

INDEX TITULORUM

Merely Table of Contents or Ἀρχὴ σὺν Θεῷ τῶν Βασιλικῶν?

1. Some of the manuscripts handing down the Basilica¹ do not only contain the text of that compilation of laws, but also transmit indices titulorum. It concerns tables of contents dividing the text of the Basilica into books and titles as well as providing the titles with rubrics. We possess a number of such tables of contents. Two of them cover all sixty books of the Basilica; the other indices can be defined as partial or sub-indices: they only cover a limited number of Basilica books.²

Right from the beginning of their vast undertaking, Scheltema and Van der Wal were well aware of the significance of the above tables of contents. In the preface to the first volume of their new edition of the text of the Basilica, they made the following comment: 'Aeque inter Appendices locum obtinebunt ii Indices titulorum qui, ut e.g. Index Coislinianus pernotus, plura (aut alia) exhibent quam meram enumerationem earum rubricarum quae in ipsius codicis textu occurrunt'.³ On the one hand, this quotation draws the attention to the importance of the indices titulorum as providers of information. For, the greater part of the extant indices is indeed more than a bare listing of books and titles with corresponding rubrics. They come up with information concerning the internal structure of individual Basilica titles as well. On the other hand, the above quotation confronts us with a very important matter. What exactly are the indices titulorum? Are they mere πίνακες, viz. ordinary tables of contents of manuscripts and thus only covering the main text contained in the manuscripts concerned? Or do they reach beyond that?

It was Scheltema - and in his wake Van der Wal and Lokin - who once came up with a proposition in order to explain a number of peculiarities in the text of the Basilica.⁴ Scheltema argued that in the days of Leo the Wise the compilers of the Basilica first

1 On the extant Basilica manuscripts handing down complete books as well as mere fragments, cf. most recently L. Burgmann / M.Th. Fögen / A. Schminck / D. Simon, *Repertorium der Handschriften des byzantinischen Rechts*. Teil I: Die Handschriften des weltlichen Rechts (Nr. 1 - 327), [Forschungen zur byzantinischen Rechtsgeschichte, Band 20], Frankfurt/M. 1995, 402-404.

2 On the indices in general, cf. Th.E. van Bochove, *To Date and Not to Date. On the Date and Status of Byzantine Law Books*, Groningen 1996, 185-186.

3 H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen I: Textus librorum I-VIII, Groningen / Djakarta / 's-Gravenhage 1955, p. xi.

4 Individual Basilica manuscripts, for instance, have preserved the original counting of the fragments of the Digest Summa of the Older Anonymous, this Summa being one of the constituent parts of the Basilica text. The manuscripts also contain errors regarding the names of the lawyers who wrote the original Digest fragments.

drew up a list indicating which titles from the Digest and the Code and which Novels were to make up the new Basilica titles. However, the text of the Greek versions of Justinian's legislation was not immediately adopted into the Basilica titles. This was done slightly later by scribes or laymen without a thorough legal education: they rather mechanically 'filled' the newly formed titles of the Basilica with texts from Justinian's legislation on the basis of the list drawn up earlier. In other words: this previously established index titulorum served as an editorial plan. The above procedure may very well explain inconsistencies and incongruities in the text of the Basilica: in the light of Scheltema's proposition, flaws and errors in this text should be attributed to scribes and clerks who simply lacked the knowledge and skill to make the necessary adjustments.⁵ Do the extant indices titulorum of the Basilica shed any light on Scheltema's proposition? Is it somehow possible to establish a connection between the extant indices and the supposed index titulorum which as an editorial plan may have underlain the genesis of the text of the Basilica? Are our extant indices merely *πίνακες* of manuscripts or are they indeed at the root of the genesis of the Basilica text? In short, are our indices titulorum ἀρχὴ συν Θεῶ τῶν Βασιλικῶν?

2. Before we can deal with the above set of questions in more detail, it is necessary to have an overall view regarding the extant indices.

