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JUSTINIAN AND HIS TWO CODES REVISITING *P. OXY.* 1814*

1. INTRODUCTION

VOLUME FIFTEEN OF THE *Oxyrhynchus Papyri* was published in 1922.¹ Comprising principally Greek literary works, it also included two significant texts mainly in Latin containing legal material. *P. Oxy.* 1813 was part of a leaf of a Theodosian Code parchment codex, which furnished little in the way of surprise, but remains the only such fragment from Egypt.² Far more interesting was *P. Oxy.* 1814, a folio, somewhat damaged,

* I am grateful for comments and suggestions received, when earlier versions of this paper were delivered at Lille (December 2008), Manchester (February 2009), and UCL and Edinburgh (both March 2009). The Basilica and its Scholia are cited from the edition by H. J. SCHELTEMA, *Basilicorum Libri LX: Series A, Textus*, 8 vols. [= BT] and *Series B, Scholia*, 9 vols. [= BS], Groningen 1953–1988.

¹ B. P. GRENFELL & A. S. HUNT, *The Oxyrhynchus Papyri Part xv*, London 1922.

² There have recently been published a citation from a previously unattested Theodosian Code constitution and also part of a Greek summary, but neither is from an actual manuscript of the Code. See F. MITTHOF, 'Neue Evidenz zur Verbreitung juristischer Fachliteratur im spätantiken Ägypten', [in:] H.-A. RUPPRECHT (ed.), *Symposion 2003*, Vienna 2006, pp. 415–422.

but clearly containing an index or register of imperial constitutions from the first book of the Justinian Code.³ There were, however, crucial divergences from the familiar mediaeval and modern versions deriving from the Code as issued in 534, thus revealing it to be from the original edition, and so datable to the brief period 529–534. Indeed the papyrus provides the only direct and undisputed evidence of the contents of that first edition.⁴

The significance of the papyrus was immediately recognized, and with rapidity it was republished and discussed several times in 1922.⁵ The most important analysis was that by de Francisci in *Aegyptus*, which detailed account still remains the best starting point for further study.⁶ After the initial flurry of interest, the text was republished in the *Corpus Papyrorum Latinarum* and then again in the first *Subsidia* volume to the *Legum Iustiniani Imperatoris Vocabularium*, which latter now provides the standard

³ The editors of the *editio princeps* drew on the legal expertise of F. DE ZULUETA (*P. Oxy.* xv, p. 217).

⁴ Another probable First Edition fragment is P. Rein. inv. 2219 (Bk 12). *PSI XIII*, 1347 is generally accepted as Second Edition (Bk 7). On both papyri see M. AMELOTTI & L. MIGLIARDI ZINGALE, *Le costituzioni giustinianee nei papiri e nelle epigrafi (Legum Iustiniani Imperatoris Vocabularium Subsidia 1)*, 2nd ed., Milan 1985, pp. 24–34; *CPL*, nos. 99–100; cf. B. H. STOLTE, ‘The decline and fall of legal manuscripts’, [in:] S. TROIANOS (ed.), *Κατενόδιον: In Memoriam Nikos Oikonomides (FbR Athener Reihe 15)*, Athens 2008, pp. 178–179. For the remains of Justinian’s other legal works or collections in Egypt see for the Digest: B. H. STOLTE, ‘Some thoughts on the early history of the Digest text’, *Subseciva Groningana 6* (1999), pp. 109–111; for the Novels: *P. Oxy.* LXIII, 4400 (Edict 13); *PSI XIII*, 1346, identified as Novel 62 by S. CORCORAN, ‘Two tales, two cities: Antinoopolis and Nottingham’, [in:] J. DRINKWATER & R. W. B. SALWAY (eds.), *Wolf Liebeschuetz Reflected: Essays Presented by Colleagues, Friends and Students (BICS suppl. 91)*, London 2007, pp. 193–203. The Institutes are currently unattested.

⁵ P. KRÜGER, ‘Neue juristische Funde aus Ägypten’, *ZRG* 43 (1922), pp. 560–563; P. BONFANTE, ‘Frammento del Codice giustiniano’, *BIDR* 32 (1922), pp. 277–282 [= ‘Un papiro di Ossirinco e le quinquaginta decisiones’, [in:] *Scritti Giuridici Varii IV*, Rome 1925, pp. 132–135, a reprint without the actual text of the papyrus]. Another early but passing reference is made by P. COLLINET, ‘The general problems raised by the codification of Justinian’, *RHD* 4 (1923), p. 17; cf. H. IDRIS BELL, ‘Bibliography: Graeco-Roman Egypt. A. Papyri (1921–1922)’, *JEA* 9 (1923), p. 96.

⁶ P. DE FRANCISCI, ‘Frammento di un indice del primo codice giustiniano’, *Aegyptus* 3 (1922), pp. 68–79; cf. S. NIEDERMEYER, *Zeitschrift der Savigny Stiftung für Rechtsgeschichte* 46 (1926), pp. 492–493.

edition of the text, although very little modified from the *editio princeps*.⁷ In addition, virtually every account of Justinian's legislative activity in Roman legal handbooks or relevant monographs refers to the papyrus in discussing the First Edition of the Code. Many of these are the barest of references, while those that do deal with the text in more detail concentrate on the aspect that most interests romanists, namely the presence in the First Edition of the so-called Law of Citations and its significance for the development of Justinian's legal policy (of which more later).⁸ Nonetheless, general awareness of the papyrus among romanists as evidence for the First Edition of the *Justinian Code* appears extremely high. Several historians, however, have been led into error by their lack of acquaintance with the papyrus. It is very useful, therefore, to look again at *P. Oxy.* 1814 and consider afresh what it can tell us about the First Edition of the *Justinian Code*, and in what ways and for what reasons it differed from the Second.

⁷ CPL, no. 101; AMELOTI & MIGLIARDI ZINGALE, *Le costituzioni giustinianee* (cit. n. 4), pp. 17–23 [1st ed., AMELOTI with G. I. LUZZATTO, Milan 1972, pp. 15–20]. Note also E. A. LOWE (ed.), *Codices Latini Antiquiores: Supplement*, Oxford 1971, no. 1713; R. SEIDER, *Paläographie der lateinischen Papyri* 11.2, Stuttgart 1981, no. 34.

⁸ E.g. F. SCHULZ, *History of Roman Legal Science*, Oxford 1946, p. 318; L. WENGER, *Die Quellen des römischen Rechts*, Vienna 1953, pp. 572–576; W. W. BUCKLAND, *A Text-Book of Roman Law from Augustus to Justinian*, 3rd ed. (rev. P. Stein), Cambridge 1963, p. 39, n. 6; G. G. ARCHI, *Giustiniano legislatore*, Bologna 1970, pp. 83–91; H. F. JOLOWICZ, *Historical Introduction to the Study of Roman Law*, 3rd ed. (rev. B. Nicholas), Cambridge 1972, p. 480; P. PIELER, 'Byzantinische Rechtsliteratur', [in:] H. HUNGER (ed.), *Die hochsprachliche profane Literatur der Byzantiner zweiter Band (Handbuch der Altertumswissenschaft XII.5.2)*, Munich 1978, pp. 412–413; A. A. SCHILLER, *Roman Law: Mechanisms of Development*, The Hague 1978, p. 37; G. BASSANELLI SOMMARIVA, *L'Imperatore unico creatore ed interprete delle leggi e l'autonomia del giudice nel diritto giustiniano* (Seminario giuridico della Università di Bologna 96), Milan 1983, p. 19; G. LANATA, *Legislazione e natura nelle novelle giustinianee*, Naples 1984, p. 21; R. BONINI, *Introduzione allo studio dell'età giustiniana*, 4th ed., Bologna 1985, p. 23; O. F. ROBINSON, *The Sources of Roman Law*, London – New York 1997, p. 24, n. 77; G. PURPURA, *Diritto, papiri e scrittura*, 2nd ed., Turin 1999, pp. 142–146; G. MOUSOURAKIS, *The Historical and Institutional Context of Roman Law*, Aldershot 2003, p. 383; IDEM, *A Legal History of Rome*, London – New York 2007, pp. 183–184; F. WIEACKER (ed. J. G. WOLF), *Römische Rechtsgeschichte zweiter Abschnitt (HAW x.3.2)*, Munich 2006, pp. 291–293.

2. THE TWO EDITIONS OF THE CODE

The Justinian Code which we possess today via the manuscript tradition, if incompletely, is the Second Edition of 534. Fortunately, there survive three imperial constitutions, which reveal Justinian's intentions with regard to both versions of the Code.⁹ *C. Haec*, addressed to the Senate on 13 February 528, set up the commission to compile the First Edition (the *Novus Codex*). The source-material was to comprise the constitutions in the three codes already in use (*Gregorianus*, *Hermogenianus*, *Theodosianus*) plus the post-Theodosian novels down to and including the early legislation of Justinian himself. The commissioners were given wide editorial powers over the constitutions, to top and tail, divide and disperse, emending them with additions, excisions and alterations, so as to make the finished product clear, consistent and up-to-date.

The resultant Code was then promulgated by *C. Summa* of 7 April 529, addressed to the praetorian prefect Menas. Recapitulating much from the earlier constitution, it ruled that the new code was to come into force on 16 April as the sole source for imperial enactments. Thenceforth all previous versions of imperial laws, whether inside or outside the earlier codes, would be rendered invalid, and so could not be cited in opposition to the sometimes severely revised and edited versions now in the Code. This invalidation extended to such constitutions as were embedded in the writings of those classical jurists still regarded as authoritative, although these writings otherwise retained validity, provided they were not in direct conflict with the Code. The imperial intention was that,

⁹ *C. Haec* (528), *C. Summa* (529) and *C. Cordi* (534) [P. KRÜGER, *Codex Iustinianus, editio maior*, Berlin 1877, pp. 1-6; *editio minor*, *Corpus Iuris Civilis* 2, Berlin 1877 and later editions, pp. 1-4]. There are also references to the completed First Edition in the Digest constitutions: *C. Deo Auctore* 1-2; *C. Tanta/C. Δέδωκεν* pr-1; *C. Omnem* 5; cf. *C. Imperatoriam Maiestatem* 2. For general discussion of the introductory constitutions in the context of Justinian's developing legal policy see ARCHI, *Giustiniano legislatore* (cit. n. 8), esp. pp. 124-135 and IDEM, 'I principi generali del diritto. Compilazione teodosiana e legislazione giustiniana', *SDHI* 57 (1991), pp. 124-157; also, exhaustively, M. CAMPOLUNGH, *Potere imperiale e giurisprudenza in Pomponio e in Giustiniano* II, 2 vols., Perugia 2001-2007.

by removing prolixity and obscurity, litigants could now expect more straightforward and speedy justice.

Thus the *Novus Codex* was now the one-stop-shop for imperial laws up to the time of its promulgation. New laws, of course, continued to be created with considerable frequency and of considerable importance. For there followed a period of intense legal activity, during which Justinian issued a host of constitutions significantly revising major areas of law. Many of these changes were made by a set of enactments known as the *Quinquaginta Decisiones* (the Fifty Decisions), published in batches over a period of months from the summer of 530 onwards and designed to settle key legal issues previously in dispute between the classical jurists.¹⁰ The Digest and Institutes issued at the end of 533 reflected all this new legislation. The *Novus Codex*, therefore, had become seriously out-of-date and required substantial revision.

All this Justinian pointed out to the Senate in the constitution (*C. Cordi*; 16 November 534), by which he promulgated the revised version, the *Codex Repetitae Praelectionis*, which was to come into force on 29 December. This gives us a very clear idea of what was done to turn the First Edition into the Second Edition. In a process similar to that visited upon the earlier materials for the creation of the *Novus Codex*, the relevant novels (including the *Decisiones*) issued since the First Edition down to 534 were edited and revised, so as to make them consistent with the latest law (for some of them were themselves already out-of-date), but they were also abbreviated and distributed between titles as appropriate. However, this was not simply a matter of adding in the new material. Since this embodied so much new legislation, there was the need to revise what was already present in the Code, and to emend or suppress what had become obsolete or discordant during the previous five years. Thus the *Novus Codex* underwent a thorough overhaul and reworking to produce its successor, the *Codex Repetitae Praelectionis*.

¹⁰ The fullest recent analysis is C. RUSSO RUGGERI, *Studi sulle Quinquaginta Decisiones* (*Pubblicazioni della Facoltà di giurisprudenza della Università di Messina* 198), Milan 1999.

3. THE FIRST EDITION INFERRED FROM THE SECOND

Even without any direct access to the contents of the First Edition, we can see evidence in the Second Edition of some of the changes that were made. First, and most obviously, any texts dating after the issue of the First Edition must be additions to the Second Edition. But further, we may suppose that any such additions which embody substantial revisions of the law will have necessitated alteration of the existing material.

