παροῦσαν οἰκονομίαν ἐλήλυθε. εἰ γὰρ τὸ ἐν Σαββάτῳ κατ-
ολιοθῆσαν κτήνος εἰς βόθυνον ἀνέλκεσθαι ὁ Σωτὴρ ἐκεῖθεν διεκελεύσατο,
καὶ μηδαμῶς τὴν τῆς νομικῆς ἀργίας παράλυσιν ὑποστέλλεσθαι, πόσω μᾶλλον
χρῆ τὸν τοῦ ἀλόγου κτήνους ἀσυγκρίτως ὑπερκείμενον ἄνθρωπον, τὸν λόγῳ
45 *τετιμημένον*, τὸν Θεοῦ εἰκόني σεμνολογούμενον, καὶ ἐν ἑορταῖς ἡμέραις, ἐφ’
αἷς ἔργου παντὸς σχολὴν ἄγομεν, τοῦ βόθρου πειρᾶσθαι πᾶσι τρόποις ἀν-
έλκειν, εἰς ὃν αὐτὸν ἡ παλαμναία καὶ μαινὰς ἀδικία ἐπὶ κεφαλὴν ὠθήσασα
κατεκρήμισε; καὶ εἰ Χριστὸς αὐτὸς τοῦ σκιώδους νόμου τὴν ἐπιφυλλίδα ξέων
καὶ τὸ λέμμα καὶ τὸν ἀνθήρικα καὶ τὸν σῖτον τῆς ἀληθείας παραγυμνῶν ἐν
50 τοῖς Σάββασιν ἑτερατούργει, νοσοῦντας θεραπεύων, συντετριμμένους ἰώμενος,
καὶ τὴν ἐν αὐτοῖς ἀνέκαθεν νενομισμένην ἐκεχειρίαν καὶ ἀπραξίαν ἐπὶ σωτη-
ρίᾳ τῶν κακῶς ἐχόντων καινοτομῶν, πῶς ἡμῖν οὐ τὰς πολλὰς περιαιρετέον
τῶν δικαστηρίων ἀδείας ὑπὲρ τε τῆς τῶν πασχόντων ἀδίκᾳ ἐκδικήσεως καὶ
τῆς τῶν τοιαῦτα δρώντων ἀναχαιτίσεως; καὶ ταῦτα νῦν, ὅποτε ἡ βασιλεία μου
55 τὰς τῆς ἀδικίας τε καὶ πλεονεξίας ρίζας ἀτεχνῶς ἀποδενδρωθείας ἡκρίβωσε,
καὶ πολλοὺς ἐπέγνω τῶν ἀνθρώπων εἰς τοῦμφανὲς νῦν ἐκρήξαντας, ἦν ἐκ
μακροῦ ὧδινον πονηρίαν καὶ τρόπων σκαιότητα, ὡς ἀδεῶς τοῖς παρανόμοις

32 Ps. 101 (100) 35 sqq. cf. Matth. 23.13 sqq.; Luc. 11.42 sqq. 37 sqq. cf. Matth. 23.14, 28
40–41 Am. 5.21 41 sqq. cf. Matth. 12.11, 12 48 cf. Heb. 10.1; Col. 2.17

IU₁U₂=a DT FGKLMN=b 31 καὶ³ om. u 34 ταῖς: τοῖς dFg | ἑορτασίμοις m
36 φαρισαίου m 37 ἑορτασίμων VW 38 παρακαλύπτομεν u 39 τοῦ Ἄμω: a,
ἄββακούμ b, τοῦ ἄμω: προφήτου corr. d^m 40 ἑορτὴν ἡμῶν u 41 ὑμῶν: ad, ὑμῖν rell. |
ἐλήλυθα dgm 43 ἀποστέλλεσθαι u | πόσον u | μᾶλλον: ml, μάλιστα rell.
44 κτήνος u | λόγον F 45 εἰκόνη: codd., εἰκόνα Labbé, Zach. | καὶ om. d
47 κεφαλὴν: ad, κεφαλῆς rell. 48 Χριστὸς αὐτὸς: χρῖον αὐτὸν u 49 λέμμα: πολίτευμα u |
τὸν¹: codd., τὴν Labbé, Zach. 51 αὐτοῖς: αὐτῇ u 52 ἐχόντων: πασχόντων m
53 ἀδείας: ἀδικίας g | ἐκδικήσεως: διοικήσεως I 54 τῆς om. m | ante τοιαῦτα add. τὰ d
55 ἀποδενδρωθείας m 56 ἐπέγνω I 57 σκαιότητος u

My Majesty, therefore, gave ear to the ancestor of God, king David, who coupled mercy with judgement in a song for the Lord, and reasoned from this that God takes pleasure not so much in hymns and odes and worship with words on the feast days as perhaps in the song composed of mercy and judgement. But, also, It viewed with apprehension the *woe* in the Gospels and that denunciation which the Saviour directed against the hypocritical Pharisees, saying that we conceal great lawlessness within, under the mask of observing the feast days, while regarding judgement and mercy of slight account. In addition to these, My Majesty held in reverence the prophecy of Amos, *I hate, I despise your feast days, and I will not smell in your solemn assemblies.* (Taking the above into account) My Majesty has arrived at the present measure. For if the Saviour directed that the animal which fell into a pit on the Sabbath day be lifted out of it, and that the breaking of the legal holiday in no way be avoided, how much more necessary is it that man who is incomparably superior to the irrational animal, who has been honoured with the gift of reason, who is dignified with the image of God, make every effort, on holidays, on which we are at rest from all work, to lift up from the pit him whom abominable and mad Injustice, thrusting headlong, threw down into it. And if Christ Himself, cutting away the overgrowth of the shadowy law, as well as the husk and the beard, exposed the grain of truth, working miracles on the Sabbath, treating the sick, healing the oppressed, and introducing change into the respite from work and the leisure which was from the beginning sanctioned on those days, for the salvation of those who fare ill, how can We not remove the many holidays of the courts, for the sake of avenging those who suffer unjustly and restraining those who commit such actions? And especially now, when My Majesty has precisely investigated the roots of injustice and greediness which have actually grown into a tree, and has observed many of the people who have now burst out into the open with that wickedness and perversity of manner with which they had for a long time laboured, so that they venture upon illegal acts without scruple

ἐπιτολμᾶν καὶ ἀνυποστόλως τὰ πάντων ἐκθεσμότατα δρᾶν, εἴτα καὶ σοφοὺς
 γινομένους τοῦ κακοποιῆσαι περιστέλλειν αὐτὰ μορφᾷς τισι λόγων καὶ τὸ
 60 εἰδεχθῆς τῆς κακίας ἔξωθεν ἐπιχρῶζειν πιθανῶν ῥημάτων κομμωτικαῖς ἐπι-
 θέσεσιν· ὅτε καὶ μάλιστα δεῖ πλειόνων δικαστηρίων ἐφ' οὕτω κακομηχάνους
 ἀνθρώποις πρὸς τὴν τοῦ δικαίου καὶ ζήτησιν καὶ ἀνερευνήσιν. καὶ ἄλλως δὲ
 πῶς ποτε καὶ τῷ δικαίῳ συνᾶδει καὶ τῷ Θεῷ ἐστὶν εὐαπόδεκτον, παντελεῖ τοῖς
 δικαστηρίοις ἐπιψηφισθῆναι σχολὴν διὰ τὰ καὶ πάλαι τερατουργηθέντα ὑπὸ
 65 Θεοῦ καὶ τῶν αὐτοῦ θεραπόντων παράδοξα καὶ αὐθις τερατουργηθήσεσθαι
 προσδοκώμενα; ἄρα γὰρ ἐν ταῖς ἀβύσσοις τῶν ἑαυτοῦ θαυμάτων ἡμᾶς περι-
 κλῦσαι νεύσαντος τοῦ Θεοῦ, εἰ πᾶσαι ὁμοῦ αἱ τοῦ ἐνιαυσιαίου κύκλου ἡμέραι
 ἄλλοτε ἄλλα διαλάχωσι θαύματα, ἡμεῖς ἀπάσαις αὐταῖς ἀπραξίαν ἐπικηρύξο-
 70 μεν, καὶ πάντα μὲν τοῖς δικαστηρίοις τὰς θύρας ἐπιζυγώσομεν, πᾶσαν δὲ
 παρρησίαν τῇ ἀδικίᾳ ἀνοίξομεν, ὡς ταῖς ἡμῶν ἐορταῖς ταύτην μᾶλλον ἐνεορ-
 τάζειν καὶ παιανίζειν κατὰ τῆς δικαιοσύνης τὰ νικητήρια; πολλοῦ γε καὶ δεῖ.

Ταῦτα δὲ οὕτως ἡ βασιλεία μου προυμνηθεύσατο διὰ τὸ καὶ μύρια τὰ ἄτοπα
 τίκτεσθαι καθ' ἐκάστην ἐκ τῆς τῶν δικαστηρίων σχολῆς, πλεονεξίας, ἀρπαγᾶς,
 μνησικακίας καὶ τᾶλλ' ὅποσα ταύταις ἐπόμενα· δι' ἃ καὶ τὴν τῶν δώρων
 75 προσαγωγὴν Θεὸς οὐ προσίεται, μηδ' αὐτῶν τῶν ἱερῶν περιβόλων ψαῦειν
 συγχωρῶν τῷ προσάγοντι, εἰ μὴ πολὺ πρότερον τῷ διενεχθέντι καταλλαγεῖς
 καὶ τῷ προσκεκρουκότι σπεισάμενος, εἴτα προσενέγκοι τὸ καρποφόρημα. πότε
 τοίνυν αὐτοῖς λυθεῖν τὰ τῆς διαφορᾶς, καὶ πηνίκα τὸ τῆς εἰρήνης φῶς τὴν ἐν
 ταῖς καρδίαις σφῶν βαθεῖαν ἀχλὺν τῆς ἐχθρας διασκεδάσειε, τῶν δικαστηρίων
 80 μακροὺς ἐλιττόντων κύκλους διὰ τὴν τῶν ἐορτίων ἡμερῶν παρολκὴν καὶ τῶν
 ὑποθέσεων ἀλύτων ἐς μακροὺς ἡλίους καταγεγρασκουσῶν, τοῦ νόμου καὶ
 ταῦτα πᾶσαν δίκην, ὅποια τέως μὴ ἐγκληματική, ἐντὸς τριετίας διαγορεύοντος
 τέμνεσθαι; ἐκ δὲ ταύτης αὐθις τῆς ρίζης δύο τινὲς ἀνίσχουσι παραφυάδες
 85 κακῶν· οἱ γὰρ δυσμενῶς ἔχοντες πρὸς τινα, ἢ τὸ τῶν ἀχράντων μυστηρίων
 πῦρ φρίττουσιν, ὡς ἐκεῖθεν ἀτεχνῶς καταφλεγησόμενοι, καὶ τὴν μετάληψιν οὐ

74-77 cf. Matth. 5.23

81-83 cf. B.7.6.13

$IU_1U_2 = a$ DTFGKLMN = b 59 γενομένους gm | μορφῆς u 62 ἀνεύρεσιν a
 63 συνᾶδον I 64 πάλαι: a, πάλιν b 66 προσδοκώμενα: μέλλοντα g, corr. in marg. |
 ἐν: εἰ a | θαυμασίων I | ἡμᾶς om. u 67 εἰ — ἡμέραι: conl. Zach., ἀπάσας ὁμοῦ τὰς
 τοῦ ἐνιαυσιαίου κύκλου ἡμέρας codd. 68 ἄλλα διαλάχωσι: δι' ἄλλα καὶ ἀλλάχουσε d |
 ἀπάσας IM 70 ὡς: ἐν u | μᾶλλον ταύτην I 71 καὶ² om. d 72 προεμνηθεύσατο g |
 καὶ om. d | τὰ om. I 74 τούτοις m 76 καταλλαγεῖς: δι' ἀλλαγῆς u 78 αὐτοῖς:
 αὐτῇ u | ὀπηνίκα u 79 τῇ καρδίᾳ u 84 τινὰς I 85 καταφλεγόμενοι g
 85-86 καὶ τὴν — βαλλόμενοι om. u

and fearlessly do the most monstrous of things and then, becoming ingenious at wrong-doing, cover this up with a certain comeliness of words and paint the ugliness of evil on the surface with cosmetic applications of persuasive words. (This being so) more courts are certainly needed for the investigation and examination of justice, as a check on men who are evil in this manner. Besides, how can it ever be in accordance with justice, and acceptable to God, that full recess be approved for the courts because of the miracles worked long ago by God and His servants and which are expected to be worked anew? Since God assented to surround us with the infinite ocean of his miracles, if they are distributed among all the days of the year, sometimes one miracle, sometimes another, are we to proclaim a rest from business on all these days, and bolt the doors to the courts completely, giving every access to injustice, so that it is this rather we celebrate in our holidays and it is the song of triumph over justice we sing? Far from it.

My Majesty thus showed regard for these matters because of the infinite harm engendered each day by the recess of the courts – covetousness, greed, malice, and all the other things which result from these. Because of these also God does not accept the bringing of gifts nor does He allow the bearer to come into contact with the holy precincts themselves unless, having much earlier become reconciled with the man with whom he quarrelled, and made peace with the person he offended, he then bears the offering. But when may their differences be settled and when may the light of peace disperse the thick mist of hatred in their hearts, with the courts spinning out long cycles because of the delay caused by the holidays, and unresolved cases growing old over long years, even though the law declares that every lawsuit – so long as it is not criminal – be resolved within three years? From this root, in turn, two off-shoots of evil come forth. For, those who feel enmity towards someone either shrink from the fire of the undefiled sacrament, since they will surely be consumed by the flames from it and, smitten by their conscience, they do not dare to participate

θαρροῦσι τῷ συνειδότη βαλλόμενοι, καὶ οὕτω τοῦ ἁγιασμοῦ ἅμφω καὶ ψυχὴν καὶ σῶμα στερίσκουσι, καὶ ζημιοῦνται τὸν ἀτίμητόν τε καὶ ἄφθαρτον μαργαρίτην διὰ πρᾶγμα φαυλότατον καὶ φθαρτὸν καὶ τοῦ μηδενὸς πολλάκις τιμώμενον· ἢ καὶ κατὰ τοὺς λυττῶντας ἀναιδεῖς τῶν κυνῶν τῆς μυστικῆς τραπέζης
90 ἀδιαφόρως καθάλλονται, καὶ κατὰ τὸν μέγαν Ἀπόστολον εἰς κρίμα ἑαυτοῖς καὶ τοῦ ποτηρίου σπῶσι καὶ τοῦ ἄρτου ἐσθίουσιν.

Ὅρᾳς, ὅποι κακοῦ τοὺς τῶν ἀνθρώπων διαδικαζομένους ἐκκυλίνει τὸ τῶν ἀπράκτων ἡμερῶν δαψιλές, καὶ ἡλικὸς αὐτοῖς ὁ κίνδυνος ἐπικρέμαται; ἢ γοῦν βασιλεία μου καὶ τὸν Θεὸν εἰδυῖα τῇ κρίσει θεραπευόμενον, ὡς καὶ ἐν αὐτῇ
95 τῇ καταδρομῇ τῆς φαρισαϊκῆς ὑποκρίσεως τοῦ ἐλέου τὴν κρίσιν εὐρίσκουσα προτιθέμενον, καὶ προσέτι τοῖς σπλάγχνοις ζήλου πῦρ ὑποσμήχουσα καὶ ἄντικρυς ὕβριοπαθοῦσα, εἰ τὰ μὲν βάρβαρα τῶν ἐθνῶν, παρ' οἷς μὴ ἔγγραφος κεῖται νόμος, φύσει μόνῃ τὸ ἐκείθεν ἑαυτοῖς ἀναπληροῦσιν ὑστέρημα καὶ τὰς δίκας ἐς μήκιστον οὐ φέρουσι παρατείνεσθαι, ἡμεῖς δὲ τοῦτο τὸ μέρος πλεῖστον αὐτῶν ἀποδέομεν – δέον μᾶλλον ἐκείνοις μὲν ἡμᾶς εἰς ἀγαθὸν προ-
100 κείσθαι ἀρχέτυπον, αὐτοὺς δὲ τῶν ἡμετέρων χαρακτήρων ἀπομάττεσθαι τοῦ καλοῦ τὰ ἰνδάλματα.

Ταῦτα τοίνυν οὐκ ἐν φορητοῖς τιθεμένη ἡ βασιλεία μου, πλεῖστά τε περὶ τὸ πρᾶγμα γνωσιμαχεῖ, καὶ τῷ ἁγιωτάτῳ μου δεσπότη καὶ οἰκουμενικῷ πατρι-
105 ἀρχῇ καὶ τῇ ἱερᾷ καὶ θεῖᾳ συνόδῳ κοινοῦται τὰ τῆς βουλῆς καὶ τοῦ σκέμμα-τος, καὶ δὴ καὶ τὴν αὐτῶν τιμιότητα συνωδᾷ φρονοῦσαν αὐτῇ εὐροῦσα ἡ βασιλεία μου, συνείσα δὲ καὶ τοὺς ἐν ταῖς ἀνεσίμοις ἡμέραις τιμωμένους ἁγίους ἀτιμίαν μᾶλλον ἢ τιμὴν οἰομένους ἐξ ἧς οἰχήσεσθαι τέλεον παρακινδυνεύει τὸ δίκαιον, ταῦτα θεσπίζει, ταῖς τε τῶν σεπτῶν πανηγύρεων τελεταῖς τὸ
110 εἰκὸς τῆς αὐτῶν τιμῆς ἀπονέμουσα, καὶ τῇ τῶν ἀδικουμένων ἐκδικήσει τὸ πρέπον ἀπομερίζουσα· ἵνα μή, ὃ φησιν ὁ Ἀπόστολος, ἐκ τοῦ ἀγαθοῦ κατεργάζοιτο θάνατος, ἐκ τῆς ἐν ταῖς ἐορταῖς δηλαδὴ τοῦ Θεοῦ θεραπείας ἡ τῶν ἀδικουμένων πλείων συντριβὴ καὶ ἀπώλεια, μηδ' ἡ σεμνωθυμία τῆς ἀργίας καὶ τῆς ἀπραξίας τὸ εὐφημον, ἐνεργόν τε ἅμα ποιοῖτο τὴν ἀδικίαν καὶ ἔμπρακτον.

90–91 I Cor. 11.29

94–96 cf. Matth. 23.13 sqq.; Luc. 11.42 sqq.

97 cf. Rom. 2.14

111–112 Rom. 7.13

IU₁U₂ = a DT FGKLMN = b88 ante καὶ¹ add. τε g

89 ante ἀναιδεῖς add. καὶ I

92 ἐκκλίνει u

93 ἡλικὸς αὐτῇ u | ante ὁ add. ἐντεῦθεν u | post κίνδυνος add. ἐντεῦθεν I

95 ἐλέους I

97 ἐθνῶν om. I, ἐθῶν LN

98 ἀναπληροῦσιν: a, ἀποπληροῦν rell.

99 ἐς

μήκιστον post φέρουσι transp. I | φέρουσα g Labbé | τοῦτῳ τῷ μέρει d

104 καὶ²: τῷ Dm106 καὶ² om. I| συνωδᾷ ante καὶ² transp. m | ἑαυτῇ a

112 θάνατον u

114 ποιεῖτο uM | ἀδικίαν: ἀμαρτίαν m

in the sacrament, in this way depriving both body and soul of the blessing and suffering the loss of the priceless and indestructable pearl for a most paltry and perishable thing which is mostly worth nothing; or, these men leap upon the mystical table indifferently like some mad, shameless dogs and, according to the great Apostle, *drink from the glass and eat of the bread, damnation to themselves.*

Do you perceive to what degree of evil the profusion of holidays drives those men who have gone to law, and how great the danger is which threatens them? My Majesty, at all events, recognised that God also is served by judgement, as It found God giving preference to the judgement of mercy in that attack on the hypocrisy of the Pharisees. And besides, (My Majesty) was consumed with the fire of zeal in Its heart, openly showing indignation at (the knowledge) that the barbarian nations, among whom no written law is laid down, compensate for this deficiency with their nature alone and do not suffer trials to be extended over a long time, and we fall far short of them in this matter. Rather, we should be set before them as a good example and they should take the impression of goodness from our features.

My Majesty, then, considering this situation intolerable, and being of strong conviction on the matter has shared the results of Its deliberation and reflection with My most holy lord and oecumenical patriarch, and with the holy and sacred synod. Finding their Honour to be like-minded, and knowing that the saints honoured on holidays consider it not so much an honour as a disgrace, on account of which justice is in danger of being completely destroyed, (My Majesty) decrees the following, paying due regard to the celebration of the sacred feasts, and assigning to the vindication of those who have been wronged that which is fitting so that it does not happen, as the Apostle said, that *death is worked by that which is good*, that is, so that the ruin and destruction of the great number of unjustly treated is not brought about by the service of God on the feasts, and so that the solemnity of rest from work and the good repute of leisure do not make injustice both active and effective.

115 Θεοπίζομεν οὖν ἐκεῖνας εἶναι τῶν ἡμερῶν ἀπράκτους, ἃς ἐν τῇ παρούσῃ διατάξει ῥητῶς ἀπαριθμησόμεθα, καὶ τινὰς μὲν αὐτῶν τὸ πάντῃ ἄπρακτον ἔχειν, ὡς μηδαμῶς δι' ὅλου τοῦ αὐτῶν διαστήματος συνίστασθαι δικαστήριον, εἰ μὴ βασιλεία ἴσως οἰκονομίας τρόπῳ ἢ ἀνάγκῃ – ὅποια πολὺ τὸ περιπετὲς τῶν πραγμάτων νεανιεύεται – θελήσει καθίσαι καὶ ἐν αὐταῖς δικαστήριον, 120 τινὰς δὲ ἀπὸ μέρους ἄγειν τῶν δικαστηρίων σχολήν, ὡς οἶον ἔωθεν μέχρι καὶ εἰς αὐτὸν τὸν τῆς θείας λειτουργίας καιρὸν, ἵνα τοῖς δικασταῖς ἐξεῖη προσ- ἀνέχειν εὐχῇ καὶ τῇ περὶ τὸ θεῖον δοξολογία, καὶ μετὰ τὴν θείαν ἱεροτελεστίαν ἐπιμελεῖσθαι καὶ τῆς δικαιοσύνης καὶ τοῖς ἄδικα πεπονθόσιν ἐπαρῆγειν κατὰ τὴν τῶν νόμων ἰσχύν. οἱ μέντοι οὕτω μετὰ τὴν θείαν λειτουργίαν ἐπιτετραμ- 125 μένοι δικάζουσιν ἐν τοῖς γινομένοις παρ' αὐτῶν σημειώμασι μεμνήσονται τοῦ καιροῦ, καθ' ὃν τὰ σημειούμενα πράττονται. καὶ δὴ πρῶτον περὶ τῶν τελείως ἀπράκτων διαληπτέον.

Ἡ τοίνυν κατὰ τὴν ὁγδόην ἡμέραν τοῦ Σεπτεμβρίου μηνὸς γενέθλιος ἡμέρα τῆς παναχράντου Δεσποίνης καὶ Θεομήτορος ἄπρακτος ἔσται. ὡσαύτως καὶ ἡ 130 ἰδ', τῇ ὑψώσει τετιμημένη τοῦ ζωηφόρου Σταυροῦ. καὶ ἡ κς', διὰ τὴν τοῦ ἀποστόλου καὶ εὐαγγελιστοῦ Ἰωάννου τοῦ Θεολόγου μετὰστασιν.

Ἡ ζ' τοῦ Ὀκτωβρίου, διὰ τὸ τὴν μνήμην ἐν αὐτῇ τελείσθαι τοῦ ἁγίου ἀποστόλου Θωμᾶ. ἡ θ', διὰ τὸν τοῦ Ἀλφαίου Ἰάκωβον τὸν ἀπόστολον. καὶ ἡ ιη', διὰ τὸν ἀπόστολον καὶ εὐαγγελιστὴν Λουκᾶν.

135 Ἡ ιγ' τοῦ Νοεμβρίου, ὅτι ἐν αὐτῇ ἡ μνήμη τοῦ Χρυσοστόμου πατρὸς τελεῖται. ἡ ιδ', ὅτι ἐν αὐτῇ ὁ ἀπόστολος Φίλιππος ἑορτάζεται. ἡ ις', ὅτι ὁ εὐαγγελιστὴς καὶ ἀπόστολος Ματθαῖος τιμᾶται. ἡ κα', ὅτι τὰ εἰς τὸν ναὸν Εἰσόδια τῆς Θεομήτορος ἐν ταύτῃ πανηγυρίζεται. καὶ ἡ λ', ὅτι ὁ ἀπόστολος Ἀνδρέας ἐν αὐτῇ ἑορτάζεται.

140 Ἡ θ' τοῦ Δεκεμβρίου, ὡς τῆς Συλλήψεως ἐν αὐτῇ τελουμένης τῆς ὑπεράγνου Μητρὸς τοῦ Θεοῦ ἡμῶν. ἡ κ' μέχρι καὶ αὐτῆς τῆς ζ' τοῦ Ἰανουαρίου, ὡς ἐν αὐταῖς ἑορταζομένων τῶν γενεθλίων καὶ τοῦ βαπτίσματος τοῦ Κυρίου καὶ Θεοῦ καὶ Σωτῆρος ἡμῶν Ἰησοῦ Χριστοῦ.

115–218 Bals. ad Nomoc. 7.1 (Rh.-P. I, 136–140); PrA 40.50

IyU₁U₂=a DTFGKLM=b C 115 οὖν: τοίνυν I, om. C 116 ῥητῶν y | αὐτῶν: αὐτῶ C
118 βασιλεία: uFVg, βασιλεὺς iWC, βασιλέως dm | οἰκονομίου y | πολὺ: b, πολλὰ a, πολλάκις C
119–120 δικαστήριον – τῶν om. y 119 δικαστήρια I Bals. 120 ἄγειν ἀπὸ μέρους u |
post δὲ add. καὶ m 121 θείας om. i | τοῖς: ταῖς y 122 εὐχῆς m | θείαν om. g
125 παρ' αὐτῶν ante γινομένους transp. I 126 σημειώματα yC Bals. | πρῶτα I 128 ἡμέραν
om. uC | μηνὸς om. y 129 παναχράντου δεσποίνης καὶ om. m | θεομήτορος: θεοτόκου y |
ἐστίν C Bals. | καὶ om. d 130 ante τῇ add. καὶ y | τιμωμένη b | τοῦ ζωηφόρου σταυροῦ
om. I | ζωοποιοῦ b 131 ἀποστόλου καὶ om. b | Ἰωάννου om. I 132 αὐτῇ: αὐτῶ I, ταύτῃ y |
τελεῖται C | ἁγίου om. u 133 καὶ om. dI 134 ιη': codd., ι' Labbé, Zach. 135 post
Νοεμβρίου add. μηνὸς C Bals., Leuncl., Zach. | πατρὸς om. C Leuncl., Zach. 136 ταύτῃ m |

We therefore decree those days to be holidays which We shall expressly enumerate in the present constitution. Some of these days shall be full holidays, inasmuch as no court shall convene for the entire duration of these days, unless Imperial Authority, equally by way of dispensation or by necessity – accordingly as the vagaries of events often take liberties – shall wish to convene court even on these days. Other days will constitute half-recess for the courts, that is to say, from dawn until the time of the holy liturgy, so that it may be possible for the judges to devote themselves to prayer and the praise of God and, after the celebration of the holy rite, give attention to justice and also help those who have suffered unjustly, in accordance with the force of the laws. Nevertheless, those who have thus been permitted to sit in judgement after the holy liturgy, will make mention of the time at which the proceedings are taking place in the decisions produced by them. And now first the full holidays must be discussed.

Accordingly, the Birthday of the wholly undefiled Lady and Mother of God on the 8th day of the month of September will be a holiday. Likewise, the 14th, the day which has been honoured by the Exaltation of the Life-bearing Cross. And the 26th, for the Assumption of the Apostle and Evangelist John the Theologian.

The 6th of October, because on this day the memory of the holy Apostle Thomas is celebrated. The 9th, for the Apostle James, the son of Alphaios. Also the 18th, for the Apostle and Evangelist Luke.

The 13th of November, because on this day the memory of Chrysostomos the Father is celebrated. The 14th, since the Apostle Philip is celebrated on this day. The 16th, because the Evangelist and Apostle Matthew is honoured. The 21st, because on this day the Entry of the Mother of God into the Temple is celebrated. And the 30th, because the Apostle Andrew is celebrated on this day.