As already indicated, we possess two indices titulorum covering all sixty books of the Basilica. The first of them is the Index Coislinianus, handed down in cod. Coisl. gr. 151.⁶ From B. 17 onwards, Scheltema and Van der Wal used the Index Coislinianus in establishing the text of the title-rubrics of the Basilica: they incorporated variant readings contained in the Index Coislinianus into the critical apparatus of BT, and referred to the Index by means of the siglum ICB.⁷ The other complete index is handed down by cod. Athon. Pantokr. 234; this index is as yet unpublished: it will be referred to as IAth.⁸

5 For this entire section, cf. Van Bochove, *To Date and Not to Date*, 183-185 with further references.

6 Cod. Coisl. gr. 151 dates from the first half of the fourteenth century; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 202. On the Index Coislinianus, cf. also Heimbach, *Prolegomena*, 159-160; Heimbach, GRR, 339-340; Mortreuil, II, 79, 190, 248-249; P. Noailles, *Les collections de nouvelles de l'empereur Justinien*. II: La collection grecque des 168 nouvelles, Paris 1914, 35, 169-170, 196, 206; D. Simon, 'Handschriftenstudien zur byzantinischen Rechtsgeschichte', *BZ* 71 (1978), 332-348 (343); N. van der Wal, 'La constitution de Zénon *περὶ καινοτομιῶν* et sa place dans le Code de Justinien', in: *Ζένων. Festschrift für P.J. Zepos*, I, Athen 1973, 725-734 (732); N. van der Wal, 'Probleme bei der Restitution verlorengegangener Basilikenbücher', *SG* III (1989), 143-154 (145-146).

7 Cf. H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen III: Textus librorum XVII - XXV, Groningen / 's-Gravenhage 1960, p. x and BT 847.

8 Cod. Athon. Pantokr. 234 dates from the end of the twelfth / first half of the thirteenth centuries; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 36. On the index, cf. also Simon, 'Handschriftenstudien', 343-344. The reason for using the designation IAth is trite and rather self-evident: I

The remaining indices are partial indices. The first one, covering B. 38 up to and including B. 42, occurs in cod. Paris. gr. 1345: it is unpublished and will be referred to as IPb.⁹ The second sub-index is contained in cod. Paris. gr. 1349; it covers B. 45 - B. 50 and is unpublished as well: it will be designated as IPC.¹⁰ Cod. Paris. gr. 1357 renders the third partial index, extending from B. 46 up to and including B. 60.¹¹ The editors of BT consulted this index and referred to it with the designation IPd.¹² Finally, there is a set of indices in the *Florilegium Ambrosianum*. This anthology of texts from all Basilica books - handed down in the lower script of cod. rescr. Ambros. F 106 sup. - contains three partial indices. Between the excerpts from the books fifteen and sixteen, thirty and thirty-one, and finally forty-five and forty-six, the *Florilegium* provides tables of contents each referring to the subsequent fifteen books. The full text of the indices was edited by Ferrini and Mercati.¹³ Scheltema and Van der Wal used the indices in establishing the text of the title-rubrics in BT: they referred to the indices by means of the designation Ai.¹⁴

stands for Index, Ath denotes cod. Athon. Pantokr. 234.