For instance, *Cf.* title 7.6 contains a single law of 531, which abolished the freedman status of Junian Latin, and is the only mention of that status in the Code. The status is likewise mentioned in the Institutes only in relation to its abolition,¹¹ while it does not appear in the Digest at all. Thus any titles or constitutions dealing with this status in the First Edition of the Code must have been suppressed. Title 7.6 itself is clearly new to the Second Edition, although there is no way of telling if it replaced a title specifically devoted to the now defunct status. Further, any separable passages in other texts would have been excised or emended. The effects of such manipulation can be seen by comparisons with control texts from surviving Justinian Code source materials.¹² For instance, *Cf.* 9.13 contains a single law on female abduction of 533, which will have replaced any Theodosian material from *CTh.* 9.24–25 taken into the First Edition.¹³ Since this law explicitly cites a *lex Constantianiana*, the relevant law of Constantine (*CTh.* 9.24.1) ought to have been still present in the First Edition

¹¹ Just. *Inst.* 1.5.3; 3.7.4. See G. LUCHETTI, *La legislazione imperiale nelle Istituzioni di Giustiniano* (Seminario giuridico della Università di Bologna 166), Milan 1996, pp. 15–25.

¹² Thus excisions of Latins occur at *Cf.* 5.5.7 (from Marcian, *Nov.* 4.3) and 5.27.1 (from *CTh.* 4.6.3). *CTh.* 2.22.1 may have already been excluded from the First Edition, for which *Cf.* 6.7.2 was sufficient. See G. L. FALCHI, 'Osservazioni sulla situazione giuridica dei liberti 'latini' nel Codice Teodosiano: a proposito del *CTh.* 2,22,1', [in:] *Atti dell'Accademia Romanistica Costantiniana: VIII Convegno Internazionale*, Naples 1990, pp. 567–577.

¹³ R. BONINI, *Ricerche di diritto giustiniano*, 2nd ed., Milan 1990, pp. 68–69, 165–183. He supposes that both *CTh.* titles were utilized in the First Edition, replaced by the single title of the Second. The only other part of *CTh.* 9.24–5 surviving in the Second Edition is an edited version of *CTh.* 9.25.2 at *Cf.* 1.3.5.

including its references to Latin status. When suppressed from the Second Edition, however, its one surviving fragment (Cf. 7.13.3) would at that point have lost its reference to Latin status, as well as possibly being relocated.¹⁴ Something similar may have happened with the freedman status of *dediticius*, abolished in 530 (Cf. 7.5.1), although this had in practice long been obsolete and may not have been mentioned in the First Edition at all. Its abolition, being one of the Fifty Decisions (Just. *Inst.* 1.5.3), may have been intended rather to remove validity from those passages of the classical jurists, which discussed it.¹⁵

We can see elsewhere examples of the manipulation of existing titles. Thus Cf. 6.40, 'Concerning enforced widowhood and repeal of the miscellaneous *lex Iulia*' (*De indicta viduitate et de lege Iulia miscella tollenda*), was presumably in origin 'Concerning enforced widowhood and the miscellaneous *lex Iulia*' or probably just 'Concerning the miscellaneous *lex Iulia*'. The title contains two laws of 531 abolishing the provisions of this *Lex Iulia* (Cf. 6.40.2-3), by which woman (and indeed men), who inherited under wills subject to the condition that they not remarry, could indeed remarry on taking an oath that they were so doing in order to produce children. Justinian abolished the requirement for the oath and rendered futile such testamentary attempts to bar a surviving spouse's remarriage.¹⁶

¹⁴ CTh. 9.24.1.4: *Si quis vero servus raptus facinus dissimulatione praeteritum aut pactione transmissum detulerit in publicum, Latinitate donetur, aut, si Latinus sit, civis fiat Romanus*. At Cf. 7.13.3, this section is reproduced, but with the final words replaced simply by *libertate donetur*. It is not clear whether the passage on status enhancement rewards was already present in Book 7, which would have been quite in keeping with the editorial rules of the First Edition, or whether it was only relocated on the suppression of the rest of the Constantinian law from Book 9.

¹⁵ Eg. Gai *Inst.* 1.13-15, 25-27 and *Mosaicarum et Romanarum Legum Collatio* 4.3.4 [G. BAVIERA (ed.), *Fontes Iuris Romani Antejustiniani* (= FIRA) II, Florence 1940, pp. 553-554], quoting Paul, *Liber Singularis De Adulteriis* (O. LENEL, *Palingenesia Iuris Civilis* I, Leipzig 1889, col. 954). See H. J. SCHELTEMA, 'Subseciva XVIII: Les *Quinquaginta Decisiones*', *Subseciva Groningana* 1 (1984), p. 3 [= IDEM, *Opera Minora ad iuris historiam pertinentia*, Groningen 2004, p. 159].

¹⁶ On remarriage see J. BEAUCAMP, *Le statut de la femme à Byzance (4^e-7^e siècles): I. Le droit impérial* (*Travaux et mémoires du Centre de recherche d'histoire et civilisation de Byzance, Monographies* 5), Paris 1990, pp. 226-238; A. ARJAVA, *Women and Law in Late Antiquity*, Oxford 1996, pp. 167-177.

Despite this legal reform, one earlier rescript of 241 (*Cf.* 6.40.1) is still present under this title, presumably the sole survivor of whatever material lay in the equivalent First Edition title. This rescript survives because it concerns a situation not affected by the reform, namely legacies left to another on the condition of the testator's wife not remarrying.

In a further case, a law of March 530 (*Cf.* 6.23.27) abolished the rule that a ten-year-old will would automatically become invalid, stating that the earlier constitutions (plural) about this were now out-of-date. A scholion to the Basilica version of this passage attributes such a law to Anastasius, a law not otherwise attested.¹⁷ Another similar constitution should have been *CTh.* 4.4.6 (Honorius and Theodosius, 418), not present in *Cf.* The editor of the Basilica scholion doubts the Anastasian attribution, as the description of Anastasius's motivation seems to echo that of Honorius and Theodosius in the final phrase of *CTh.* 4.4.6.¹⁸ But there is no reason why Anastasius could not have uttered a parallel sentiment, or that, if the author of the reference erred, it was not as to the emperor's name, which is given in a clear manner found elsewhere in both laws and legal commentaries,¹⁹ but rather as to which of the relevant constitutions actually used the phrase. Indeed, it is even possible that *CTh.* 4.4.6 was not in

¹⁷ J. DITTRICH, 'Die Scholien des Cod. Taur. B.I.20 zum Erbrecht der Basiliken', [in:] L. BURGMANN (ed.), *Fontes Minores IX (Forschungen zur byzantinischen Rechtsgeschichte 19)*, Frankfurt 1993, p. 209 on *BT* 35.2.24 (SCHELTEMA, Ser. A [cit. n. 1], 1568). This book of the Basilica does not survive and is reconstructed, the only known scholia being those in the Turin manuscript.

¹⁸ DITTRICH, 'Die Scholien' (cit. n. 17), pp. 196–197.

¹⁹ Justin I: *Cf.* 5.27.7. Justinian: *Cf.* 4.35.23; *Novv.* 7.pr.-2; 22.16; 43.pr.; 59.pr.-1; 89.7; *Ed.* 13.15; cf. E. FRANCIOSI, 'Qui ante nos fuerunt legislatores: I richiami ai giurisperiti e ai predecessori nella legislazione novellare giustiniana', *Minima Epigraphica et Papyrologica IX/II* (2006), pp. 377–398. The commentators: *BS* II.2(CA).27.2 (SCHELTEMA, Ser. B [cit. n. 1], 402); *BT* 14.1.86 (whence *Cf.* 4.35.24) with *BS* 14.1(CA).85–86 (SCHELTEMA, Ser. A [cit. n. 1], 763; Ser. B, 808–810); *BT* 29.1.I19 with *BS* 29.1.I19.33, 36 (SCHELTEMA, Ser. A [cit. n. 1], 1478; Ser. B, 2114–15). For the simple *Anastasiana lex* see *Cf.* 4.35.23; 5.13.1; 6.58.13, 15; 8.48.6; 11.48.23. *Dictatum de consiliariis* in G. HÄNEL (ed.), *Iuliani Epitome Latina Novellarum Iustiniani*, Leipzig 1873, p. 199 lines 9–10; scholion to Theophilus, *Paraphrasis* 3.19.12 citing *Cf.* 4.20.15 as a *diataxis anastasiana* (C. FERINI, *Opere di Contardo Ferrini* 1, Milano 1929, p. 199 with reading adjusted from A. F. MURISON at *UCL Archives MS ADD 22, Scholia Fasc. 1*, p. 182).

the First Edition except by amalgamation with the Anastasian text.²⁰ I think therefore that the attribution is correct. A further point is that, since the Theodosian title 4.4 is only known in its Breviary version, the full title may have had more texts discussing this rule. Indeed, attributable to this title are some texts only preserved in the Justinian Code title.²¹ As there would have been no legal point in referring in 530 to the now superseded Theodosian Code or other pre-529 material, at least two constitutions, probably *CTh.* 4.4.6 and the Novel of Anastasius, must have been present in the *Cj.* First Edition. They were then rendered invalid on the issue of the law of which *Cj.* 6.23.27 is an extract, and finally removed in the process of revision that produced the Second Edition. Similarly, the reference to the Edict of Hadrian mentioned in *CTh.* 4.4.7, but omitted in the version at *Cj.* 6.36.8, was presumably removed in the editing for the Second Edition, following the repeal of that edict by Justinian as known from *Cj.* 6.33.3, another extract from the 530 testamentary law.²²

These then are the types of deductions which can be made on the basis of the surviving Second Edition. There have also been attempts to see the First Edition of the Code reflected in anomalies occurring in some of the varied types of sources for the Code; for instance, in certain features of the constitution headings in the *Summa Perusina*.²³ Most interest has focussed on the works of the sixth-century *antecessores* and their law-school texts, particularly those of Thalelaeus, remains of whose lecture courses and most importantly translations (especially the *κατὰ πόδας*

²⁰ Example amalgamations: *Cj.* 1.10.1 = *CTh.* 16.8.2 with 16.8.1, 4; *Cj.* 9.18.3 = *CTh.* 9.16.1 with 9.16.2; *Cj.* 9.49.9 = *CTh.* 9.42.15 with 9.42.1; *Cj.* 3.33.3 (Caracalla) subsumes the Diocletianic *Frag. Vat.* 42 [= *FIRA* II, p. 473]; *Cj.* 3.32.15 (293) subsumes *Frag. Vat.* 315 [= *FIRA* II, p. 534] (291); S. CORCORAN, *The Empire of the Tetrarchs*, rev. ed., Oxford 2000, p. 15.

²¹ *Cj.* 6.23.15, 16, 19, restored into his reconstructed *CTh.* 4.4 by P. KRÜGER, *Codex Theodosianus Fasc.* 1, Berlin 1923, pp. 126–131. On reassembling *CTh.* Bk 4 see J. F. MATTHEWS, *Laying Down the Law: A Study of the Theodosian Code*, New Haven – London 2000, pp. 110–114.

²² The extract is dated March 531, but is usually associated with *Cj.* 6.23.27, and indeed other texts from March 530 addressed to the praetorian prefect Julianus (*PLRE* IIIA, Iulianus 4). The manuscripts often confuse the consulate of Lampadius and Orestes with their post-consulates.

²³ KRÜGER, *Cj. editio maior*: (cit. n. 9), pp. xv–xvi (refuting Zachariae).

interlinear crib) are the predominant survivals for the Code.²⁴ The argument began with Zachariae von Lingenthal, who suggested that, while most of the course-materials for teaching the Code created by Thalelaeus were for the Second Edition, occasional passages from his initial material for the First Edition survived, and that this explained discrepancies with the Second Edition.²⁵ Zachariae's analysis was generally regarded as insufficiently convincing, especially in view of a possible alternative interpretation that some of the passages concerned might in fact reflect pre-Justinianic material.²⁶ However, more recent study, grounded in the new Basilica edition, has tentatively explained certain divergent Thalelaean readings as First Edition echoes, although this rests on the view that they cannot be direct *Theodosian Code* vestiges, because there is no evidence for Greek translations of the three earlier codes.²⁷ There is, however, some evidence for Greek summaries or law school commentaries on these works, which might have had an effect on the later translations.²⁸ There

²⁴ H. J. SCHELTEMA, *L'enseignement de droit des antécédents* (Byzantina neerlandica B1), Leiden 1970, pp. 32–40 [= IDEM, *Opera Minora* (cit. n. 15), pp. 81–87].

²⁵ K. E. ZACHARIAE VON LINGENTHAL, 'Von den griechischen Bearbeitungen des Codex', *ZRG* 8 (1887), pp. 12–47 [repr. in *Kleine Schriften zur römischen und byzantinischen Rechtsgeschichte* (Opuscula IV) II, Leipzig 1973, pp. 275–310].