The 9th of December, since on this day the Conception of the Immaculate Mother of Our God is commemorated. The 20th until the 6th day of January, because the Birthday and the Baptism of Our Lord God and Saviour Jesus Christ are celebrated on these days.

ante ἀπόστολος add. ἅγιος m 136–137 ὁ ἅγιος ἀπόστολος καὶ εὐαγγελιστής m
 137–138 τὰ ... εισόδια: ἡ .. εἴσοδος u, τὰ τῆς ... εισόδου I, τὰ τῆς ... εισόδια y 138 καὶ
 om. dy 140 ante Ἡ add. καὶ I | ὑπεραγίας C Bals., Leuncl., Zach. 142 βαπτιστοῦ m
 143 καὶ – σωτήρος om. m | καὶ Θεοῦ om. u

Ἡ ιη' τοῦ Ἰανουαρίου, διὰ τοὺς θείους πατέρας καὶ διδασκάλους, Ἀθανά-
 145 σιον καὶ Κύριλλον. ἡ κε' τοῦ αὐτοῦ, διὰ τὴν μνήμην τοῦ μεγάλου πατρὸς
 Γρηγορίου τοῦ Θεολόγου.

Ἡ β' τοῦ Φεβρουαρίου, διὰ τὴν τοῦ Σωτῆρος Ὑπαπαντήν. καὶ ἡ γ', διὰ τὴν
 τῆς μνήμης τοῦ Θεοδόχου Συμεὼν τελετήν.

Ἡ κε' τοῦ Μαρτίου, διὰ τὸν τῆς Θεομήτορος Εὐαγγελισμὸν. αἱ πασχαλῖαι
 150 τῶν ἡμερῶν, ἀπ' αὐτῆς δηλονότι τῆς τοῦ Λαζάρου ἐγέρσεως καὶ εἰς αὐτὴν τὴν
 μετὰ τὸ Ἅγιον Πάσχα ὁγδόην.

Ἡ κε' τοῦ Ἀπριλλίου, διὰ τὸν ἀπόστολον καὶ εὐαγγελιστὴν Μάρκον. ἡ λ',
 διὰ τὸν ἀπόστολον Ἰάκωβον, τὸν τοῦ Θεολόγου καὶ εὐαγγελιστοῦ ἀδελφόν.

Ἡ η' τοῦ Μαΐου, διὰ τὴν μνήμην τοῦ εὐαγγελιστοῦ Ἰωάννου τοῦ Θεολό-
 155 γου. ἡ ι', διὰ τὴν τοῦ ἀποστόλου Σίμωνος τοῦ Ζηλωτοῦ. ἡ κα', διὰ τὴν τῶν
 ἁγίων καὶ ἰσαποστόλων μεγάλων βασιλέων, Κωνσταντίνου καὶ Ἐλένης. ἡ
 κς', διὰ τὴν τοῦ ἀποστόλου Ἀλφαίου τοῦ καὶ Ἰούδα.

Ἡ ια' τοῦ Ἰουνίου, διὰ τὸν ἀπόστολον Βαρθολομαῖον. ἡ ιθ', διὰ τὸν ἀπό-
 στολον Ἰούδαν τὸν καὶ Θαδδαῖον, καὶ Λεββαῖον, καὶ τοῦ Ἰακώβου. ἡ κδ', διὰ
 160 τὸ τοῦ Προδρόμου γενέθλιον. ἡ κθ', διὰ τὴν ἐπὶ τοῖς κορυφαίοις τῶν ἀποστό-
 λων Πέτρου καὶ Παύλου πανήγυριν. καὶ ἡ λ', διὰ τὴν ἐπὶ τοῖς Δώδεκα.

Ἡ κε' τοῦ Ἰουλίου, διὰ τὴν τῆς ἁγίας καὶ δικαίας Ἄννης τῆς μητρὸς τῆς
 Θεομήτορος κοίμησην.

Ἡ ς' τοῦ Αὐγούστου, διὰ τὴν τοῦ Σωτῆρος ἡμῶν Χριστοῦ Μεταμόρφωσιν.
 165 ἡ θ', διὰ τὴν μνήμην τοῦ ἁγίου ἀποστόλου Ματθίου. ἡ ιε', διὰ τὴν ὑπερέν-
 δοξον τῆς Θεοτόκου μετὰστασιν. ἡ κ', διὰ τὴν μνήμην τοῦ ἁγίου ἀποστόλου
 Θαδδαίου. ἡ κδ', διὰ τὴν τοῦ ἀποστόλου Βαρθολομαίου. καὶ ἡ κθ', διὰ τὴν
 τοῦ τιμίου Προδρόμου Ἀποτομήν.

Ταύταις ὡς τέλεον ἄπρακτοι συνεξετασθήσονται καὶ αἱ μεσότητες τῆς τεσ-
 170 σαρακονθήμερου νηστείας καὶ τῆς Πεντηκοστῆς, καὶ ἡ τοῦ Σωτῆρος Ἀνάληψις,
 καὶ αἱ πᾶσαι τῶν ἐν τῷ ἐνιαυτῷ ἡμερῶν κυριῶννοι, ὡς ἐν αὐταῖς ἀποκε-
 κλεισθαι πᾶσαν ἀροδοὺν εἰς τὸ δικαστήριον, καὶ μηδὲν τι μηδὲνα τῶν δικά-
 ζειν λαχόντων δικαστικὸν διαπράττεσθαι.

IyU₁U₂=a DTFGKLM=b C 144 τοῦ Ἰανουαρίου: αὐτοῦ Ἰαννουαρίου dFg, αὐτοῦ
 μηνὸς U₁, αὐτοῦ Ἰαννουαρίου μηνὸς U₂ 145 post αὐτοῦ add. μηνὸς C 146 τοῦ
 Θεολόγου om. I 147 καὶ om. y 148 τῆς om. u | τελεῖται u 149 πασχάλιοι bC
 150 δηλονότι om. C | ἐγέρσεως om. g | ante καὶ add. μέχρι C | τὴν: τὸ u 152-153 καὶ -
 ἀπόστολον om. u 152 ante ἡ² add. καὶ yC 154 post Μαΐου add. μηνὸς y 155-156 διὰ
 τοὺς ἁγίους καὶ ἰσαποστόλους μεγάλους βασιλεῖς Κωνσταντίνον καὶ Ἐλένην y 155 post
 τὴν² add. μνήμην C 156 μεγάλων βασιλέων om. m | ante ἡ add. καὶ Fguy 157 τοῦ
 καὶ: Ib, τοῦ yC, καὶ τοῦ u 159 τὸν καὶ: καὶ τὸν y | καὶ Λεββαῖον om. u | τοῦ Ἰακώβου:
 ἰάκωβον codd. | ἡ κδ' - γενέθλιον om. VW 161 Πέτρου καὶ Παύλου om. b | καὶ²: ἀλλ' M,
 om. i | τὴν: τὸ u | 162 καὶ δικαίας om. mC | τῆς μητρὸς om. g 164 post Αὐγούστου
 add. μηνὸς I | ante Χριστοῦ add. Ἰησοῦ U₁mC 166 τῆς - μετὰστασιν: κοίμησην τῆς

The 18th of January, for the holy Fathers and Teachers, Athanasios and Cyril. The 25th of the same month, for the memory of the great Father Gregory the Theologian.

The 2nd of February, for the Purification of Our Saviour. Also the 3rd, for the celebration of the memory of Simeon, the Receiver of God.

The 25th of March, for the Annunciation of the Mother of God. The days of Easter, namely from the day of Lazaros' Resurrection, until the eighth day after Holy Easter.

The 25th of April, for the Apostle and Evangelist Mark. The 30th, for the Apostle James, the brother of the Theologian and Evangelist.

The 8th of May, for the memory of the Evangelist John the Theologian. The 10th, for the Apostle Simon the Zealot. The 21st, for the holy great emperors Constantine and Helen, Equals of the Apostles. The 26th, for the Apostle Alphaios, also (called) Judas.

The 11th of June, for the Apostle Bartholomew. The 19th, for the Apostle Judas, also (called) Thaddaios, and Lebbaios, and brother of James. The 24th, for the Birthday of the Forerunner. The 29th, for the feast in honour of the chief Apostles, Peter and Paul. And the 30th, for the Twelve.

The 25th of July, for the Dormition of the holy and righteous Anna, the mother of the Mother of God.

The 6th of August, for the Transfiguration of Our Saviour Christ. The 9th, for the memory of the holy Apostle Matthias. The 15th, for the supremely glorious Assumption of the Theotokos. The 20th, for the memory of the holy Apostle Thaddaios. The 24th, for the Apostle Bartholomew. And the 29th, for the Decapitation of the precious Forerunner.

Together with these days will be included also as full holidays the mid-way points of the Forty-day Fast and of Pentecost, as well as the Ascension of the Saviour, and all the Lord's days in the year, so that every approach to the court is to be closed on these days, and no one of those who has been assigned to sit in judgement is to conduct any court business.

θεοτόκου mW | ante θεοτόκου add. ἁγίας C | ante ἡ add. καὶ C
 167 ante ἡ¹ add. καὶ C | ἡ² om. d 168 τοῦ om. g | τιμίου om. y 169 τελετὸν u |
 ἀπράκτοις umC | μεσότητοι y 170 post σωτήρος add. ἡμῶν g 171 ἐν τῷ ἐνιαυτῷ: C,
 τοῦ ἐνιαυτοῦ ab 172 τὰ δικαστήρια I

Αἶ γε μὴν τῶν δικαστηρίων ἀπὸ μέρους σχολάζουσαι, καὶ μὴ καθ' ὁλό-
 175 κληρον, ὡς προδιελήφαμεν, ἀπρακτῆσουσαι εἶεν ἂν αὗται.

Ἡ ζ' τοῦ Σεπτεμβρίου μηνός, ὅτι ἐν αὐτῇ τὸ ἐν Χώναις τοῦ ἀρχιστρατήγου
 Μιχαὴλ θαῦμα τετρατούργηται. καὶ ἡ κγ', ὅτι ἐν ταύτῃ ὁ τίμιος Πρόδρομος
 ἐν γαστρὶ τῆς στείρας συνείληπται.

Ἡ κγ' τοῦ Ὀκτωβρίου, ὅτι τὴν μνήμην τοῦ ἀδελφοθέου Ἰακώβου τελοῦμεν.
 180 ἡ κς', ὅτι τὸν μεγαλομάρτυρα καὶ μυροβλύτην Δημήτριον ἐορτάζομεν.

Ἡ α' τοῦ Νοεμβρίου, διὰ τὸ τοὺς θαυματουργοὺς Ἀναργύρους Κοσμᾶν καὶ
 Δαμιανὸν ἐορτάζεσθαι. ἡ η', διὰ τὸ τὴν σύναξιν τῶν Ἀσωμάτων τελεῖσθαι. καὶ
 ἡ κη', διὰ τὸ τὸν ὁσιομάρτυρα Στέφανον τὸν νέον πανηγυρίζεσθαι.

Ἡ δ' τοῦ Δεκεμβρίου, διὰ τὴν καλλιμάρτυρα Βαρβάραν. ἡ ζ', διὰ τὸν ἐν
 185 θαύμασι περιώνυμον καὶ μυροβλύτην Νικόλαον.

Ἡ ι' τοῦ Ἰανουαρίου, διὰ τὸν Νύσσης θεῖον Γρηγόριον. ἡ ις', διὰ τὴν
 προσκύνησιν τῆς τιμίας τοῦ κορυφαίου τῶν ἀποστόλων Πέτρου ἀλύσεως. ἡ ιθ',
 διὰ τὴν ἀνακομιδὴν τοῦ τιμίου νεκροῦ τοῦ Θεολόγου Γρηγορίου. καὶ ἡ κς', διὰ
 τὴν ἀνακομιδὴν τοῦ σεβασμίου λειψάνου τοῦ Χρυσορρήμονος.

190 Ἡ ζ' τοῦ Φεβρουαρίου, διὰ τὸν μεγαλομάρτυρα στρατηλάτην Θεόδωρον.
 καὶ ἡ ις', διὰ τὸν ἀθλοφόρον Θεόδωρον τὸν τήρωνα.

Ἡ θ' τοῦ Μαρτίου, ὡς τῆς μνήμης τελομένης τῶν ἁγίων μαρτύρων τοῦ
 Χριστοῦ μ'.

Ἡ κγ' τοῦ Ἀπριλλίου, ὡς τοῦ μεγαλομάρτυρος Γεωργίου τιμωμένου.

195 Ἡ β' τοῦ Μαΐου, διὰ τὸν μέγαν Ἀθανάσιον.

Ἡ η' τοῦ Ἰουνίου, διὰ τὸν μεγαλομάρτυρα στρατηλάτην Θεόδωρον. ἡ θ',
 διὰ τὸν ὅσιον πατέρα ἡμῶν Κύριλλον Ἀλεξανδρείας. καὶ ἡ κς', διὰ τὸν ὅσιον
 καὶ θαυματουργὸν Σαμψών.

Ἡ α' τοῦ Ἰουλίου, ὅτι ἐν αὐτῇ τὴν τῶν θαυματουργῶν Ἀναργύρων μνήμην
 200 τελοῦμεν. ἡ β', ὅτι τῆς καταθέσεως τῆς τιμίας ἐσθῆτος τῆς Θεομήτορος μνημο-
 νεύομεν. ἡ η', ὅτι τὸν μεγαλομάρτυρα Προκόπιον ἐορτάζομεν. ἡ ια', ὅτι τὴν
 καλλιμάρτυρα Εὐφημίαν πανηγυρίζομεν. ἡ κ', ὅτι τὸν προφήτην Ἡλιοῦ τιμώ-
 μεν. ἡ κς', διὰ τὴν τοῦ ἀθλοφόρου καὶ θαυματουργοῦ Παντελεήμονος μνήμην.

Καὶ ἡ λα' τοῦ Αὐγούστου, διὰ τὴν τῆς τιμίας ζώνης τῆς ἀχράντου Θεοτόκου
 205 κατάθεσιν.

IyU₁U₂=a DTFGKLM=b C 174 τὸ δικαστήριον C | σχολάζουσαι d 175 προειλή-
 φαμεν i | ἀπρακτῆσαι y 176 μηνός om. I 177 τετρατούργηται Gm, τετρατούργηται u
 177-178 καὶ - συνείληπται om. Cedd. 178 ante γαστρὶ add. τῇ m 179 ἀδελφοθέου: ἁγίου m
 180 μέγαν μάρτυρα C | καὶ - Δημήτριον: δημήτριον τὸν μυροβλύτην I 182 ante ἐορτάζεσθαι
 add. ἐν αὐτῇ m | τὸ - ἁσωμάτων: τὴν τῶν ἁσωμάτων σύναξιν u | καὶ om. Iu 183 τὸ om. Iu
 184 ante ἡ² add. καὶ C 184-185 ἡ - Νικόλαον om. M 185 περιβόητον my, περιώνυμον καὶ
 περιβόητον u 187 τοῦ - Πέτρου: τῶν ἀποστόλων κορυφαίου m 188 διὰ - ἀνακομιδὴν om. U₁ |
 καὶ om. b 189 σεβασμίου: τιμίου y | Χρυσορρήμονος: χρ. ἰωάννου LN, χρυσοστόμου C, τοῦ ἐν
 ἁγίοις πατρὸς ἡμῶν ἰωάννου χρυσοστόμου M 190 μεγαλομάρτυρα: μέγαν y, μέγαν I

Let the following be half-recess days for the courts and not full holidays, as We explained before.

The 6th of the month of September, because on this day the miracle of the Archangel Michael was worked in Chonai. And the 23rd, because the precious Forerunner was conceived in the womb of the barren woman on this day.

The 23rd of October, because we celebrate the memory of the brother of God, James. The 26th, because we celebrate the great martyr and *myroblytes* Demetrios.

The 1st of November, because the wonder-working Anargyroi, Cosmas and Damian are celebrated. The 8th, because the Congregation of the Angels is commemorated. And the 28th, because the holy martyr Stephen the Younger is celebrated.

The 4th of December, for the excellent martyr Barbara. The 6th, for the renowned-in-miracles *myroblytes* Nicholas.

The 10th of January, for the holy Gregory of Nyssa. The 16th, for the veneration of the precious Chain of the chief of the Apostles Peter. The 19th, for the Translation of the precious corpse of Gregory the Theologian. And the 27th, for the Translation of the revered relic of the Golden Speaker.

The 7th of February, for the great martyr Theodore Stratelates. And the 17th, for the victorious Theodore Tiro.

The 9th of March, because the memory of the Forty Holy Martyrs of Christ is celebrated.

The 23rd of April, because the great martyr George is honoured.

The 2nd of May, for the great Athanasios.

The 8th of June, for the great martyr Theodore Stratelates. The 9th, for our holy Father Cyril of Alexandria. And the 27th, for the holy and miracle-working Sampson.

The 1st of July, because on this day we celebrate the memory of the wonder-working Anargyroi. The 2nd, because we remember the Deposition of the precious Robe of the Mother of God. The 8th, because we celebrate the great martyr Procopios. The 11th, because we celebrate the feast of the excellent martyr Euphemia. The 20th, because we honour the prophet Elias. The 27th, for the memory of the victorious miracle-worker Panteleimon.

And the 31st of August, for the Deposition of the precious Girdle of the undefiled Theotokos.

191 καὶ om. C 192 τελουμένης om. M 196 μέγαν I | Θεόδωρον τὸν στρατηλάτην MC 197 καὶ om. U, y 199 τὴν: τὰ u, om. C | ante θαυματουργῶν add. ἁγίων καὶ C | μνήμην: τὴν μνήμην C, θαύματα u 200 τὰ καταθέσεια u 201 ὅτι¹ om. u 202 καλλίνικον d 203 κε' F | διὰ — μνήμην: ὅτι τὸν ἀθλοφόρον καὶ θαυματουργὸν παντελεῆμονα ἐορτάζομεν C | Παντ. μνήμην: WN, μν. Π. rel. 204 Καὶ om. I | τοῦ Αὐγούστου om. y | τῆς¹ om. g 205 κατὰ θεσιν post τὴν transp. u

Αὐται δὴ αἱ πῶς μὲν ἄπρακτοι, πῶς δὲ ἔμπρακτοι. τὰς μέντοι διὰ βασιλικὴν γέννησιν ἢ ἀναγόμεναι σχολάζουσας τῶν ἡμερῶν καὶ ταύτας ταῖς ἔμπράκτοις ἐγκρίνει ἡ βασιλεία μου, ἀφ' ἐαυτῆς ἀρχομένη τοῦ παρόντος θεσμοθετήματος, καὶ ἐν οἷς αὐτὴ διαπράττειτο διδάσκουσα τοὺς λοιποὺς. οὐχ οὕτω γὰρ ὁ τῆς
 210 παρούσης διατάξεως λόγος πείσει τοὺς αὐτῶ προσανέχοντας, ὡς ἡ παρὰ τῆς βασιλείας μου πρᾶξις. αὐτὰς γὰρ τὰς ἡμέρας, ἐν αἷς ἡ βασιλεία μου καὶ εἰς τὸν τῆδε βίον προῆται καὶ εἰς βασιλεῖα Θεοῦ προνοία ἀνηγόμεναι, ἔμπράκτους εἶναι θεσπίζει, καὶ μηδεμίαν ἐκχειρίαν ἐν ταύταις ἄγειν τὰ δικαστήρια. πᾶσαι μέντοι αἱ παρὰ τὰς ἄνω καταγραφείσας ἡμέρας τοῦ χρόνου καὶ ἔμπρακτοι
 215 ἔσονται, καὶ δικαστήρια ἐν αὐταῖς γενήσονται καὶ ἐκβίβασμοι ἀκολουθῶντα ταῖς δικαστικαῖς ἀποφάσεις. πέπεισμαι δέ, ὅτι καὶ Θεῷ φίλον ἔσται τὸ παρὸν τῆς βασιλείας μου θεσμοθέτημα· ταλανίζων γὰρ τοὺς Φαρισαίους ὁ Κύριος καὶ αὐτοῦ τοῦ ἔλεου τὴν κρίσιν προέταξεν.

I Εἶχε τὸ μηνὶ *Μαρτίῳ* ἰνδ. ιδ' δι' ἐρυθρῶν γραμμάτων τῆς βασιλικῆς χειρός, τὸ διὰ τοῦ
 220 λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδώριτου *Μιχαήλ*, ἡ διὰ κηροῦ συνήθης σφραγὶς καὶ ἔξωθεν ἐν ταῖς συμπτύξεσι τῶν κολλῶν διὰ γραμμάτων τοῦ λογοθέτου τὸ ἀπελύθη μηνὶ *Ἰουνίῳ* ἰνδ. ιδ' ἔτους ,*χχοδ'*. d

II Εἶχε τὸ μηνὶ *Μαρτίῳ* ἰνδ. ιδ' δι' ἐρυθρῶν γραμμάτων τῆς βασιλικῆς χειρός, τὸ διὰ τοῦ
 225 λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδώριτου *Μιχαήλ*, κηρίνη βούλλα δίπτυχος, καὶ ἔξωθεν τὸ ἀπελύθη μηνὶ *Ἰουνίῳ* ἰνδ. ιδ' ἔτους ,*χχοδ'*. Fgm

III Τὸ μηνὶ *Μαίῳ* ἰνδ. ιδ' τοῦ βασιλέως, ἡ διὰ κηροῦ καὶ τὰ λοιπὰ ὁμοίως. u

IV Τὸ μηνὶ *Μαρτίῳ* τοῦ βασιλέως, ἡ διὰ κηροῦ καὶ τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ
 230 Ἀγιοθεοδώριτου *Μιχαήλ*. Εἶχε δὲ καὶ ἔξωθεν τὸ κατεστρώθη μόνον τοῦ σεβαστοῦ καὶ μεγάλου δρουγγαρίου, καὶ τὸ κατεστρώθη ἐν τοῖς δυοῖν μεγάλοις λογαριασταῖς σεκρέτοις κατὰ μῆνα *Αὐγουστον* ἰνδ. ιδ', καὶ ἐν ταῖς προπτύξεσι τῶν κολλῶν τὸ ἀπελύθη μηνὶ *Ἰουλίῳ* ἰνδ. ιδ' ἔτους ,*χχοδ'*. y

V Τὸ μηνὶ *Μαρτίῳ* τῆς βασιλικῆς χειρός, ἡ διὰ κηροῦ συνήθης σφραγὶς καὶ τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδώριτου *Μιχαήλ*, ἔξωθεν ἐν ταῖς προπτύξεσι τῶν κολλῶν τὸ ἀπελύθη μηνὶ *Ἰουλίῳ* ἰνδ. ιδ' ἔτους ,*χχοδ'*. I

217–218 cf. Matth. 12.7

IyU₁U₂=a DTFGKLMN=b C 206 αἱ: C, καὶ uFgm, om. d | ἔμπρακτοι ... ἄπρακτοι T
 206–207 γέννησιν βασιλικὴν C 207 ante γέννησιν add. ἡ a 207–208 ταύτας ... ἐγκρίνει:
 ταύταις ... συγκρίνει u 209 διαπράττειτο C 210 πείσει λόγος C | ὡς: καὶ y | παρὰ:
 περὶ u 211 μου¹ om. y 212 προῆται: παρῆται g | βασιλεῖαν F, βασιλείαν VW |
 Θεοῦ om. F | προνοία θεοῦ dmy | θεία g | ἀνηγόμεναι: ἀναγόμεναι F, προανηγόμεναι u,
 προηγόμεναι y (corr. y^{im}) | ἔμπρακτους m, ἀπράκτους y 214 ἄνωθεν d 215 ἐκβίβασμός u,
 ἐκβίβασμῳ y 217 θεσμοθέτημα: θέσπισμα i | κύριος: ἰησοῦς C Leuncl. 218 ἔλεους uyC
 219 et 222 ιδ': δ' d 225 Ἰουνίῳ: Ἰουνναρίῳ K 227 Τὸ: τῷ y 228 κατεστρώθη: κατ' ἔτος y
 229 λογαριασταῖς y 231 ἔτει y

These, then, are the half-holidays, half-work days. However, those days which are holidays because of the imperial birth or accession, My Majesty reckons also with the work days, beginning the present ordinance from Itself and teaching the rest through that which It has put into effect. For the thesis of the present constitution will not win over those who heed it so much as the gesture issuing from My Majesty. So It decrees those days on which My Majesty came into this life and was proclaimed emperor by God's providence to be work days, ordaining that the courts should not observe any recess at all on those days. Furthermore, all the days of the year which are additional to those listed above will be work days; the law courts will convene on those days and sentences will be executed, in accordance with the judicial decisions. But I believe that My Majesty's present constitution will be dear to God also for, when the Lord denounced the Pharisees, He put the judgement of this same mercy first.

IV

- I Τοῦ αὐτοῦ βασιλέως κυροῦ Μανουήλ τοῦ Κομνηνοῦ, περὶ φονέων καὶ ὅπως οἱ τοιοῦτοι ἐπιτιμᾶσθαι ἢ τιμωρεῖσθαι ὀφείλουσιν b
- II Μηνὶ 'Ιουλίῳ ἰνδ. ιδ' κατεστρώθη νεαρὰ διάταξις τοῦ κραταιοῦ καὶ ἀγίου ἡμῶν βασιλέως κυροῦ Μανουήλ, οὕτως ἔχουσα u
- 5 III Ἐγράφη μηνὶ 'Ιουλίῳ ἰνδ. ιε' ἔτους ,ςχξς' νεαρὰ τοῦ πανευσεβεστάτου καὶ φιλοχρίστου κραταιοῦ καὶ ἀγίου ἡμῶν βασιλέως τοῦ πορφυρογεννήτου κυροῦ Μανουήλ τοῦ Κομνηνοῦ, περὶ τῶν ἐκουσίως φονευόντων Υy
- IV Νεαρὰ τοῦ πορφυρογεννήτου κυροῦ Μανουήλ τοῦ Κομνηνοῦ ἐπὶ τοῖς φονεύουσιν o
- V Μανουήλ τοῦ Κομνηνοῦ τοῦ <πορφυρογεννήτου> νεαρὰ τρίτῃ περὶ φονέων ἐκουσίων C
- 10 Τοῖς ἀρχηγέταις τοῦ γένους ὁ τῆς κακίας γεννήτωρ ἀπὸ φθόνου καὶ φόνου τὰς ἀρχὰς τῆς πονηρίας ἐπήξατο, συλλαβὼν μὲν τὸν φθόνον καὶ ὠδινήσας, ἀποτεκὼν δὲ τὸν φόνον, ἄτε ζωῆς πολέμιος ὢν καὶ τῷ δημιουργῷ καὶ πλάστῃ τῶν ἀνθρώπων ἀντίπαλος· εἰ ἐκεῖνος μὲν παράγειν καὶ συνέχειν τὸ πλάσμα ἠυδόκησεν, αὐτὸς δὲ ἀναιρεῖν καὶ ἀπολλύειν ἐξ ἀρχῆς καὶ μέχρι παντὸς μεμε-
 15 λέτηκε. διὰ τοῦτο καὶ παρ' ἀδελφοῖς τὰ πρῶτα φθόνος τὸ πονηρὸν τοῦτο καὶ ὀλέθριον παραβλαστάνει ζιζάνιον, καὶ φόνον καρποφορεῖ καὶ ἀντιπράττει δι' αὐτοῦ τῷ ποιήσαντι. ἀλλ' ὅρα καὶ τὴν τιμωρίαν οὐ διαμέλλουσιν, παρὰ πόδας δὲ μᾶλλον καὶ ἀπαραιτήτως ὑπὸ Θεοῦ τῷ τοῦ μύσους ἐργάτῃ προσαγομένῃν καὶ εἰς τὸ ἐπαπλάσιον ἀντιμετρούμενην. καὶ δῆλον ἐκεῖθεν· πᾶς γὰρ ὁ ἀπο-
 20 κτεῖνας Κάιν ἐπὶ τὰ, φησί, ἐκδικούμενα παραλύσει, ἐν οἷς καὶ τὸ τρέμειν αὐτὸν συγκατηρίδηται, ἵνα δηλονότι μηκέτι δεύτερον ἰσχύσῃ φόνον ἐργάσασθαι. καὶ οὕτω μὲν ὁ Κάιν. ἐν δὲ τῷ Λάμεχ ἡκηκόεμεν οὐχ ἐπτάκις μόνον, ἀλλ' ἐβδομηκοντάκις ἐπὶ τὰ τῆς ἐκδικήσεως ὡς φονευτῇ καὶ αὐτῷ γεγονότι ἀντι-
 25 μεμέτρηται. καὶ οἱ περὶ τὸν Ἀχαῶβ ὡς τὸν κατὰ τοῦ Ναβουθαὶ μελετήσαντες ἄδικον φόνον καὶ τολμήσαντες ἀποτόμως ἤκουσαν· ἐφόνευσας, ἐκκληρονό-
 μησας; καὶ ἐν τῷ τόπῳ ἐν ᾧ ἔλειξαν οἱ κύνες τὸ αἷμα Ναβουθαί, ἐκεῖ ἐκλεί-
 ξουσιν οἱ κύνες τὸ αἷμά σου, καὶ τὴν Ἰεζάβελ κύνες καταφάγονται ἐν τῷ προ-
 τειχίσματι τοῦ Ἰσραήλ.

10 sqq. cf. Gen. 3.1 sqq.
 22-24 cf. Gen. 4.24 .