- 9 Cod. Paris. gr. 1345 dates from the twelfth / beginning of the thirteenth centuries; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 158. In IPb, I stands for Index, Pb is the siglum used by Scheltema and Van der Wal in order to refer to cod. Paris. gr. 1345; cf. H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen V: Textus librorum XXXV - XLII, Groningen / 's-Gravenhage 1967, pp. v and xiii. On IPb, cf. Heimbach, Prolegomena, 169 and Heimbach, GRR, 346.
- 10 Cod. Paris. gr. 1349 dates from the eleventh century; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 162. In IPC, I stands for Index, Pc is the siglum used by the editors of BT in order to denote cod. Paris. gr. 1349; cf. H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen VI: Textus librorum XLIII - LII, Groningen / 's-Gravenhage 1969, pp. v and xiii. On IPC, cf. Heimbach, Prolegomena, 170-171 and Heimbach, GRR, 347.
- 11 Cod. Paris. gr. 1357 was written in the sixteenth century by John Mauromates; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 171.
- 12 Cf. Scheltema / Van der Wal, *Basilicorum Libri LX*, A VI, p. vi. It should be noted that the siglum IPd was used systematically in the volumes A VII and A VIII; cf. H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen VII: Textus librorum LIII - LIX, Groningen / 's-Gravenhage 1974, p. xxi and BT 2435; H.J. Scheltema / D. Holwerda / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen VIII: Textus librorum LX, Groningen 1988, p. xx and BT 2735. Volume A VI does take into account variant readings contained in IPd and pertaining to title-rubrics of B. 46 - B. 52, but lists those readings under headings like 'Pd in indice' and 'Pd in indice titulorum'; cf. e.g. BT 2213 app. ad l. 5 'Αελίων and BT 2372 app. ad l. 3 καὶ οἷς - παραγράφῃ. On IPd, cf. also Heimbach, Prolegomena, 172-173 and Heimbach, GRR, 349.
- 13 Cf. E.C. Ferrini / J. Mercati, [eds.], *Basilicorum Libri LX*. Vol. VII. Editionis Basilicorum Heimbachianae supplementum alterum, Leipzig 1897, 1-13. On the Ambrosian palimpsest, cf. Van Bochove, *To Date and Not to Date*, 228.
- 14 Cf. H.J. Scheltema / N. van der Wal, [edd.], *Basilicorum Libri LX*. Series A Volumen II: Textus librorum IX - XVI, Groningen / Djakarta / 's-Gravenhage 1956, p. xvi n. 1 and BT 799.

3. The state of the art regarding the extant indices titulorum presents a rather bleak picture. I^{Ath}, I^{Pb} and I^{Pc} are unpublished. I^{Pd} is for the greater part accessible via the apparatus of BT, as is I^{Cb}.¹⁵ However, both I^{Pd} and I^{Cb} served as testimonies for establishing the text of the title-rubrics of the Basilica: I^{Pd} and I^{Cb} were not edited separately as indices. To some extent, this hampers an assessment of their value. The only case allowing complete and unhindered consultation is Aⁱ, both via Ferrini's and Mercati's edition and via the apparatus of BT. Aⁱ, however, presents problems of its own. As already indicated above, the Florilegium Ambrosianum is an anthology. We must take into account the fact that we ultimately have no certain way of knowing what exactly the exemplar of this anthology looked like. There is more: Aⁱ is by far the most important testimony for the existence of a division of the text of the Basilica into four τεύχη. The same goes for I^{Pd}.¹⁶

At first sight, I^{Pb} seems to be nothing more than a πίναξ of a manuscript: the index titulorum covers B. 38 - B. 42, whereas cod. Paris. gr. 1345 transmits the text of precisely those Basilica books.¹⁷ The indices in the Florilegium Ambrosianum also seem to qualify as πίνακες of manuscripts since they all cover fifteen books, each set of fifteen in its turn contained in one τεύχος. Aⁱ does not provide detailed information concerning the internal structure of Basilica titles, but only presents a bare listing of titles with corresponding rubrics.¹⁸ In its turn, I^{Pc} extends from B. 45 - B. 50, whereas the Parisinus 1349 transmits the text of B. 45 - B. 48;¹⁹ in this case, then, it would appear that we are not dealing with a πίναξ of a manuscript. The same applies to the two indices covering

15 Regarding I^{Cb}'s coverage of B. 1 - B. 16, we still have to consult Heimbach's Basilica edition; cf. C.W.E. Heimbach, [ed.], *Basilicorum libri LX*, I, Leipzig 1833, p. xv - xx (B. 1 - B. 12), and C.W.E. Heimbach, [ed.], *Basilicorum libri LX*, II, Leipzig 1840, p. xiii - xiv (B. 13 - B. 16). Heimbach ignored I^{Pb}, I^{Pc} and I^{Pd} in the text volumes of his Basilica edition.

16 On the references to the division into four τεύχη in both Aⁱ and I^{Pd}, cf. Van Bochove, *To Date and Date*, 115-116.

17 The Frankfurt repertory does not mention I^{Pb} separately, but regards the index, handed down on the ff. 1^r-2^v, as part of the text of the Basilica. The index was written by hand B, whereas the greater part of the main text was written by hand A; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 158, descriptive heading and pos. 1.