²⁶ KRÜGER, *Cf. editio maior* (cit. n. 9), pp. XIII–XVIII; IDEM, 'Über wirkliche und scheinbare Überlieferung vorjustinianischen Wortlauts im Kommentar des Thalelaeus zum Codex Iustinianus', *ZRG RA* 36 (1915), pp. 82–95; G. ROTONDI, 'Studi sulle fonti del codice giustiniano', [in:] *Scritti Giuridici* 1, Pavia 1922, pp. 237–247; H. J. SCHELTEMA, 'De antiquae iurisprudentiae reliquiis in libris Byzantinis oblectamentum', *Tijdschrift voor Rechtsgeschiedenis* 17 (1941), pp. 412–421 [= IDEM, *Opera Minora* (cit. n. 15), pp. 203–208]; IDEM, 'Les sources du droit de Justinien dans l'empire d'Orient', *Revue Historique du Droit Français et Étranger*, 4^e s. 30 (1952), pp. 1–17 [= IDEM, *Opera Minora* (cit. n. 15), pp. 269–282]; P. COLLINET, *La genèse du Digeste, du Code et des Institutes de Justinien* (Études historiques sur le droit de Justinien 3), Paris 1952, pp. 265–267; A. BERGER, 'Studies in the Basilica', *BIDR* 55–56 (1952), pp. 110–113.

²⁷ D. SIMON, 'Aus dem Codexunterricht des Thalelaios: D. Divergenzen zwischen Thalelaios-Kommentar und Codex Überlieferung', *RIDA*³ 17 (1970), pp. 273–311; K. H. SCHINDLER, 'Zum Problem byzantinischer Bearbeitungen des ersten Codex', [in:] *Studi in onore di Edoardo Volterra* II, Milan 1971, pp. 371–380; F. GORIA, 'Die Codexvorlesungen von Thalelaeos über die Rechtsanwält', *Subseciva Groningana* 7 (2001), pp. 15–23.

²⁸ See now MITTHOF, 'Neue Evidenz' (cit. n. 2), pp. 415–422 for *CTh.* For the commentators and the Gregorian Code see D. SIMON, 'Aus dem Codexunterricht des Thalelaios:

is also the possibility that such minor discrepancies are simply the result of that perennial problem, error in transmission, especially with the various texts often dependent on so few manuscripts. In any case, even if all such material is accepted as genuinely derived from the First Edition, it remains painfully thin.

Finally, there is the *Institutionum Paraphrasis* of Theophilus, one of the few intact law-school lecture courses to survive. This is thought to have been written by Theophilus, himself co-author of the Institutes, near to the time of their promulgation, possibly for the academic year 533/4, or certainly not long afterwards.²⁹ Thus, like the Institutes itself, it should reflect the state of play with the *Novus Codex* still in use. There is a problem, of course, in that the Institutes and Theophilus's lectures already refer copiously to Justinian's post-529 reforms, even if not yet to the form in which they ended up edited into the revised Code of 534. Theophilus, however, does sometimes discuss the pre-reform situation in more detail than the Institutes, as for instance in his historical excursus on manumission and the terms of the *Lex Aelia Sentia*.³⁰ One passage of the original Institutes and Theophilus (3.19.14 in both) refers to an otherwise missing constitution of Leo, which allowed stipulations for immediate performance on a future condition (*i.e.* chronologically 'preposterous') to be valid in dotal agreements, and on the basis of this Novel Justinian extended the rule to wills (Cf. 6.23.25, Dec. 528). There is, however, a scholion to the *Paraphrasis*, which states that 'This [*i.e.* the Novel of Leo] does not lie in

B. Die Heroen', *ZRG RA* 87 (1970), pp. 315–394; M. U. SPERANDIO, *Codex Gregorianus: origini e vicende*, Naples 2005, pp. 254–276. For a possible CG commentary see P. Berol. Inv. 16976/7: W. SCHUBART, 'Actio conditicia und longi temporis praescriptio', [in:] *Festschrift für Leopold Wenger zu seinem 70. Geburtstag (Münch. Beitr. 35)* II, Munich 1945, pp. 184–190; E. SCHÖNBAUER, 'Ein wichtiger Beispiel der nachklassischen Rechtsliteratur', [in:] *Studi in onore di Vincenzo Arangio-Ruiz nel XLV anno del suo insegnamento* III, Naples 1953, pp. 501–519; WENGER, *Die Quellen* (cit. n. 8), p. 628, n. 345.

²⁹ SCHELTEMA, *L'enseignement de droit des antécédents* (cit. n. 24), pp. 17–21 [= *Opera Minora*, pp. 71–74]; J. H. A. LOKIN, 'Theophilus Antecessor, I. The Codex Messanensis, hodie Kilianus; II. Was Theophilus the author of the Paraphrase?', *Tijdschrift voor Rechtsgeschiedenis* 44 (1976), pp. 339–344.

³⁰ Theophilus, *Paraphrasis* 1.5.3–4 compared to Just. *Inst.* 1.5.3.

the Code today, but has been entirely repealed and removed from the Code.³¹ This seems to be a clear case of a law being added to the Code in 529, only to be taken out in 534.³² If Justinian's law had been post-529 and in some way superseded Leo's, the deletion of the latter from the Code would make sense. But Justinian's law is dated to 528, thus already present in the *Novus Codex*, and it builds upon Leo's Novel. Therefore, why should the latter have been included in the First Edition only to be deleted from the Second? Possibly the Novel, even as edited into the Code, was a more wide-ranging measure and so became a casualty of some dowry reform like that of Justinian at *Cf.* 5.13.1 (530). However, I suspect that the author of the scholion (presumed to be a sixth-century teacher/commentator) was making an inference based solely on the absence of Leo's Novel from the *Codex repetitae praelectionis*, without any firm knowledge of its presence in the *Novus Codex*.

4. THE FIRST EDITION REFLECTED IN LITERARY SOURCES

Contemporary literary sources provide virtually no information regarding the existence of two Code editions.³³ Although those that refer to Justinian's codificatory activity most often seem to have the Code in mind, and,

³¹ Scholion from BN Par. Gr. 1364 (C. FERRINI, *Opere di Contardo Ferrini* 1, Milano 1929, p. 199). Ferrini's edition of the scholia is far from accurate, as noted by SCHELTEMA, *L'enseignement de droit des antécédents* (cit. n. 24), p. 23 n. 65 [= *Opera Minora*, p. 75 n. 65]. However, I have confirmed the text as essentially correct with only minor variants against the transcriptions of this passage and of a parallel one in Par. Gr. 1366 made by A. F. MURISON, preserved in his papers held at University College London (*UCL Archives: MS ADD 16*, Scholia to Ms Gr. 1364, Notebook 6, 168; and *MS ADD 22*, *Scholia Fasc. I*, 182).

³² Thus SCHELTEMA, *L'enseignement de droit des antécédents* (cit. n. 24), p. 22–23 [= *Opera Minora*, p. 74–75]; LOKIN, 'Theophilus Antecessor' (cit. n. 29), p. 344.

³³ M. CONRAT, *Geschichte der Quellen und Literatur des römischen Rechts im frühen Mittelalter*, Leipzig 1891, pp. 96–106; G. ROTONDI, 'La codificazione giustiniana attraverso le fonti extragiuridiche', *Rivista italiana per le scienze giuridiche* 60 (1918), pp. 239–268 [repr. in *Scritti giuridici* 1 (cit. n. 26), pp. 340–369].

contrary to Justinian's expectation,³⁴ ignore the Digest and Institutes,³⁵ there is little reference to the two distinct editions.³⁶ In some cases this reflects the fact that the work in question or a version of it was written before 534.³⁷ John Lydus mentions a single reorganization of the laws (*De Mag.* 3.1), and, when he refers to a law of Arcadius as being present in the 'old Theodosianus' but not in the new Code, is presumably thinking only of the change between the Theodosian Code and the *Novus Codex*.³⁸ Only the *Chronicon Paschale* notes the correct dates for each edition coming into force in 529 and 534, and states that the revised version rendered the first void.³⁹ The only instances of direct quotations from the Code occur some time after 534 and so must be from the *Codex Repetitae Praelectionis*.⁴⁰

³⁴ On Justinian's hope for the Digest see T. WALLINGA, *Tanta/Δέδωκεν: Two Introductory Constitutions to Justinian's Digest*, Groningen 1989, pp. 79–80.

³⁵ Exceptional and late, especially for a western source, is Paul the Deacon, *Hist. Lang.* 1.25 (*MGH Script. Rer. Lang.* 1, 63), giving the correct number of books for each work. See CONRAT, *Geschichte der Quellen* (cit. n. 33), p. 98; W. GOFFART, *The Narrators of Barbarian History (AD 550–800)*, rev. ed., Notre Dame 2005, p. 387, n. 179. Agnellus of Ravenna may be mangling Paul at *LPR* 81 (D. M. DELIYANNIS (ed.), *CCCM*, 199, Turnhout 2006, pp. 259, 368, n. 73), although I am doubtful.

³⁶ Thus Procopius, *Aed.* 1.10; John of Nikiu, *Chronicle* 92.21 (trans. R. H. CHARLES, London – Oxford 1916, p. 147).

³⁷ Thus Marcellinus Comes, *Chronicle* s.a. 531; B. CROKE, *The Chronicle of Marcellinus (Byzantina Australiensia 7)*, Sydney 1995, p. 44. On the incorrect date see IDEM, *Count Marcellinus and His Chronicle*, Oxford 2001, pp. 31–32, 208. Marcellinus is the source for Bede, *De Temporum Ratione* 66 s.a. 4518 (C. W. JONES [ed.], *CCSL* 123B, Turnhout 1975, p. 521); F. WALLIS, *Bede: The Reckoning of Time (Translated Texts for Historians 29)*, Liverpool 1999, p. 225.

³⁸ *De Mag.* 2.10, 3.23, 3.40. I do not find convincing the identification of this law of Arcadius with *CTh.* 8.5.35 (378); cf. an edited fragment, lacking the relevant reference, at *Cf.* 12.50. 8. The identification is otherwise generally accepted: MOMMSEN, *CTh. ad. loc.*; A. C. BANDY, *Ioannes Lydus, On Powers or The Magistracies of the Roman State (Memoirs of the American Philosophical Society 149)*, Philadelphia 1983, pp. 313, 321; M. DUBUISSON & J. SCHAMP (eds.), *Jean Le Lydien, Des magistratures de l'État romain: Tome II*, Paris 2006, pp. 15, 72, 93.

³⁹ *Chron. Pasch.* s.a. 529, 534; M. and M. WHITBY, *Chronicon Paschale 284–628 AD (Translated Texts for Historians 7)*, Liverpool 1989, pp. 110, 131.

⁴⁰ Thus Evagrius, *HE* 1.12 quoting *Cf.* 1.1.3.2 verbatim; cf. implicit reference at *HE* 4.14 to *Cf.* 1.27.1.4, but naming Justin instead of Justinian. For text and translation see J. BIDEZ & L. PARMENTIER (eds.), *The Ecclesiastical History of Evagrius*, London 1898, pp. 20, 164; M. WHITBY, *The Ecclesiastical History of Evagrius Scholasticus (Translated Texts for Historians 33)*,

Malalas's Chronicle contains two passages discussing codification, which appear to reflect the start of the Code project in 528 coupled with the issue of various laws in that year, followed by the promulgation of the *Novus Codex* in 529, correctly noting the speeding up of justice as one of the emperor's aims.⁴¹ Not all individual laws mentioned by Malalas can be identified in the Code today. He was probably taking much of his information from publicly posted texts,⁴² but this leaves open the question of whether the laws are unidentifiable because of exclusion from or the editing process for the First or the Second Editions. Thus, in *Chron.* 18.20, along with the probable reference to the Code project, there are discussions of four laws. The first and fourth are in the Code, both dated pre-529, and must have entered the First Edition and been retained in the Second.⁴ The second law reiterated an Anastasian law on the succession of natural children. That law had provided for their legitimation in the absence of other legitimate children, but this was abrogated by Justin.⁴⁴ However, two extracts of a law of Justinian from 528 are more generous, a key provision being the restoration of inheritance rights under a will, so

Liverpool 2000, pp. 33, 214. Also Cassiodorus/Epiphanius, *Historia Ecclesiastica Tripartita* (W. JACOB & R. HANSLIK [eds.], CSEL 71, Vienna 1952), 9.7, 9.40 quoting *Cf.* I.I.I, 9.47.20 respectively. See F. DE MARINI AVONZO, 'Due citazioni del Codex Iustinianus nella Historia Tripartita di Cassiodoro', [in:] *Scritti per il XL della morte di P.E. Bensa*, Milan 1969, pp. 95-106 [repr. in *Dall'impero cristiano al medioevo: Studi sul diritto tardoantico*, Goldbach 2001, pp. 125-134].

⁴¹ Malalas, *Chron.* 18.20, 38 (J. THURN [ed.], *Corpus Fontium Historiae Byzantinae* 35, Berlin 2000, pp. 365-366, 376); cf. Theophanes, *Chron. s.a.* 6021 (de BOOR, p. 177); C. MANGO & R. SCOTT, *The Chronicle of Theophanes Confessor*, Oxford 1997, p. 270; echoes of *C. Haec pr.*; *C. Summa* 1. See R. SCOTT, 'Malalas and Justinian's codification', [in:] *Byzantine Papers (Byzantina Australiensia* 1), Canberra 1981, pp. 13-14, 20-22.