15 sqq. cf. Gen. 4.1-10
 25-28 III Regn. 21.19, 23

17 sqq. cf. Gen. 9.6

19-20 Gen. 4.15

IOYyU₁U₂=a DT FGKLMN=b

2 η; καὶ F

9 post rubr. add. Λεῖπει τὸ προοίμιον
 ἐν ᾧ κατὰ λέξιν ἢ ἰβ' νεαρὰ Κωνσταντίνου τοῦ πορφυρογεννήτου διείληπται. ἔχεις δὲ ταύτην
 ἐν τοῖς ἄνω, ἐπιδιορθωθεῖσαν διὰ τῆς παρούσης διατάξεως C 10 καὶ φόνου om. u
 13 εἰ om. u 17 αὐτοῦ: αὐτῷ u 18 μίσους yM 19 τὸ om. u 20 ante
 ἐκδικούμενα add. τὰ Zach. | αὐτὸν: αὐτῷ u 22 ante ἡκηκόεμεν add. ὡς a | μόνον om. i
 23 ἐπτά om. Zach. 24 τοῦ: τὸν o 25 ἀποτόμως om. m 26 Ναβουθά m | λείξουσιν i
 27 ante κύνες² add. οἱ y

IV

In the founders of the race the begetter of evil planted the origins of vice by malice and murder, having conceived malice and travailled, but having given birth to murder, inasmuch as he is an enemy of life and Adversary of the Maker and Creator of mankind. For if the latter resolved to produce and preserve the creation, the former attended to destroying and laying waste, from the beginning and for ever. And on this account, malice, that wicked and destructive tare shoots up for the first time among brothers and bears murder as fruit and through it acts in opposition to the Creator. But behold also the punishment which does not tarry but rather is immediately thereafter and inexorably advanced by God upon the worker of the defilement, and is measured out in turn seven times. And it is manifest from this: *For, He said, whosoever slayeth Cain, vengeance shall be taken on him sevenfold.* In this, his fear was also taken into account so that, namely, he might not prevail in committing a second murder. And so it was with Cain. But in Lamech's case, we have heard, the revenge was measured out in turn not seven times only but seventy times seven, since he also became a murderer. And when the associates of Ahab had attended to the unjust murder against Naboth and had undertaken it, they heard clearly: *Hast thou killed and also taken possession?* and *In the place where dogs licked the blood of Naboth shall dogs lick thy blood, and The dogs shall eat Jezebel by the wall of Jezreel.*

Καὶ τὰ μὲν τῆς παλαιᾶς, ὡς ἐκ πολλῶν ὀλίγα φάναι, τοιαῦτα. ἐπὶ δὲ τῇ τῆς
 30 νέας χάριτος ἰλαρότητι, ὅτε πρὸς φόνον ὥρμων τοῦ εὐεργέτου οἱ ἐξ Ἰσραὴλ
 ἀγνώμονες ὄντες καὶ σκληροκάριοι, ἀκούομεν τοῦ σωτῆρος τῷ λαβόντι
 μάχαιραν τὸν ἐκ τῆς μαχαίρας ἐπαπειλοῦντος θάνατον. ἀλλὰ καὶ ὁ πολιτικός
 καὶ παλαιότερος νόμος τῶν ἱερῶν ἀπείργει περιβόλων τὸν φονευτὴν καὶ τὸν
 τοῦ ἐλέου καὶ τῆς φιλανθρωπίας ναδὸν παντάπασιν τοῦτοις ἀπέκλεισεν, ἄδικον
 35 εἶναι λογισάμενος, τὸν τὰς χεῖρας πεπλησμένας αἵματος φέροντα τῆς ἀπὸ τῶν
 νόμων ἐπηρτημένης αὐτῷ ἐξελεῖσθαι κατακρίσεως καὶ κολάσεως. ταῦτα δὲ
 πάντως διωρίσατο τῷ μωσαϊκῷ κατακολουθήσας νόμῳ, τῷ ἐκ τοῦ θυσιαστη-
 ρίου τὸν φονέα λαμβάνειν θεσπίζοντι.

Ἄλλ' ὅτι μὲν ἡ τοῦ φόνου πλημμέλεια ἐναγὲς τῷ ὄντι καὶ θεοστυγὲς, ἐκ τε
 40 τῶν θείων νόμων καὶ τῶν ἀνθρωπίνων ἀρκούντως δεδήλωται. Περὶ δὲ τῶν
 τοιοῦτῳ περιπιπτόντων ἐγκλήματι καὶ τῇ ἀγιωτάτῃ καὶ μεγάλῃ τοῦ Θεοῦ
 ἐκκλησίᾳ προσφευγόντων τὰ δόξαντά οἱ νομοθετήσας ὁ πορφυρογέννητος
 κῦρ Κωνσταντῖνος διωρίσατο, ἀειφυγία μὲν τοὺς ἐκουσίους φονεῖς ἅπαντας
 ἀπαραιτήτως καθυποβάλλεσθαι, καὶ μὴ συγχωρεῖσθαι περινοστεῖν αὐτοὺς καὶ
 45 φαίνεσθαι ἐν τῇ γῇ, ἣ τὸ τοῦ πλησίον αἷμα χανοῦσα κακῶς ὑπεδέξατο· τοὺς γε
 μὴν ἐκ μελέτης καὶ βεβουλευμένως καὶ μετὰ σκέψεως τὸν ἀδελφικὸν κατεργα-
 σμένους θάνατον, σὺν τῇ ἀειφυγίᾳ καὶ ἀποκείρεσθαι πάντως διετάξατο, καὶ
 τοῖς μοναχοῖς ἐγκαταλεγέντας παρ' ὅλην αὐτῶν τὴν ζωὴν τῷ μοναστηρίῳ
 προσμένειν, μετὰ τὸ καὶ ἄλλας ποινὰς ὑφίστασθαι – περὶ ὧν πλατύτερον τὰ
 50 περὶ τούτων ἀπολυθῆντα νεαρὰ θεσπίσματα διορίζεται – μηδὲν περὶ τῶν μὴ
 προσφευγόντων τῇ ἀγιωτάτῃ μεγάλῃ ἐκκλησίᾳ διορισάμενος, ὡς τοὺς πολιτι-
 κούς νόμους ἀπαρακινήτους ἐπὶ τούτων τηρεῖσθαι βουλόμενος καὶ τὴν τιμω-
 ρίαν τοῖς φονεῦσιν ἐπάγεσθαι, καθὼς ἡ τούτων νομοθεσία παρακελεύεται.

Πρόφασις οὖν ἡ τοιαύτη νεαρὰ νομοθεσία τοῖς παλαμναιοτάτοις τῶν
 55 ἀνθρώπων καὶ ἐπαράτοις γέγονε τοῦ μετὰ πολλῆς ἀδείας ἐπὶ τὰς μαιφονίας
 ἐκτρέχειν, καὶ τῆς τυχοῦσης λαβομένους προφάσεως τηλικούτον μύσος ἐργά-
 ζεσθαι καὶ προσφεύγειν τῇ ἐκκλησίᾳ, καὶ γράμμα συμπαθείας πορισάμενους
 ἀναστρέφειν οἴκαδε. κἀντεῦθεν οἱ πλείους καὶ δευτέροις καὶ τρίτοις φόνους
 καὶ πλείοσιν ἐπιτολμῆσαι οὐκ ὤκνησαν διὰ τὸ χαῦνον καὶ καταπεφρονημένον
 60 – οὐ γὰρ ἂν εἶποιμι συμπαθὲς – τῆς προτέρας κολάσεως· συμπαθὲα γὰρ ἐπὶ

29–32 cf. Matth. 26.51–52 32–36 N.17.7; N.37 36–38 cf. Exod. 21.14; Deut. 19.11–13;
 NomM 46 42–43 Coll. III, 11 45 cf. Gen. 4.11 50 Coll. III, 11 51–52 B.60.39.3.5
 60–61 cf. N.17.7

IOYyU₁U₂ = a DT FGKLMN = b 29 post μὲν add. ἐκ y 31 τὸν λαβόντα u
 32 ἐπαπειλοῦντα ud 33 ante παλαιότερος add. ὁ y 34 τούτοις: τούτῳ Oy, om. I
 35 πεπληγμένους y 37 πάντως: πάντα oud | διωρίσατο: a, διωρίσαντο d, διορίσματα Fg,
 διωρισμένα LN, διωρισμένως M | κατακολουθήσας: oy, –σαντες ud, –σει rell. | ante ἐκ
 add. καὶ o 41–42 ἐγκλήματι – νομοθετήσας om. u 42 προσφευγόντων ἐκκλησίᾳ oy d Fg |

Such are the examples of the Old Testament, to mention a few of the many. But in the cheer of the New Grace, when the men from Israel, being senseless and hard-hearted, rushed to kill the Benefactor, we hear the Saviour threatening him who took up the sword with death by sword. Further, the earlier civil law also excluded the murderer from the holy precincts and closed the temple of mercy and benevolence completely to such men, considering it unjust to deliver him who bears hands brimming with blood from the judgement and punishment which has been hung on him by the laws. It prescribed this absolutely in compliance with Mosaic law which decrees that the murderer be removed from the sanctuary.

That the sin of murder is indeed accursed and hateful to God has been satisfactorily demonstrated both from the divine and human laws. Now in regard to those who fall to (committing) such a crime and flee for asylum to the most holy Great Church of God, Kyr Constantine Porphyrogennetos, legislating that which he thought fit, decreed that all wilful murderers necessarily be subjected to life-exile and that they not be allowed to go about and appear on the earth which opening up, criminally received the blood of their neighbour. But those who with premeditation and deliberately and with resolution have brought about the death of a brother he ordered, in addition to life-exile, to take the tonsure without fail and, having been enrolled among the monks, to remain in the monastery for their entire lives, after they have been subjected to other penalties also – concerning which the novels released with respect to these matters prescribe more fully. He prescribed nothing in regard to those who do not seek asylum in the most holy Great Church, since he wished to maintain the civil laws unaltered with respect to these men and to apply the punishment to the murderers, as their legislative force ordains.

This novel, then, became a pretext for the most miscreant and accursed of men to rush to murderous acts with great license and, having got hold of a trifling excuse, to bring about so great a defilement and to flee for asylum to the church, and when they had procured a letter of pardon, to return home. In consequence, many did not hesitate to venture upon a second and third murder and more, because of the emptiness and contemptability – I would not call it compassion – of the former punishment. For compassion applies justly and is

post νομοθετήσας add. ὕστερον a 43 κύρις Iy 45 ἡ τὸ: καθὰ O 46 βεβουλευμένως:
 –μένους uyM, ὡς διεσκευμένως O 47 τῇ: τῷ u 49 καὶ τὸ y 50 ἀπολυθέντα:
 ἐκφωνηθέντα m Witte | διορίζονται y | μηδὲ y | παρὰ u | μὴ om. o 51–52 πολιτικούς:
 πολλοὺς o 52 ἀπαρακινήτως y, ἀπαρατηρήτους (–ως M) m | τηρεῖσθαι: κινεῖσθαι m
 53 φονεύσασιν LM 55 πολλὰς y 56 λαβομένοις o 57 γράμματα y | πορισσάμενοις o

τοῖς πεπονθόσι κακῶς, οὐκ ἐπὶ τοῖς δράσασι, καὶ γίνεται δικαίως καὶ λέγεται· ἐπὶ δὲ τοῖς κακῶς πράττουσιν οὐκ ἀδιακρίτως χρῆ ταύτην γίνεσθαι. ταύτης δὲ τῆς νομοθεσίας κάκεινο δὴ συνέβη τὸ μέρος, λέγω δὴ τὴν ἀειφυγίαν, εἰς παντελῇ ἀχρησίαν ἐλάσαι. λόγος γὰρ νῦν ἀειφυγίας οὐδεὶς, ἀλλὰ πάντες οἱ
65 φονευταὶ ἀδεῶς καὶ πάλιν ἐκείσε περινοστοῦσιν, ἔνθα τὸ μῦσος εἰργάσαντο. πρῶν μὲν γὰρ οἱ ἐν τοῖς θέμασιν ἀποστελλόμενοι, εἴτε πολιτικὴν περιεζωσμένοι ἀρχὴν ἢ καὶ στρατιωτικὴν ἐνδεδυμένοι ἀξίαν, φόνου τολμηθέντος, ἔσπευδεν ἕκαστος καὶ τοῦ ἐτέρου προέτρεχε, τὸν φονέα συλλαβεῖν προθυμούμενοι καὶ τὴν ἐπ' αὐτῷ ἐπεξέλευσιν κατὰ νομικὴν ἀκολουθίαν ποιήσασθαι, καὶ
70 διὰ τῆς ἐπὶ τούτῳ κολάσεως ἀναστεῖλαι τοὺς ὁμοιόφρονας. νῦν δὲ οἱ τοῖς θέμασιν ἄρχοντες, ὡς μανθάνει ἡ βασιλεία μου, τοῦ καλοῦ μὲν τελείως ἡλογηκότες καὶ πρὸς τὴν τῶν ἀνθρώπων σωτηρίαν συντείνοντες, ἐν δὲ καὶ μόνον συμπέρασμα τῆς ὅλης αὐτῶν ἐνεργείας ποιούμενοι τὸν χρηματισμὸν καὶ τὴν κακὴν αἰσχροκέρδειαν καὶ τὸ κέρμα περιχάσκοντες, οὐ μόνον οὐκ ἀναψηλα-
75 φῶσιν, ὅτε φόνος τις ἐν ἡ διέπουσι χώρα γένηται, τοὺς τὸ τοιοῦτον δεινὸν πλημμελήσαντας, ἀλλ', ὃ τοῦτου χεῖριστον, τινὲς τῶν τοιούτων καὶ τοὺς ἤδη φωραθέντας ὑπ' αὐτῶν καὶ κρατηθέντας περικρύπτουσι, καὶ λαθραίως εἰς τὴν μεγάλην ἐκκλησίαν προπέμπουσι. περὶ δὲ τῶν γινομένων ἐπ' αὐτοῖς μετὰ τὸ προσδραμεῖν τῇ ἀγιωτάτῃ τοῦ Θεοῦ μεγάλη ἐκκλησίᾳ ἡ μὲν βασιλεία μου
80 ἀκριβῶς οὐκ οἶδεν· ἀκούει δὲ ὅμως οὐκ ἀγαθὰ, καὶ ἀπλῶς τοῦτο ἐξ ἀπάντων ἀποτελεῖται, τὸ ἐν παντὶ τόπῳ τῷ ὑπὸ τὴν ῥωμαϊκὴν ἐπικράτειαν φόνους ἀδεῶς καθημέραν τολμᾶσθαι. ὅταν οὖν ἡ βασιλεία μου ἀναλογίσῃται, ὅπως παρ' ἔθνεσιν, ἃ μῆτε νόμος θεῖος ἀπεῖρξε μῆτε μελλούσης καὶ φρικτῆς κολάσεως ἀπειλὴ τοῦ κακῶς εἰς ἀλλήλους ποιεῖν ἀνεχαίτισε, τὰ τοιαῦτα τῶν ἀμαρτημάτων σπάνια καὶ διὰ χρόνου τολμῶνται, ἐν δὲ τῇ καθ' ἡμᾶς χώρᾳ σχεδὸν
85 καθ' ἐκάστην πλημμελοῦνται, πόσης ἀνίας ἐμπίπλῃται· ἡλικίας δὲ ἀθυμίας καὶ τοῦτο αἴτιον μετὰ τῶν ἄλλων τῇ βασιλείᾳ μου γίνεται, τῶν νῦν ἀνθρώπων κατανοοῦσῃ τὸ περὶ τὴν δικαιοπραγίαν ὀλίγωρον, καὶ τὸ μηδένα ζῆλον ἔχειν αὐτοὺς τοῦ καλοῦ καὶ τῆς ἀρετῆς; ταῦτα πάντα κατανοήσασα ἡ βασιλεία μου, 90 προσλογισαμένη δὲ καὶ τὸ τοῦ ῥηθέντος νεαροῦ βασιλικοῦ διατάγματος ἐπὶ τισι κανονικαῖς διατάξεσιν ἐναντίον καὶ ἄλλως ἀδόκιμον, ἐφρόντισε κατὰ τὸ ἐγγωροῦν καὶ τὸ τοῦ φόνου μῦσος ἀναστεῖλαι, καὶ τὰ τῆς νεαρᾶς διορθώσασθαι.

80 cf. I Sam. 2.24

78–80 Bals. ad Basil. can. 74 (Rh.-P. IV, 237–238)

IOY(II. 61–65)yU₁U₂=a DTFGKLMN=b 61 καὶ δικαίως i 63 δὴ om. d 64 ἀχρησίαν:
idM, ἀχρησίαν uFgLN | λόγος: χρόνος G 65 ἐκείθεν u 67 καὶ om. y | ἐνδεοσύνετοι I
68 προμηθεύμενοι I 69 αὐτῷ: αὐτὸν u | ἐξέλευσιν y 70 κολάσεως: λέξεως y |
ὁμόφρονες ου | ante τοὺς add. ἐν a 71 τελείως om. o 72 συντείνοντες u 73 ὅλως o
74 κέρμα: κέρδος u 75 ὅταν i 77 ante περικρύπτουσι add. ὡς φονεῖς a, ὑπ' αὐτῶν FV

rightly called by this name with regard to those who have suffered harm, not those who have done harm; to those who act wrongly, it ought not to be applied indiscriminately. So it came about that that part of this legislation, I mean in fact life-exile, was driven into utter uselessness. For now there is no question of life-exile but all murderers with impunity again go about in that place where they performed the defilement. Formerly, when a murder was undertaken, those dispatched to the themes, whether they were girt with civil authority or were invested with a military rank, hastened, each outrunning the other, eager to apprehend the murderer and to effect the punishment upon him in accordance with legal procedure, and to check the like-minded through the punishment (inflicted) on this man. At present, however, the *archontes* in the themes, as My Majesty learns, having absolutely no regard for the virtue which contributes to man's salvation, making money-making and evil gain the one and only goal of their entire activity, and all agape at (the prospect of) money, not only do not search closely after those who have committed such a horror, when a murder occurs in the land which they administer but, what is worse than this, some of these men conceal those who have already been detected by them and arrested, and send them forth secretly to the Great Church. About the things that happen with regard to these men after they have run to the most holy Great Church of God My Majesty does not know precisely, but It does not hear good things and the result of all this simply is that in every place which is under Roman rule murder is undertaken daily with impunity. When, therefore, My Majesty reflects how among peoples whom holy law has never checked, nor the threat of a future and horrible punishment restrained from doing harm to others, such crimes are undertaken rarely and sporadically, whereas in our land they are committed almost each day – with what distress is It filled? Of how great a despondency is this, along with the other things, a cause to My Majesty, observing the slight regard of present-day men for just dealing and their lack of zeal for honour and virtue? My Majesty, having perceived all this, but also having taken into consideration the contradictory and otherwise unsatisfactory nature of the said imperial novel with regard to some canonical regulations, has taken care, as far as possible, both to check the defilement of murder and also to amend the novel.

78 προπέμπουσι: ἐκπέμπουσι ο, πέμπεσθαι προτρέπουσι γ 79 τοῦ Θεοῦ om. γ | μεγάλη om. b
 81 ὑπὸ: ἐπὶ M, om. γ 82 ὅπως: i, πῶς ud, ὅπερ rell. 83 νόμοι θεῖοι ο | ἀπειρῶσαν ο
 85 τολμῶνται: τελοῦνται i 86 πλημμελοῦνται: τολμῶνται m | ἀνοίας γ 88 ἔχειν
 post ἀρετῆς transp. u 90 προσλογισαμένους u

Παρακελεύεται οὖν ἅπασι τοῖς τῶν θεμάτων διαιτηταῖς, καὶ ταῖς ἐν αὐτοῖς
 οὖσαις στρατιωτικαῖς δυνάμεσι καὶ τοῖς τούτων στρατηγοῖς, ἔνθαπερ ἂν ἐκού-
 95 σιος φόνος γένηται καὶ τολμηθῇ τοιοῦτόν τι παρὰ τινος, αὐτίκα πάντας διεγεί-
 ρεσθαι εἰς τὴν τοῦ φονέως κατάσχεσιν, καὶ δέσμιον αὐτὸν ἀποστέλλειν πρὸς
 τὴν βασιλείον περιωπὴν, ἣ ταύτης ἀποδημούσης πρὸς τὸν ἑπαρχον τῆς θεο-
 φυλάκτου μεγαλοπόλεως, ὥστε εἰς δημοσίαν αὐτὸν φυλακὴν εἰσάγεσθαι, καὶ
 τὰς σωματικὰς καὶ οὐσιακὰς κατὰ τε νόμους καὶ τὴν τῶν νεαρῶν θεσπισμάτων
 100 δυνάμιν καὶ ἐτέρας ὑποστῆναι κολάσεις· εἰδόντων τούτων ἀπάντων, ὡς εἰ τις
 φωραθεῖν δυνάμενος κατασχεῖν τὸν φονέα καὶ μὴ τοῦτο ποιήσας, οὕτω μέλλει
 κατακριθῆναι, ὡς κατὰ βασιλέως βουλευσάμενος. εἰ δ' ἴσως διαλάβῃ τις καὶ
 προσφύγῃ τῇ ἀγιωτάτῃ τοῦ Θεοῦ μεγάλῃ ἐκκλησίᾳ, μετὰ τὸ προβῆναι τὰ
 ἐκκλησιαστικὰ ἐπ' αὐτῷ ἐπιτίμια κατὰ τὴν κανονικὴν παρατήρησιν, ἐνδη-
 105 μουντος μὲν τοῦ κρατοῦντος τῇ βασιλευούσῃ τῶν πόλεων, παρ' αὐτοῦ ἀπο-
 σταλήσεται εἰς θέμα ὁποῖον ἂν ἐπικρίνῃ, ὥστε τὸν χρόνον τῆς ὅλης αὐτοῦ
 ζωῆς ἐκεῖσε διαβιβάζειν, καὶ μὴ ἐκεῖθεν ἀποδιδράσκειν ὥστε ἐπανατρέχειν
 ἔνθα τὸ τοῦ φόνου μύσος εἰργάσατο· ἀποδημούντος δ' ἴσως τοῦ βασιλέως,
 παρὰ τοῦ ἐπάρχου, ὡς εἴρηται, εἰς τινα τῶν πορρωτέρω χωρῶν ἐξορισθήσεται
 110 καὶ τὸν τῆς ζωῆς αὐτοῦ χρόνον ἐκεῖσε διανύσει.

Ἄν δέ γε μὴ μόνον ἐκουσίως, ἀλλὰ καὶ ἐκ μελέτης τὸν φόνον ἐργάσοιτο,
 οὐκ ἀναγκασθήσεται κατὰ τὴν προρρηθεῖσαν βασιλικὴν διάταξιν ἀποκαρῆναι.
 εἰ γὰρ τὸν ἐκουσίως τῇ ἀποκάρσει προστρέχοντα οὐκ ἀπεντεῦθεν ἡ κανονικὴ
 ἀκρίβεια εἰς αὐτὴν παραδέχεται, ἀλλὰ καιρὸν αὐτῷ τὸν ἀρκοῦντα ἐπιμετρή-
 115 σασα, καὶ δι' αὐτοῦ τὸ τῆς γνώμης ἐκείνου βέβαιον εἶτε καὶ ἀπαγὲς βασανί-
 σασα, εἴπερ εὐρήσει τὸν ἀνθρώπον τῇ ἐξ ἀρχῆς προθέσει στοιχοῦντα καὶ τῷ
 μοναχικῷ πολιτεύματι καὶ τῇ νεκρώσει τοῦ σώματος ἀόκνως ἑαυτὸν παρα-
 σκευάζοντα, ἔκτοτε καὶ τὴν τοῦ ἀγαθοῦ ἔργου αὐτῷ προσεπιφέρει συμπλή-
 ρωσιν εἰς τὴν μοναχικὴν παραδεξαμένη πολιτείαν τε καὶ κατάστασιν· πῶς

99 B.60.39.3.5

93-161 Bals. ad Basil. can. 8 (Rh.-P. IV, 116-119); PrA 39.222

IOyU₁U₂=a DT FGK LNM=b C 93 οὖν: ἡ βασιλεία μου C | τῶν θεμάτων: ab, ἐν θέμασι C
 Bals., Leuncl., Zach. | ταῖς: τοῖς u, om. g | αὐτοῖς: αὐτῶν u 95 τοιοῦτόν: τηλικούτον u |
 τι om. i 96-97 πρὸς τὴν βασιλείον: εἰς τὴν τῆς βασιλείας μου u 98 αὐτόν: ab, om. C |
 εἰσάγεσθαι: ἐμβάλλεσθαι m 100 καὶ om. u 101 οὕτω μέλλει: a, οὕτω μέλλειν C,
 μεγάλως b 102 ante βασιλέως add. τοῦ y | βασιλέα d | διαλάβῃ LN, λάθοι M
 103 προσφύγοι m 104 κανονικὴν: oub, νομικὴν yC 105 τῆς βασιλευούσης d |
 τῶν πόλεων: τῇ πόλει FV, πόλει Wgm | ἀποστέλλεσθαι o 106 ante θέμα add. τὸ C |
 ἐπικρίνοι m | ὅλης om. u 106-107 ζωῆς αὐτοῦ I 107 ἐκεῖ ou | διαβιβάζειν: C,
 διαβιβάζει ab 109 πορρωτέρω: dC, πορρωτάτω oFgm, πορρωτάτων uy 114 post ἀλλὰ
 add. καὶ O | τὸν om. g 117 νεκρώσει a | παρασκευάζοντα: KC, προπαρασκευάζοντα rell.
 118 προσφέρει y | ἐκπλήρωσιν m 119 παραδεξάμενος y | παραδεξαμένη ante καὶ transp. C

It is therefore prescribed to all the judges of the themes and to the military forces in them and their commanders that wherever a wilful murder occurs and such a thing is ventured by someone, all be aroused immediately to the apprehension of the murderer and dispatch him bound to the Imperial Summit or, in its absence, to the eparch of the God-protected capital, so that he be put in a public gaol, and undergo the physical and material punishments, in accordance with the laws and the authority of the novels, and other punishments. All these men should know that if someone is detected who was able to catch the murderer but did not do this, he is to be judged as one who has plotted against the emperor. But if by chance someone should abscond and flee for asylum to the most holy Great Church of God, after the ecclesiastical penances have been applied to him in accordance with the canonical observance, if the ruler is in the Reigning City, he will be dispatched by him to whichever theme he may choose, so that he spend the duration of his life there and not flee from there so as to return to the place where he performed the pollution of the murder. But should the emperor be absent, he will be sent into exile by the eparch, as mentioned, to one of the more distant regions and will spend the rest of his life there.

Should he have committed the murder not only wilfully but also with premeditation, he will not be compelled to take the tonsure, as in the aforementioned imperial decree. For if canonical exactitude does not from the first admit to the tonsure him who of his own will approaches it, but measures out to him the sufficient period of time and through this tests the steadfastness or instability of his decision – if indeed it will find the man agreeing with the proposition from the beginning and preparing himself without hesitation in the monastic way of life and in the mortification of the body, thereafter it produces also for him the completion of the good work, admitting him into the monastic way of life and

120 οὐκ ἂν εἶη ἄλογον καὶ τοῖς πνευματικοῖς νόμοις ἀπᾶλλον, ἀναγκαστικῶς ἀπο-
 κείρεσθαι τινα, καὶ ταῦτα φονέα, ὃν μέχρι τοσοῦτου Θεὸς ἐγκατέλειπεν, ὥστε
 καὶ ἀδελφικῶς χρανθῆναι τὰς χεῖρας αἵματι; δέος γάρ, μὴ ἀκουσίῳ προαιρέσει
 τὸν ἀγγελικὸν βίον ὑπελθὼν καὶ βίᾳ τοῦτον καταδεξάμενος εἰς ἐμπαιγμὸν τῷ
 φρικῶδει χρήσεται σχήματι· πεφύκασι γὰρ οἱ τῶν ἀνθρώπων κουφότεροι εἰς
 125 ἀπόνοιαν ἐμπεσόντες καὶ ταῖς χειρίσταις καὶ παραβολωτέραις ἐπιτολμᾶν
 πράξεσιν. ἀντὶ τοίνυν τῆς ἀποκάρσεως νομοθετεῖ ἡ βασιλεία μου, τὸν πεπλημ-
 μεληκότα φόνον μεμελετημένον ἐκούσιον ἐν φυλακῇ παρ' ὅλον τὸν τῆς ζωῆς
 αὐτοῦ χρόνον διάγειν, καὶ μηδέποτε ἐκεῖθεν ἐξάγεσθαι, μηδ' ἀπὸ βασιλικῆς
 ἴσως προστάξεως κατὰ λήθην ποριζομένης· ἐπὶ δὲ ταῖς περιουσίαις αὐτῶν
 130 γίνεσθαι, καθὼς ὁ προμνημονευθεὶς βασιλεὺς διατάξαιτο.