18 Cf. again Ferrini / Mercati, *Basilicorum Libri LX. Vol. VII*, 1-13.

19 Cod. Paris. gr. 1349 transmits I^{Pc} on the ff. 1^r-6^v. The Frankfurt repertory lists the index separately (pos. 1); it was written by the same hand as the main text of B. 45 - B. 48; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 162, descriptive heading and pos. 1 and 2. The Parisinus 1349 is the direct exemplar of two other manuscripts. The index titulorum of B. 45-50 is handed down in cod. Ambros. D 474 inf., ff. 1^r-5^v (pos. 1); the manuscript was written in 1556 by Camillo Zanetti; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 125. The other copy of the index occurs in cod. Paris. gr. 1354, ff. 281^r-285^v (pos. 20). This manuscript dates from 1556 as well; the index was written by Manuel Probatas; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 168.

all books of the Basilica. IATH occurs in a manuscript that does not transmit any genuine part of BT,²⁰ ICb is found in a manuscript that contains the text of B. 1 - B. 9,²¹ IPd presents a somewhat dubious case: it seems to be a *πίναξ* of a manuscript, because both the index and the main text (of BT) commence with B. 46. It is true that the Parisinus 1357 hands down the text of B. 46 - B. 52, whereas IPd covers B. 46 - B. 60,²² but we cannot rule out the possibility that the manuscript originally belonged to a set of two volumes,²³ the second volume containing the text of B. 53 - B. 60.²⁴

All in all, at the present stage it is impossible to give a firm answer to the question whether or not the extant indices titulorum have anything to do with the supposed index which as an editorial plan may have underlain the genesis of the text of the Basilica. As yet, we simply do not have enough data. Nevertheless, ICb, IATH and IPc warrant a closer examination of all extant indices.

ICb and ICb 2

4. So far, no reference has been made to one partial index titulorum. It concerns an index transmitted in cod. Coisl. gr. 151, directly following the Index Coislinianus (ICb). On the analogy of the latter index, the sub-index will be designated as ICb 2. At first

- 20 Cod. Athon. Pantokr. 234 transmits IATH on the ff. 497^v-505^r (pos. 36). In the field of secular law, the manuscript only hands down a synopsis of the Novels of Justinian and Appendix A of the Synopsis Basilicorum maior; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 36, pos. 36 - 60.
- 21 Cod. Coisl. gr. 151 transmits ICb on the ff. 1^r-18^r. The Frankfurt repertory lists the index separately (pos. 1); it was written by hand B, whereas the main text of B. 1 - B. 9 was written by hand A; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 202, descriptive heading and pos. 1 and 2.
- 22 Cod. Paris. gr. 1357 hands down the index on the ff. 123^r-128^r. The Frankfurt repertory lists it separately (pos. 5); the scribe John Mauromates wrote both IPd and the text of B. 46 - B. 52; cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 171, descriptive heading and pos. 5 and 6.
- 23 The idea that the Parisinus 1357 may have been part of a two volume set originates from N. van der Wal.
- 24 In 1562, J. Cujas (1522-1590) published his commentary on the final three books of Justinian's Code. In this commentary, Cujas reconstructed a large number of constitutions: he did so on the basis of a now lost Basilica manuscript. This manuscript must have contained the text of at least B. 54 - B. 57. Is it too bold to venture a connection of some sort between this lost manuscript and the two volume set? Might not this lost manuscript be identified as the second volume? Of course, it is as yet impossible to substantiate this suggestion any further, if ever it will be. For instance, we have no way of knowing whether or not the lost manuscript was written by John Mauromates, the scribe of cod. Paris. gr. 1357. On Cujas and his dealings with the lost Basilica manuscript, cf. Scheltema / Van der Wal, *Basilicorum libri LX*, A VII, p. xviii-xix; H.E. Troje, *Graeca leguntur. Die Aneignung des byzantinischen Rechts und die Entstehung eines humanistischen Corpus iuris civilis in der Jurisprudenz des 16. Jahrhunderts*, [Forschungen zur neueren Privatrechtsgeschichte, Band 18], Köln / Wien 1971, 256-257; Heimbach, *Prolegomena*, 177-178; Heimbach, GRR, 352-353. I owe the reference to Cujas to N. van der Wal.

sight, ICb 2 seems to qualify as a plain and simple *πίναξ* of cod. Coisl. gr. 151. For, the index covers the first nine books of the Basilica, whereas the manuscript hands down the text of precisely those books. Why bother to pay any attention to a sub-index which has the looks of being a mere table of contents and which, in addition, occurs in a manuscript that already contains a full index of all sixty books of the Basilica?