⁴² SCOTT 'Malalas' (cit. n. 41), pp. 12-31; E. JEFFREYS, 'Malalas' sources', [in:] E. JEFFREYS, B. CROKE & R. SCOTT (eds.), *Studies in John Malalas (Byzantina Australiensia* 6), Sydney 1990, pp. 201-202.

⁴³ On governors taking gifts: *Cf.* 1.53.1 (December 528). On compulsion of witnesses in civil trials: *Cf.* 4.20.16 (dated before June 528). Compare also *Chron.* 18.11 matching *Cf.* 1.3.42 (March 528).

⁴⁴ *Cf.* 5.27.6 (Anastasius), 7 (Justin). Extensive discussion by G. LUCHETTI, *La legittimazione dei figli naturali nelle fonti tardo-imperiali e giustiniane* (*Seminario giuridico della Università di Bologna* 136), Milan 1990, pp. 202-227.

that the full law could have provided Malalas with the reference to Anastasius (unless he inferred it from his own legal knowledge).⁴⁵

The third law removed the time limit on rejecting inheritances. Justinian enacted a lengthy law on entering into inheritances in November 531 (*Cf.* 6.30.22), which instituted the 'benefit of inventory' and largely abolished the right of deliberation. This law refers to three previous relevant laws, although it is not entirely clear how far the new law simply consolidated their substance, as opposed to creating new provisions.⁴⁶ Two of the earlier laws were Justinian's own, one on the time for an heir to deliberate accepting an inheritance,⁴⁷ the other on an inheritance's unforeseen debts,⁴⁸ which also included the substance of a third law, a rescript of Gordian III to a soldier called Plato.⁴⁹ These two Justinianic laws are undated, nor does the text (at least as preserved in the Second Edition) suggest that they already existed in the *Novus Codex*. However, the first law, whose exact provisions are unknown, could have been Malalas's novel of 528 on deliberation. Malalas's interpretation is probably an oversimplification, since an indefinite right of deliberation runs contrary to the tendency of classical law to protect the estate's creditors against undue procrastination.⁵⁰ In any case, this law would have been included in the First Edition, as was presumably the rescript of Gordian,

⁴⁵ *Cf.* 5.27.8–9 (probably both part of the same law of June 528). It does not seem so likely that Malalas is talking of Anastasian legislation on the inheritance of emancipated sons (*Cf.* 8.48.5, 6.58.11; cf. 6.58.12).

⁴⁶ R. REGGI, *Ricerche intorno al 'beneficium inventarii'*, Milan 1967, esp. pp. 22–47.

⁴⁷ Since the laws were derogated (*Cf.* 6.30.22.15–16), this one is probably not *Cf.* 6.30.19 (October 529) as often supposed, although it might, of course, represent another not-extant section of such a law.

⁴⁸ This is sometimes seen as reflected in the *Ecloga* 6.4.3 (L. BURGMANN [ed.], Frankfurt 1983, p. 196). See REGGI, *Ricerche* (cit. n. 46), pp. 35–38.

⁴⁹ Cf. Just. *Inst.* 2.19.6, which interprets Gordian's rescript differently. See REGGI, *Ricerche* (cit. n. 46), pp. 22–33; LUCHETTI, *La legislazione imperiale* (cit. n. 11), pp. 267–276.

⁵⁰ Gaius, *Inst.* 2.156–173; Just. *Inst.* 2.19. *Cf.* 6.30.19 (529) suggests that the standard time was one year. However, a *suus heres*, who rejected an inheritance, could reactivate his claim at any time provided the property had remained untouched. Justinian limited this ancient rule to three years (*Cf.* 6.31.6, 532).

which must have derived originally from the *Gregorian Code*. This latter was then subsumed into the novel on unforeseen debts after the issue of the First Code sometime in 529 or 530. The relevant sections of the two Justinian laws (one being in the *Novus Codex*, the other a self-standing novel) were then derogated by the issue of the 531 novel. This is the situation then reflected in the Institutes (2.19.6) in 533.⁵¹ Finally, when the *Codex Repetitae Praelectionis* was being made, the Gordian rescript and the Justinian law on deliberation (= Malalas's novel) were suppressed from Book Six, the now obsolete novel on unforeseen debts was excluded (although some sections on other matters may have been included), while an edited version of the comprehensive 531 law was added in. Although the sequence here reconstructed is not beyond dispute, at least it gives a good idea of the shifting fate of various legal texts during a period of busy legislative activity.

5. P. OXY. 1814

GENERAL COMMENTS

Therefore, from the *Codex Repetitae Praelectionis* and a variety of other sources, both legal and literary, it is possible to deduce, with reasonable firmness, something about the contents of the *Novus Codex*. However, it is only P. Oxy. 1814, which provides us with clear, direct and substantial evidence upon which to conduct a comparison of the two editions.⁵² The papyrus is a single sheet, written on both sides, but rather fragmentary, containing an index of constitutions, although we do not know if it was a self-standing reference work or attached to a complete Code. Thus it preserves the rubrics for the titles (some numbered in Greek) and the headings to the constitutions in abbreviated form, giving emperors and

⁵¹ *Digest* 28.8 on time for deliberation can be read as consistent with Justinian's new rules.

⁵² Much of what follows was already noted in the *editio princeps* by Grenfell and Hunt (*P. Oxy.* xv, pp. 217–222). The clearest exposition is still, I think, DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 68–79, but see more recently AMELOTTI & MIGLIARDI ZINGALE, *Le costituzioni giustiniane* (cit. n. 4), pp. 17–23.

addressees. The disadvantage of this format is that we cannot test how far the actual texts of constitutions present in both editions (in fact the majority) might have been altered. The advantage is that this summary list, although only a single lacunose sheet, covers a lot of ground, some three dozen constitutions spread over half-a-dozen titles. The results of being able to compare these titles from the First Edition with their Second Edition equivalents are extremely instructive, even though it should be stressed that most of the First Edition material, both titles and constitutions, is carried over into the Second. A tabulation of the two editions over the relevant titles is set out in the appendix. There is no need here to treat all the differences revealed by the papyrus, many of which are minor discrepancies in the headings.⁵³ However, it should be noted that the papyrus provides no evidence for the consistent reduction of names or styles for recipients between the two editions as opposed to loss in later transmission.⁵⁴

6. THE PAPYRUS AS EVIDENCE FOR RELOCATION OF MATERIAL BETWEEN EDITIONS

Because the papyrus preserves the Greek numeration for some titles (13, 14, 15), it is clear that we have here titles 11 to 16 of Book One of the First Edition (although the book number itself is not preserved). This already reveals the first important difference between the two editions. Although title 11 matches title 11 of the Second Edition, titles 12 to 16 are in fact equivalent to Second Edition 14 to 18. Thus titles 12 and 13 of the Second

⁵³ Thus $C\mathcal{J}^1$ I.II.4, 8 = $C\mathcal{J}^2$ I.II.3, 7; $C\mathcal{J}^1$ I.I2.I, 7, 10 = $C\mathcal{J}^2$ I.I4.I, 7, 10; $C\mathcal{J}^1$ I.I3.2 = $C\mathcal{J}^2$ I.I5.2; $C\mathcal{J}^1$ I.I6.I, 2, 5 = $C\mathcal{J}^2$ I.I8.I, 2, 5. These are discussed in S. CORCORAN, 'After Krüger: observations on some additional or revised Justinian Code headings and subscripts', *ZRG RA* 126 (2009), pp. 426–431.

⁵⁴ DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 78–79. Versions shorter in First Edition: $C\mathcal{J}^1$ I.I2.I, 7 = $C\mathcal{J}^2$ I.I4.I, 7; $C\mathcal{J}^1$ I.I6.5 = $C\mathcal{J}^2$ I.I8.5. Versions longer in the First Edition: $C\mathcal{J}^1$ I.II.4, 8 = $C\mathcal{J}^2$ I.II.3, 7; $C\mathcal{J}^1$ I.I6.I–2 = $C\mathcal{J}^2$ I.I8.I–2. $C\mathcal{J}^1$ I.I6.3 = $C\mathcal{J}^2$ I.I8.3 also appears to have room for an extra name, although not necessarily Julia from the possible conjoined text $C\mathcal{J}$. 3.44.8 (AMELOTTI & MIGLIARDI ZINGALE, *Le costituzioni giustiniane* [cit. n. 4], p. 23).

Edition are missing. Since these titles contain mostly material from before 529, they or at least their texts must already have been somewhere else in the *Novus Codex*.⁵⁵ They cannot have been added in from outside the Code, since this had clearly superseded previous imperial legislation (*C. Summa*), and there is no sign in *C. Cordi* that the creation of the Second Edition had entailed a second sweep of pre-529 works or laws.⁵⁶ Thus this represents reorganization of existing material within the Code.

Rotondi had already guessed that something of this sort had taken place.⁵⁷ He noted that the first eleven titles progressed more or less in step with the titles of *Theodosian Code* Book Sixteen,⁵⁸ with titles 12 and 13 concluding the sequence, but drawn from elsewhere in *CTh*. However, he noted that title 4, ‘*de episcopali audientia*,’ did not match any Theodosian title, and contained material drawn from many different places, but predominantly constitutions of Justinian from the period 529–534. Therefore he proposed that only in the Second Edition was this title created and placed in Book One. His reasoning, though acute, has been proved wrong.⁵⁹ Title 4 must have been in the same position in the First Edition, even if containing less material, while titles 12 and 13, although largely unchanged as to name or content, are new at least as regards their location.

⁵⁵ *P. Oxy.* xv, p. 217; DE FRANCISCI, ‘Frammento di un indice’ (cit. n. 6), pp. 77–78; AMELOTTI & MIGLIARDI ZINGALE, *Le costituzioni giustinianee* (cit. n. 4), p. 18.

⁵⁶ It is sometimes thought that constitutions were added into the Code direct from the juristic writings. This would most obviously be items excluded from the Digest but still considered useful (thus added to the Second not First Edition). It seems more likely, however, that the Gregorian Code was the intermediate source for items which appear closest to the citation style of jurists. For discussion see A. DELL’ORO, ‘Divus nelle inscripciones del codice giustiniano’, [in:] *Studi in Onore di Cesare Sanfilippo* 4, Milan 1983, pp. 201–206; D. LIEBS, *Die Jurisprudenz im spätantiken Italien (260–640 n.Chr.)* (*Freiburger rechtsgeschichtliche Abhandlungen* n.F.8), Berlin 1987, p. 34.

⁵⁷ G. ROTONDI, ‘Note sulla tecnica dei compilatori del codice giustiniano: la struttura e l’origine del titolo 1, 4’, [in:] *Scritti Giuridici* 1 (cit. n. 26), pp. 71–86.

⁵⁸ *CTh* 16.1 = *Cj.* 1.1; *CTh* 16.2 = *Cj.* 1.2–3; *CTh* 16.3–4 provide no *Cj.* material; *CTh* 16.5 = *Cj.* 1.5; *CTh* 16.6 = *Cj.* 1.6; *CTh* 16.7 = *Cj.* 1.7; *CTh* 16.8 = *Cj.* 1.9; *CTh* 16.9 = *Cj.* 1.10; *CTh* 16.10 = *Cj.* 1.11; *CTh* 16.11 provides no *Cj.* material. See A. M. GIOMARO, *Il Codex Repetitae Praelectionis* (*Studia et Documenta Sectio Iuris Romani et Historiae Iuris* 5), Rome 2001, pp. 295–296, 327–333.

⁵⁹ DE FRANCISCI, ‘Frammento di un indice’ (cit. n. 6), pp. 77–78.

The positioning of the titles is logical. Unlike the Theodosian Code, in which religious material was gathered under the last book, the Justinian Code opened with religious matters, proclaiming the importance of Christian orthodoxy for Justinian's empire. Indeed, the very first text is Theodosius I's constitution *Cunctos populos* (C*7*. 1.1.1 taken from C*Th*. 16.1.2), which established Catholic Orthodoxy as the official religion of the empire. However, while the first part of Book One is concerned with Christianity and related religious issues, the rest covers constitutional and administrative matters, as had Theodosian Code Book One. Clearly the transition from the first broad theme to the others occurred after title 11 in the First Edition, and when material was shifted with the relocation of two titles dealing with religious matters for the revised edition, these were placed at precisely this point, *i.e.* after title 11 and before the subject-change to constitutional affairs.