Ἐπεὶ δὲ οἱ πλείους τῶν φονέων ἐκ μελέτης καὶ διασκέψεως τοὺς φόνους κατ-
 εργαζόμενοι, ἔπειτα τῇ ἀγιωτάτῃ τοῦ Θεοῦ μεγάλῃ ἐκκλησίᾳ προσελθόντες,
 οὐκ ὡς γέγονε παρ' αὐτῶν ὁ φόνος, ἀλλὰ πρὸς τὸ οἰκεῖον συμφέρον ποιοῦνται
 τὴν ἐξομολόγησιν τὴν ἀλήθειαν περικρύπτοντες· παρακελεύεται ἡ βασιλεία
 135 μου γραφὴν γίνεσθαι τοῦ κατὰ καιροῦς ἀγιωτάτου πατριάρχου μετ' ἐπιτιμίου
 πρὸς τὸν κατὰ χώραν ἀρχιερέα καὶ τὸν ὑπ' αὐτὸν κληρὸν, ἀλλὰ μὴν καὶ τὸν
 τοῦ θέματος διαιτητὴν, καὶ καθὼς ἂν μάθῃ γενέσθαι τὸν φόνον ἀπὸ τῆς
 ἐκείνων ἀντιγραφῆς, οὕτω ποιεῖν καὶ τὴν ἐπεξέλευσιν· καὶ μὴ τὸν ἐκ μελέτης
 φονεύοντα διὰ τὴν ψευδῆ αὐτοῦ ἐξαγορείαν τὰς τοῦ κατὰ τύχην καὶ ἀπρο-
 140 ὅπως τῷ τοιοῦτῳ περιπεσόντος ἐγκλήματι δέχεσθαι ποινὰς καὶ τὰ ἐπιτίμια.

Εἰ τις μέντοι τῶν φονέων τῇ ἀγιωτάτῃ μεγάλῃ προσφυγῶν ἐκκλησίᾳ, καὶ
 ἢ τῇ ἀειφυγίᾳ κατακριθεὶς ἢ δέσμιος εἶναι καὶ ἐν φυλακῇ ἐγκλειεῖσθαι παρ'
 ὅλην αὐτοῦ τὴν ζωὴν, εὐρεθῇ ἄνετος ἐμπεριπατῶν ἔνθα τὸν φόνον ἐτόλμησε,
 δέσμιος παρὰ τοῦ κατὰ χώραν πράκτορος ἀποσταλήσεται εἰς τὴν βασιλείαν
 145 μου· καὶ ὅσα δὲ τότε παρευρεθῶσιν αὐτῷ πράγματα, εἰς κέρδος ἔσται τῷ
 πράκτορι καὶ τῷ τὸν φονέα καταμηνύσαντι ἐπίσης παρ' αὐτῶν μεριζόμενα.

IOYU₁U₂=a DTFGKLMN=b C 120 ἀναγκαστῶς y 121 ante μέχρι add. καὶ y |
 τοσοῦτον u | ante Θεὸς add. ὁ C 122 μήπως C | ἀκουσία u 124 post φρικῶδει
 add. τοῦτῳ m | χρήσεται: C, χρήσαιο ob, χρήσεται uy 127 ἐκούσιως i 127-128 τὸν -
 χρόνον: τῆς ζωῆς αὐτοῦ C 128 ante μηδ' add. καὶ u 128-129 βασιλικῶς ... προσ-
 τάγματος ... ποριζομένου u 130 προμνηστευθεὶς C | βασιλεὺς om. C | διεδέξατο C,
 διωρίσατο o 132 μεγάλῃ om. ib 134 παρακρύπτοντες C 135 γραφῇ y |
 γίνεσθαι: πέμπειν u | τοὺς ... ἀγιωτάτους πατριάρχας u 136 μὴν: C, μὲν y, δὴ bIu, om. O
 137 ἂν om. C 138 ἐκείνων: uC, ἐκεῖθεν yb, ἐκεῖσε o | τὸν ante μὴ transp. Fgm 139 ἐξ-
 αγορείαν: ἐξομολόγησιν C | τὰς τοῦ: τοὺς y | καὶ om. y 140 περιπεσόντος: oDgC,
 περιπεσόντας y, περιπεσόντι FmT, πεσόντας u | τὰ om. bC 141 ante μεγάλῃ add. καὶ OudFg
 142 ἡ': ἐν D | δεσμοῖς u | ἐν om. y | ἐγκλείεσθαι u, ἐγκλείσθαι y 143 ἐτόλμησε:
 ἐτέλεσε U₁, εἰργάσατο C 144 σταλήσεται m 145 δὲ om. b | αὐτῶν:
 αὐτοῦ u 146 φόνον u | μηνύσαντι b | αὐτῶν: αὐτοῦ dWgm, αὐτῆς FV

order – how then would it not be contrary to reason and unbefitting the spiritual laws to tonsure someone compulsorily, and this, a murderer whom God abandoned to such a degree that his hands have been stained with the blood of a brother? There is reason for fear lest he who has submitted to the angelic life by unwilling disposition and has accepted this by force make a mockery of the awe-inspiring habit; for empty people, falling into mindlessness, are disposed by nature to venture upon the worst and most reckless actions. Therefore, in place of the tonsure, My Majesty legislates that he who has perpetrated a wilful, pre-meditated murder spend the rest of his life in prison and never be released from there, not even perhaps by imperial ordinance, issued through forgetfulness. With respect to their properties, it is to obtain as the aforementioned emperor ordained.

Since most murderers commit the killings with premeditation and deliberation then, going to the most holy Great Church of God, confess to the murder, not as it was committed by them but to their own advantage, concealing the truth, My Majesty prescribes that a letter with (the threat of) penalty be written by the most holy patriarch of the day to the local bishop and the clergy under him but also, indeed, to the judge of the theme and, accordingly as he learns from their reply that the murder took place, so should he set the punishments, so that he who murders with premeditation should not, because of his false confession, receive the punishment and the penances of him who by chance and unforeseeingly fell to (committing) such a crime.

Further, if one of the murderers who fled for asylum to the most holy Great Church and was condemned either to life-exile or to be bound and confined in prison for his entire life should be found free, walking about in the place where he undertook the killing, he will be dispatched by the local *praktor* to My Majesty and, whichever of his effects are found on him at that time will be to the profit of the *praktor* and the man who reported the murderer, divided equally between them.

Μελήσει δὲ πάντως καὶ τοῖς ἐν τῇ ἀγιωτάτῃ μεγάλῃ ἐκκλησίᾳ τῶν τοιούτων
 διαιτηταῖς, μετὰ τῆς προσηκούσης κανονικῆς αὐστηρίας τὰ φονικά κολάζειν
 ἐγκλήματα, καὶ μὴ τοὺς χρόνους ὡς ἔτυχε συντέμνειν, καὶ μηδὲ ἐφ' οἷς οὐ
 150 χρὴ πλέον τοῦ εἰκότος φιλανθρωπεύεσθαι. Ἰσα μέντοι τοῦ παρόντος διατάγ-
 ματος τῆς βασιλείας μου, ὑπογραφέντα παρὰ τῶν προϊσταμένων τῶν δικαστη-
 ρίων, ἀποσταλέντα ταῖς κατὰ χώραν ἐκκλησίαις ἀποτεθήσονται· ὥστε πάντας
 εἶδησιν ἔχειν τῶν διωρισμένων, ὡς ἂν ποιῶσι κατὰ τὴν τούτων περίληψιν.

Εἶπερ μέντοι ὁ τὸν μεμελετημένον φόνον ἐργασάμενος ἐκουσίως ἔλοιτο τὴν
 155 ἀπόκαρσιν, οὐκ ἀδοκιμάστως τοῖς μοναχοῖς ἐγκαταλεγήσεται, ἀλλὰ μετὰ
 πολλῆς τῆς ἀκριβείας καὶ ἐξετάσεως τὸν ἀρκοῦντα χρόνον κατὰ τὰς κανονι-
 κὰς διατάξεις βασανιζόμενος. τῷ μέντοι μοναστηρίῳ καὶ ἄκων προσμένειν
 ἀναγκασθήσεται παρ' ὅλον τὸν τῆς ζωῆς αὐτοῦ χρόνον, μηδέποτε τούτου ἐξ-
 ἔρχεσθαι συγχωρούμενος. πάντως δὲ καὶ τὸ μοναστήριον ἐν ἐτέρᾳ ἔσται
 160 ἐπαρχία, καὶ οὐκ ἐν ἐκείνῃ τῇ γῇ, ἣ τὸ τοῦ θανόντος αἷμα χανοῦσα κακῶς
 ὑπεδέξατο.

- I Εἶχε τὸ μηνὶ Ἀπριλλίῳ *ινδ. ιδ' δι'* ἐρυθρῶν γραμμάτων τοῦ κραταιοῦ καὶ ἀγίου ἡμῶν
 βασιλέως, τὴν συνήθη δίπτυχον καὶ κηρίνην βούλλαν τῆς ἀγίας αὐτοῦ βασιλείας, καὶ τὸ
 165 διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδώριτου Μιχαήλ, καὶ ἐξῶθεν τὸ ἀπελύθη μηνὶ
 Ἰουλίῳ *ινδ. ιδ' ἔτους ,ςχοδ'.* b
- II Εἶχε τὸ μηνὶ Ἀπριλλίῳ *ινδ. ιδ' δι'* ἐρυθρῶν γραμμάτων τῆς βασιλικῆς χειρὸς, ἣ διὰ κηροῦ
 συνήθης σφραγὶς καὶ τὸ διὰ τοῦ λογοθέτου τοῦ δρόμου τοῦ Ἀγιοθεοδώριτου Μιχαήλ, καὶ
 ἐξῶθεν ἐν ταῖς συμπτώξεσι τῶν κολλῶν τὸ ἀπελύθη μηνὶ Ἰουλίῳ *ινδ. ιδ' ἔτους ,ςχοδ'.* u
- III Τὸ μηνὶ Ἀπριλλίῳ *ινδ. ιδ'* τῆς βασιλικῆς ἀγίας χειρὸς, καὶ τὸ διὰ τοῦ λογοθέτου τοῦ
 170 δρόμου τοῦ Ἀγιοθεοδώριτου Μιχαήλ, καὶ ἐξῶθεν ἐν τῇ προπτύξει τῶν κολλῶν τὸ ἀπελύθη
 μηνὶ Ἰουλίῳ *ινδ. ιδ' ἔτους ,ςχοδ'.* τὸ κατεστρώθη μόνον τοῦ σεκρέτου τοῦ μεγάλου δρουγγα-
 ρίου καὶ τὸ κατεστρώθη ἐν τοῖς δυσὶ μεγάλοις λογαριαστάτοις σεκρέτοις κατὰ μῆνα Αὐγουστον
ινδ. ιδ'. y

160–161 cf. Gen. 4.11

IOyU₁U₂ = a DT FGKLMN = b C 147 μεγάλη: μου Fgm | τῶν: τοῖς Fgm 149 καὶ²
 om. m 149–150 οὐ χρῆ: ἐχρή u 151 ὑπογραφέντων y 152 ἀποτεθήσονται: ad,
 ἀποτεθήσεται C, ἀποτεθέντα (–τος M) Fgm | πάσας O 154 ἐργαζόμενος y 156 τῆς
 om. g 157 ante μοναστηρίῳ add. τῷ u 159 δὲ om. O | καὶ om. C 160 τῇ γῇ
 om. u | θανάτου y Leuncl., difficile lectu in C 162 ιδ': δ' b 162–163 τοῦ κραταιοῦ –
 βασιλέως: τῆς θείας καὶ βασιλικῆς χειρὸς m 162 post ἡμῶν add. αὐθέντην καὶ g
 163 τὴν – βούλλαν: καὶ τὴν διὰ κηροῦ συνήθη σφραγίδα d 165 Ἰουλίῳ: Ἰουνίῳ d |
 τοῦ ,ςχοδ' ἔτους m 166 Εἶχε om. U₁ 168 συμπήξεσι u 169 Τὸ: τῷ y
 171 κατεστρώθη: κατ^e y

In any case, it will be an object of concern for the judges of such matters in the most holy Great Church to punish crimes of murder with the appropriate canonical severity and not to shorten the length of time randomly, nor to act with more than reasonable compassion where it does not befit. Copies of the present decree of My Majesty, signed by those presiding over the courts, dispatched to the local churches, will be stored, so that all may have knowledge of the things which have been ordained, that they may act in accordance with their content.

If, moreover, he who has murdered with premeditation should choose the tonsure of his own will, he will not be enrolled among the monks without approval, but having been tested with a great deal of strictness and close examination the sufficient period of time, in accordance with the canonical decrees. Nevertheless, he will be compelled to remain in the monastery, even against his will, for his entire life, never being allowed to withdraw from it. Certainly, also, the monastery will be in another province and not on that earth which, opening up, criminally received the blood of the dying.

I

Novel I (χρυσόβουλλος γραφή, l. 29; χρυσόβουλλος λόγος, ll. 42–43; ὁρισμός, l. 40), concerning the invalidity of imperial decrees which are contrary to the law, is distinguished from the other three novels with which it was transmitted, by its diplomatic¹²⁹ and its date, 1158.¹³⁰

The theme of the prooimion (ll. 9–28) – justice and right judgement – which it has in common with novels II and III,¹³¹ is expounded by three citations from the Psalms. The emperor, in imitation of the just God to whom he owes his authority, must put the ‘fair dealing of justice’ (l. 17) before all else. However, although this is the emperor’s intention and desire, he is not infallible and either through forgetfulness or some other way, might have prescribed something which does not absolutely hold to the ‘rigour of the law’ (l. 22). The present legislation is intended to provide for this possibility.

The legislation declares that any imperial decree, whether in the form of a *prostaxis* or chrysobull,¹³² issued during the emperor’s reign and found to be ‘contrary to justice and the righteousness of the laws’ is to be invalid and ineffective. No benefit should derive from such a decree nor should the injured party, be it an individual, church, monastery, or pious foundation,¹³³ lose its lawful claim because of it (ll. 32–38). Furthermore, any past or future decree which opposes the present law is to be considered null and void, as far as it opposes this law (ll. 39–42).

This novel, then, provides for a situation in which an imperial decree, legislating on a specific, individual case, contradicts or conflicts with the law (l. 31). What procedure to follow in such a case was the subject of earlier legislation,

¹²⁹ See above 102–103, and n. 26, for a discussion of the different diplomatic forms of the novels.

¹³⁰ DÖLGER, Regesten N. 1426. The novel had been mistakenly dated to 1159 (ZACHARIAE, IGR III, 455 = ZEPOS, IGR I, 385; SVORONOS, SBM, 102), a date based on the registration (January, indiction 7; August, indiction 7) and not on the date of the promulgation of the chrysobull (November, indiction 7).

¹³¹ Compare novel I (ll. 15–16) with novel II (l. 12); novel I (τὴν τοῦ δικαίου εὐθύτητα, l. 14, τὴν τοῦ δικαίου ισότητα, l. 17, εὐθυδικίαν, l. 25, also τῇ τῶν νόμων εὐθύτητι, l. 31) with novel II (ll. 14–15), novel III (l. 19). HUNGER, Prooimion, 185, 197–198.

¹³² In the novel, the terms *horismos* (ll. 33, 38, 40) and *prostaxis* (l. 39) are used as synonyms, to refer to an imperial order, whatever diplomatic form it has. ‘*Prostaxis*’ (l. 33) is also used, along with ‘chrysobull’ (l. 33), to designate an imperial order of a specific diplomatic form: see DÖLGER/KARAYANNOPULOS, 109–112; also above, 100–101.

¹³³ On the εὐαγὲς σέκρετον or οἶκος, a pious foundation belonging to the crown and enjoying the same privileges as the property of the fisc, see ΟΙΚΟΝΟΜΙΔΗΣ, L’Évolution, 138–141.

promulgated by Constantine the Great and later emperors.¹³⁴ Their decrees provided directives to judges to uphold the law over an imperial rescript.¹³⁵ Such legislation was necessary not least because continuous surveillance of the rescripts which the imperial chancery issued was not possible. But these decrees were also statements of the emperor's relationship to the law, declaring the restriction of imperial legislative power in individual cases and at the same time confirming the validity of existing imperial legislation.¹³⁶

Manuel's novel I can be seen in the context of these earlier decrees as a general protective measure in the case of imperial rescripts which deviate from the law.¹³⁷ However, it is always possible that the novel was issued with specific rescripts in mind.

In his study of Manuel's legislation, Svoronos suggested a connection between the provisions of this novel and the emperor's earlier chrysobulls in favour of the church.¹³⁸ According to Svoronos, the novel represents an attempt by Manuel to 'interpret' the legislation he had enacted in the years 1146 to 1158 benefiting the church, in particular, his chrysobulls of 1158 for monasteries in Constantinople and surrounding regions. The legislation, a series of five chrysobulls, known for the most part only from Balsamon who records the texts in full or in summary,¹³⁹ documents the considerable donations which the

¹³⁴ CT 1.2.2 (315); CT 1.2.3 (317/8); C.1.19.7 (426); C.1.22.6 (491 ?); N.82.13; N.113. For a discussion of these sources see now D. SIMON, *Princeps legibus solutus*: Die Stellung des byzantinischen Kaisers zum Gesetz, Gedächtnisschrift für Wolfgang Kunkel (Frankfurt 1984), 462–467.

¹³⁵ e.g. CT 1.2.2 (315): *Contra ius rescripta non valeant, quocumque modo fuerint impetrata. Quod enim publica iura perscribunt, magis sequi iudices debent.*

¹³⁶ See B.2.6.9 (C.1.14.4): *Kaì κατὰ βασιλέως οἱ γενικοὶ κρατεῖτωσαν νόμοι· καὶ πᾶσα παράνομος ἐμβαλλέσθω ἀντιγραφῇ*, also B.2.6.10 (C.1.14.5). SIMON (as in note 134), 472–474.

¹³⁷ Compare the language of the novel (ll. 29–32) and that of the above-noted (n. 134) decrees. Although Manuel's novel does not use the words ἀντιγραφῇ, λύσις, the Greek equivalents of *rescriptum*, the contrast intended by the expression εἰ τι ... ὥρισθη ... ἐναντίον τῷ δικαίῳ (ll. 29–31) is one between imperial pronouncements on particular matters (usually solicited by an individual or group, the answer issued in the form of a *lysis*, *prostagma*, chrysobull, etc.) and existing legislation. See DÖLGER/KARAYANNOPOULOS, 80–87; 109.

¹³⁸ N. SVORONOS, *Les privilèges*, 325–391. For his discussion of the novel, with a paraphrase of it, see p. 370. In a more recent article, SVORONOS discusses the same novel only from the point of view of its statement concerning the relationship of the emperor and the law: IDEM, *Diritto e Istituzioni*, in: *La Civiltà bizantina dal XII al XV secolo* (Rome 1982) (=Corsi di Studi III, 1978), 210–214 (French translation of the novel on 211–212). See the review by L. BURGMANN in *RJ* 2 (1983) 21.

¹³⁹ The chrysobulls are recorded in the context of Balsamon's commentary to canon 12, council of Nicaea (II): Rh.-P. II, 598–603, 605–611. N. 53 (1146) = ZEPOS IGR I, 367; DÖLGER, *Regesten* N. 1347. N. 56 (1148) = ZEPOS IGR I, 376–378; new edition using cod. Barocc. 131 (326v–327v): SP. LAMPROS, 'Ο ἱατὴρ τοῦ Μανουὴλ Κομνηνοῦ (as in n. 56), 322–325; DÖLGER, *Regesten* N. 1372. N. 58 (1153) = ZEPOS IGR I, 378–381; DÖLGER, *Regesten* N. 1390. N. 61 (March 1158): ZEPOS IGR I, 381–385; DÖLGER, *Regesten* N. 1419. N. 62 (October 1158) = ZEPOS I, 385; DÖLGER, *Regesten* N. 1425.

emperor made to the church in the early part of his reign.¹⁴⁰ By these chrysobulls, Manuel confirmed Hagia Sophia, bishoprics and metropolitan sees in the empire, monasteries in the capital and environs in their possessions, validating and completing any titles of possession they might have had which were incomplete or defective.¹⁴¹ This confirmation of defective titles reached an extreme form in a chrysobull (March 1158) for the monasteries which guaranteed their perpetual possession of property held rightly, or even fraudulently, with false titles or without any titles at all.¹⁴² In October 1158, another chrysobull, summarised by Balsamon, stated that these monasteries were to be given uncontested possession even of property for which the *anagrapheis* had already issued decrees indicating that they belonged to the fisc.¹⁴³

Such donations granting uncontested possession of property and rights in cases of false titles or when other parties had claims to the same, created problems, not only from the fisc which Manuel mentions often in the chrysobulls as a source of trouble,¹⁴⁴ but also from individuals and pious foundations with rights to the same property which the emperor had granted to the monasteries and churches.¹⁴⁵ At the very least, the chrysobulls raised questions of interper-

¹⁴⁰ See the analysis of these documents by SVORONOS, *Les privilèges*, 328–334; also 360–365 for other donations. For contemporary references to Manuel's generosity see Niketas Choniates, *Historia*, ed. VAN DIETEN, 59,12–60,34; ed. BEKKER, 78–79; Michael the Rhetor, *encomium for Manuel* (1153): ed. W. REGEL, *Fontes Rerum Byzantinorum I* (St. Petersburg 1917, repr. Leipzig 1982) I, 138; Michael *o tou Anchialou*, oration of 1165/1167, ed. R. BROWNING (as in n. 24), p. 197, 351–355; pp. 209–210. Kinnamos, ed. MEINEKE, 276,9–15 (reference to March 1158 chrysobull: DÖLGER, *Regesten N.* 1419).

¹⁴¹ N. 53 = ZEPOS, IGR I, 367: (χρυσόβουλλον) ... διοριζόμενον, μὴ βλάπτεσθαι τὰ μοναστήρια ἐκ τοῦ ἴσως χωλεῦν κατά τι τὰ προσόντα τούτοις δικαιώματα. N. 56 = ZEPOS, IGR I, 377, 2–3: προσεπανορθούσα δὲ καὶ εἰ τί που χωλεῦον ἴσως ἐστὶν ἐν ταῖς αὐτῶν δικαιώμασι καὶ τῆς ἀκριβείας λειπόμενον; 377, 14–19: πᾶν (δικαίωμα) ... ὑποσκάζον, καὶ κατά τι τοῦ ἀκριβοῦς καὶ τῆς ὀφειλομένης ἀκολουθίας λειπόμενον ... ἐπανορθοῖ. N. 58 = ZEPOS, IGR I 379, 21–22: Ἐπανορθοῖ δὲ ἡ βασιλεία μου διὰ τοῦ παρόντος εὐσεβοῦς χρυσοβούλλου λόγου καὶ ὅσα που χωλεῦοντα εὐρίσκονται.

¹⁴² N. 61 = ZEPOS, IGR I, 382, 19–33: πάντα τὰ σήμερον νεμόμενα ἀκίνητα ... ἔχειν τὰς ῥηθείσας μονὰς κατά διηνεκὴ δεσποτείαν ὡς δῶρον ... τῆς βασιλείας μου, καὶ δεσπόζειν αὐτῶν εἰς τοὺς ἐξῆς ἅπαντας καὶ διηνεκεῖς χρόνους, κἂν εὐλόγως κἂν παραλόγως τούτων τινὰ ἢ τὰ ὅλα ἴσως ἕως τοῦ νῦν κατεῖχον, κἂν δίχα τινὸς δικαιώματος ἢ ἀπὸ δικαιωμάτων μὲν, κακῶς δὲ ἐχόντων ἢ ψευδῶς συντεθέντων.

¹⁴³ N. 62 = ZEPOS, IGR I, 385. This novel waives the one limitation specified in the novel of March 1158 (N. 61): ZEPOS, IGR I, 382, 24–28: οἰονδηποτοῦν δίκαιον ἐν ἀκινήτοις κτήμασι θεωρούμενον καὶ ἐν οἰωδῇτινι τόπῳ διακείμενον παρ' αὐτῶν κατεχόμενον νῦν, ἐφ' ᾧ δηλονότι μέχρι τοῦ νῦν οὐκ ἐδόθη τούτοις διάγνωσις παρὰ τῶν κατὰ χώραν ἀναγραφέων τὸ τοῦ δημοσίου μέρος ἐπὶ τούτῳ προσδικαιοῦσα ...; also, 383, 26–27.

¹⁴⁴ N. 58 = ZEPOS, IGR I, 379, 5–7, 41–46; 380, 32–36; N. 61, 382, 9–10; 384, 17–21.

¹⁴⁵ N. 58 = ZEPOS, IGR I, 379, 18–20; N. 61, 382, 38–39; 383, 10–11: κἂν οἰονδηποτοῦν σεχρέτον ἐπ' αὐτῷ δικαιοῖτο.

tation and procedure. How could a provision be applied which confirmed and validated false titles and possessions held without just claim, if these had been claimed by individuals or *sekreta*?¹⁴⁶

That interpretations of these chrysobulls were issued is known from references in a *lysis* (1181) of Alexios II¹⁴⁷ but also from a *lysis* of the emperor Manuel in answer to a query by the *orphanotrophos*,¹⁴⁸ the head of a *sekretion* which perhaps stood to suffer losses because of Manuel's chrysobulls. Novel I, promulgated one month after the last of Manuel's known donations to the monasteries is, according to Svoronos, one of these 'interpretations', perhaps the first, intended to deal with the problems which his chrysobulls had created, by making it possible for other parties, injured by the terms of the chrysobulls, to make claims.¹⁴⁹ Furthermore, Svoronos suggests that Manuel, with the promulgation of the novel, indirectly curtailed his previous donations to the church. Although his revocation of the donations to the monasteries did not actually take place until 1176, 1158 marked the beginning of a change in his attitude towards donations to the church.¹⁵⁰

In considering the plausibility of Svoronos' suggestion that the novel was issued to deal with the chrysobulls for the monasteries, the following points should be made. The diplomatic of the donations (chrysobulls) and their conferment of possessions held with false titles or without any titles at all meet the novel's description of imperial ordinances in the form of a *prostaxis* or chrysobull which are 'contrary to justice and the righteousness of the laws.' The chrysobulls' insistence that defective titles or titles lacking in precision are not to constitute a disadvantage for the monasteries can perhaps be seen to be countered by the novel's insistence on, and restitution of, the 'rigour of the law'.¹⁵¹ Finally, the clause 'every *prostaxis* which has been issued or will be issued ... in opposition to the present *horismos* ... will obtain ineffectiveness' (ll. 39–42) is found both in the chrysobull of March 1158¹⁵² and the novel. Its presence in the novel can perhaps be seen as a reference to the clause in the earlier legislation, serving to cancel it.

¹⁴⁶ SVORONOS, *Les privilèges*, 368–369.

¹⁴⁷ N. 81, DÖLGER, *Regesten* N. 1550; = ZEPOS, *IGR* I, 427–428; 427, 23–25: τῶν εἰς ἐρμηνείαν ἡ ἀνατροπὴν τῆς τῶν χρυσοβούλλων δυνάμεως μερικὴν ἢ καθόλου ἀπολυθέντων παντοίων προσταγμάτων ...

¹⁴⁸ Edited by SVORONOS, *Les privilèges*, 326.

¹⁴⁹ IDEM, 370–371.

¹⁵⁰ N. 77 = ZEPOS, *IGR* I, 425; DÖLGER, *Regesten* N. 1523. See the discussion by SVORONOS, *Les privilèges*, 371–383.

¹⁵¹ Compare the concern for maintaining the 'rigour of the law' in novel I (l. 22) with the relaxed attitude toward the same in N. 56, 377, 1–2, 17–18; N. 61, 382, 9; 383, 36–37.

¹⁵² N. 61 = ZEPOS, *IGR* I, 385, note 18, as well as N. 58, 380, 3 ff., 15–19.

Svoronos' suggestions for the novel's connection with the earlier chrysobulls makes the most of the surviving evidence. However, it must be taken into account that the five chrysobulls of 1146-1158 are practically the only legislation which survives from that period of Manuel's reign. Manuel's novel I could have been promulgated with reference to any number of rescripts issued by the chancery and unknown to us. The chrysobulls, in addition to displaying the emperor's generosity to the church, demonstrated also by other sources, show what problems might arise from legislation, thereby creating the need for a novel on rescripts contrary to the law. They indicate the problems which could arise from imperial rescripts without necessarily being the very rescripts to which novel I refers.

II

Novel II (οἰκονομία, l. 35) on court procedure and miscellaneous court business, issued in March 1166¹⁵³ together with novel III, enacts a series of measures which for the most part have as their aim the acceleration of the judicial process. The identical promulgation date of novels II and III, their similar concern with providing a quicker judicial process, and the common themes and images of their prooimia indicate that they are two parts of a single legislative effort.¹⁵⁴

The slow judicial procedure described in the prooimion (ll. 10-35) and said to result in 'eternal lawsuits' is blamed on the judges, whose negligence (l. 19; l. 32) in dealing with the victims of injustice compounds the injuries they have suffered. The emperor, ever-mindful of his God-given office, 'a lawful dominion',¹⁵⁵ and in imitation of the just God, must ensure that those he has chosen to sit in judgement make 'right judgement' the object of their actions.¹⁵⁶ The present ordinance¹⁵⁷ was issued to this end.