Contrary to IPb, IPc and IPd, Heimbach did heed ICb 2 in his edition of the text of the Basilica. Heimbach observed, that Fabrot - who established the first complete edition of the Basilica²⁵ - provided each volume of his edition with an index titulorum. Apparently, Fabrot compiled each index on the basis of title-rubrics occurring in the main text of the manuscripts: none of the manuscripts used by Fabrot contained a full index titulorum of all books of the Basilica. Heimbach followed the example set by Fabrot and had each volume of his edition begin with an index as well. Heimbach based the index titulorum at the heading of his first volume - containing the text (and scholia) of B. 1 - B. 12 - on the title-rubrics occurring in the main text of the codd. Coisl. gr. 151 and Coisl. gr. 152, the former manuscript providing the rubrics of B. 1 - B. 9, the latter those of B. 11 and B. 12. With regard to the title-rubrics of B. 10, Heimbach relied on Fabrot's edition.²⁶ Heimbach then remarked, that cod. Coisl. gr. 151 contains two indices titulorum, the first covering all sixty books of the Basilica (our ICb), the second B. 1 - B. 9 (our ICb 2). The two indices resemble one another, but show differences as well. Perhaps even more significant is Heimbach's observation that the two indices - quite surprisingly - do not always tally with the title-rubrics of B. 1 - B. 9 in the main text of the Coislinianus 151. Finally, both indices list titles from Justinian's legislation which make up the titles of the Basilica. Because of all this, Heimbach deemed it important enough to note in what way the two indices differ from one another and from the main text, and to add the source-references to Justinian's legislation quoted in ICb and in ICb 2.²⁷

What Heimbach did was use both indices as testimonies for the edition of the index titulorum of B. 1 - B. 12 at the heading of the first volume of his Basilica edition. Heimbach noted variant readings and additions contained in ICb and ICb 2 in his critical

25 C.A. Fabrot, [ed.], *Τῶν Βασιλικῶν Βιβλία Ξ'. Βασιλικῶν libri LX*, 7 vols., Paris 1641-1647. On Fabrot's edition, cf. e.g. Heimbach, *Prolegomena*, 181-183; Heimbach, *GRR*, 355-356; Troje, *Graeca leguntur*, 277-278; Van der Wal, 'Probleme bei der Restitution', 143.

26 For all this, cf. Heimbach, *Basilicorum libri LX*, I, p. xv n. a.

27 Cf. Heimbach, *Basilicorum libri LX*, I, p. xv n. a: 'Sed praeterea Codex Coislinianus CLI. duos indices titulorum continet, primum totius Basilicorum operis inde a fol. 1. - 18. *b* secundum in libros novem priores Basilicorum inde a fol. 19 *a* - 22 *b*. Hi indices saepe inter se conveniunt, saepe etiam differunt: et mirum est, ne in libris quidem novem prioribus eos cum inscriptionibus, quae titulis singulis in Codice ipso praefiguntur, omnino convenire. Praeterea saepius in utroque indice tituli iuris Iustiniani, ex quibus Basilicorum tituli compositi sunt, laudantur. Quapropter haud abs re esse videbatur, notare, quomodo uterque index tam inter se, quam ab edito differat, et locos iuris Iustiniani in eo laudatos subiicere'.

apparatus. Again, this hampers a determination of the value of the two indices and may in the end even obscure an insight into their true nature. In order, then, to decide whether or not ICb 2 has any independent value as a source for further study, and in order to determine if a separate edition is justified we must briefly discuss some general features of the index²⁸ and its relation to both ICb and BT. Obviously, this discussion will for the greater part consist of an elaboration of Heimbach's remarks.