There are two important points here. The first is that the *Novus Codex* began with Christian material and that this was not an innovation of the Second Edition.⁶⁰ The fact that title 11 was retained in the same place in the Second Edition, and the fact that all the previous ten titles contained substantial or even exclusively pre-529 material, both suggest that these opening ten titles as well as title 11 were in the same positions in the two editions.⁶¹ We should note, however, that many of these titles were much expanded by the addition of new mainly Greek material in the Second Edition. So much so that Book One became by far the longest book in the Code and indeed this makes the whole rather imbalanced.⁶² From Jus-

⁶⁰ Accepted by most scholars, starting with Hunt and Grenfell, *P. Oxy* xv, p. 217; DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), p. 78; AMELOTTI & MIGLIARDI ZINGALE, *Le costituzioni giustinianee* (cit. n. 4), pp. 17–18; ARCHI, *Giustiniano legislatore* (cit. n. 8), pp. 83–84 and IDEM, 'I principi generali' (cit. n. 9), pp. 151–152; GIOMARO, *Il Codex Repetitae* (cit. n. 58), pp. 102–103. The opposite conclusion is reached by PIELER, 'Byzantinische Rechtsliteratur' (cit. n. 8), p. 412. He thought that C*7*.² 1.12–13, together with the other religious material, had been relocated from the final book of the First Edition (which had matched the Theodosian organization). However, this overlooks title 11 and the attested First Edition title numeration.

⁶¹ Thus title 4 must be original to the First Edition (*contra* Rotondi), unless we suppose it replaced another title that was suppressed or relocated.

⁶² See R. FORREZ, 'Graeca libri primi Codicis Iustiniani leguntur', [in:] *Viva Vox Iuris Romani: Essays in Honour of Johannes Emil Spruit (Studia Amstelodamensia 38)*, Amsterdam 2002,

tinian's perspective, however, this only enhanced the emphasis placed on the Christian aspect of the Code.⁶³ Also relevant is the existence of another probable fragment of the First Edition (P. Rein. inv. 2219), which, if correctly identified, shows that the known structure of titles and constitutions from near the end of the Second Edition was also present somewhere in the First Edition, although the lack of book and title numbers on this papyrus means that there is no certainty that the location was the same.⁶⁴

The second point, as already noted, is the fact that material was relocated within the Code. Why did it happen in this case? Titles 12 and 13 deal with asylum in church and manumission in church respectively. Now it seems likely that *CTh.* 4.7.1, the source text for *CJ.*² 1.13.2, was probably placed in Book Seven with other material relating to manumission and freedmen.⁶⁵ As we have already seen with respect to Junian Latins and *dediticii* (*CJ.* 7.5–6), Justinian enacted a series of measures sweeping away the vestiges of the Augustan manumission laws in the period following the publication of the *Novus Codex*. This would mean that the earlier part of Book Seven needed to be significantly remodelled.⁶⁶ This may have provided the background to a decision for manumission in church material to be relocated to the end of the ecclesiastical section of Book One in the

pp. 353–359. But Book One also saw the addition of long Latin texts (the Digest and African administration constitutions: *CJ.* 1.17.1–2, 1.27.1–2).

⁶³ For Justinian's increasing involvement with ecclesiastic affairs in the first decade of his reign, especially doctrinal issues, see F. MILLAR, 'Rome, Constantinople and the Near Eastern Church under Justinian: two synods of C.E. 536', *JRS* 98 (2008), pp. 62–82.

⁶⁴ AMELOTI & MIGLIARDI ZINGALE, *Le costituzioni giustinianee* (cit. n. 4), pp. 24–26; *CPL*, no. 100. This covers *CJ.* 12.59–62 (the Second Edition ends with title 64). The absence of the undated *CJ.* 12.60.7, thus a presumed post-529 addition, is the key argument for this as a First Edition fragment.

⁶⁵ Thus *CTh.* 4.8.4 = *CJ.* 7.16.42; *CTh.* 4.8.6 = *CJ.* 7.18.3; *CTh.* 4.9.1 = *CJ.* 7.10.7. Although *CTh.* 4.6.3, 6 are at *CJ.* 5.27.1–2, *CJ.* Books 5 and 6 seem implausible locations for the subject of manumission in church.

⁶⁶ There are only two pre-529 laws of Justinian (*CJ.* 7.3.1; 7.17.1) in this part of the Code, as opposed to the many later laws, some under entirely new titles: *CJ.* 7.2.15; 7.4.14–17; 7.5.1; 7.6.1; 7.7.1–2; 7.15.1–3; 7.17.2; cf. G. L. FALCHI, 'Studi sulle relazioni tra la legislazione di Giustiniano (528–534) e la codificazione di *leges e iura*', *SDHI* 59 (1993), pp. 150–151.

Codex Repetitae Praelectionis. Clearly ecclesiastical content was now considered more significant than relevance to manumission. Note that this involved the movement of material, not its duplication within some other title. While the Code sometimes repeated important passages under different titles,⁶⁷ the problem of finding relevant texts located in other parts of the Code (or other legal works) was solved by the creation of paratitla, which furnished the necessary cross-references.⁶⁸ Of course, summary lists of titles and constitutions, like the First Edition index, also played their part in helping navigation around the Code. A further point follows from the fact that *CTh.* title 4.7 is only incompletely known from the Breviary, namely that *Cf.*² 1.13.1 must originally have been in the same title.⁶⁹ A third law of Constantine on this topic, the earliest, may also have been in the *Theodosianus*.⁷⁰ If so, we may wonder whether it was excluded from the *Novus Codex* or only later during the reorganization for the Second Edition. It seems probable that the Theodosian title 4.7, 'De manumissionibus in ecclesia', was retained in the *Novus Codex*, and only changed to 'De his qui in ecclesiis manumittuntur' on its relocation in the *Codex Repetitae Praelectionis*, in order to match stylistically the format of the title 'De his qui ad ecclesias confugiunt vel ibi exclamant' which now preceded it.

⁶⁷ In fact, the already noted *Cf.* 1.4 contains 17 texts with *geminae* (sometimes identical) elsewhere in the Code, 7 being post-First Edition and therefore deliberately located in both places at the same time. Thus pre-Justinian: *Cf.* 1.4.6 (7.62.29); 1.4.12 (11.41.6); 1.4.14 (11.41.7); 1.4.15 (2.6.8); 1.4.16 (5.1.5); 1.4.17 (10.27.3); 1.4.19 (1.55.11). Justinian pre-First Edition: *Cf.* 1.4.21 (4.30.14); 1.4.22 (9.4.6); 1.4.23 (9.5.2). Justinian post-First Edition: 1.4.24 (8.51.3); 1.4.25 (3.43.1); 1.4.26 (10.30.4, 12.63.2); 1.4.27 (5.70.7); 1.4.28 (5.4.25); 1.4.31 (7.40.2); 1.4.32 (4.66.4). See also FALCHI, 'Studi sulle relazioni' (cit. n. 66), pp. 171–172.

⁶⁸ This was one of the few aids formally allowed by Justinian (*C. Tanta* 21 = *Cf.* 1.17.2.21; cf. *C. Deo Auctore* 12 = *Cf.* 1.17.1.12). For an example in relation to *Cf.* 1.13.1–2 see N. VAN DER WAL & B. H. STOLTE, *Collectio Tripartita: Justinian on Religious and Ecclesiastical Affairs*, Groningen 1994, p. 95.

⁶⁹ So restored by KRÜGER, *CTh. Fasc. I* (cit. n. 21), 134.

⁷⁰ Sozomen, *HE* 1.9.6; F. FABBRINI, *La manumissio in ecclesia (Pubblicazioni dell'istituto di diritto romano, dei diritti dell'Oriente mediterraneo 40)*, Milan 1965, pp. 48–68 (but overlooking the issues of transmission in the codes); J. HARRIES, 'Sozomen and Eusebius: the lawyer as Church historian in the fifth century', [in:] C. HOLDSWORTH, T. P. WISEMAN (eds.), *The Inheritance of Historiography 350–900 (Exeter Studies in History 12)*, Exeter 1986, pp. 48–49.

This adjacent title *Cf.*² 1.12 raises similar issues of relocation. *CTh.* title 9.43 matches the concluding title of Book Nine of the *Codex Repetitae Praelectionis*, its sole constitution being the final item in the book (*Cf.* 9.51.13). It seems most likely that material from the last two titles of *CTh.* Book Nine (44 ‘De his, qui ad statuas confugiunt’ and 45 ‘De his, qui ad ecclesias confugiunt’) originally followed on from this constitution to form, with the addition of some post-Theodosian novels, the two concluding titles of Book Nine in the *Novus Codex*. In the reorganization for the Second Edition, the final title of Book Nine on asylum in church was then relocated to its current position at *Cf.*² 1.12. Further the penultimate title and its single constitution (on asylum at imperial statues) was relocated also to Book One, but was placed not at the end of the ecclesiastical section, but at the end of the section on constitutional matters (*Cf.* 1.25), immediately before the next section on various offices.⁷¹

We may also wonder whether the bilingual constitution *CTh.* 9.45.4, of which only the Greek version was present at *Cf.*² 1.12.3, lost its Latin version on being placed in the First Edition, or rather only on relocation in the Second Edition.⁷² It may be significant, therefore, that, whereas Book Nine is predominantly Latin,⁷³ much of the extensive material added to

⁷¹ BONINI, *Ricerche* (cit. n. 13), pp. 92–96; cf. DE FRANCISCI, ‘Frammento di un indice’ (cit. n. 6), p. 78. This is a far more persuasive interpretation than that *Cf.* 1.12 was originally placed next to *Cf.* 1.25 and then simply migrated within Book 1 (e.g. WENGER, *Die Quellen* [cit. n. 8], p. 640).

⁷² B. H. STOLTE, ‘The use of Greek in the Theodosian Code’, [in:] A. J. B. SIRKS (ed.), *Aspects of Law in Late Antiquity*, Oxford 2008, p. 80, n. 7 [revised version in *Subseciva Groningana* 8 (2009), pp. 147–159] confirms Krüger’s view that the Second Edition contained only the Greek version, but does not consider the First Edition.

⁷³ The principal exception is a law of Justinian from January 529 (therefore already in the First Edition): *Cf.* 9.4.6, 9.5.2, 9.47.26; cf. 9.6.1, 9.36.1, 9.49.11. That these extracts stood out as being in Greek is suggested by the way *Cf.* 9.4.6 and 9.47.26 are cited in the *Dictatum de consiliariis (Iuliani Epitome* [cit. n. 19], p. 199 lines 5–6). The anomalous citation of two Latin juristic fragments encapsulated in a lost Greek text was presumably a Second Edition post-Digest supplement (*Cf.* 9.8.6), attributed by some to Basilides, the quaestor of 532–534. See F. DE MARINI AVONZO, ‘Due giuristi severiani per un imperatore sconosciuto’, [in:] *Materiali per una storia della cultura giuridica* IV, Bologna 1974, pp. 13–33 [repr. in *Dall’impero cristiano al medioevo* (cit. n. 40), pp. 93–113]; T. HONORÉ, *Tribonian*, London 1978, p. 236.

the first titles of Book One in the Second Edition was in Greek, and so reflects the erosion of Latin for ecclesiastical matters, as outside the core of the classical civil law.⁷⁴ By contrast, the balance between Greek and Latin in the Code as a whole in the periods immediately before and after 529 does not seem markedly different. Certainly Tribonian's engagement with the classical jurists, especially via the Fifty Decisions, is largely Latin,⁷⁵ although he acknowledges, perhaps a little 'sniffily', the need for some laws to be issued in Greek for practical reasons of dissemination.⁷⁶ However, it is notable that, when the Digest prefatory constitutions were added into the Second Edition, *C. Tanta* was included, but *C. Δέδωκεν* excluded.⁷⁷

7. THE PAPYRUS AS EVIDENCE FOR ADDITIONS AND EXCISIONS

The second major difference between the two editions could already have been inferred; namely, the addition of later material. Thus *Cf.*² 1.14.12 from October 529 is missing from the end of the equivalent First Edition title, 1.12, although all the other constitutions are present in both versions of this title. The new law is an important and definitive statement of the authority of the emperor's judicial decisions as binding precedents.⁷⁸

⁷⁴ FORREZ, 'Graeca libri primi' (cit. n. 62), pp. 353–359.

⁷⁵ See HONORÉ, *Tribonian* (cit. n. 73), pp. 39, 58–59, 124–138. The decline of Latin is much more marked in the composition of the Novels from 535 onwards, a sign of administrative realism and the prejudices of John the Cappadocian as Prefect of the East; C. KELLY, *Ruling the Later Roman Empire*, Cambridge, MA – London 2004, pp. 32–36.

⁷⁶ *Just. Inst.* 3.7.3 regarding *Cf.* 6.4.4; cf. *Just. Nov.* 7.1.

⁷⁷ *Cf.* 1.17.2; WALLINGA, *Tanta/Δέδωκεν* (cit. n. 34), pp. 79–81. The two long constitutions of 534 establishing the administration for reconquered Africa were also, not surprisingly, in Latin (*Cf.* 1.27.1–2).

⁷⁸ ARCHI, 'I principi generali' (cit. n. 9), pp. 154–156; for the formal nature of its promulgation see M. BIANCHINI, 'La *scriptio* delle *leges* giustinianee del 30 ottobre 529', [in:] *Studi in onore di Franca de Marini Avonzo*, Turin 1999, pp. 47–54.