¹⁵³ DÖLGER, Regesten N. 1465.

¹⁵⁴ See the commentary to novel III, especially 182-183.

¹⁵⁵ On the monarchy as ἔννομος ἐπιτοασία, and the contexts in which the concept occurs see HUNGER, Prooimion 116, 117, 120; J. SCHARF, Quellenstudien zum Prooimion der Epanagoge, BZ 52 (1959), 79; F. DÖLGER, Die Kaiserurkunden der Byzantiner als Ausdruck ihrer politischen Anschauungen, Byzanz und die Europäische Staatenwelt (Ettal 1953) 27; now also the discussion by D. SIMON, *Princeps legibus solutus* (as in n. 134), 479-485; P. MAGDALINO, Aspects of Twelfth-Century Byzantine *Kaiserkritik*, Speculum 58 (1983) 326-346, esp. 330-331. Although the expression is attested in Basil (PG 29, 345; PG 31, 389) and Maximos (PG 91, 776), the 'wise men of old' (l. 10) to whom it is attributed in the novel are more likely pre-Christian political theorists.

¹⁵⁶ On εὐθουσία see *infra*, p. 182. In this novel the word would seem to be used in the sense of a direct trial, without complications and special pleas (παράγραφοι) which prolong it: see Demosth. 45.6.

¹⁵⁷ The text of the novel refers to the law as an οἰκονομία (l. 35). It is only in the descriptions of the registration entries that the novel is referred to as a *protagma* (l. 230; 237).

While the *prooimion* lays the blame on judges for delaying court business, the *dispositio* contains measures to correct not only their behaviour (ll. 39–41; 96–105; 129–131; 202–204), but also that of others held responsible for causing delays – litigants, advocates, and executors of wills. Again, although the *prooimion* describes injustices which would seem to constitute civil suits – ‘loss of lands and dwellings and ... other things’ (ll. 22–23) – the *dispositio* does not deal exclusively with these cases but is concerned with providing quicker procedure for lawsuits, civil and criminal. Of the following court matters raised in the novel, only two (ll. 134–162; 200–216) are not in some way related to the problem of accelerating the legal process: (ll. 36–53) attendance in court; (ll. 54–82) behaviour of advocates; (ll. 83–105) time allotted to civil and criminal cases; (ll. 106–113) oath-settled disputes; (ll. 114–124) appeals; (ll. 125–133) suits brought before the emperor by provincials; (ll. 134–162) pre-emption and *antichresis*; (ll. 163–199) wills; (ll. 200–216) fines; (ll. 217–226) allocation of judges and advocates to the four courts of law.

The first section (ll. 36–53) concerns attendance in court by the judges and the parties to litigation. The judges’ ‘negligence’ is revealed, as well as the manner in which litigants hinder court business. Two groups of judges are differentiated here and elsewhere in the novel: the heads of the courts (l. 37; 42; 100; 101)¹⁵⁸ and those who sit in judgement with the heads (ll. 36–37; 43; 101–103; 217–219).¹⁵⁹ The number of presiding judges is given later (ll. 220–225) but that of the subordinate judges is nowhere specified. Both groups are responsible for delays: the subordinate judges, by their uneven distribution at the courts, and the heads, by their convening court intermittently. Manuel attempts to provide more functioning courts by having the subordinate judges assigned to each court of law (ll. 36–38; 101–105). How this is to be accomplished is stated at the end of the novel (ll. 217–226). Further, more court sessions are to be made available by requiring the courts to convene three times per week (ll. 41–43).¹⁶⁰

¹⁵⁸ See also novel IV, ll. 151–152 for the heads of the courts. These seem to be the *μεγάλοι* or *μειζονες δικασταί* mentioned in the *Ecloga Basilicorum*, judges with jurisdiction (*δικαιοδοσία*) in contrast to the *μικροί δικασταί* who sat with them in judgement. For a discussion of the *Ecloga Basilicorum* passages see L. BURGMANN, *Vier Richter des 12. Jahrhunderts*, JÖB 32/2 (1982) (= XVI. Internationaler Byzantinistenkongress, Akten II/2), 369–372.

¹⁵⁹ On the *συνεδριάζοντες*, also known as *σύνεδροι* or *σύμνομοι*, see Balsamon, Rh.-P. III, 339, who says of them that they were professional judges, as opposed to the heads of the courts, the *archontes*; see also ZACHARIAE, GGR 358–361; BURGMANN, *op.cit.*

¹⁶⁰ On the question whether novel III on court recesses was promulgated in order to make three sessions per week possible, see the commentary to novel III, especially p. 190 and n. 262.

Also subject to regulation is the dilatory behaviour of the litigants, especially the defendant.¹⁶¹ Manuel describes two ways in which defendants can delay a case: by erratic attendance during the course of the trial (ll. 43–47) or by refusing to comply in the first place to the court's notification of the charges being brought against them (ll. 47–51). The treatment described here (ll. 47–53) – the three citations at thirty-day intervals and the conviction of the absent defendant – applies in the second case, to the defendant who has not appeared in court at all. This is clear from the reference to the plaintiff's preferment of the bill of indictment (λιβέλλου δόσις, l. 49) to the court, which was followed by the court's notification (εἶδησις τῆς ἀγωγῆς, l. 49),¹⁶² containing a deadline¹⁶³ for the defendant's appearance in court. If he did not present himself by the stated time, nor comply with the three summonses, he was held in contempt of court.¹⁶⁴ The procedure outlined here for the non-compliant defendant is recorded in the Basilika (6.21.3; 7.4.2; 7.14.22) as well as in the laws of Alexios I¹⁶⁵ and Leon the 'Wise',¹⁶⁶ where the same treatment is said to apply to the plaintiff also. Leo VI's novel claims to constitute a renewal of older legislation.¹⁶⁷ Manuel's citation of legislation which is itself a reassertion of older laws shows that the dilatory behaviour of litigants was a perennial problem. Balsamon who refers to Manuel's measure in two commentaries on canons concerning accused bishops, states that it applied in both civil and criminal cases.¹⁶⁸

Others responsible for prolonging trials are the advocates whose behaviour Manuel had experienced personally (ll. 54–55; 76–77). In pleading their cases they repeat themselves, speaking an inordinate length of time, and they sit

¹⁶¹ In this passage (ll. 43–45; 47 ff.) and in general, the novel addresses itself to the defendant's role in causing delays, since the legislation was promulgated to aid those who have suffered injustices (ll. 20–35), that is, the plaintiff.

¹⁶² On these terms and for a discussion of what constitutes the beginning (προκάταρξις) of a case see SIMON, Zivilprozeß, 14–16; 39–60; KASER, RZP 460–461; 482–483.

¹⁶³ For the length of time given to the defendant to appear, twenty days: B.7.12.9 (= N.53.3.1); Coll. IV, N. 74 of Alexios I (mistakenly attributed to Manuel I): ZEPOS, IGR I, 422, 21 – 423, 4; DÖLGER, Regesten N. 1179; ZACHARIAE, GGRR, 356 n. 251.

¹⁶⁴ On ἀπειθεία, contempt of court, see ZACHARIAE, GGRR 393 and note 433; KASER, RZP 376–377.

¹⁶⁵ Coll. App. 25: ZEPOS, IGR I, 646–649; DÖLGER, Regesten N. 1133.

¹⁶⁶ N. 108. On the epithet σοφός, σοφώτατος, attributed to Leo for his learning, even during his lifetime, see the discussion with references in C. MANGO, The Legend of Leo the Wise, ZRVI 6 (1960), 68 ff. In an oration for Manuel (c. 1176) by Euthymios Malakes, bishop of Neopatra, Manuel's *sophia* is compared to that of another (unnamed) emperor who was known as '*sophos*': K.G. MPONES, Εὐθυμίου τοῦ Μαλάκη τὰ σωζόμενα II (Athens 1949) 48, 25–31.

¹⁶⁷ P. NOAILLES and A. DAIN, Les Nouvelles de Léon VI le Sage (Paris 1944), N. 108, p. 353: καὶ τοῦτο πρὸς καινισμὸν καθιστῶντες.

¹⁶⁸ Balsamon calls this law by Manuel 'a recently promulgated novel': Rh.-P. II, 95; III, 361.

with the judges, interfering with their work (ll. 58–62). The long-windedness of advocates is a classic complaint,¹⁶⁹ a *topos*, which nevertheless presented a real and constant problem. Manuel's directions to advocates to plead the case 'as formerly, with economy, standing up' (ll. 58–59)¹⁷⁰ is another attempt to restore established procedure with the aim of shortening trials.

The exposition of the advocates' undesirable deportment includes a description of the procedure as it should be, from the pleading of each case, in turn, to the judges' decision (ll. 62–65). An unanimous decision is to be sought (ll. 65–69) but in the case of a split vote the head of the court casts the decisive vote.¹⁷¹ The decision referred to in ll. 64–65 could be either a final verdict or an intermediate one, given in response to individual pleas as they were made by the defendant.¹⁷² In the first case, the expression 'the litigants go forward' (ll. 65–66) would refer to the parties presenting themselves to hear the verdict.¹⁷³ If the decision given was an intermediate one, the litigants would then proceed to the next stage in the presentation of their cases.¹⁷⁴ Likewise, the warning given to the advocate not to produce the same pleas but rather to appeal the decision if he feels he has been wronged (ll. 72–79) could refer to the advocate's behaviour after an intermediate or a final verdict. Appeals (ll. 114 ff.) could be made against intermediate verdicts as well as final decisions but the case had to have been completed before an intermediate verdict could be appealed.¹⁷⁵

The word of caution to the judges with regard to their decision-making (ll. 79–82) implies that mutilation was the most severe penalty which the judges' decisions carried. This passage seems to confirm statements in other contemporary sources to the effect that the death penalty was not executed under Manuel.¹⁷⁶

Another way in which Manuel attempts to reduce the length of lawsuits is by reviving the law in the Basilika (7.6.13), limiting criminal and civil suits to two

¹⁶⁹ cf. e.g. Synesios, PG 66, 1148 A.

¹⁷⁰ On the standing of advocates during the trial: B.8.1.15; A. CHECCHINI, *Scritti giuridici e storico-giuridici* (Padua 1958) II, 132–133.

¹⁷¹ In the Peira (51.16) it is the majority vote which prevails. Here the vote of the head of the court is decisive, not only when the vote is split down the middle (ll. 70–71 and ZACHARIAE, GGRR 396) but also even when there is a majority vote (ll. 69–70).

¹⁷² ZACHARIAE, GGRR 395–396; KASER, RZP 502.

¹⁷³ SIMON, *Zivilprozeß* 26.

¹⁷⁴ For an example of intermediate decisions, made in response to individual pleas (*παράγραφαι*) by the defendant, see the Peira (17.14). On *παράγραφαι* see KASER, RZP 472–474; SIMON, *Zivilprozeß* 64 ff.

¹⁷⁵ C.1.4.2; C.7.62.36. KASER, RZP 506–507.

¹⁷⁶ See the commentary on novel IV, p. 198.

and three years respectively (ll. 83–105).¹⁷⁷ The time limit was calculated from the beginning of the suit,¹⁷⁸ that is, from the first appearance of the parties in the court, and not from the date of the preferment of the indictment or the court's notification of the defendant. As in the Basilika, the declaration of the time limitations is accompanied by a statement of the penalties which are to be inflicted on judges found guilty of causing the case to go over the allotted time, with the difference that Manuel's penalty for the heads of the courts and the subordinate judges (ll. 96–101) is more severe than that of Justinian's law. Litigants responsible for exceeding the time limits are punished equally, the penalties being similar to those inflicted on litigants who are in contempt of court (see above, ll. 47–53).

Up to this point the measures announced have been attempts to speed up the judicial process by reiterating older laws which had fallen out of use. In the following three cases (ll. 106–113; 114–124; 125–133) Manuel changes existing laws in order to accelerate court procedure.

In disputes settled by oaths (ll. 106–113)¹⁷⁹ the intervals of the three summonses are reduced from thirty to fifteen days. The legislation which enacted the three thirty-day summonses, a novel of Michael Doukas (1074),¹⁸⁰ stated that oaths were to be used as a means of resolving cases in which no objections could be raised against witnesses or other evidence presented.¹⁸¹ Thus, the oath was used when there was insufficient evidence on which to decide the case.¹⁸² The party which did not answer the summonses lost the suit.

¹⁷⁷ See also N. III, ll. 81–83, for a reference to B.7.6.13 and the Peira (51.2) where this measure is said to exist for the benefit of the judges, giving them ample time for very complicated cases.

¹⁷⁸ C.3.1.13.1 (a. 530); KASER, RZP 496; 500–501.

¹⁷⁹ DÖLGER, Regesten N. 1647, has identified this measure as the one to which a chrysobull of Alexios III (1198) for the Venetians refers: ZEPOS, IGR I, 469–480, esp. 479, 14–21. The chrysobull states that lawsuits involving Greeks and Venetians are not to require 20 or 30 day bills of indictment, as commonly holds, but are to be regulated according to the novel of Manuel 'on lawsuits between foreigners and native citizens': *secundum novam constitutionem ... Manuelis Comnani, factam de iudiciis, que inter extraneos et indigenas cives conservantur* (479, 18–21). However, neither this measure (ll. 106–113), nor any other in N. II, has to do with lawsuits between citizens and foreigners. Alexios' chrysobull probably refers to a novel of Manuel which has not survived. On the chrysobull see now R.-J. LALIE, *Handel und Politik zwischen dem byzantinischen Reich und den italienischen Kommunen Venedig, Pisa und Genua in der Epoche der Komnenen und der Angeli, 1081–1204* (Amsterdam 1984), 48 and note 107.

¹⁸⁰ Coll. IV N. 6; DÖLGER, Regesten N. 1004. A novel of the empress Eirene (797–802) had attempted to cancel the practice of oath-swearing by witnesses as a means of resolving disputes. Oaths sworn by parties in litigation were not mentioned in that novel. See L. BURGMANN, *Die Novellen der Kaiserin Eirene*, FM IV (1981) 28–29 and n. 63. It is not clear from this measure of Manuel on oaths whether the oath-taking applied only to parties in litigation or also to witnesses.

¹⁸¹ ZEPOS, IGR I, 281, 19–24.

¹⁸² Also, Peira (69.2): "Ὅτι ἐπὶ ἀπορίᾳ πασῶν ἐπιδείξεων ὄρκος ἐπάγεται.

The time allowed for bringing an appeal to a Constantinopolitan court (ll. 114–124) seems likewise to have been decreased. The two-year limit in the *Basilika* (9.1.33),¹⁸³ is reduced to one year, although the provincial who appeals in the capital is given an additional time allowance, the ‘legal period of time’ (ll. 120–121), calculated on the basis of the distance of the province from Constantinople.¹⁸⁴ It appears from the passage that appeals could be made to any one of the courts of Constantinople or to the emperor’s court which might be identical with one of the four (l. 222) courts or one the emperor chose to constitute and caused to convene.¹⁸⁵

A further reduction in time is made in the case of provincials who bring lawsuits of the first instance¹⁸⁶ to the emperor (ll. 125–126), against *praktōres* or other provincial officials (ll. 125–133). The bills of indictment in such cases are to have an eight-day limit, as opposed to the normal twenty days in other cases (B.7.12.9 (7)).¹⁸⁷ The person against whom charges were brought had to appear in court within eight days of receiving the court’s summons.

The following section (ll. 134–162) interrupts the time-saving measures with which the novel has been concerned and deals with abuses of earlier legislation, a novel of Romanos Lekapenos ‘which enacted the claim concerning pre-emption’ (ll. 135–136).¹⁸⁸ The ways in which the law is circumvented are exposed and measures designed to put an end to abuses are prescribed.

Romanos’ novel of 922, enacted to prevent the ‘powerful’ (δυνατοί) from acquiring the lands of small-holders, gave precedence of purchase, when immovable property was about to be alienated, to people who held land in common (ἀνακοίνωσις, l. 147), or to neighbours (πλησιασμός, l. 146).¹⁸⁹ In Manuel’s time this law was being circumvented by those whom it had attempted to exclude (ll. 136–142), as well as those on whose behalf it had ostensibly been enacted (ll. 146–150).

¹⁸³ See too the Peira (75.1) and Alexios I’s novel on appeal time-limits (ZEPOS, IGR I, 348–349; DÖLGER, Regesten N. 1113).

¹⁸⁴ B.6.21.2 = N.69.2 gives periods from 4–9 months. Of course the distances within the empire in Manuel’s time were considerably smaller and the ‘legal period of time’ commensurately so.

¹⁸⁵ ZACHARIAE, GGRR 356, 357.

¹⁸⁶ Ibidem, 356.

¹⁸⁷ See note 163 above.

¹⁸⁸ Coll. III, N. 2: ZEPOS IGR I, 198–204. DÖLGER, Regesten N. 595. P. LEMERLE, Esquisse pour une histoire agraire de Byzance, *Revue historique* 219 (1958), 266; transl. *The Agrarian History of Byzantium* (Galway 1979) 86, has expressed doubts as to the attribution, date and text of this novel. See the counter-comments by G. OSTROGORSKY, *History of the Byzantine State* (Oxford 1968), 273 n. 1. There can be little doubt that this law (N. 2) was the one ‘which enacted the claim concerning pre-emption’.

¹⁸⁹ For the five groups of people who are to have the right of pre-emption, in a fixed order of precedence, see novel 2: ZEPOS IGR I, 201,13–202,12 and the analysis by LEMERLE, *op. cit.*, 93–94.

In the first case, the outsider who had no right of pre-emption was acquiring property through *antichresis*, that is by taking the property in usufruct as a substitute for interest on a loan he had made and holding onto it even after repayment of the loan. Manuel deals with this evasion of the law by stating that the right of pre-emption is to hold also in the case of *antichresis*, and the novel's regulation concerning gifts is to apply to *antichresis* as well (ll. 155–157). Romanos' novel, in its present form, in fact contains two contradictory statements on gifts. One clause stipulates that those who do not enjoy the right of pre-emption can be given property as a gift, although those who have the right of pre-emption on the property can demand an oath from the donor and the recipient, to ensure that the gift is not being used as a cover for selling the property to an outsider.¹⁹⁰ The second reference to gifts in the novel forbids the *dynatoi* to receive anything, even 'for use only', from the *eutelesteroi*, unless related to them. Whoever violates this regulation must restore the property and pay a fine.¹⁹¹ Manuel is perhaps referring to this second regulation on gifts, since the statement forbidding the 'powerful' to receive anything, including things given *κατὰ μόνην χρῆσιν*, is appropriate to the case of *antichresis*.

Also responsible for circumventing Romanos' novel are the small-holders themselves who sell property to those who have no right of pre-emption, getting around the law by holding onto the land which lies in proximity to the neighbour with the right of pre-emption (ll. 146–153). In response to this abuse Manuel ordains that the right of proximity is to apply to the entire property, not only to the neighbouring piece of land (ll. 157–160).

Misuse of Romanos' novel was certainly not new and Manuel responded as his predecessors had, by reiterating the terms of that novel.¹⁹² By enacting such legislation, giving an opportunity to those cheated of their right of pre-emption to pursue their claims in court, Manuel was, on the face of it, fulfilling his duty to defend the unjustly treated.¹⁹³ What more specific aims he might have had, what power group or groups he might have been attempting to check, is a question which is open to speculation.¹⁹⁴

¹⁹⁰ ZEPOS IGR I, 203,7–24.

¹⁹¹ ZEPOS, IGR I, 203, 25–28; 203,39–204,1. SVORONOS, *Les privilèges* 350–352, argues that this passage was a later addition to the original novel. However, any addition would have been made by the eleventh century and therefore could have been part of the text of the novel known in Manuel's time.

¹⁹² See G. OSTROGORSKY, *The peasant's pre-emption right*, *Journal of Roman Studies* 37 (1947) 117–126, for an account of circumvention of the law and reiterations of its regulations by Manuel's predecessors.

¹⁹³ See the *prooimion*, ll. 20–35.

¹⁹⁴ For an interpretation see SVORONOS, *Les privilèges*, 352–354; 380. On the small-holders in the Comnenian period see LEMERLE, *The Agrarian History* (as in n. 188), 201 ff.

In the next passage (ll. 163–199) the court procedure is outlined which is to hold in cases of disputes arising from wills bequeathing money or property for pious ends (ll. 172–173) and administered by men appointed by the testator (ll. 171–172). The normal procedure is waived in favour of a speedier one. One stage is eliminated altogether – that of the preferment of the bill of indictment – and a shorter time limit is fixed for the court's notification (l. 180).¹⁹⁵ This quicker procedure, however, is to take into account the law (B.23.2.2) which states that the descendants of the deceased are not to be summoned to court until 9 days have passed since the death (ll. 186–189).

The practice described here, that of appointing an *epitropos* (ll. 164–165) to administer the terms of a will, and naming Christ or God heir to the legacy, is well-attested in surviving wills.¹⁹⁶ Christ might be named heir when the entire legacy, or only a part of it, was allocated to pious works. Donations made, whether to build and maintain religious foundations, to care for the needy, or to pay for commemorative prayers, were considered gifts for God, contributing to the salvation of the donor's soul.¹⁹⁷ To administer the 'inheritance of the Lord' the testator appointed one or more *epitropoi*,¹⁹⁸ charged with fulfilling the terms of the will and ensuring that the distributions were made according to his wishes. The *epitropos* might also be an heir to the will's legacy.¹⁹⁹

The need to ensure that the donations for pious purposes were not delayed, either by heirs who would not make the payments, or by *epitropoi*, was also expressed in Justinianic law where a six-month limit, from the time of the will's opening, was given for the payments.²⁰⁰ The Nomocanon, too, specifies time-limits within which the terms of the will should be filled.²⁰¹ In both cases, if the

¹⁹⁵ For the normal procedure see above ll. 48–49 and notes 162, 163.

¹⁹⁶ E.g. Michael Attaleiates, (1077), *Διάταξις*, ed. P. GAUTIER, REB 39 (1981), 25, 131–133: καθιερώ ... ταῦτα τῷ ... Θεῷ καὶ κληρονόμον αὐτὸν ταύτης τῆς προσαγωγῆς μου ἐνίστημι; 35, 286–288: ἐνίστημι μετὰ τὸν Κύριον ἡμῶν Ἰησοῦν Χριστὸν καὶ Θεὸν κληρονόμον καὶ κύριον καὶ διοικητὴν ... τῆς θείας ταύτης κληρονομίας τὸν ... γνήσιόν μου υἱόν. Boilas (1059), ed. P. LEMERLE, in *Cinq Études sur le XI^e siècle byzantin* (Paris 1977) 29, 273–275: Ἐπὶ τούτοις δὲ πᾶσι καταλιμπάνω ἐπιτρόποις τῆς ἐμῆς ταλαιπώρου ταύτης διατυπώσεως, ἐν πρώτοις μὲν τὸν παντοκράτορα κύριον καὶ τὴν αὐτὸν ἀσπόρως τεκοῦσαν ...

¹⁹⁷ On ψυχικά see E. F. BRUCK, *Totenteil und Seelgerät im griechischen Recht* (Munich 1926) 279 ff.; 302; 312. P. I. ZEPOS, «Ψυχάριον», «Ψυχικά», «Ψυχοπαίδι», Δελτίον τῆς Χριστιανικῆς Ἀρχαιολογικῆς Ἑταιρείας 10 (1980–81), 17–27. P. LEMERLE, op. cit., 101 n. 81; Attaleiates, ed. GAUTIER, op. cit., 23, 97–99: Οὗτος δὲ ὁ ... Θεὸς ... θυσίαν ἡγεῖται ταῦτα, ὅσαπερ ἐκείνω διὰ τῆς τῶν πενήτων εὐποίας εἰσίοισμεν.

¹⁹⁸ ZACHARIAE, GGRR 161–165. See the case of Attaleiates who was *epitropos* of his wife's will, together with his mother-in-law, and appointed his son executor of his own will: ed GAUTIER, op. cit., 19, 28–34; 35, 281–291.

¹⁹⁹ E.g. Attaleiates' son was both *epitropos* and heir; see the discussion by LEMERLE (as in note 196), 102.

²⁰⁰ Novel 131.12.

²⁰¹ Rh.-P. I, 82–83.

epitropos caused delays, he was to be replaced by a bishop.²⁰² Manuel's novel, concerned with the wills of inhabitants of Constantinople, makes the emperor responsible for replacing *epitropoi*. In his absence, the eparch²⁰³ and the *oikonomos* of the Great Church²⁰⁴ were to take over the administration of the will (ll. 194–196) and to report to the emperor or again, in his absence, to the patriarch.

The passage on fines (ll. 200–216) is concerned with reestablishing a legal practice which had fallen out of use – payment of fines in cases of breach of contract. Although agreements made between parties included a clause concerning fines payable if one of the parties failed to fulfil the terms, according to Manuel, judges, showing inappropriate kindness, were not exacting payment. As a result, there were no restraints on those who wished to claim more than their due (ll. 210–211).

The problem expressed in this section can be found also in the legislation of Romanos II²⁰⁵ and Alexios I,²⁰⁶ each of whom describes breach of contract as a common and unbridled offence, laying the blame on the non-exaction of fines. Like them, Manuel enacts legislation restating the need to reinforce payment of fines but his legislation is more explicit in naming everything which could be required to be restored in cases of breach of contract. In addition to the penalty of the law, that is the fine,²⁰⁷ the law could demand that the offender return everything taken, as well as the profits due from those things (ll. 206–210).

The final section (ll. 217–226) deals with the allocation of judges and advocates²⁰⁸ to the four law courts. The distribution is to be made equally to each

²⁰² Novel 131.10.2; Rh.-P. I, 83.

²⁰³ See the role of the eparch in novel IV, ll. 97–100; 108–110.

²⁰⁴ On the *oikonomos* see DARROUZÈS, 'Οφφίχια, 303–309.

²⁰⁵ ZEPOS, IGR I 244–246; DÖLGER, Regesten N. 691 (a. 959–963).

²⁰⁶ ZEPOS, IGR I 296–298; DÖLGER, Regesten N. 1083 (a. 1082).

²⁰⁷ According to Alexios I's novel the fine was payable to the fisc: ZEPOS, IGR I 297, 19–20, and ZACHARIAE, GGRR 307–308.

²⁰⁸ According to ZACHARIAE (GGRR 362, n. 1279), Balsamon's commentary on Nomocanon 8, 13 indicates that the distribution or allocation of advocates was a thing of the distant past until Manuel reintroduced it in novel II. Balsamon, writing in the late twelfth century (he refers to the patriarch Michael *o tou Anchialou* [1170–1178] as deceased), reports a case from the patriarchate of Loukas (1157–1169/70) in which a deacon argued that formerly (τότε) advocates were appointed (τεταγμένοις) to the civil courts and received a salary from the emperor and were civil *archontes*, whereas today (σήμερον) advocacy is practised as a 'free pursuit' (ἐλευθερίον τι σπούδασμα): Rh.-P. I, 159–160. Whether this case took place before the promulgation of novel II in 1166 or after, it cannot be inferred from it either that Manuel's novel changed the state of affairs or that the novel had no effect in this area. Rather, Balsamon's case seems to be making a different point about advocates: in former days they were public servants, members of a guild, in receipt of a salary from the emperor; today advocacy is open to all, including non-professionals. In any

court of law (l. 222). The heads of the four courts are named, three of whom are responsible for the allocations: the *megas droungarios*, the *protasekretis*, and the *dikaiodotes*.²⁰⁹ These functionaries are mentioned as heads of courts also in the *Ecloga Basilicorum* (c. 1142).²¹⁰ The *megas droungarios* had presided over a court since the mid-eleventh century,²¹¹ while the *dikaiodotes* is documented in this position from the late eleventh,²¹² and the *protasekretis* only from the twelfth century.²¹³

The identity of 'the official who presides over *demosiaka dikasteria*' (l. 223) is problematic. Unlike the other three heads of the courts his title is not given, nor does he take part in the distribution of the judges and advocates. However, the *Ecloga Basilicorum* also mentions this official and can perhaps provide some help in identifying him. The commentator on a passage (B.9.1.91), concerning the invalidity of decisions given by judges in cases where they do not have jurisdiction, gives the following example: 'the *katholikos*, that is to say, he who presides over and cares for *demosiaka pragmata*, is permitted to take care of *demosiaka* only, and does not have jurisdiction over *idiotika pragmata*'.²¹⁴ The distinction drawn in the passage between *demosiaka* and *idiotika* could be one between fiscal and private affairs or public, that is, criminal (*ius publicum*) versus civil. If the first interpretation is correct, then this *prokathemenos* would have been a functionary in charge of fiscal affairs, perhaps the *megas logariastes*,²¹⁵ who is attested as the head of a court in the late twelfth

case, Manuel's measure, calling for the allocation of advocates to the courts, implies that professionals practised advocacy at that time.