However, there is also a clear case of additional material affecting what was previously there. Title 1.17 of the revised edition, 'De veteri iure enunciando et auctoritate iuris prudentium qui in digestis referuntur', deals with the authority of the Digest as the distillation of the writings of the jurists and contains two of its introductory constitutions (*C. Deo Auctore* and *C. Tanta* = *Cf.*² 1.17.1-2), dating respectively to December 530 and December 533, and reflecting the extensive activity in this area since the publication of the *Novus Codex*.⁷⁹ At the equivalent point in the First Edition, there is a title on the authority of jurists. In fact, only the word 'iuris' survives, but it is restored in all editions as '[*de auctoritate*] *iuris* [*prudentium*]'. An alternative version would be '[*de responsis*] *iuris* [*prudentium*]'. Adapted from the Theodosian title 1.4 '*De responsis prudentum*'.⁸⁰ However, the fact that the first version is echoed and adapted in the expanded Second Edition title, as well as the idea that Justinian was making a more sweeping point about the authority of the juristic writings as the sole pre-existing legal material that now remained valid outside the *Novus Codex*, suggest that the usual restoration is to be preferred.⁸¹ This title contained two texts (*Cf.*¹ 1.15.1-2). The first from its inscription (Theodosius and Valentinian to the Senate) must be the so-called Law of Citations of 426 (*CTb.* 1.4.3),⁸² which established a list of the jurists' whose works could be cited in legal cases.⁸³ The second is an unknown law of Justinian to the

⁷⁹ For their inclusion in the Code see WALLINGA, *Tanta/Δέδοκεν* (cti. n. 34), pp. 27-30.

⁸⁰ A possibility suggested by DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 73-74. This view that the title looked backwards rather than forwards is preferred by NIEDERMEYER, *Zeitschrift der Savigny Stiftung für Rechtsgeschichte* 46 (1926) (cit. n. 6), 492.

⁸¹ AMELOTI & MIGLIARDI ZINGALE, *Le costituzioni giustiniane* (cit. n. 4), p. 18; F. DE VISSCHER, 'Les sources du droit selon le Code de Justinien', [in:] *Nouvelles Études de droit romain public et privé*, Milan 1949, p. 358; G. L. FALCHI, 'La legge delle citazioni nella parte orientale dell'impero', [in:] *Accademia Romanistica Costantiniana: Atti v Convegno Internazionale*, Perugia 1983, pp. 240-244; E. VOLTERRA, 'Sulla legge delle citazioni', *MAL*⁸ 27 (1983), pp. 189-193 [= *Scritti Giuridici VI (Antiqua 66)*, Naples 1994, pp. 419-423].

⁸² For an example of a rare dissentient view see M. MASSEI, 'Le citazioni della giurisprudenza classica nella legislazione imperiale', [in:] *Scritti di diritto romano in onore di Contardo Ferrini*, Milan 1946, pp. 450-454.

⁸³ This law is in fact part of a much longer law addressed to the Roman Senate of which several fragments survive scattered across the Theodosian and Justinian Codes. See

praetorian prefect Menas.⁸⁴ These two laws, which governed the status of the jurists' writings under the First Edition of the Code, were rendered obsolete by the definitive recompilation and editing of the jurists' writings into the Digest, promulgated in 533.

It is these laws which are the feature of the papyrus that has excited the most interest among romanists, since they provide key if flexible evidence for assessing the development of Justinian's legal policy. As was already clear from *C. Summa*, with the publication of the *Novus Codex* authoritative legal texts were now confined to those imperial constitutions present in the Code, plus the juristic writings of the *veteres*. The inclusion of the Law of Citations in the Code shows that the *veteres* would have comprised at least the five men listed in the Theodosian version of this text, namely Papinian, Paul, Gaius, Ulpian and Modestinus. A vicarious status was also accorded to the jurists directly quoted by the Mighty Handful, of whom four are mentioned by name, Scaevola, Sabinus, Julianus, and Marcellus. Of course, it is impossible to tell if Justinian tampered with this list, either adding names or promoting some of the 'vicarious' jurists to the enjoyment of independent standing, perhaps Julianus, of whom special mention is made in the Digest constitutions.⁸⁵ At the least, Justinian's starting point for juristic authority was the Law of Citations.

What, therefore, of the law to Menas, whose content is irrecoverable?⁸⁶ There are three main alternative interpretations. First, the law

T. HONORÉ, *Law in the Crisis of Empire 379–455 AD*, Oxford 1998, pp. 249–251; A. J. B. SIRKS, *The Theodosian Code: A Study (Studia Amstelodamensia 39)*, Friedrichsdorf 2007, pp. 18–20.

⁸⁴ It is omitted from *PLRE II*, Menas 5. I have also been unable to find it in T. C. LOUNGHIS, B. BLYSIDOU & St. LAMPAKES, *Regesten der Kaiserurkunden des oströmischen Reiches von 476 bis 565 (Texts and studies in the history of Cyprus 52)*, Nicosia 2005, although the book's lack of an index makes such a search rather difficult.

⁸⁵ *C. Deo Auctore* 10 = *Cf. I.17.1.10*; *C. Tanta* 18 = *Cf. I.17.2.18*. Julianus, with Papinian, heads the otherwise chronological list of jurists in the *Codex Florentinus*. See T. HONORÉ, 'Justinian's Digest: the distribution of authors and works to the three commissions', *Roman Legal Tradition* 3 (2006), pp. 6–7. Julianus's status may, of course, be attributable to the personal enthusiasm of Tribonian after 529.

⁸⁶ Principal discussions on which I rely are by DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 74–75; BONFANTE, 'Frammento del Codice' (cit. n. 5), pp. 277–282 [= *Scritti Giuridici Varii IV* (cit. n. 5), pp. 132–135]; WENGER, *Die Quellen* (cit. n. 8), p. 575; PURPURA,

may have qualified the Law of Citations in some way, although direct modification of that text through interpolation or emendation seems more likely.

Secondly, the law was perhaps designed to clarify the relationship between the constitutions of the *Novus Codex* and the juristic writings. Indeed, *C. Summa* 3 did precisely that, stating that imperial constitutions quoted by the jurists were no longer valid, although the surrounding commentary could still be used, unless it stood in conflict with the law as now stated in the Code. Since *C. Summa* was itself addressed to Menas, it may be precisely the relevant section from it that was reproduced in the Code at this point. For the Code to contain within itself part of the very law promulgating and giving it validity may seem logically difficult. But even if not deriving from *C. Summa*, it is plausible that this text was rather similar in content.

Thirdly, the law may have been an early harbinger of the Fifty Decisions and indeed the Digest. This should not be overstated. It may simply have directed that important cases hinging on disputes between rival juristic interpretations should be referred up to the emperor for decision, and not just be left to the counting up of authorities, using Papinian as the tie-breaker, as set out in the Law of Citations. However, it is certainly premature to see large-scale engagement with the jurists already being envisaged so early on. That only appears to emerge with the appointment of Tribonian as quaestor later in 529, and indeed there is a gap in the Code of surviving dated laws between April (when the *Novus Codex* was issued) and September.⁸⁷ This coincides with a significant change of personnel connected with Justinian's legal policy. Menas had been praetorian prefect

Diritto, papiri e scrittura (cit. n. 8), pp. 145–146; G. L. FALCHI, *Sulla codificazione del diritto romano nel v e vi secolo (Pontificium Institutum utriusque iuris Studia et Documenta 8)*, Rome 1989, pp. 104–106; IDEM, 'Il "consistorium" imperiale e la codificazione del diritto romano nei secoli v e vi', [in:] *Atti dell'Accademia Romanistica Costantiniana: X Corvegno Internazionale*, Naples 1995, p. 206; RUSSO RUGGERI, *Quinquaginta Decisiones* (cit. n. 10), pp. 82–96.

⁸⁷ HONORÉ, *Tribonian* (cit. n. 73), pp. 84–85, 140–141; cf. LOUNGHIS & al., *Regesten der Kaiserurkunden* (cit. n. 84), p. 179.

⁸⁸ *PLRE* II, Menas 5 and *PLRE* IIIB, Thomas 3. The close association of Menas and Thomas is probably reflected, if somewhat distantly, in the names chosen for the inter-

of the East throughout the process for the creation of the *Novus Codex*, as had Thomas as quaestor.⁸⁸ By September 529, Menas had been replaced by Demosthenes, and Thomas (dismissed for suspected paganism) by Tribonian at the top of the imperial administration.⁸⁹ From now onwards, Tribonian was effectively in charge of legal affairs and must have been the driving force as attention was focussed on the juristic writings.⁹⁰ The membership of the later codification commissions was markedly different in expertise from that for the *Novus Codex*, and must in essence have reflected Tribonian's preferences and priorities.⁹¹ The solemn promulgation of a batch of laws in the New Consistory of the Hebdomon palace in Constantinople on 30 October 529 was perhaps intended to signal the inauguration of a new legal order.⁹² In due course, the first of the Fifty Decisions was issued in July or August 530.⁹³ A law addressed to Menas, therefore, should reflect the pre-Tribonian situation. Thus, while still enigmatic, *Cf.*¹ 1.15.2 is best explained in accordance with the second interpretation given above, namely that it regulated the relationship of the *Novus Codex* and the jurists. This is surely the most straightforward solution.

locutors in a late-Justinianic political dialogue (C. M. MAZZUCCHI [ed.], *Menae patricii cum Thoma referendario De scientia politica dialogus*, rev. ed., Milan 2002).

⁸⁹ HONORÉ, *Tribonian* (cit. n. 73), pp. 46–47, 232–236; J. BEAUCAMP, 'Le philosophe et le joueur: la date de la 'fermeture de l'école d'Athènes', [in:] *Mélanges Gilbert Dagron (Travaux et Mémoires 14)*, Paris 2002, p. 35.

⁹⁰ Paul is mentioned in one of the earliest constitutions after the gap (*Cf.* 3.28.33.1; 17 September 529) and jurists are prominent in constitutions thereafter; FALCHI, 'Studi sulle relazioni' (cit. n. 66), pp. 106–107.

⁹¹ HONORÉ, *Tribonian* (cit. n. 73), pp. 147–148; GIOMARO, *Il Codex Repetitae* (cit. n. 58), pp. 42–48.

⁹² BIANCHINI, 'La *subscriptio*' (cit. n. 78), pp. 47–54.

⁹³ RUSSO RUGGERI, *Quinquaginta Decisiones* (cit. n. 10), pp. 63–71, argues that they were issued between July 530 and April (or possibly September) 531. Tribonian's connection to the Decisions is made explicit at Just. *Inst.* 1.5.3.

8. *Cf.* BOOK 1 TITLE 11
IN THE TWO EDITIONS

The final comparison between the two editions is that between their treatments of title 11, 'De paganis sacrificiis et templis'.⁹⁴ As discussed above, the title occurs in the same position in both editions, although for the First Edition this marks the conclusion of the ecclesiastical section of Book One. In each edition it has the same number of constitutions, although these are not identical, since each version of the title contains one constitution which the other lacks. *Cf.*¹ 1.11.1 is an otherwise unattested constitution, whose partially preserved heading is addressed to someone with a name ending in 'odoto'. The sequence *Cf.*¹ 1.11.2–9 then matches *Cf.*² 1.11.1–8. The Second Edition as currently reconstituted concludes with two texts in Greek *Cf.*² 1.11.9–10 restored from later Byzantine works, and so missing their headings and subtitles. The First Edition index records only one further constitution, *Cf.*¹ 1.11.10, with a Greek heading giving the issuing emperor as Anastasius and the addressee as a praetorian prefect, whose name is lost. This heading, therefore, supplies in part that missing for *Cf.*² 1.11.9. Logically, therefore, the lack of any further entries in the First Edition index shows that *Cf.*² 1.11.10 must have been an addition to the *Codex Repetitae Praelectionis* and so a law of Justinian issued between 529 and 534.

On the publication of *P. Oxy.* 1814, the attribution of *Cf.*¹ 1.11.10 (= *Cf.*² 1.11.9) to Anastasius was swiftly noted by Bury,⁹⁵ and subsequently by other

⁹⁴ Since I have discussed this title in some detail in my article 'Anastasius, Justinian and the pagans: a tale of two codes and a papyrus', *JLA* 2 (2009), pp. 183–208, the treatment here is rather more cursory. See also F. GRELLE, 'Il titolo *de paganis sacrificiis et templis* nel Codice di Giustiniano', *VetChr* 37 (2002), pp. 61–67. For the key Theodosian source-title (16.10), see G. L. FALCHI, 'La tradizione giustiniana del materiale teodosiano (*CTh.* XVI)', *SDHI* 57 (1991), pp. 87–90; L. DE GIOVANNI, *Chiesa e stato nel Codice Teodosiano* (5th ed.), Naples 2000, pp. 126–138.