²⁰⁹ The heads of three courts are named with their honorific titles. On these see ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 126–127; IDEM, REB 22 (1964), 163–167. It is possible to identify the men who presided over the three courts at the time of the novel's promulgation, from the lists of the synodal meetings of March 1166: Andronikos Kamateros, *megas droungarios*, Makrembolites, *protasekretis*, Theodoros Pantechnes, *dikaiodotes* and *epi ton oikeiakon*: ΣΑΚΚΟΣ, 'Ο πατήρ μου μείζων μου ἐστίν (as in note 1), 98.

²¹⁰ For the references to the *Ecloga Basilicorum* passages see ZACHARIAE, GGRR 375 n. 1353.

²¹¹ ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 133–134, with references; ZACHARIAE, GGRR 374–375; V. LAURENT, Le Corpus des Sceaux de l'empire byzantin II (Paris 1981), 465 and N. 896. For the role of the *megas droungarios* in registering the novels of 1166, see the discussion above, p. 106.

²¹² ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 135; LAURENT, op. cit., 478 and N. 905.

²¹³ The *protasekretis* is first attested as the head of a court in the *Ecloga Basilicorum* (see ZACHARIAE, GGRR 375 n. 1353). On the earlier function of the *protasekretis* as a chancery official with judicial attributes, see ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 131, LAURENT, op. cit., 5.

²¹⁴ Ecl. B. 9.1.91: ὁ καθολικὸς ἡγουν ὁ προϊστάμενος καὶ φροντίζων τῶν δημοσιακῶν πραγμάτων ... μόνων γὰρ τῶν δημοσιακῶν φροντίζειν ἐπιτέτραπται καὶ δικαιοδοσίαν οὐκ ἔχει ἐπὶ τοῖς ιδιωτικοῖς πράγμασιν. This passage and others cited in the commentary are from the forthcoming edition by L. BURGMANN.

²¹⁵ ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 140–141; F. DÖLGER, Beiträge (as in n. 50), 17–19.

century.²¹⁶ The second possible explanation was suggested by Zachariae, who proposed the eparch, as the head of a criminal court.²¹⁷ On the basis of present knowledge, neither hypothesis can be favoured. However, the fact that the official who presides over *demosiaka dikasteria* is not named by title, either in the novel or in the *Ecloga Basilicorum*, and did not take part in the allocation of judges and advocates could be an indication that the presidency of this court was never attached to a particular office.

Novel II, concerned with civil and criminal cases in Constantinopolitan courts, provides a picture of court procedure in Manuel's time and earlier, to which the publication of the *Ecloga Basilicorum* will no doubt add. It does not, according to Manuel's own admission, constitute a reform in the sense of radical change for the better (ll. 213–216) but rather aims at correcting abuses and providing restraints by reiterating older legislation and introducing some modifications to it.

III

Novel III (διάταξις, ll. 116, 210; θεσμοθέτημα, ll. 209, 217) on court recesses is part of the same legislative 'package' as novel II. Both laws were issued in March 1166²¹⁸ with the identical aim of providing 'right judgement' (εὐθυδικία)²¹⁹ by making the courts accessible and by accelerating the judicial process. While novel II introduces many different measures to this end, novel III concentrates on one, the reduction of the number of court holidays.

The situation which both novels propose to correct is one in which lawsuits remain unresolved over and beyond the legal period of time (novel II, l. 28: 'eternal lawsuit'; novel III, ll. 79–81).²²⁰ In his discussion of novel III, Kinnamos, a *grammatikos* under the emperor Manuel, testifies to the slow judicial

²¹⁶ Actes de Lavra (as in n. 47), NN. 67, 68, pp. 345–360: tribunal of 1196 headed by the *megas logariastes* and *logothetes* of the *sekreta* John Belissariotes. It seems likely that Belissariotes was appointed to head the tribunal in his capacity as *megas logariastes*, since the case was a fiscal one. For another opinion see P. LEMERLE, Notes sur l'administration byzantine (as in n. 50), 263–264. For a tentative identification of Belissariotes' tribunal with that of the *prokathemenos* of *demosiaka dikasteria* see ΟΙΚΟΝΟΜΙΔΗΣ, L'Évolution, 133 n. 42.

²¹⁷ GGRR 376.

²¹⁸ DÖLGER, Regesten N. 1466.

²¹⁹ εὐθυδικία, also a theme in novel I, combines the meanings of a direct or immediate judgement, without delays, and fair (right) judgement: s.v. εὐθυδικία: LIDDELL and SCOTT, Greek-English Lexicon (Oxford 1966); ἰσθδίκη, LAMPE, Patristic Greek Lexicon (Oxford 1961).

²²⁰ Both novels refer to the three year limit for civil cases, two for criminal ones: novel II, ll. 83–87; novel III, ll. 81–83 = B.7.6.13.

process when he comments that he had personal experience of people who had grown old and even died during litigation.²²¹ The responsibility for this situation is assigned, in novel II, to the negligence of the judges who, among other things, convene court only intermittently (ll. 40–43); in novel III the inaccessibility of the courts and the long spun-out cases are attributed to the profusion of holidays.

The prooimion (ll. 7–102) to novel III provides a justification for limiting the number of holidays which the courts are to observe. The theme, God is better served by showing compassion to one's fellow man than by keeping holiday, a statement supported by a quotation from the prophet Hosea, is reinforced and reiterated throughout the prooimion by other scriptural citations.²²² God's preference for mercy is revealed not only in the Old Testament (ll. 31 ff.), but also in the New, through Christ's actions and words (ll. 41–52): He Himself broke the Sabbath in order to heal and treat the sick and oppressed.

Healing imagery is used in the prooimion to develop an analogy between Christ's work of salvation on the Sabbath and the effects of the emperor's cancellation of holidays. Those who have suffered an injustice are compared to the wounded who seek a remedy (ἰαμα: l. 18) at the courts but, finding these closed on account of the service (θεραπεία: l. 25) of God, become even more ill (ll. 25–27). The remedy appropriate to the injuries which these patients have sustained, right judgement, is inaccessible, but the emperor, by reducing the number of holidays, can make treatment available to them.²²³

The imagery used in the prooimion for injustice and its victims – the greedy hand which inflicts bruises, the wounded – and the analogy of law with medicine is common to novels II and III and, indeed, is not unusual either in prooimia to novels or in descriptions of legislation. However, in the case of Manuel's legislation, the theme and its development has an added interest because of this emperor's knowledge and practice of medicine.²²⁴

²²¹ Kinnamos, ed. MEINEKE, 276,15–21. Although Kinnamos does not quote directly from the legislation, he gives an accurate summary of the law (276,15 – 277,7) and his reference to lawsuits which had no end could indicate that he had some knowledge of the text of the novel. See CHALANDON, *Les Comnènes* (as in n. 21), II/2, xvii, for a different opinion.

²²² See HUNGER, *Prooimion*, 191, for the structure.

²²³ On μίμησις Θεοῦ with regard to showing mercy, as one of the imperial virtues, see Agapetos, *Ἐκθεσις κεφαλαίων παρανετικῶν*, PG 86, 1176. For the themes μίμησις Θεοῦ and θεραπεία in prooimia, see HUNGER, *Prooimion*, 58–63; 130–137. The healing metaphor here is developed through an analogy borrowed from medical theory (ll. 14–19) and plays on the words θεραπεία (service, treatment) and ἔλεος (mercy), ἔλαιος (oil as a medicament). See Justinian, novel 111: ὅπερ τὰ φάρμακα ταῖς νόσοις, τοῦτο παρέχουσι τὰ νόμιμα τοῖς πράγμασιν.

²²⁴ For healing imagery in other legislation of Manuel see novel II, prooimion, and Coll. IV N. 56 (1148) (ZEPOS, IGR I, 376–378, esp. 377, 1–7; reedited by SP. LAMPROS, *Ὁ Ἰατὴρ τοῦ*

Manuel's legislation on holidays, promulgated after deliberation with the patriarch and synod (Il. 104–106),²²⁵ provides a calendar of all the holy days in the year which are to be observed as recess-days by the courts. On these days, as *archontes* who were part of the imperial court, the judges had a ceremonial function to perform which included procession²²⁶ to the church in which the liturgy was to be celebrated, attendance at the liturgy, banquets, and chariot races in the Hippodrome.²²⁷ This ceremonial is attested in manuals of the late ninth and tenth centuries, but by Manuel's time the races at least were probably not a regular part of holy day celebrations.²²⁸

The calendar of holidays is presented in two sections, full recess-days (Il. 128–173) followed by half-days (Il. 174–205), each list beginning with September, the first month of the new year. The full holidays are essentially feasts from the Gospel Cycle,²²⁹ commemoration of the Apostles²³⁰ and Church

Μανουὴλ Κομνηνοῦ (as in n. 56), 323, 17–22; DÖLGER, *Regesten* N. 1372). In the latter the chrysobull is compared to a doctor (ιατὴρ) who cures 'lame' rights. Contemporaries praised Manuel's knowledge of drugs and his ability to diagnose, naming specific cases: Kinnamos, ed. MEINEKE, 190; Eustathios, oration for the emperor Manuel, ed. W. REGEL, *Fontes Rerum Byzantinorum* (St. Petersburg, 1917, repr. Leipzig 1982) I, 12; Eustathios, funeral oration for Manuel, ed. T.L.F. TAFEL, *Eustathii Opuscula* (Frankfurt 1832, repr. Amsterdam 1964), 206, 3 ff. The greater knowledge of, and concern with, disease and therapy evident in eleventh and twelfth century literature is discussed by M. MULLETT, *The classical tradition in the Byzantine letter*, in *Byzantium and the Classical Tradition*, edd. M. MULLETT and R. SCOTT (Birmingham 1981), 90.

²²⁵ GRUMEL, *Regestes* N. 1057.

²²⁶ J. NICOLE, ed., *The Book of the Eparch* (Geneva 1893, repr. 1970) I, 4; Vita S. Euthymii, ed. P. KARLIN-HAYTER, *Byzantion* 25–27 (1955–1957), 28; R. JANIN, *Les processions religieuses à Byzance*, *REB* 24 (1966), 69–72 (= *Mélanges V. Grumel*); Philotheos, ed. OIKONOMIDÈS, *Les listes de préséance*, 135 ff.

²²⁷ PH. KOUKOULES, *Βυζαντινῶν Βίος καὶ Πολιτισμὸς* (Athens 1949) III, 25–42.

²²⁸ Benjamin of Tudela mentions races in connection with Christmas celebrations in Manuel's reign: M.N. ADLER, transl., *The Itinerary of Benjamin of Tudela* (London 1907) 12. See now C. MANGO, *Daily Life in Byzantium*, *JÖB* 31/1 (1981) (= XVI. Internationaler Byzantinistenkongress, *Akten* I/1), 344 ff., repr. in *Byzantium and its Image* (London 1984), who argues for a greatly reduced number of races by the tenth century, let alone the twelfth.

²²⁹ The moveable feasts of Lent, Ascension and Pentecost are listed separately (Il. 169–170), while Easter appears in the calendar between 25 March and 25 April, the two dates between which it oscillates: V. GRUMEL, *La chronologie byzantine* (Paris 1958) 310–311. The 'mid-way points' (αἱ μεσοτητες: l. 169) of Lent and Pentecost are the Wednesdays of the fourth week of each period: see Constantine Porphyrogenetos, *De cerimoniis*, ed. REISKE, 98, 17: τῇ τετραδί τῆς μεσοπεντηχοστῆς: 535, 7: τῆς μεσονηστήμου; also J. MATEOS, *Le Typicon de la Grande Église* (Rome 1962) II, 42; 120; BECK, *Kirche*, 255.

²³⁰ The Twelve Apostles are celebrated as a group, as well as individually, with the addition of the evangelists Mark and Luke, the emperors Constantine and Helen, and Thaddaios and Alphaios. The Apostle Thaddaios (20 August), one of the Seventy, is to be distinguished from the Apostle Judas, also known as Thaddaios (19 June): *Dictionary of Christ and the Gospels*, ed. J. HASTINGS (Edinburgh, New York 1908) II, 725–726. Alphaios, also (called) Judas (26 May), is described as the brother of the Lord in the *Typikon* of the Great Church (ed. MATEOS [as in note

Fathers,²³¹ and Sundays, while the half-days, mornings, until the liturgy has been celebrated (ll. 120–124),²³² honour martyrs²³³ and other saints, anniversaries of the translation and deposition of relics.²³⁴ The list of holidays which claims to be complete (ll. 214–215),²³⁵ contains 125 full recess-days²³⁶ and 28 half-holidays, or 116 and 24 days respectively, if one takes into consideration the days which might coincide with a Sunday or a moveable feast in any given year.²³⁷

The significance of these figures becomes clear only when it is known how many holidays were removed to arrive at the reduced calendar. Something of the process is revealed by the novel itself: there were 'partial' cancellations, or the creation of half-holidays in the case of 28 days (ll. 120–122; 174ff.) and complete cancellations. Manuel names two holidays which were to be struck off the calendar, the emperor's birthday and accession day (ll. 206–208).²³⁸ These are

229], I, s.v. 26 May). He is perhaps to be identified with Judas, brother of James, brother of the Lord (19 June) or with Alphaios, father of James (9 October). Two holidays each are assigned to two of the Apostles, John (26 September: Assumption; 8 May: death) and Bartholomew (11 June: martyrdom; 24 August: deposition of relic).

²³¹ To each of the Church Fathers Chrysostomos, Athanasios, Cyril, and Gregory the Theologian is assigned one whole and one half holiday, commemorating their deaths and the translation of their relics.

²³² See Kinnamos, ed. MEINEKE, 277, 6–7: τὰς δὲ πρῶτῃ μὲν ἀποκεκλεισθαι τοῖς δικολάβοις, δεῖλῃν δὲ ἄπασαν ἀνεῶχθαι.

²³³ Of the martyrs, Theodore Stratelates is assigned two holidays: 7 February (martyrdom), 8 June (translation of relic). Two pairs of saints named Cosmas and Damian are commemorated, one martyred in Rome (1 July), the other, from Asia, who died a natural death (1 November): see L. DEUBNER, *Kosmas und Damian* (Leipzig, Berlin 1907) 66–67; 80.

²³⁴ Translations of the relics of the Church Fathers (see note 231) and deposition of the Robe and Girdle of the Theotokos: see N. BAYNES, *The Finding of the Virgin's Robe*, *Byzantine Studies and other Essays* (London 1955) 240 ff.

²³⁵ The novel makes no provision for holidays created suddenly, as the occasion arose, such as celebrations of victories or the birth of a porphyrogenetos. Holidays could be proclaimed work-days, if necessary, but no new holidays could be created, according to the novel (ll. 115–119). See the references in the *Basilika* (7.17.13, 18) to suddenly-announced holidays, repeated, with commentary, in the *Ecloga Basilicorum*: διὰ τινὰ συμβᾶσαν αἰτίαν αἰωνίδιον ἀπρακτοὶ ἡμέραι γένωνται, ἤγουν διὰ νίκην τινὰ ἐν πολέμῳ γενομένην.

²³⁶ The 125 days consist of 35 for Christmas and Easter, 35 single holidays for the Apostles, etc., 3 days for the mid-way points of Lent, Pentecost, and for Ascension day (ll. 169–170) and 52 Sundays (l. 171).

²³⁷ Calculated for the year 1166–1167.

²³⁸ On the question of Manuel's date of birth (15 August or 28 November), see the discussion by P. GAUTIER, *L'Obituaire du Typikon du Pantocrator*, *REB* 27 (1969), 258–260. Manuel's accession day was approximately Easter (4 April) 1143, according to Choniates (ed. VAN DIETEN, 41, 1 ff.; ed. BEKKER, 55, 8 ff.). See also P. SCHREINER, *Die byzantinischen Kleinchroniken* (Vienna 1975) I, 18/2 and the commentary in II, 166–167. For a discussion of this passage in the novel (ll. 206–216) see M. ANGOLD, *The Date of the Synopsis Minor of the Basilics*, *BMGS* 4 (1978) 1–7. On the celebration of the birth and accession days of an emperor see KOUKOULES (as in n. 227), II/1, 35–36; 39–49.

mentioned in the context of setting an example and would not seem to constitute the total number of recess-days which Manuel removed.

Some indication of the nature of the reductions Manuel made can be sought in a comparison with other sources on holidays – legislation, and ceremonial manuals which describe the protocol for the emperor and his court on holidays. These sources date from the late ninth and tenth centuries. The earliest, the *Basilika*, lists the following recess-days for the law courts: Sundays, Christmas and Epiphany, Easter, the Passion of the Apostles.²³⁹ These holidays also constitute a large part of Manuel's calendar, as they are the major feast days. However, Manuel's calendar has a much more developed holiday cycle and comparison with the *Basilika* gives the impression of a great accumulation of holidays from the late ninth century on. But this discrepancy in the number of holidays may have more to do with the nature of the *Basilika* than an actual later increase in recess-days. For the *Basilika*, it could be argued, as a collection of earlier legislation, reflects practice contemporary with its source and does not aim to provide an up-to-date calendar.²⁴⁰ Main holidays from the Gospel cycle such as Ascension and days associated with the Theotokos, although already holidays at the time of the compilation of the *Basilika*,²⁴¹ are missing from its holiday list. Conversely, a holiday which almost certainly was not observed in the ninth century, the anniversary of the foundation of Old Rome (21 April), is included in the *Basilika*.²⁴²

The same problem arises with respect to the use of the holiday list of the *Ecloga Basilicorum* (c. 1142) as a comparison for Manuel's calendar. This twelfth-century commentary on the *Basilika* records the holidays mentioned in

²³⁹ B.7.17.19, 23, 24, 26, 27. In addition, no criminal case was to be tried during Lent (B.7.17.22); compare with Manuel's mid-way point holiday for Lent (ll. 169–170). It is not clear whether one day (30 June) is meant by *μνήμη τοῦ πάθους τῶν ἁγίων ἀποστόλων* (B.7.17.23) or the commemoration of each apostle individually. The *Ecloga Basilicorum* (7.17.9) refers to *αἱ μνήμαι τοῦ πάθους τῶν ἁγίων ἀποστόλων*.

²⁴⁰ On the *Basilika*, and its date see P. PIELER, *Byzantinische Rechtsliteratur*, in H. HUNGER, *Die hochsprachliche profane Literatur der Byzantiner* (Munich 1978) II, 455–456; G. OSTROGORSKY, *History of the Byzantine State* (Oxford 1968) 244 and note 2.

²⁴¹ The treatise written by Philotheos (a. 899) under Leo VI records these holidays (see also note 246 below). One might argue that the holidays in the treatise were introduced by Leo VI (886–912) after the promulgation of the *Basilika* early in his reign; however, several of these holidays are known to have been introduced by the time of Basil I (867–886) under whom the *Basilika* was compiled: the Dormition of the Theotokos (15 August), the Annunciation (25 March), the Exaltation of the Cross (14 September). See Beck, *Kirche*, 260–261, for the origins of these holidays. For the date and composition of Philotheos' treatise see OIKONOMIDÈS, *Les listes de préséance*, 65–72.

²⁴² B.7.17.23: It is missing from the holidays in Philotheos' treatise.

the *Basilika* and does not add to them.²⁴³ Therefore, none of the holidays known to have been introduced since the compilation of the *Basilika* is to be found in the *Ecloga Basilicorum*. This applies, for instance, to the commemoration of the Church Fathers Athanasios, Basil, Gregory Nazianzenos, Gregory of Nyssa, John Chrysostomos, Cyril and Epiphanius, introduced as holidays by Leo VI.²⁴⁴ Like the *Basilika*, then, the *Ecloga Basilicorum* does not aim at producing a definitive lists of recess-days and thus, although it is much closer to Manuel's calendar in date, it cannot be used to determine the nature and extent of Manuel's cancellations.

In contrast to these legislative collections, the ceremonial books of Philotheos and Constantine Porphyrogennetos do, on the whole, reflect contemporary practice of the late ninth and mid-tenth century. Philotheos' treatise (899) on the hierarchy to be observed at imperial banquets provides in principal an exhaustive list of the feasts of the year at which banquets are given, beginning with December.²⁴⁵ Philotheos describes the protocol for the basic Gospel cycle feasts²⁴⁶ and a few others commemorating the Exaltation of the Cross (14 September), John the Theologian (8 May), and the prophet Elias (20 July). To these, Constantine Porphyrogennetos' Book of Ceremonies of the mid-tenth century adds holidays for martyrs and other saints.²⁴⁷ However, although the list given by Constantine Porphyrogennetos is larger than that of Philotheos, it still contains nothing like the number of holidays in Manuel's novel. Missing from it are days commemorating the Apostles, Church Fathers, many martyrs, Gospel cycle feasts, and anniversaries of the translation and deposition of relics.

²⁴³ Ecl. B.7.17.2, 3, 8, 9, 10, 13, 18, 22 esp. Ecl. B.7.17.9.

²⁴⁴ N. 88: NOAILLES/DAIN (as in n. 167), 293-294.

²⁴⁵ OIKONOMIDÈS, *Les listes de préséance*, 165 ff. The ceremonial treatises of Philotheos, Constantine Porphyrogennetos and Pseudo-Kodinos begin their descriptions of protocol in December, with Christmas, unlike liturgical books which follow the indiction cycle (September-August). Philotheos' explanation of his starting-point is that with Christ's birth the beginnings of divine grace became apparent in the world; the emperor imitates Christ's appearance among men by holding a banquet (OIKONOMIDÈS, *Les listes de préséance*, 165, 17-22). See also Constantine Porphyrogennetos, *De cerimoniis*, ed. REISKE, 35 ff. and the commentary by A. VOGT, *Constantin VII Porphyrogénète, Le Livre des cérémonies* (Paris 1935, repr. 1967) I (commentary), xxii-xxiv. For Pseudo-Kodinos, ed. J. VERPEAUX, *Traité des Offices* (Paris 1966) 189 ff.

²⁴⁶ OIKONOMIDÈS, *Les listes de préséance*, 165-225: Christmas, Epiphany, the Purification of Christ (2 February), Easter and other moveable feasts, the Transfiguration (6 August), the Theotokos' Birthday (8 September), Annunciation (25 March) and Dormition (15 August).

²⁴⁷ *De cerimoniis*, ed. REISKE, 121; 136; 559-560; 562: Demetrios, the Archangel Michael, the Forty Martyrs, Cosmas and Damian (1 November and 1 July), Panteleimon; besides these saints, John the Theologian, Prodromos (Decapitation), Basil of Caesarea.

There are some indications that the discrepancy in the holiday calendars of Constantine VII and Manuel should be attributed to omissions in the former rather than additions made in the tenth to twelfth centuries. While new holidays could always have been introduced, for instance on the occasion of the foundation of a church or the translation of relics,²⁴⁸ the recess-days in Manuel's calendar not found in earlier lists do not belong to this category of holy day but rather are days commemorating individual Apostles and saints. The holiday of most recent introduction to Manuel's calendar would seem to be the translation of the relics of Gregory the Theologian (19 January), dating from the reign of Constantine VII.²⁴⁹ The presence of holidays in Manuel's novel not found in earlier lists could of course be attributed to 'revivals' of days which had ceased to be observed as recess-days but were reintroduced as holidays in the period between Constantine VII and Manuel. However, a more likely explanation is that the greater number of these days were already holidays in Constantine VII's time but were not included in his ceremonial book. For some days this can be stated with certainty: the commemoration of the Church Fathers, legislated by Leo VI.²⁵⁰ These holidays might have been left out of the Book of Ceremonies because they were of less importance for the ceremonial of the imperial court than events in the life of Christ, *δεσποτικαὶ ἑορταί*, around which the ceremonial treatises were organised.²⁵¹

Although, then, the ceremonial books contain fewer holidays than Manuel's calendar and thus do not help to estimate the scale of the emperor's cancellations, they do mention some holidays not found in his list. Among these are: the Broumalia, or name day celebrations of the emperor in late November, early December,²⁵² the anniversary of the foundation of Constantinople (11 May),²⁵³ the Baptism or Immersion of the Cross (1 August).²⁵⁴ However, because of the

²⁴⁸ For example, the holiday commemorating the Cross in the palace built by Romanos Lekapenos (920–944): De cerimoniis, ed. REISKE, 532–535; R. JANIN, Constantinople byzantine (Paris 1964), 127–128; the translation of the hand of Prodhomos (7 January) under Romanos II and Constantine VIII (961–963): Synaxarium Ecclesiae Constantinopolitanae, ed. H. DELEHAYE (Propylaeum ad Acta Sanctorum Novembris, Brussels 1902), s.v.: 7 January.

²⁴⁹ DELEHAYE, op. cit.: 19 and 25 January.

²⁵⁰ See note 244.

²⁵¹ See note 245.

²⁵² Philotheos: OIKONOMIDÈS, Les listes de préséance, 223, 26–225. This holiday was renewed by Constantine Porphyrogennetos: Theophanes Continuatus, ed. I. BEKKER (Bonn 1838), 456, 21 ff.; De cerimoniis, ed. REISKE, 600, 13–607; KOUKOULES (as in note 227) II/1, 25–29; 36–38.

²⁵³ OIKONOMIDÈS, Les listes de préséance, 215, 9–11; De cerimoniis, ed. REISKE, 340–349; G. DAGRON, Naissance d'une capitale: Constantinople et ses institutions de 330 à 451 (Paris 1974), 37–42.

²⁵⁴ De cerimoniis, ed. REISKE, 538–541; MATEOS, Le Typicon de la Grande Église (as in note 229), I: 1 August.

paucity of references to holidays in sources, it is not possible to determine whether Manuel was responsible for removing these days from the holiday calendar of Constantinople or whether they had ceased to be celebrated before his time.²⁵⁵

Other holidays mentioned by Philotheos and the Book of Ceremonies, and not in Manuel's novel, are more likely to have been discontinued before Manuel's time because of their dynastic associations which would have lost their significance with the change in ruling family:²⁵⁶ *enkaenia* of the New Church built by Basil I, 1 May;²⁵⁷ the 5-day commemoration of the prophet Elias, extended from 1 day to 5 because of the association of this feast day with Leo VI's release from internment on 20 July 886;²⁵⁸ St. Diomedes, 16 August, associated with Basil's accession to the throne;²⁵⁹ the memory of the emperor Basil I, 29 August.²⁶⁰

In comparison with these ninth and tenth century holiday lists, Manuel's is conspicuous for its lack of days devoted to events in the life of the emperor, his ancestors, the city and its churches. Also not represented in Manuel's calendar are holidays commemorating deliverance from plague, earthquake or enemy attack. These lacunae could be indications of the kinds of holidays Manuel removed, but it is impossible to be more precise.²⁶¹ Likewise, the scale of his cancellations cannot be determined. It may be that the reductions were mainly

²⁵⁵ There is ambiguous evidence in Russian chronicles concerning the celebration of the feast of the Cross (1 August) as late as ca. 1163–1164. See the discussion by GRUMEL, *Regestes* N. 1054.

²⁵⁶ An exception is the 'Union of the Church', a day commemorating the end of the schism in the Church created by Leo VI's fourth marriage, celebrated from 920 and marked by a procession (*De cerimoniis*, ed. REISKE, 186–187), and the reading of the *τόμος τῆς ἐνώσεως* on the second Sunday in July each year. This day, although closely associated with Leo VI and Constantine VII, continued to be commemorated in the 12th century and later, because it celebrated the restoration of peace to the church. See N. OIKONOMIDES, *Leo VI and the Narthex Mosaic of Saint Sophia*, *DOP* 30 (1976), 153–172, esp. 170, with references. As the Union of the Church was always celebrated on a Sunday, a holiday in any case, it does not appear on Manuel's calendar.

²⁵⁷ OIKONOMIDÈS, *Les listes de préséance*, 215, 1–8; *De cerimoniis*, ed. REISKE, 118–121; 189; JANIN, *La géographie ecclésiastique de l'empire byzantin III* (Paris 1969), 361–364.

²⁵⁸ OIKONOMIDÈS, *Les listes de préséance*, 215, 17–219, 11 and note 252 (p. 215); *De cerimoniis*, ed. REISKE, 114–118: a note claims that Basil I introduced the feast for the prophet Elias; see also VOGT (as in note 245), I (commentary), 130; 133.

²⁵⁹ OIKONOMIDÈS, *Les listes de préséance*, 221, 10–19; Theophanes Continuatus, ed. BEKKER, 223–224; JANIN, *op. cit.*, 95–97.

²⁶⁰ OIKONOMIDÈS, *Les listes de préséance*, 221, 10–19.

²⁶¹ One holiday mentioned in connection with Manuel's reign and absent from his calendar is that of the Holy Notaries, saints Markianos and Martyrios (25 October). According to Balsamon, the patriarch Loukas (1156–1169/70) suppressed the unseemly behaviour of the notarial students on this feast day: *Rh.-P. II*, 451–452; GRUMEL, *Regestes* N. 1093. Was this a holiday for the courts or only for notaries?

in the 'partial' holidays, the creation of half-holidays from whole ones. In any case, Zachariae von Lingenthal's deduction that before Manuel's promulgation of the novel there were scarcely 156 days in the year available for court sessions, attributing to novel III a large role in holiday reductions, must remain speculative.²⁶²

IV

In novel IV (διάταγμα, ll. 150–151) on wilful murderers and their punishment, promulgated in April 1166,²⁶³ the emperor Manuel makes his starting-point a novel of the emperor Constantine VII Porphyrogennetos, whose legislation on asylum in the church for killers had led to abuses which Manuel attempts to check. The background to Manuel's novel, the specific case which brought the need for new legislation to his attention, is related by the contemporary canonist Theodore Balsamon²⁶⁴ whose account contributes to our knowledge of the problem which the crime and its regulation posed in his time.

The long prooimion which constitutes approximately one half of the entire novel is divided into two parts: the scriptural evidence (Old and New Testament) with regard to murder and asylum, as well as that of the older civil law (ll. 10–40), and a summary of Constantine VII's novel, with a description of the ways in which it was misused (ll. 40–82). An announcement of the emperor's aims in promulgating new legislation follows (ll. 89–92), and serves to link the prooimion to the *dispositio*.²⁶⁵

The prooimion, in effect, provides a sketch of the history of legislation on murder and reveals the position of Constantine's novel within this context. The examples of murder from the Old Testament illustrate that immediate retribution is visited on him who undertakes a killing. An allusion to Christ's words confirms and reinforces this evidence, while the testimony from the older civil law leaves no doubt that the murderer is considered unworthy of being spared. Civil law, like Mosaic law, barred him who killed deliberately and wilfully from

²⁶² ZACHARIAE, GGRR, 362–363, connected the statement in novel II (ll. 40–43) that judges should be in session at least 3 times per week ($3 \times 52 = 156$) with the reduction of holidays legislated in novel III, and concluded that the latter was promulgated in order to make 3 sessions per week possible. However, the context in which the number of sessions is stipulated in novel II is that of the judges' 'negligence', and not that of official holidays which make it impossible for courts to convene.

²⁶³ DÖLGER, Regesten N. 1467.

²⁶⁴ Rh.-P. IV, 237; GRUMEL, Regestes N. 1071; see below, pp. 197, 202–203, for a discussion of the passage.

²⁶⁵ See HUNGER, Prooimion, 178–179.

the help afforded by sanctuary (ll. 32–38).²⁶⁶ All the sources quoted act as a foil for Constantine VII's novel which stands alone in its affirmation of the right of asylum for murderers. The 'confrontation' of the authority of holy and human law with Constantine's law occurs in the transitional sentence 'Ἀλλ' ὅτι μὲν ... Πεπὶ δὲ (ll. 39 ff.).

These introductory lines, then, expose the isolation of Constantine VII's law in the face of scriptural testimony and that of the older civil law. Constantine VII's (944–959) undated novel (Coll. III, N. 11),²⁶⁷ in confirming the church's right to grant asylum to murderers, did indeed mark a departure from previous legislation.²⁶⁸ Although the right of asylum had been recognised and regulated by civil law from the fourth century,²⁶⁹ Justinian had expressly denied several criminals, including the murderer, help from this source, arguing that it was given by the law 'not to those who commit injustice but to those who are the victims of injustice'.²⁷⁰ Constantine's legislation supposedly arose from the need to reconcile this law of Justinian with the privilege which the same emperor was said to have given the Great Church when he built it, granting asylum to murderers in that church.²⁷¹ Constantine discussed the problem of Justinian's

²⁶⁶ The prooimion, as well as the rest of the novel, is concerned with the wilful (ἐκούσιος), not the involuntary (ἀκούσιος), killer for whom Mosaic law did provide sanctuary: Exod. 21.13; Num. 35.10; Deut. 4.41–42.

²⁶⁷ DÖLGER, Regesten N. 677.

²⁶⁸ For the 'background' to Constantine's legislation see two letters of Arethas, archbishop of Caesarea, addressed to Leo VI and the *magistros* Kosmas at the beginning of the tenth century, in which the problem of asylum for criminals, and killers in particular, is discussed. These letters show that the questions, which criminals should be given asylum and what immunity they should receive, were very much open ones at that time: L.G. WESTERINK, *Arethae Archiepiscopi Caesariensis Scripta Minora I* (Leipzig 1968) no. 29, pp. 257–259; no. 30, pp. 260–264; text, translation and commentary in K.D. TRIANTAPHYLLOPOULOS, 'Ἀνέκδοτος περὶ ἀσυλίας ἐπιστολὴ τοῦ Ἀρέθα πρὸς Λέοντα τὸν Σοφόν, Πελοποννησιακά 5 (1961), 1–20; IDEM, 'Ελληνικαὶ Νομικαὶ Ἰδέαι ἐν τῷ Βυζαντινῷ ποινικῷ δικαίῳ, Ἀρχεῖον Ἰδιωτικοῦ Δικαίου 16 (1953) (Festschrift Fr. Pringsheim), 172–183. For an analysis and dating of the letters see P. KARLIN-HAYTER, *Aréthas et le droit d'asile*, *Byzantion* 34 (1964), 613–618 (repr. in *Studies in Byzantine Political History* [London 1981]).

²⁶⁹ CT 9.45.1 (a. 392); 9.40.16 (a. 398); 9.45.3 (a. 398); 9.45.5 (a. 432). BECK, *Kirche*, 75; ZACHARIAE, *GGRR*, 326–330; E. HERMAN, *Zum Asylrecht im byzantinischen Reich*, *OCP* 1 (1935) 204–238; J. KOTSONES, *Ἀσυλον*, *ΘΗΕ*, III (1963), 432–434; TROIANOS, 'Ὁ «Ποινάλιος», 3–6.

²⁷⁰ Nov. 17.7 (a. 535). For the point of view that Justinian's prescription forbidding killers, adulterers and rapists asylum was not overturned by the prescription in the *Ecloga* on asylum (17.1), see TROIANOS, 'Ὁ «Ποινάλιος», 4.

²⁷¹ The question of Justinian's privilege for the Great Church is problematic. There survive two chrysobulls for this church ascribed to Justinian: LEUNCLAVIUS, *IGR*, 72; C.E. ZACHARIAE A LINGENTHAL, ed., *Imp. Iustiniani Novellae ... I* (Leipzig 1881), XI–XIII; M. AMELOTI and L. MIGLIARDI ZINGALE, *Scritti teologici ed ecclesiastici di Giustiniano* (Milan 1977), 203–205; 207–209; *Prochiron auctum*, 39.249. However, these chrysobulls, whose authenticity is in doubt

seemingly contrary statements in novel 10²⁷² which can be seen as laying the foundation for novel 11.²⁷³ In this law he resolved to replace the severity of the former legislation (Justinian's novel 17.7) with the benevolent censure of the ecclesiastical laws, accepting asylum for murderers. Constantine did not name the Great Church expressly as the place of refuge for murderers; rather he seems to have extended to the church in general the right to grant asylum to killers.²⁷⁴ However, all later summaries of his novel and references to it, including Manuel's (ll. 41–42), specify the Great Church in connection with Constantine's law on asylum.²⁷⁵

The summary of Constantine's novel (ll. 43–53) retains some of its images and language²⁷⁶ but departs from it in its account of the punishments stipulated by Constantine. In novel 11 Constantine distinguished between two degrees or categories of intentional (ἐκούσιος) murderer, the one who kills without preme-

because of their irregular transmission, do not contain the right of asylum for murderers which Constantine VII's novel discusses. Either the chrysobulls as we have them are corrupt or the *pro-nomion* to which Constantine refers was a forgery. Certainly no other source mentions it. Although Arethas discusses the prominent position which the Great Church had with regard to asylum, he ascribes this to an old tradition, not an imperial privilege: see note 268 above, and WESTERINK, *op. cit.*, 257.

²⁷² Coll. III, N. 10: ZEPOS, IGR I 230–231; DÖLGER, Regesten N. 676.

²⁷³ The *lemmata* to novels 10 and 11 give the impression that while novel 10 disavows asylum for murderers, novel 11 accepts it. See DÖLGER, Regesten N. 676, N. 677, and ZACHARIAE, GGRR, 345–346, whose interpretations of the novels appear to have been influenced by the *lemmata*. However, if one disregards these, novel 10 can be understood to accept asylum, particularly in the case where the confession to the crime is made voluntarily (ἐκούσιως). Furthermore, I would suggest that novels 10 and 11 were originally *one* novel. Later sources always refer to *one* novel by Constantine VII on asylum, yet mention points not made in novel 11: i.e. that asylum for murderers was granted with respect to Hagia Sophia and that asylum was given to murderers who confessed voluntarily. For these points see Garidas' scholion 2 to B.60.39.3: ὁ γοῦν διὰ φονικὸν ἐγκλημα τῇ τοῦ Θεοῦ μεγάλῃ ἐκκλησίᾳ προσφεύγων ... εἰ δὲ ἐκούσιως ἐπραξέ, καὶ ἐκούσιως πρὸς τὴν μετάνοιαν ἦλθεν, ... ρυθμίζεται δὲ τῇ ἰα' νεαρχῇ διατάζει τοῦ βασιλέως Κωνσταντίνου τοῦ Πορφυρογεννήτου; similarly, the Ecloga Basilicorum on B.6.3.28+31+33. As both these points are contained in novel 10 (see note 272), it might be more useful to regard novel 10 as a *pro-nomion* to novel 11. However, final judgement on the matter must be reserved until a new edition appears.

²⁷⁴ The Great Church is not named in novel 11 but only in novel 10 in connection with Justinian's privilege for that church (ZEPOS, IGR I 230, 9–12). In novel 11 Constantine speaks in general terms of 'the great and holy privilege of the churches' (ZEPOS, IGR I 233, 11–12) which his legislative solution maintains, and appears not to have intended to grant asylum for murderers only in the Great Church.

²⁷⁵ Garidas scholion 2 to B.60.39.3; Ecloga Basilicorum B.6.3.28+31+33 (see note 273); Attaleiates, *Ponema*, Appendix I, ιβ; Synopsis Minor, Φ, 28.

²⁷⁶ Compare, for instance, ll. 44–45: περινοστεῖν ... ὑπεδέξατο with Constantine's expression (ZEPOS, IGR I 233, 25–27): ll. 46–47: τὸν ἀδελφικὸν ... θάνατον with ZEPOS, IGR I 234, 22; ll. 47–48: ἀποκείρεσθαι πάντως ... τοῖς μοναχοῖς ἐγκαταλεγέντας with ZEPOS, IGR I 234, 23.

dition and he who commits a premeditated murder,²⁷⁷ a distinction Manuel also observes in his legislation (ll. 94–95; 111). Constantine did not include a discussion of the person who kills ‘unwittingly’ and ‘by mistake’ because, as he explained in novel 10, such a person has nothing to fear from the law concerning murderers, nor does he need asylum.²⁷⁸

The punishments Constantine applied to each of the two categories of murderer are recorded in Manuel’s novel (ll. 43–50) in a simplified form which is not completely true to its source: exile for life from the place where the killing took place, for the person who murders without premeditation; life-exile and the tonsure for life, after other penalties have been inflicted, for the murderer with premeditation. This summary of the punishments differs from Constantine’s novel on one main point: it refers to ‘other penalties’ (l. 49) only in connection with *one* category of murderer, he who kills with premeditation (ll. 45–49), while Constantine’s novel stipulates that *both* categories of killer are subject to other penalties. Manuel does not give details of these but says they are to be found in novels issued on these matters. Constantine’s novel is, to my knowledge, the only surviving legislation on the question²⁷⁹ and, according to his novel, the other penalties were loss of all property²⁸⁰ and loss of the right to exercise office and to hold a title.²⁸¹ The property was not confiscated by the fisc but was divided into three parts, one for the children of the criminal, one for the monastery (in the event that the murderer took the tonsure), and one for the wife and children of the victim. If the murderer did not enter a monastery, the wife and children of the victim were to receive two-thirds of the murderer’s property.²⁸²

²⁷⁷ ΖΕΡΟΣ, IGR I 234, 25–28: τοὺς δὲ ἄλλως ἐκουσίως μὲν ἀνηρηκότας, προπετεία δὲ καὶ συναρπαγῇ ἀλογίστου θυμοῦ, οὐ μελέτη καὶ προπαρασκευῇ καὶ προβουλίῳις τὰ τῆς μαιφονίας ἐπιδειξαμένους; 234, 20–22: πλὴν τοὺς μὲν περιουσίᾳ κακίας μελέτην θεμένους τὴν τοῦ πλησίον σφαγὴν καὶ αὐτὸ τοῦτο προεுτρεπισαμένους καὶ παρασκευασαμένους.

²⁷⁸ ΖΕΡΟΣ, IGR I 231, 3–4: ὁ μὲν κατὰ ἄγνοϊαν φονεύων... See notes 285, 313 and p. 201. For a category of killer between ἀκούσιος and ἐκούσιος, see Garidas’ scholion to B.60.39.3 (ἀκούσιος ἐγγὺς ἐκουσίῳ) and Balsamon on canon 13 of Basil (φονεῖς ἐκουσιοακούσιοι): Rh.-P. IV, 133.

²⁷⁹ The Peira (66.14) refers to a novel which had its origins in old laws (ἐκ παλαιῶν νόμων τὰς ἀφορμὰς δεξαμένη), prescribing punishment for the murderer with regard to his property. The legislator is not named and asylum is not mentioned but the measures for the division of the property of the murderer are the same as those given in Constantine’s novel. There may have been older legislation concerning the division of the murderer’s property which has not survived but which Constantine used in his novel, applying it also in the case of the murderer who obtained asylum.

²⁸⁰ ΖΕΡΟΣ, IGR I 233–234: β’.

²⁸¹ ΖΕΡΟΣ, IGR I 234, 16–19.

²⁸² On the question of the property division, see M. A. TOURTOGLOU, Τὸ φονικὸν καὶ ἡ ἀποζημιώσις τοῦ παθόντος (Athens 1960), 23–53. His study deals with Constantine’s novel in some detail.

In Constantine's novel the only difference in punishment inflicted on the person who killed intentionally but without premeditation, and the murderer with premeditation, lay in the taking of the tonsure – optional for the former but enforced in the case of the latter.²⁸³ However, the summary of Constantine's punishments in Manuel's novel gives another impression of these, assigning a much heavier penalty to the murderer with premeditation than Constantine's legislation contains. Other commentators on Constantine VII's novel such as Garidas, writing under Constantine Doukas (1059–1067) and the anonymous compiler of the *Ecloga Basilicorum* (c. 1142) understood the 'other penalties' as applying to the first category of murderer if not also to the second.²⁸⁴ The reason for Manuel's different account is not clear. What is more, it is not only in his summary of Constantine's novel that Manuel refers to more punishments for the murderer with premeditation. In his own regulations as well, the emperor assigns property penalties only to this category of murderer (ll. 126–130).

As Manuel remarks (ll. 50–53), Constantine VII failed to mention those who commit murder but do not seek asylum in the Great Church. He surmises that Constantine intended these men to be punished with the full weight of the law. The civil law on killing, as recorded in the *Basilika* (60.39.3.5), did not make a distinction between the degrees of wilful murder – unpremeditated and premeditated murder – with regard to the punishments it exacted, but rather was applicable to all murderers (ἀνδροφόνου), so long as intention to kill was present.²⁸⁵ This law did, however, exact a different punishment in accordance with the social position of the criminal.²⁸⁶ For the *entimoi* the penalty was exile and confiscation of property, a punishment characterised as a capital one, involving loss of rights as a citizen, as well as loss of property to the fisc. For the *euteleis* the punishment was death.²⁸⁷ A comparison of these punishments with those

²⁸³ ZEPOS, IGR I 234: γ', also 233,37 – 234,3.

²⁸⁴ Scholion 2 to B.60.39.3: καὶ τοὺς μὲν προπετεῖα φονεύσαντας οὐ καταναγκάζει τὸν μονήρη βίον ἐλέσθαι, ἀειφυγία δὲ κατακρίνει καὶ ἀτιμία, καὶ ἀφαιρέσει τῶν προσόντων· τοὺς δὲ ἐκ προβουλίου καὶ μελέτης φονεύσαντας καὶ ἄκοντας ἐνδύει τὸ μοναχικὸν σχῆμα καὶ εἰς μοναστήριον ἐμβάλλει παρ' ὅλον τὸν τῆς ζωῆς χρόνον αὐτοῦ. *Ecloga Basilicorum*, 6.3.28+31+33: εἰ μὲν κατὰ προπέτειαν, οὐκ ἀναγκάζονται ἀποκαρῆναι, ἀειφυγία δὲ κατακρίνονται καὶ ἀτιμία καὶ ἀφαιρέσει τῶν προσόντων καθυποβάλλονται, εἰ δὲ ἐκ προβουλίου καὶ μελέτης τὸν φόνον ἐτέλεσαν, σὺν ταῖς ἀνωτέρω ῥηθείαις ποιναῖς καὶ εἰς μοναστήριον ἄκοντας ἐμβάλλονται; also, Attaleiates, *Ponema*, Appendix I, ιβ'; Synopsis Minor, Φ.28; Armenopoulos, *Hexabiblos*, 6.6.4.

²⁸⁵ The law concerning murderers, *lex Cornelia de sicariis*, required evidence of malice or intention to kill: B.60.39.5, 13, 17.

²⁸⁶ On unequal punishment according to social status see M.A. TOURTOGLOU, Κοινωνικαὶ τινες ἐπιδράσεις ἐπὶ τὸ βυζαντινὸν δίκαιον, *Ἐπετηρίς τοῦ κέντρου ἐρεῦνης τῆς ἱστορίας τοῦ Ἑλληνικοῦ δικαίου τῆς Ἀκαδημίας Ἀθηνῶν* 12 (1965) 169–198, esp. 170–171; 186–187.

²⁸⁷ B.60.39.3.5: Ἡ ποινὴ ἡ κατὰ ἀνδροφόνων, ἐπὶ μὲν τῶν ἐντίμων περιορισμός ἐστι καὶ τελεῖα δήμευσις· ἐπὶ δὲ τῶν εὐτελῶν, ζῖφει καὶ θηρίοις ὑποβλήθηται.

in Constantine's novel reveals considerable advantages for the murderer who obtained asylum, especially in the case of the *euteles* whose life was saved by asylum. For the *entimos* the advantage was also great since at least a part of his property could remain with his family, instead of being confiscated.²⁸⁸

The difference in the punishments provided by Constantine's law and the penalties for murderers in the older Roman law helps to explain how Constantine's novel, far from acting as a deterrent, practically became a license to kill. In the passage describing the effects of Constantine's law (ll. 54–60), Manuel reveals his attitude toward asylum for wilful murderers and the legislation which had enacted it. He indicates that the compassionate treatment of the killer, which Constantine's law made possible, is inappropriate; those who kill intentionally are not deserving or needful of mercy (ll. 60–62). This attitude, which was expressed in the opening lines of the prooimion through the citation of the scriptures and civil law, is here reiterated in the context of the results which Constantine's legislation produced.

The relatively weak penalties in Constantine's novel are further weakened by their inadequate or even non-application. In his exposition of the abuses of his predecessor's legislation, Manuel blames both civil and military officials (*archontes*) in the themes.²⁸⁹ One of the basic penalties for the murderer in Constantine's novel, life-exile (*ἀειφυγία*), is being totally disregarded (ll. 63 ff.). Constantine had intended this not only as a punishment for the killer but also as a kindness to the dead man's family, to lessen their pain and to prevent the possibility of further killings in revenge.²⁹⁰ However, the corrupt state of the *archontes*, of which Manuel has cause to complain in another novel,²⁹¹ makes them indifferent to catching the murderer or ensuring that he is sent away from the scene of the crime. They go so far as to help the killer obtain asylum in the Great Church.

²⁸⁸ For the significance of the reduction of the punishment from *περιορισμός* (B.60.39.3.5) to *ἐξορία* (*ἀειφυγία*) in Constantine's novel see B.60.54.14: Πολλὴ διαφορὰ ἐξορίας καὶ περιορισμοῦ· ὁ μὲν γὰρ περιορισμὸς καὶ τὴν πολιτείαν καὶ τὴν οὐσίαν ἀπόλλει· ἡ δὲ ἐξορία ἐκάτερον φυλάττει, εἰ μὴ ἰδικῶς δημευθῇ; TOURTOGLOU, *Tò φονικόν* (as in note 282), 45–46.

²⁸⁹ In this novel, the word *θέμα* is used both in its technical sense, as an administrative unit (ll. 66, 71, 93) and as a synonym for *ἐπαρχία* and *χώρα*, the province as opposed to the capital (l. 106). See the discussion of the term by H. GLYKATZI-AHRWEILER, *Recherches sur l'administration de l'empire byzantin aux IX^e-XI^e siècles*, *Bulletin de Correspondance Hellénique* 84 (1960), 78–79 (repr. in *Études sur les structures administratives et sociales de Byzance* [London 1971]).

²⁹⁰ ZEPOS, IGR I 233: α'.

²⁹¹ Coll. IV, N. 65: ZEPOS, IGR I 387–389; DÖLGER, *Regesten* N. 1380, also quoted in a *prostagma* of Isaac II: J. DARROUZÈS, *Un décret d'Isaac II Angélos*, *REB* 40 (1982) 147–149.

Manuel implicates the church as well in the bad or non-application of Constantine's punishments. In two instances (ll. 57-58; 78-80) his comments can be read as hints that something has gone wrong, although he does not always accompany his remarks with details. Constantine had prescribed that the church apply its penalties (*epitimia*) first, before life-exile and the other civil punishments.²⁹² Manuel implies (ll. 56-58) that the matter never goes beyond the church. The murderer, having received his 'letter of pardon' (γράμμα συμπαθείας)²⁹³ from the church, returns home. This sequence of events is reflected in a formula περὶ φονέως which survives in fifteenth-century manuscripts but reflects to some extent practice of an earlier time.²⁹⁴ The formula describes the procedure for assigning penances to a murderer who has sought asylum in Hagia Sophia. After making his confession, the murderer receives a document (γράμμα τῶν ἐπιτιμίων) in which his penances are described. According to the formula, the document was to be given by the penitent to someone who could read, so that he could be reminded of his penances. But it had another function as well; it contained a warning to civil officials and relations of the victim not to interfere with the murderer in any way but to allow him to carry out the penances to save his soul. The document or letter is said to have been given to him for security (εἰς ἀσφάλειαν).²⁹⁵ The presence of the warning to officials and relations in a formula shows to what extent this procedure was taken for granted.

Two patriarchal documents from the year 1059²⁹⁶ give further evidence for the practice outlined in the formula. The cases described in the documents concern a slave and a priest who had sought asylum in Hagia Sophia and confessed to killing, or inciting others to kill. The documents issued by the patriarch contain references to the ecclesiastical penalties to be applied to the murderers;

²⁹² ZEPOS, IGR I, 233: α'.

²⁹³ For examples of such documents, issued by patriarchs, but in contexts other than asylum cases see GRUMEL, Regestes N. 826 (a. 1019), N. 894 (a. 1064-1067).

²⁹⁴ A. PAVLOV, Grecheskaia zapis o tserkovnom sudie nad ubitsami, pribiegaiushchimi pod zashchitu tserkvi, VV 4 (1897) 155-159. The formula is also contained in Lesbiacus Gymn. Mytil. 7, f. 278r-279r and Athous Ivion 290, f. 390v-391r. DARROUZÈS, 'Οφφίκια, 330-331, sees similarities in the procedure described in the formula and two eleventh-century sources.

²⁹⁵ PAVLOV, op. cit., 158-159. The recipient of a document issued εἰς ἀσφάλειαν could use it in his defense in court: see F. DÖLGER, Aus den Schatzkammern des heiligen Berges (Munich 1948), 283 f.

²⁹⁶ Σημείωμα συνοδικὸν περὶ δούλου ἐγκληματικοῦ: Rh.-P. V, 48-49; GRUMEL, Regestes N. 887; DARROUZÈS, 'Οφφίκια, 489. Περί τοῦ φονεύσαντος ἱερέως, καὶ καθαιρεθέντος, Rh.-P. V, 49-50; 571-572; GRUMEL, Regestes N. 888.

in addition, however, they include a clause about the immunity of the men from bodily punishment or any injury at all.²⁹⁷

In these cases, the punishment of life-exile does not appear to have been enforced. On the contrary, the murderer would seem to have returned to the scene of the crime with the letter from the church as a surety. The formula and the two patriarchal documents indicate that from the church's point of view asylum for the murderer included protection from physical and material punishments. As a justification for this behaviour the church could provide the argument, expressed in an eleventh-century patriarchal document, that the criminal who managed to reach the holy precinct was freed from every responsibility and injury – *πάσης ἀφ᾽ ἑαυτοῦ ἐνοχῆς καὶ κακώσεως* – because his arrival could not have been accomplished without divine providence and safe-keeping (*οὐκ ἄνευ θείας προνοίας καὶ σωτηρίας*).²⁹⁸ Manuel's account implies that the practice was more common than exceptional. This he seems to blame on the church as much as the civil officials.

Manuel's second reference to the church (ll. 78–80) in his exposition of the abuses of Constantine's novel should be read in connection with a passage in Balsamon's commentary on canon 74 of Basil the Great, where Balsamon quotes a sentence from the novel (l. 78 ff.: *περὶ δὲ τῶν γινομένων*).²⁹⁹ In his commentary on the power of bishops to bind and loose, Balsamon relates the specific case which, it is said (*λέγεται*), caused the emperor to promulgate his novel on murderers. The case was that of a soldier who had committed a murder and had been absolved in writing (*ἐγγράφως ἀδωωθέντος*) by a bishop after an inappropriately short time. When the emperor learned of it, he requested of the patriarch Loukas a synodal examination of the matter. The passage, then, in the novel in connection with which Balsamon relates the soldier's case is probably a veiled criticism of the way in which *epitimia* are assigned to murderers in the Great Church, and are administered.

²⁹⁷ Rh.-P. V, 49: *Πρὸς ἀποτροπὴν οὖν ... τῆς τε νομικῆς ἐπὶ τοῖς τοιοῦτοις καὶ δικαίας ἀποτολμίας, τοῦ μηδαμῶς εὐδύνεσθαι σωματικῶ θανάτῳ, μήτε μὴν ἐπηρεάζεσθαι, ἢ τιμωρεῖσθαι παρ' ἑτέρου προσώπου τὸν ἐκδεδομένον Δημήτριον, ἐγράφη τὰ διωρισμένα ἐκκλησιαστικῶ ἔδει ...*; Rh.-P. V, 50 (and 572): *Ὡστε δὲ ἄνετον μένειν αὐτόν, ἀνέπαφόν τε καὶ ἀνεπνέαστον, τὸ παρὸν καθαιρετικὸν γράμμα γραφῆναι καὶ ὑπογραφῆναι προετρέψαμεν ...* The Pavlov formula, as well as these two patriarchal documents, specifies that the man who has been given asylum is to remain *ἀνεπνέαστος*, free from injury or vexation. *Ἐπηρεία* is usually found in the context of harassment from provincial officials: see F. DÖLGER, *Beiträge zur Geschichte der byzantinischen Finanzverwaltung* (as in n. 215), 61. See also note 295 above.

²⁹⁸ Rh.-P. V, 49 (and 571); GRUMEL, *Regestes* N. 888.

²⁹⁹ Rh.-P. IV, 236–238; GRUMEL, *Regestes* N. 1071.

The description of abuses closes (ll. 82–89) with a lament on the deplorable crime rate in the Byzantine empire. Manuel compares the situation with that to be found among peoples who have no holy law to act as a deterrent, and yet commit very few crimes of killing. The allusion to the superior virtue of the ‘noble barbarian’, a theme which occurs also in novel III, serves to highlight the shameful discrepancy between the behaviour of the Byzantines and the less civilised ἔθνη.³⁰⁰

The first measure Manuel legislates (ll. 93–102) is one which aims at limiting the benefits of asylum to as few murderers as possible. This is in keeping with the attitude expressed in the prooimion, that murderers do not deserve the benevolent treatment which asylum provides. The emperor restores the emphasis to apprehension of the criminal and provides for better detection of the crime by threatening civil and military officials with the punishment for treason³⁰¹ should they be found not doing their best to catch the murderer (ll. 100–102). The apprehended criminal is to be subjected to ‘physical and material punishments’ (ll. 99–101) which, according to Balsamon, were the penalties recorded in the Basilika (60.39.3.5): exile and confiscation for the *entimoi*, death for the *euteleis*.³⁰² That punishments for the same offence might differ according to social status in Manuel’s reign also is shown by the discrepancies in penalties for *entimoi* and *euteleis* in Manuel’s edict of 1166 which was carved in marble and displayed in Hagia Sophia.³⁰³ It seems, however, that the death penalty stipulated in the Basilika for the *euteleis* would not have been executed under Manuel. In an oration to the emperor, Eustathios, metropolitan of Thessalonike, states that Manuel commuted sentences of execution to mutilation.³⁰⁴ Eustathios’ statement finds support in novel II, where Manuel

³⁰⁰ See novel III, ll. 97–102. For the ‘noble barbarian’ theme in other sources see Nicholas Mystikos, letter no. 32, ll. 217–220: edd. R. J. H. JENKINS and L. G. WESTERINK, Nicholas I, Patriarch of Constantinople, Letters (Washington D. C. 1973); Michael Attaleiates, *Historia*, ed. I. BEKKER, (Bonn 1853), 197, 4ff. and later Byzantine authors discussed by I. ŠEVČENKO, *The Decline of Byzantium seen through the eyes of its Intellectuals*, DOP 15 (1961), 180–181; S. VRYONIS, Jr., *The Decline of Medieval Hellenism in Asia Minor and the Process of Islamization from the Eleventh through the Fifteenth Century* (Berkeley 1971), 409–411.