⁹⁵ J. B. BURY, *History of the Later Roman Empire, from the death of Theodosius I to the death of Justinian (AD 395 to AD 565)* 11, London 1923, p. 396, n. 2 (a last minute note added following the publication of the papyrus, as he originally attributed the law to Justinian on p. 367).

historians, such as Stein and Jones.⁹⁶ However, these notices are often buried in footnotes⁹⁷ and tend to be absent from reference works.⁹⁸ Most importantly, Krüger's edition of the Code, upon which scholars rely, was never up-dated to take account of the papyrus.⁹⁹ Thus the attribution is often overlooked, even by Anastasian specialists.¹⁰⁰ The pair of constitutions *Cf.*² I.II.9–10 has most frequently been seen as typically Justinianic, a mark of that emperor's aggressive anti-pagan policy.¹⁰¹ The papyrus, of course, shows that the first is explicitly Anastasian, and the second implicitly Justinianic. Although Anastasius's policy on the pagans is largely a

⁹⁶ E. STEIN, *Histoire du Bas-Empire* II, Paris – Brussels – Amsterdam 1949, p. 330, n. 8; A. H. M. JONES, *The Later Roman Empire 284–602*, Oxford 1964, p. 938, with n. 2.

⁹⁷ Recent examples: BEAUCAMP, 'Le philosophe et le joueur' (cit. n. 89), p. 25, n. 21; A. D. LEE, 'The eastern empire: Theodosius to Anastasius', [in:] *CAH* XIV, p. 50, n. 109, both citing the papyrus in rejection of F. Trombley's misguided attempt to attribute *Cf.* I.II.9–10 to Zeno (F. TROMBLEY, *Hellenic Religion and Christianization c.370–529 (Religions in the Greco-Roman World* 115) 1, Leiden 1993, pp. 81–94).

⁹⁸ But note LOUNGHIS *et al.*, *Regesten der Kaiserurkunden* (cit. n. 84), p. 88, no. 197.

⁹⁹ The *éditiones maior* and *minor* were both complete by 1877. The former was not reprinted until 1998 (an unchanged fascimile). The latter has stayed in print through many near identical editions. Krüger himself made changes up to the 1915 edition (e.g. the Cologne fragment reflected in *Cf. editio minor*, 9th ed., Berlin 1915, pp. 138–139; cf. CORCORAN, 'After Krüger' [cit. n. 53], p. 431). But, although aware of *P. Oxy.* 1814 (KRÜGER, 'Neue juristische Funde' [cit. n. 5], pp. 560–563), he died in 1926, and no later editions reflected the papyrus, not even the new Dutch translation (J. E. SPRUIT, J. M. J. CHORUS, L. DE LIGHT, *Corpus Iuris Civilis, Tekst und Vertaling* VII: *Codex Justinianus* 1–3, Amsterdam 2005, pp. 233–234).

¹⁰⁰ It is ignored in C. CAPIZZI, *L'imperatore Anastasio I (491–518): Studio sulla sua vita, la sua opera e la sua personalità (OLA* 184), Rome 1969, and omitted from her list of Anastasius's legislation (drawn from Krüger) by F. K. HAARER, *Anastasius I: Politics and Empire in the Late Roman World (ARCA* 46), Liverpool 2006, pp. 285–287.

¹⁰¹ E.g. P. R. COLEMAN-NORTON, *Roman State and Christian Church* III, London 1966, nos. 583 and 600; J. GAUDEMET, 'La législation anti-païenne de Constantin à Justinien', *CrSt* 11 (1990), pp. 457, 466–467; P. CHUVIN, *Chronique des derniers païens: la disparition du paganisme dans l'Empire romain, du règne de Constantin à celui de Justinien*, 2nd ed., Paris 1991, p. 296, n. 14; M. MAAS, *John Lydus and the Roman Past*, London – New York 1992, p. 71, n. 17; E. J. WATTS, 'Justinian, Malalas, and the end of Athenian philosophical teaching in A.D. 529', *JRS* 94 (2004), pp. 179–182; IDEM, *City and School in Late Antique Athens and Alexandria*, Berkeley &c. 2006, pp. 138–142.

blank, there is a possible context for *Cf.*² 1.11.9 in his reign. In 502 Anastasius took action against various Spring festivals following repeated severe disturbances during the celebration of the *Brytae* at Constantinople, specifically banishing the dancers from cities across the empire.¹⁰² While the emperor may have been motivated by concern for civic order,¹⁰³ the clerical view was that such occasions were not mere entertainment, but insidious pagan survivals potentially injurious to the spiritual health of Christians.¹⁰⁴ *Cf.*² 1.11.9 required magistrates to investigate and punish 'Hellenic' (*i.e.* pagan) practice brought to their attention by bishops amongst others, but also confiscated any bequests by will intended even surreptitiously to support such activities. Thus this law may have been a follow-up measure after the action taken against the dancers, inspired perhaps by *suggestiones* from zealous bishops, and could have been intended to rein in and weaken the financial basis of festivals that appeared too corruptingly pagan.

The papyrus index is less important regarding *Cf.*² 1.11.10, which has in any case been regarded as a Justinianic measure issued in 529 or sometime thereafter.¹⁰⁵ But its absence from the papyrus does fix its issue after April 529 and before November 534. In fact, a more precise date of the summer/early autumn of 529 is strongly suggested by other evidence. Malalas famously reports that the teaching of philosophy was banned at Athens in that year,¹⁰⁶ and this is seen as a consequence of this law, which barred

¹⁰² For discussion with extensive translated sources see G. GREATREX & J. W. WATT, 'One, two or three feasts? The *Brytae*, the *Maiuma* and the May Festival at Edessa', *OC* 83 (1999), pp. 1–21.

¹⁰³ See HAARER, *Anastasius I* (cit. n. 100), pp. 223–229; C. EPPLETT, 'Anastasius and the *venationes*', *Nikephoros* 17 (2004), pp. 221–230.

¹⁰⁴ E.g. Severus of Antioch, *Homily* 95 (quoted by GREATREX & WATT, 'One, two or three feasts?' [cit. n. 102], pp. 15–16) and *Hymn* 269 (P. ALLEN & C. T. R. HAYWARD, *Severus of Antioch*, London – New York 2004, pp. 172–173); C. MOSS, 'Jacob of Serugh's homilies on the spectacles of the theatre', *Le Muséon* 48 (1935), pp. 87–112; cf. R. WEBB, *Demons and Dancers: Performance in Late Antiquity*, Cambridge, MA – London, 2008, esp. pp. 147, 169–171, 197–216.

¹⁰⁵ COLEMAN-NORTON, *Roman State* (cit. n. 101), vol. 3, no. 600; LOUNGHIS *et al.*, *Regesten der Kaiserurkunden* (cit. n. 84), p. 171, no. 598.

¹⁰⁶ John Malalas, *Chron.* 18.47.

'Hellenes' (pagans) from teaching or receiving public salaries for such.¹⁰⁷ Another law of Justinian (*Cf.* 1.5.18), a comprehensive anti-heretic text, includes a similar ban on teaching by the non-Orthodox, and should also date to the summer/autumn of 529.¹⁰⁸ Malalas also mentions in the same passage a ban on gaming with dice, while fragments or versions of what must be this law survive in the Code dated to September 529.¹⁰⁹ Finally, Malalas reports a general persecution of pagans also in this year, one of whose most prominent victims was the quaestor, Thomas.¹¹⁰ This coincides with the significant change of senior personnel noted above, since by September 529 Tribonian had replaced Thomas as quaestor, while the prefecture of the East had passed from Menas to Demosthenes.¹¹¹ All these indications of date, therefore, suggest that *Cf.*² 1.11.10 must have been issued in the summer or autumn of 529.¹¹²

The final matter for examination in title 1.11 is the fragmentary heading to the first law in the First Edition index addressed to '[. . .]odoto', which is unattested in the Second Edition. The addressee has been restored variously as Theodotus, Diodotus and even Theodorus,¹¹³ but cannot be identified with any recipient known from the *Theodosian Code*. There has been

¹⁰⁷ The bibliography on this is large, but the most recent good discussions contain earlier references. See BEAUCAMP, 'Le philosophe et le joueur' (cit. n. 89), pp. 21–35; WATTS, 'Justinian, Malalas' (cit. n. 101), pp. 168–182; IDEM, *City and School* (cit. n. 101), ch. 5. Note that Watts seeks to decouple the events of 529 from *Cf.*² 1.11.10, which he would date rather later (*ca.* 531). I argue against this in CORCORAN, 'Anastasius, Justinian and the pagans' (cit. n. 94), where fuller references can be found than those given here.

¹⁰⁸ Of the two adjacent laws, *Cf.* 1.5.17 may be a response to or catalyst for the outbreak of the Samaritan revolt (spring/summer 529); R. PUMMER, *Early Christian Authors on Samaritans and Samaritanism*, Tübingen 2002, pp. 259–265, 283–284, 307–8. *Cf.* 1.5.19 is addressed to Demosthenes *ppo*, in office in the autumn of 529.

¹⁰⁹ *Cf.* 1.4.25; 3.43.1; cf. BEAUCAMP, 'Le philosophe et le joueur' (cit. n. 89), pp. 21–35.

¹¹⁰ John Malalas, *Chron.* 18.42; cf. Theophanes, *Chron. a.m.* 6022 (de Boor, p. 180); MANGO & SCOTT, *The Chronicle of Theophanes* (cit. n. 41), p. 274.

¹¹¹ *PLRE* II, Demosthenes 4 and Menas 5; *PLRE* III B, Thomas 3. HONORÉ, *Tribonian* (cit. n. 73), pp. 46–47, 84–85, 232–236.

¹¹² Already the view of DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 72, following Krüger.

¹¹³ DE FRANCISCI, 'Frammento di un indice' (cit. n. 6), pp. 71.

some speculation that this constitution might represent the lost law of Constantine banning sacrifice mentioned by Eusebius (*Vit. Const.* 2.45.1) and implied by Constans (*CTh.* 16.10.2).¹¹⁴ Certainly, the fact that the next text in the papyrus is not headed '*Idem A.*' suggests a change of emperor between the two texts, and since the second emperor is Constantius, the first (given the subject matter) should be an earlier Christian emperor, therefore Constantine. Of course, this only tells us what the compilers thought, and there are frequent confusions between Constantinian-dynastic names, so that the actual issuer could still be Constantius (or Constans). The main problem here is that the source for such a text of the Second Flavians should be the Theodosian Code, and there is no sign of a suitable law in the title where we would expect it (*CTh.* 16.10), or indeed anywhere else in Book Sixteen, which has been transmitted intact. It is rather difficult to see why such a law should have originally lain in one of the less well preserved early books (1–5). However, there is another possibility, since, while the first half of *Cf.* Book One contains only ecclesiastical material, it also transmits two rare texts of pre-Christian emperors relating to the Jews, which must have derived from the *Gregorian* or *Hermogenian Codes*.¹¹⁵ Perhaps, therefore, some pre-Christian text from the *Gregorian Code* was included under title 11, since a pagan emperor may well have made a ruling regarding pagan practice or property holding which remained relevant.¹¹⁶ Indeed, the fact that the fragmentary addressee '[*The?*]odotus' has no office after his name makes attractive the idea that he was the private recipient

¹¹⁴ Thus CORCORAN, *Empire of the Tetrarchs* (cit. n. 20), pp. 315–316. Theodotus bishop of Laodicea was suggested as a possible ecclesiastical recipient. Tim BARNES revived this idea at the York Constantine conference in July 2006, but has since abandoned it (personal comment, March 2009).

¹¹⁵ *Cf.* 1.9.1 (Caracalla, 213); 1.9.2 (undated Greek text, restored from the Nomocanon, but reading exactly like a third-century private rescript; CORCORAN, *Empire of the Tetrarchs* (cit. n. 20), pp. 38, n. 87).

¹¹⁶ Suggested by Caroline HUMFRESS at York in 2006; cf. the tentative comments in S. CORCORAN, 'The publication of law in the era of the Tetrarchs: Diocletian, Galerius, Gregorius, Hermogenian', [in:] A. DEMANDT *et al.* (eds.), *Diokletian und die Tetrarchie: Aspekte einer Zeitenwende (Millennium-Studien 1)*, Berlin – New York 2004, p. 62, n.26. Hermogenian Code origin can be ruled out, since that code contained only rescripts of 293 and 294, whereas the lacuna in the papyrus is too short to allow for even an abbreviated tetrarchic heading.

of a private rescript. Such rescripts were the predominant content of the *Gregorianus*, but were excluded from the *Theodosianus*.

The nature of this law may also be revealed by asking why it was dropped from the Second Edition. Given that the other earlier laws banning pagan cult and sacrifices survived the process of revision, the missing law can hardly have simply said the same, otherwise it too should have been retained. Logically, therefore, it must have been superseded by later legislation in a manner, which even emendation of its text could not remedy, and the answer should lie in the new law of Justinian added to the title (*Cf.*² I.II.IO). The aspects of this text which stand out are: forced conversion upon pain of loss of property; the equating of Hellenes with Manichees and Borborites; and the ban on pagan teaching. Regarding the first of these, Constantine, in his letter to the eastern provincials, ruled against forced conversion of pagans,¹¹⁷ and an extract from that text or some equivalent rule addressed to an overenthusiastic cleric could have been placed in the *Novus Codex*. But this still leaves the problem, already noted, that it is hard to see from where such a law could have come other than the intact Book Sixteen of the *Theodosianus*. Regarding the second point, we know that the *Gregorianus* contained a Diocletianic rescript against the Manichees, but, if present in the *Novus Codex*, it would most probably have been located with other such material under *Cf.* I.5.¹¹⁸ This leaves us with the third option, that the text is in some way connected with the ban on pagan teaching. We know that pre-Christian emperors engaged in correspondence regarding the succession to the philosophical schools and the status of endowed chairs,¹¹⁹ although this interest continues under Christian emperors into the fourth century.¹²⁰ A rescript on

¹¹⁷ Eusebius, *VC* 2.56, 60.

¹¹⁸ Diocletian's rescript is in fact cited by Christian writers to show that not only Christian emperors legislated against the Manichees. Thus *Collatio* 15.3 (*FIRA* II, pp. 580–581), which provides the Gregorian Code details; Ambrosiaster, *Ad Tim.* II 3.7 (*CSEL* LXXXI/3, 312); Valentinian III, *Nov.* 18.pr.

¹¹⁹ J. H. OLIVER, 'Marcus Aurelius and the Philosophical Schools at Athens', *AJPb* 102 (1981), pp. 213–225; R. VAN BREMEN, 'Plotina to all her friends: the letter(s) of the empress Plotina to the Epicureans in Athens', *Chiron* 35 (2005), pp. 499–532.

¹²⁰ Thus Constans and Prohaeresius (WATTS, *City and School* [cit. n. 101], pp. 59–62).

this topic is at least possible under *Cf.*¹ I.II. Indeed, it might have been included here precisely because it showed that, as conceived by the editors of the *Novus Codex*, the prohibition of 'pagan funding' under *Cf.*¹ I.II.10 (*Cf.*² I.II.9) did not apply to the prestigious schools. Further, the specific mention that imperial grants or pragmatic sanctions could not override the teaching ban in *Cf.*² I.II.10.2 might indicate that *Cf.*¹ I.II.1 was seen as giving force to such grants and so had to be removed.¹²¹ Certainly, whatever this law was, at least as edited into the Code, it must have been concessive towards or protective of pagans and so rendered useless by the issue of the comprehensively anti-Hellene *Cf.*² I.II.10. After that, there could be no formal legal protection for pagan teachers or pagans in general, even if in reality enforcement was uneven.¹²²

I think the derivation of this mysterious law from the *Gregorian Code* is currently the most convincing option for these reasons: 1] there is no suitable law of Constantine or Constantius traceable in *CTh.* 16; 2] some Gregorian or Hermogenian material is already present elsewhere in this opening 'ecclesiastical' section of *Cf.* Book One (*Cf.* I.9.1-2); 3] the addressee lacks an office, so the text is plausibly a private rescript; 4] it is possible to imagine how a private rescript of a pagan emperor interpreted as protecting pagans in some fashion was added to the *Novus Codex* in 529, only to be superseded later in the same year on the issue of *Cf.*² I.II.10 and then finally suppressed when the latter was added into the *Codex Repetitae Praelectionis* in 534.

9. CONCLUDING REMARKS

The key features of *P. Oxy.* 1814 in demonstrating the differences between the two editions of the *Codex Iustinianus* have long been recognized and were indeed astutely analyzed by the earliest commentators, starting

¹²¹ Note, by contrast, that while the *Novus Codex* invalidated former imperial legislation, it did not affect personal grants embodied in pragmatic sanctions (*C. Summa* 4).

¹²² Note that *Cf.* I.II.6 (cf. VAN DER WAL & STOLTE, *Collectio Tripartita* [cit. n. 68], p. 90) still protected Hellene or Jewish property from seizure by individual Christians.

with the editors of the *editio princeps*. However, the focus of romanists has tended to be on the issue of the Law of Citations, while historians have not always been alive to the information provided by the papyrus or its implications. Therefore, there are three crucial points that need re-iterating:

(1.) Both the *Novus Codex* and the *Codex Repetitae Praelectionis* began with ecclesiastical material, in contrast to the *Theodosianus*. This is shown by the fact that title 1.11 has the same location in both Code editions.

(2.) Material was relocated between the two editions. This is demonstrated by the case of *Cf.*² 1.12–13, both absent from the papyrus. These must have been moved from the *Novus Codex* Books Nine and Seven respectively. However, it is difficult to see how extensive such radical dislocations might have been beyond those caused by the magnetic pull of the ecclesiastical section of Book One, which reflected the increased importance of religious legislation.

(3.) Not only were post-529 laws added, but this sometimes led to the suppression of laws previously present. Of course, the addition of later legislation with the consequent emendation of existing material was already clear from the Second Edition alone. While emendation of texts could not be revealed by the papyrus, suppression, as well as addition, could be demonstrated. Thus the Law of Citations and the law to Menas under *Cf.*¹ 1.15 were superseded by the Digest constitutions under *Cf.*² 1.17. Further, the explanation for the suppression of *Cf.*¹ 1.11.1 from the Second Edition should lie in the provisions of the law added at *Cf.*² 1.11.10.

In addition to these general features, specific points can be made about three of the laws under title 1.11. First, *Cf.*¹ 1.11.1 need not be inevitably ascribed to Constantine or Constantius II as Christian emperors, but could well have been a private rescript of a third-century pagan emperor deriving from the *Gregorianus*. Secondly, *Cf.*¹ 1.11.10 = *Cf.*² 1.11.9, whose explicit ascription to Anastasius by the papyrus is often overlooked, can be placed plausibly in the context of the banishing of the dancers in 502, as another part of the response to the affair of the Brytae. Finally, *Cf.*² 1.11.10, although only datable between April 529 and Novem-

ber 534 on the basis of its absence from the papyrus, can be more closely assigned to the summer or autumn of 529. Further, as stated above, its inclusion in the *Codex Repetitae Praelectionis* means that the reasons for the exclusion of *Cj.*¹ 1.11.1 should be sought in its provisions.

APPENDIX:
SYNTAGMA OF *Cj.* FIRST AND SECOND EDITIONS

First Edition (<i>P. Oxy.</i> xv 1814)	Source Text (if known)	Second Edition (<i>per</i> Krüger)
<i>R</i> [ια] <i>D</i> [e <i>p</i>]agani[is] sacrificiis [et] templis <i>R</i>		1.11 <i>De paganis sacrificiis et templis</i>
1 [Imp A . . . ?] <i>iodoto</i>		
2 [Imp Consta]ntin A ad Taurum pp	<i>CTh.</i> 16.10.4	1 Imp Constantius A ad Taurum pp
3 [Imp] Gratian] Valentin et Theod [AAA Cyne]gio pp	<i>CTh.</i> 16.10.9	2 Imp] Gratianus Valentinianus et Theodosius AAA Cynegio pp
4 [Imp] Arcadius et H]onorius AA Ma[c]rovia [et Pr]oclian vic v prov	<i>CTh.</i> 16.10.15	3 Imp] Arcadius et Honorius Macrobio et Procliano vicario
5 Id AA Apollodo[ro pr]ocons Africae	<i>CTh.</i> 16.10.17	4 Idem AA Apollodoro proconsuli Africae
6 Imp] Honor [et The]odosius AA populo [Carta]gen[ie]nsi	<i>CTh.</i> 16.10.20	5 Imp] Honorius et Theodosius AA populo Carthaginiensi
7 Id AA Asclepi[odoto p]p	<i>CTh.</i> 16.10.24	6 Idem AA Asclepiodoto pp
8 Imp] Valen[tin et Marcian AA] M Pallad[io pp]		7 Imp] Valentinianus et Marcianus AA Palladio pp
9 Imp] Leo et An[them AA] Dioscoro pp]		8 Imp] Leo et Anthemius AA Dioscoro pp
10 αυτοκρ Αναστα[. .]ἐπαρχ πρ		9 Greek text: no surviving heading
		10 Greek text: no surviving heading

First Edition (<i>P. Oxy.</i> xv 1814)	Source Text (if known)	Second Edition (<i>per</i> Krüger)
	<i>CTh.</i> 9.45; <i>CTh.</i> 16.8	1.12 <i>De his qui ad ecclesias confugiunt vel ibi exclamant</i>
	<i>CTh.</i> 4.7	1.13 <i>De his qui in ecclesiis manumittuntur</i>
<i>R</i> [ιβ] <i>De legibus e[st con]stitu[tionibus] principum et [edictis]</i>		1.14 <i>De legibus et constitutionibus principum et edictis</i>
1 [Imp Co]nstan[tin] [A] Basso pu	<i>CTh.</i> 1.2.3	1 Imp Constantinus A <Septimio> Basso pu
2 [Impp T]heo[dosius et] Valentin[ian AA a]d se[natum]		2 Impp Theodosius et Valen- tinianus AA ad senatum
3 [Id AA ad senatum]		3 Idem AA ad senatum
4 [Id AA ad Volusian]um pp	<i>NovTh.</i> 9 <i>pr.</i>	4 dem AA ad Volusianum pp
5 [Id AA Florentio p]p	<i>NovTh.</i> 14.6	5 Idem AA ad Florentio pp
6 [Id AA Florentio pp]		6 Idem AA ad Florentio pp
7 [Id AA Cyro pp]		7 Idem AA Cyro pp et consuli designato
8 [Id AA ad senatum]		8 Idem AA ad senatum
9 [Impp Valentinian et] Marchian [AA ad Palladium pp]	<i>NovM.</i> 4 <i>pr.</i>	9 Impp Valentinianus et Marcianus AA ad Palladium pp
10. <i>Ἀυτοκράτορες Λέων καὶ Ἀνθ[έμιος AA] ἐ[αρχ</i>		10 [<i>Ἀυτοκράτορες Λέων καὶ Ἀνθ[έμιος AA]</i>]
11 Impp Leo et Zeno AA		11 Impp Leo et Zeno AA
		12 Imp Iustinianus A Demos- theni pp
<i>R</i> ιγ <i>De mandatis p[ri]ncipum R]</i>		1.15 <i>De mandatis principium</i>
1 Impp Gratian Valen[tinian et Theodo]sius AA ad Eu[signium pp]	<i>CTh.</i> 1.3.1	1 Imppp Gratianus Valentinianus et Theodosius AAA ad Eusignium pp
β ηδικτον του δεσπ[οτου...? Ἰουστ]ινιανου [A?]		2 [<i>Ἀυτοκράτορες Ἰουστίνος καὶ Ἰουστινιανὸς AA]</i>]

First Edition (<i>P. Oxy.</i> xv 1814)	Source Text (if known)	Second Edition (<i>per</i> Krüger)
<i>R 18 de [senat con]sultis R</i>		1.16 <i>De senatus consultis</i>
1 Impp V[al]ent T[heod]osius et Arcad A ad s[enatum]		1 Impp Valentinianus Theodosius et Arcadius AAA ad senatum
		2 Missing Greek constitution?
<i>R 16 [de auctoritate] iuris [prudentium] R</i>		1.17 <i>De veteri iure enucleando et auctoritate iuris prudentium qui in digestis referuntur</i>
1 [Impp Theodosius et V]alent A ad se[natu]m	<i>CTb.</i> 1.4.3	
2 [Imp Iust]inianus [M]enae pp		
	<i>C. Deo Auctore</i>	1 Imp Iustinianus A Triboniano viro eminentissimo quaestori sacri palatii
	<i>C. Tanta</i>	2 Imp Caesar Flavius Iustinianus A ad senatum et omnes populos
<i>[R 15 de iu]ris et facti ignor[an]t[ia] R</i>		1.18 <i>De iuris et facti ignorantia</i>
1 [Imp Ant]on A Iulio Max mil		1 Imp Antoninus A Maximo militi
2 [Id A S]ext Iuv[e]n[ali]	<i>CGV</i> 8.1.3	2 Idem A <Sextio> Iuvenali
3 [Imp P]hilip[p]us [A Iul? Marc]ell[ae]		3 Imp Philippus A Marcellae
4 [Imp]p] Diocl et M[aximian AA Iulianae]		4 Impp Diocletianus et Maximianus AA Iulianae
5 [Id AA] et CC Ma[rtiali]		5 Idem AA et Constantius et Maximianus nobilissimi CC Martiali
6 [Id AA] et CC Taur et P[ollioni]		6 Idem AA et CC Tauro et Pollioni
7 [Id AA] et C[C] Zoe		7 Idem AA et CC Zoe

First Edition (<i>P. Oxy.</i> xv 1814)	Source Text (if known)	Second Edition (<i>per</i> Krüger)
8 [Id AA] et CC Dionys[iae]		8 Idem AA et CC Dionysiae
9 [Id AA e]t CC Gaio et [Anthemio]		9 Idem AA et CC Gaio et Anthemio
10 [Id AA] et CC Amph[iae]		10 Idem AA et CC Amphiae
11 [Imp Con]stantin A [Vale]ria[no vic]	<i>CTh.</i> 3.5.3	11 Imp Constantinus A Valeriano vicario

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