³⁰¹ B.60.36: death, and confiscation of property; ZACHARIAE, GGRR, 336–337.

³⁰² Rh.-P. IV, 116. Basil II’s novel (a. 996) (ZEPOS, IGR I, 270: ε’; DÖLGER, Regesten N. 783), altering the unequal punishment by making the *entimoi* who murder also liable to the death penalty, does not seem to have been observed in Balsamon’s time.

³⁰³ For the text see C. MANGO, *The Conciliar Edict* (as in n. 1), 317 ff., esp. 329, 191–330, 195. See also above, p. 101, for a discussion of the edict.

³⁰⁴ SCOR. Y. II. 10, f. 42v: ἀλλ’ ἐκεῖνο καὶ θάνατον ψήφον ἐξενέγκοι ἂν ἕτερον, οὕτω δυσκίνητος εἰς πάθος θυμοῦ ὡς ἐνθα χρεῖα τομῆς τὰ [...] τὸ ἥπιον, καὶ πληγὴ σώφρονι μετριάζειν τὴν εἰς θάνατον ἐπεξέλευσιν, καὶ ὃν ἔδει τραυματίζομενον] ἀπελθεῖν, λόγοις σωφρονιζόμενον.

mentions the severe sentences pronounced by judges; mutilation is named but not execution.³⁰⁵

The role of the eparch here (ll. 97–100; 108–110), as in novel II, is that of filling in for the emperor in his absence from Constantinople, ensuring that the apprehended murderer is jailed, awaiting sentence, and sent into exile. These functions have more to do with the eparch's policing and administrative role in the capital than with the judiciary capacity he is known to have exercised until the eleventh century as head of a court.³⁰⁶

The measures prescribed in the rest of the *dispositio* (ll. 102 ff.) concern procedure in the event that a murderer has eluded the authorities and obtained asylum in the Great Church. Manuel's concern, in such cases, is to ensure that the punishments laid down in Constantine's novel are exacted. With one important exception (ll. 111 ff.), Manuel follows Constantine's regulations but gives more explicit instructions about the manner in which the penalties are to be applied, thus leaving less room for the abuses described above (ll. 54–80).

The murderer who absconds and seeks asylum in the Great Church is to have the ecclesiastical penalties applied to him first and then is to be sent into exile by the emperor himself or, in his absence, by the eparch. In this measure, Manuel follows Constantine but, unlike him, gives some indication as to how the punishment is to be applied, thus making it more difficult to abuse Constantine's regulation. In another measure also (ll. 141–146) Manuel shows his concern to enforce the penalty of life-exile, offering an incentive to those reporting a murderer who has returned to the scene of the crime.

In this passage concerning the enforcement of life-exile, Manuel mentions the church's censures (ἐπιτίμια: l. 104) explicitly for the first time. Constantine's novel refers to them only briefly, leaving their assignment and administration entirely to the church. For Manuel, however, they are the subject of considerable attention (ll. 131–140; 147–153); indeed, if we can believe Balsamon's account, an abuse connected with them was the reason for Manuel's legislation.

The next measure (ll. 111–130) contains the only real alteration Manuel made to Constantine's novel (ll. 90–92) and it is the one regulation which later compilations of legislation record when summarising Manuel's novel.³⁰⁷ Those who kill not only intentionally but also with premeditation are not to be forced

³⁰⁵ Novel II, ll. 79–82; ZACHARIAE, GGRR, 334, points out the ever-decreasing use of the death penalty.

³⁰⁶ See OIKONOMIDÈS, L'Évolution, 133 and note 46. For another opinion on the eparch's position at this time see ZACHARIAE, GGRR, 367, 376 note 1360.

³⁰⁷ SMin. Φ 29; H. 6.6.5. However, both give life exile and not life imprisonment as Manuel's substitution for the tonsure.

to take the tonsure and live in a monastery for the rest of their lives. According to Manuel, Constantine's punishment for this category of murderer is uncanonical, for it allows unsuitable people to become monks, without even a noviciate.³⁰⁸ He changes Constantine's provision from one of enforced tonsure to life imprisonment. He does not, however, completely exclude the possibility of the murderer's adoption of monastic life. Later (ll. 154–161) he adds that if a murderer wishes to take the tonsure, provided his resolve is tested the adequate length of time, he will be allowed to enter a monastery far from the scene of the crime.

Manuel's application of the punishment of life imprisonment to the criminal who has committed a premeditated murder assigns to prisons a wider use than is known to have existed up to that time. Prisons were most commonly places of short-term detention for people awaiting sentence (l. 98),³⁰⁹ while monasteries are well-attested as places of imprisonment for adulterers and criminals.³¹⁰ Manuel's attempt to stop this misuse of monastic life is in keeping with other reforms he undertook in his new foundation at Kataskepe to rid monastic life of worldly ties and concerns.³¹¹

Manuel, having dealt with the civil punishments – life-exile or life-imprisonment for the two categories of murderers – turns to the question of penances at the Great Church, their appropriate prescription and supervision (ll. 131–140; 147–153). Constantine's novel did not make any provisions in this area, leaving it entirely to the church. Manuel again introduces more surveillance and stricter regulation, to check the abuses of which he had become personally aware.

The first problem connected with penances which the emperor mentions – and he describes it as if it were the rule rather than the exception – is false confession (ll. 134; 139) which enables the person who has committed a premeditated murder to receive the punishments and penances appropriate to a person who has killed by chance and unforeseeingly (ll. 139–140). Confession was an essential element of asylum in the church, and it was on the basis of the state-

³⁰⁸ See canon 5, council of Constantinople (a. 861): three-year noviciate: IOANNOU I.2, 455–457; BECK, *Kirche*, 130–131.

³⁰⁹ Peira, 66.27; ZACHARIAE, GGR, 332; PH. KOUKOULES, Βυζαντινῶν Βίος καὶ Πολιτισμός (as in n. 227), 224–238.

³¹⁰ F. GORIA, *La Nov. 134.10; 12 di Giustiniano e l'assunzione coattiva dell'abito monastico*, Studi in onore di Giuseppe Grosso 6 (Turin 1974), 57–76. As a concession, in his chrysobull for Nea Mone, Chios (a. 1053), the emperor Constantine IX Monomachos ordained that exiles and convicts were not to be sent to the monastery: ZEPOS, IGR I, 636; DÖLGER, *Regesten* N. 910.

³¹¹ Choniates (ed. VAN DIETEN, 206–208; ed. BEKKER, 270–272); see the discussion by P. MAGDALINO, *The Byzantine Holy Man in the Twelfth Century*, in *The Byzantine Saint*, ed. S. HACKEL (London 1981), 63.

ment made in the confession that the 'sentence' was determined and the censures prescribed.³¹² Manuel implies that the confession was instrumental in determining not only the ecclesiastical censures (ἐπιτίμια) but also the civil punishments (ποινώας: l. 140). The ecclesiastical censures given to the person who sought asylum varied considerably both in kind and in duration, according to the nature of the crime, but also according to the person prescribing them. The unintentional killer (κατὰ τύχην, ἀπροόπτως: ll. 139–140) always received penances but not necessarily civil punishments.³¹³ Therefore the murderer who falsely confessed to having committed an involuntary killing could get away with no physical or material punishments. The measure Manuel introduces to avoid such a miscarriage of justice is the corroboration of the killer's confession by the bishop and his clergy, as well as the judge (διαιτητής: l. 137),³¹⁴ of the theme where the killing took place.³¹⁵

³¹² All sources attest to the central role of confession in asylum: Constantine Porphyrogenetos, N. 10: ΖΕΡΟΣ, IGR I, 231, 25; 27–28; Garidas' scholion 2 to B.60.39.3 (see note 273); the formula περὶ φονέως, ed. PAVLOV (as in note 294), 158–159; two patriarchal documents of 1059: Rh.-P. V, 48; 49–50.

³¹³ Although the word ἀκούσιος is not used in this passage, it seems from the reference to killing κατὰ τύχην καὶ ἀπροόπτως (ll. 139–140) that an accidental, involuntary killing is meant. The duration of the penances prescribed by the Church Fathers, synodal decisions, and penitential collections varied from 3–10 years (exclusion from holy communion) for cases of involuntary killing. See Basil, canon 57: ΙΟΑΝΝΟΥ II, 145; the council of Ankyra, canons 22 and 23: ΙΟΑΝΝΟΥ I.2, 71–72. On *epitimia* for murderers see M. V. STRAZZERI, *Drei Formulare aus dem Handbuch eines Provinzbisiums*, FM 3 (1979), 325 ff., esp. 337 ff., and the Table with examples of *epitimia* from cases of the eleventh to the fourteenth centuries (pp. 342–351). For the lack of civil punishments in such cases see Nomocanon XIV tit. 9.26, Rh.-P. I, 200: ἐπὶ δὲ τοῦ ἀκούσιου συγγνώμη δίδοται; Constantine VII, N. 10: ΖΕΡΟΣ, IGR I, 231, 3–4; Eustathios Rhomaïos' scholion to B.60.39.3; Balsamon, commentary to canon 43 of Basil: Rh.-P. IV, 190. A civil punishment was, however, exacted in the case of a killing committed through negligence, such as in a state of intoxication. See Nomocanon, Rh.-P. I, 200: ἐπὶ δὲ τοῦ κατὰ βλακείαν ἡγουν ἀμέλειαν φονεύοντος πενταετὴς ἐξορία; Constantine VII, N. 10, ΖΕΡΟΣ, IGR I, 230, 27–28; Eustathios Rhomaïos' scholion to B.60.39.3; ΤΡΟΙΑΝΟΣ, 'Ο «Ποινάλιος», 8.

³¹⁴ The word διαιτητής appears twice in relation to civil (ll. 93, 137) and once with regard to ecclesiastical officials (l. 148). Here (l. 137) the word seems to be used as a synonym for the *krites* or *praitor* known to have had administrative duties in mainland Greece, and for the *doux* who had such functions in Asia Minor. On the *krites*, *praitor* and *doux* see GLYKATZI-AHRWEILER (as in note 289), 67–77; J. HERRIN, *Realities of Byzantine Provincial Government: Hellas and Peloponnesos*, 1185–1205, DOP 29 (1975) 266 ff.

³¹⁵ Evidence for corroboration of the killer's confession is provided by the decisions of the archbishop of Ochrid, Demetrios Chomatenos (1215–1236), who enjoyed a quasi-patriarchal status in his see during the Latin occupation of Constantinople. Although it is plausible that Chomatenos, with his good knowledge of civil and canon law, was acting with Manuel's novel in mind, equally he could have been taking a common sense precaution as any conscientious man in his position would have done. For the cases see ΠΙΤΡΑ, *Analecta sacra et classica spicilegio solesmensi parata* VI (Paris, Rome 1891) nos. 76, 116, 129, 131; cols. 325; 499; 529; 533. On Chomatenos' status see A. D. KARPOZILOS, *The Ecclesiastical Controversy between the Kingdom of Nicea and the princi-*

The appropriate prescription of penances is dealt with a second time (ll. 147–153) but in this case the problem is seen to arise from the side of the prescriber of the penances. Manuel is concerned that the judges of such matters in the Great Church, whom he names *διαιτηταί*, a word he uses also of civil officials (ll. 93, 137),³¹⁶ should not show too much kindness in these cases by giving light *epitimia* or by shortening the time canonically allotted to acts of penance. He gives no specific instructions here but merely reminds them of the need to punish crimes of killing appropriately.

The *διαιτηταί* in the Great Church whom Manuel mentions should probably be identified with the members of the *ekdikeion* of Hagia Sophia, a body of clerics whose activity with regard to the asylum of killers is known from other sources of the twelfth century and later.³¹⁷ According to the formula *περὶ φονέως*, the killer made his confession before the *ekdikoi* but their head, the *protekdikos*, prescribed the penances, giving them to the sinner in a written form.³¹⁸ The church's censures consisted of exclusion from holy communion, and acts of penance such as fasting, prostrations and a public plea for forgiveness in front of the church.³¹⁹ There were no hard and fast rules about the prescription of penances. Canonical regulations varied considerably, depending on the category of crime and the quality of the confession.³²⁰ Allowance was made for shortening the period of penitence and altering the penitential acts imposed, should the sinner show exemplary zeal and application in fulfilling his penances.³²¹

pality of Epiros (1217–1233) (Thessalonike 1973), 12, 40 ff.; G. PRINZING, *Die πονήματα διάφορα des Demetrios Chomatenos* (Chartophylax und Erzbischof von Ohrid 1215–1236), typescript of a Habilitationsschrift (Münster 1980), 16–17; 24; 28–29.

³¹⁶ See above, note 314. For the word in an ecclesiastical context see Michael Attaleiates, ed. BEKKER, 57: ὁ πατριάρχης... τοῖς ἀδύτοις προσκαθίσας οὕτω κριτῆς τῶν λεγομένων καὶ διαιτητῆς ἐ χρημάτισε.

³¹⁷ Balsamon, *Μελέτη χάριν τῶν δύο ὁφικίων, τοῦ τε χαρτοφύλακος καὶ τοῦ πρωτεκδίκου*: Rh.-P. IV, 533; George Tornikes, oration for the patriarch George Xiphilinos, ed. DARROUZÈS, Ὀφίκια, 534, 19–22; also *ibid.*, 323–332; Niketas Choniates, ed. VAN DIETEN, 238, 90–92; ed. BEKKER, 310, 1–4.

³¹⁸ PAVLOV (as in note 294), 158–159. For another example of the *protekdikos*' role see DARROUZÈS, *Regestes* N. 3230 (a. 1401).

³¹⁹ For the public plea for forgiveness in the Great Church, see the statement of the chartophylax Nikephoros (P. GAUTIER, *Le chartophylax Nicéphore, œuvre canonique et notice biographique*, REB 27 [1969], 192); also, Niketas Choniates, for the area where killers stood, asking forgiveness from those entering and leaving the church: ed. VAN DIETEN, 342; ed. BEKKER, 446. Compare the *epitimia* for a wilful killer (ἐκούσιος) with those for an involuntary killer (ἀκούσιος) in two formulae: PAVLOV, *op.cit.*, 158–159, and STRAZZERI (as in note 313), 325–326.

³²⁰ STRAZZERI, *op.cit.*, 334–339, for a discussion of the sources.

³²¹ Balsamon's commentary on canon 74 of Basil: Rh.-P. IV, 236–237.

The reference to shortening the period during which the penances are to be carried out (l. 149) brings to mind the case Balsamon reported of the bishop who, doing just that, came to Manuel's attention and caused him to enact new legislation.³²² Although here the *ekdikoi* in the Great Church are meant to be the recipients of Manuel's advice or warning, in the Balsamon case the person in question was probably a local bishop³²³ who was 'supervising' the murderer in his penances. Manuel's order that copies of the novel be sent to local churches (ll. 150–152) was intended to correct the behaviour of provincial churchmen and to keep them in line with the patriarchate. But this raises the question of asylum in provincial churches, a question not directly dealt with by Manuel's novel. Provincial churches and churchmen are mentioned only in the context of providing corroborative information for the patriarchate (ll. 134–138), and here as recipients of copies of the novel (ll. 150–153). The problem with which the emperor is concerned is that of provincial criminals seeking asylum in the Great Church (ll. 76–78; 102–103; 131–137). The novel leaves us in the dark about asylum in the provinces.

Manuel's novel, then, attests to the pre-eminent position of Hagia Sophia as a place of asylum for killers. Other sources provide more information about the specific parts of the church which served as a *προσφύγιον* or refuge. Nicholas Mesarites refers to the northern doors of the church as a 'refuge'.³²⁴ Anna Komnena describes the great immunity which a criminal receives if he can but reach the *προσφύγιον*, the chapel dedicated to St. Nicholas, next to the Great Church.³²⁵ This chapel, located behind the altar of Hagia Sophia, was said to have been built on the spot where the saint brought a man he had saved from execution.³²⁶ A fourteenth-century imperial *prostagma* speaks generally of the appointed places in the church for refugees whose safety in those places had been guaranteed by former emperors.³²⁷

It is not difficult to see why the Great Church should have drawn provincial criminals, as Manuel's novel suggests. They and their crimes would have been unknown in the capital, giving them the opportunity to shape their cases. But more important was the security which this church could provide because of its eminent position and the imperial privileges it was reputed to possess.

³²² See above, p. 197.

³²³ Rh.-P. IV, 236: ὁ κατὰ χώραν ἀρχιερεὺς.

³²⁴ A. HEISENBERG, Nikolaos Mesarites, Die Palastrevolution des Johannes Komnenos, Programm des K. Alten Gymnasiums zu Würzburg (1906/1907) 1907, 20; 24–25; R. JANIN, La géographie ecclésiastique de l'empire byzantin (as in n. 257), 462.

³²⁵ Alexiade, ed. B. LEIB, I (Paris, ³1967), II, 5, p. 76.

³²⁶ JANIN, op. cit., 368–369.

³²⁷ M.-M. I, 232–233 (a. 1343); DÖLGER, Regesten, N. 2886.

Constantine VII's novel, by giving legal sanction to asylum for murderers in Hagia Sophia, would have confirmed and reinforced any *pronomia* the church might have had, thus contributing to its popularity as a refuge.

Manuel, in his reaction against asylum for murderers and his adoption of the attitude expressed in a novel of Justinian, that asylum is reserved for the victims of injustice, was ostensibly attempting to check the crime rate, the stated aim of his legislation. His novel can be seen to provide a response to what he describes as an intolerable situation, in which killing was a daily occurrence. But in his regulations one can see also an intention to reduce the church's influence and power in this area, as an end in itself. From Balsamon it is known that Manuel's displeasure at the church's treatment of murderers was the impetus for his new law, and in the novel the emperor dictated to the church the manner in which it should administer its punishments. Further, he adopted a position of defender and protector of the church's laws in changing his predecessor's uncanonical regulations concerning the use of monasteries as places of incarceration for murderers. On the whole the image which emerges from the legislation is that of an imperial authority more concerned with the correct application of canon law than the church itself.³²⁸ Other emperors might have tolerated the church's role in criminal matters but the emperor who in the spring of 1166 presided over a series of church councils, directing and dictating dogma, would not.

³²⁸ See Choniates' critical comments in this regard: ed. VAN DIETEN, 209, 59 ff.; ed. BEKKER, 274, 8 ff.

ABKÜRZUNGSVERZEICHNIS

Ath.	Athanasios von Emesa, <i>Novellensyntagma</i>
Att.	Michael Attaleiotes, <i>Πόνημα νομικόν</i> , ed. L. Sgutas = Zepos, IGR VII 411 ff.
B.	Basilica, edd. H.J. Scheltema, N. van der Wal, D. Holwerda, Groningen 1953 ff.
Beck, Kirche	H.-G. Beck, <i>Kirche und theologische Literatur im byzantinischen Reich</i> , München 1959, Ndr. 1977
BHG	François Halkin, <i>Bibliotheca hagiographica graeca</i> , Brüssel ³ 1957
BMGS	Byzantine and Modern Greek Studies
BNJ	Byzantinisch-neugriechische Jahrbücher
BS	Basilikenscholien
BT	Basilikentext
BZ	Byzantinische Zeitschrift
C.	Codex Iustinianus, ed. P. Krüger (= <i>Corpus Iuris Civilis</i> , Vol. II)
Coll.	Novellae et Aureae Bullae Imperatorum post Iustinianum, ed. Zachariae von Lingenthal = Zepos, IGR I 1 ff.
C.Th.	Codex Theodosianus, ed. Th. Mommsen
D.	Digesta, ed. Th. Mommsen (= <i>Corpus Iuris Civilis</i> , Vol. I)
Darrouzès, Notitiae	J. Darrouzès, <i>Notitiae episcopatum Ecclesiae Constantinopolitanae</i> , Paris 1981
Darrouzès, 'Οφφίκια	J. Darrouzès, <i>Recherches sur les ὀφφίκια de l'Église byzantine</i> , Paris 1970
Darrouzès, Regestes	J. Darrouzès, <i>Les regestes des actes du patriarcat de Constantinople</i> , vol. I: <i>Les actes des patriarches</i> , Paris, fasc. V: 1977, fasc. VI: 1979
ΔΙΕΕΕ	Δελτίον τῆς Ἱστορικῆς καὶ Ἐθνολογικῆς Ἑταιρείας τῆς Ἑλλάδος (Athen)
Dölger, Regesten	F. Dölger, <i>Regesten der Kaiserurkunden des oströmischen Reiches von 565–1453</i> , München und Berlin, 1. Teil: 1924, Ndr. Hildesheim 1976; 2. Teil: 1925, Ndr. Hildesheim 1976, 3. Teil: bearbeitet von P. Wirth, ² 1977; 4. Teil: 1960; 5. Teil: 1965

Dölger/ Karayannopulos	F.Dölger/J.Karayannopulos, Byzantinische Urkundenlehre, München 1968
DOP	Dumbarton Oaks Papers
E.	Ecloga, ed. L. Burgmann, Frankfurt 1983
EA	Ecloga aucta, edd. D.Simon und Sp.Troianos, FM II, 58 ff.
E.App.	Appendix Eclogae, edd. L. Burgmann, Sp.Troianos, FM III, 97 ff.
Ecl.B.	Ecloga Basilicorum
EEBΣ	Ἐπετηρίς Ἐταιρείας Βυζαντινῶν Σπουδῶν
Epan.	Epanagoge, ed. Zachariae von Lingenthal = Zepos, IGR II, 229 ff.
EpanA	Epanagoge aucta, ed. Zachariae von Lingenthal = Zepos, IGR VI, 49 ff.
Epit.	Epitome legum, ed. Zachariae von Lingenthal = Zepos, IGR IV, 261 ff.
EPrM	Ecloga ad Prochiron mutata, ed. Zachariae von Lingenthal = Zepos, IGR VI, 217 ff.
FM	Fontes Minores, hrsg. von D.Simon, Frankfurt, I: 1976, II: 1977, III: 1979, IV: 1981, V: 1982
Grumel, Regestes	V.Grumel, Les registres des actes du patriarcat de Constantinople, vol. I: Les actes des patriarches, fasc. I: Paris 1972 ² , fasc. II: Kadiköy 1936, fasc. III: Kadiköy 1947
H.	Hexabiblos, ed. G.E.Heimbach, Const. Harmenopuli Manuale Legum sive Hexabiblos cum appendicibus et legibus agrariis, Leipzig 1851, Ndr. Aalen 1969
Heimbach, Ἀνέκδοτα	G.E.Heimbach, Ἀνέκδοτα, I–II, Leipzig 1838–1840, Ndr. Aalen 1969.
Heimbach, GRR	C.W.E.Heimbach, Griechisch-römisches Recht im Mittelalter und in der Neuzeit, in: Allgemeine Encyclopädie der Wissenschaften und Künste, hrsg. von J.S.Ersch und J.G.Gruber, I. Section, 86. Theil, Leipzig 1868, Ndr. Graz 1976, 191–471
Hunger, Prooimion	H.Hunger, Prooimion. Elemente der byzantinischen Kaiseridee in den Arengen der Urkunden, Wien 1964

- Joannou P.-P. Joannou, *Discipline générale antique*, I.1: Les canons des conciles œcuméniques; I.2: Les canons des synodes particuliers; II: Les canons des Pères Grecs, Grottaferrata 1962, 1963
- JÖB Jahrbuch der österreichischen Byzantinistik
- Kaser, RPR M. Kaser, *Das römische Privatrecht*, I–II, München ¹1971, ²1975
- Kaser, RZP M. Kaser, *Das römische Zivilprozeßrecht*, München 1966
- Laurent, Regestes V. Laurent, *Les registres des actes du patriarcat de Constantinople*, vol. I: Les actes des patriarches, fasc. IV: Paris 1971
- Leunclavius, IGR J. Leunclavius, *Iuris Graeco-Romani tam canonici quam civilis tomus duo*, Frankfurt 1596, Ndr. London 1971
- Mansi J. D. Mansi, *Sacrorum conciliorum nova et amplissima collectio*, Ndr. Graz 1960–1962
- M. – M. F. Miklosich und J. Müller, *Acta et Diplomata Graeca Medii Aevi*, 1–6, Wien 1860–1890, Ndr. Aalen 1968
- Mortreuil, Histoire J.-A.-B. Mortreuil, *Histoire du Droit Byzantin*, I–III, Paris 1843–1846, Ndr. Osnabrück 1966
- N. Novellae, edd. R. Schöll und G. Kroll (= *Corpus Iuris Civilis*, Vol. III)
- NE Νέος Ἑλληνομνήμων
- Nomoc. XIV titl. Nomocanon XIV titulorum, ed. Rh.-P. I, 1 ff.
- OCP Orientalia Christiana Periodica
- Oikonomidès, L'Évolution N. Oikonomidès, *L'Évolution de l'organisation administrative de l'Empire byzantin au XI^e siècle (1025–1118)*, TM 6 (1976) 125–152
- Oikonomidès, Les listes N. Oikonomidès, *Les listes de préséance byzantines des IX^e et X^e siècles*, Paris 1972
- PG J.-P. Migne, *Patrologiae cursus completus omnium SS. patrum, doctorum scriptorumque ecclesiasticorum sive latinorum sive graecorum. Patrologia graeca*
- Pieler, Rechtsliteratur P. E. Pieler, *Byzantinische Rechtsliteratur*, in: H. Hunger, *Die hochsprachliche profane Literatur der Byzantiner*, II, München 1978, 341 ff.

Pira	ed. Zachariae von Lingenthal = Zepos, IGR IV 7 ff.
PLP	Prosopographisches Lexikon der Palaiologenzeit, erstellt von E. Trapp, Wien 1976 ff.
Pr.	Prochiron, ed. Zachariae von Lingenthal = Zepos, IGR II, 107 ff.
PrA	Prochiron auctum, ed. Zachariae von Lingenthal = Zepos, IGR VII, 1 ff.
REB	Revue des études byzantines
RHD	Revue historique de droit français et étranger
Rh.-P.	G.A. Rhalles und M. Potles, Σύνταγμα τῶν θείων καὶ ἱερῶν κανόνων, 1–6, Athen 1852–1859, Ndr. Athen 1966
RIDA	Revue internationale des droits de l'antiquité
RJ	Rechtshistorisches Journal
SBM	Synopsis Basilicorum maior, ed. Zachariae von Lingenthal = Zepos, IGR V 1 ff.
Simon, Zivilprozeß	D. Simon, Untersuchungen zum justinianischen Zivilprozeß, München 1969
SMin.	Synopsis minor, ed. Zachariae von Lingenthal = Zepos, IGR VI 319 ff.
Svoronos, Les privilèges	N. Svoronos, Les privilèges de l'Église à l'époque des Comnènes. Un rescrit inédit de Manuel I ^{er} Comnène, TM 1 (1965) 325–391 (Ndr. in: Ders., Études sur l'organisation intérieure, la société et l'économie de l'Empire byzantin, London 1973)
Svoronos, SBM	N.G. Svoronos, La Synopsis Major des Basiliques et ses appendices, Paris 1964
SZ	Zeitschrift der Savigny-Stiftung für Rechtsgeschichte
ΘHE	Θρησκευτική καὶ ἡθική ἐγκυκλοπαιδεία
Theoph.	Theophili Antecessoris Institutiones, ed. E.C. Ferrini = Zepos, IGR III 1 ff.
TM	Travaux et Mémoires
TR	Tijdschrift voor Rechtsgeschiedenis
Troianos, «Ποινάλιος»	Sp.N. Troianos, 'Ο «Ποινάλιος» τοῦ Ἐκλογαδίου, Frankfurt 1980
VV	Vizantijskij Vremennik

Zachariae, Ἀνέκδοτα	C.E. Zachariae, Ἀνέκδοτα, Leipzig 1843, Ndr. Aalen 1969
Zachariae, Delineatio	C.E. Zachariae, Historiae Juris Graeco-Romani delineatio, Heidelberg 1839
Zachariae, GRR	C.E. Zachariae von Lingenthal, Geschichte des Griechisch-Römischen Rechts, Berlin ³ 1892, Ndr. Aalen 1955
Zachariae, IGR	C.E. Zachariae von Lingenthal, Jus Graeco-Romanum, I–VII, Leipzig 1856–1884
Zachariae, Rez. Mortreuil III	K.E. Zachariae von Lingenthal, Kritisches Jahrbuch für deutsche Rechtswissenschaft, 11 (1847) 581–638 = Mortreuil, Histoire III, Anhang des Nachdrucks
Zepos, IGR	J. und P. Zepos, Jus graecoromanum, I–VIII, Athen 1931, Ndr. Aalen 1962
ZRVI	Zbornik Radova Vizantološkog Instituta