5. Just like ICb, ICb 2 is not a bare listing of Basilica titles with accompanying rubrics: the index provides ample information concerning the internal structure of those Basilica titles. By means of references to Justinian's legislation, ICb 2 indicates which titles from the Digest and the Code and which Novels are constituent parts of individual titles of the first nine books of the Basilica.²⁹ This information is all the more important, because the main text of Cb is completely void of marginal scholia:³⁰ quite often, scholia pertaining to the rubrics of Basilica titles consist of source-references to Justinian's legislation.³¹ ICb 2 is an essential supplement to the main text of Cb because of its source-references to the legislation of Justinian: those references are absent in the main text of the manuscript proper.

A second important feature is that both indices provide Greek translations of original Latin title-rubrics from the Digest and the Code.³² It has been observed that the Latin

28 Of course, the general observations to be made below do not only apply to ICb 2, but *mutatis mutandis* also to ICb, IPb and IPc.

29 Cf. e.g. the extensive source-references covering B. 1, B. 2 and B. 6 (Cb, ff. 19^{r/v} and 20^r - 21^v).

30 Cb does contain (at least) one scholion incorporated into the main text. It concerns a sentence occurring on f. 23^v: Πῶς δεῖ πιστεῦναι, μαθήσῃ ἐν τῇ πέμπτῃ καὶ ἕκτῃ καὶ ἑβδόμῃ διατάξει τοῦ παρόντος τίτλου· τίς ἐστὶν αἰρετικός, μαθήσῃ ἐν τῷ πέμπτῳ τίτλῳ τοῦ παρόντος βιβλίου διατάξει β' καὶ νεαρῇ ρθ' 'How to believe you will learn in the fifth and the sixth and the seventh constitution of the present title; who is a heretic you will learn in the fifth title of the present book, constitution 2 and in Novel 109'. This text clearly refers to C. 1,1,5-7, C. 1,5,2 and Nov. 109; as regards contents, the references are accurate. The scholion pertains to C. 1,1,1; the Greek version of this constitution forms the text of B. 1,1,1 in Cb. In the course of its transmission, the scholion somehow became part of the main text of the Basilica as represented in Cb. On the scholion, cf. Heimbach, *Basilicorum libri LX*, I, 1 n. g. Schminck seems to consider the phrase πέμπτῳ τίτλῳ τοῦ παρόντος βιβλίου to be a reference to the fifth title of B. 1; cf. A. Schminck, "Frömmigkeit ziere das Werk". Zur Datierung der 60 Bücher Leons VI., *SG III* (1989), 79-114 (90 with n. 115 on p. 107).

31 One example, chosen at random, may suffice to demonstrate the general features of this type of scholia. BS 921/4-5 reads: Οὗτος ὁ τίτλος μβ' ἐστὶ τοῦ γ' βιβ. τοῦ Κωδ.· βιβ. ι' τῶν Διγ. τιτ. δ' κεφ. α' 'This title is the forty-second of the third book of the Code; book 10 of the Digest, title 4, chapter 1'. The scholion belongs to the rubric of B. 15,4 and is transmitted in cod. Paris. gr. 1352. The information provided by the scholion is accurate: B. 15,4 consists of Greek versions of D. 10,4 and C. 3,42.

32 ICb 2 also contains rubrics of Justinian's Novels. Apart from minor variant readings, these rubrics offer no peculiarities, because they are identical with the rubrics of the Novels in the *Collectio graeca CLXVIII Novellarum*.

rubrics probably remained untranslated in the sixth-century Summae of Justinian's legislation, because the Digest Summa of the Older Anonymous contained Latin rubrics.³³ However, it should be noted that in his Summa of the Code Anatolios came up with Greek renderings of title-rubrics.³⁴ Long ago, Scheltema and Van der Wal observed that Basilica title-rubrics originating from the Greek translations of Latin rubrics of titles taken from the Digest and the Code are of very poor quality.³⁵ Do the Greek renderings of Latin rubrics in the indices have a connection of some sort with the (poor quality of the) title-rubrics of the Basilica?

6. We have already seen that Heimbach discussed differences between ICb 2 and ICb. He observed that the two indices show a major divergence in the first book of the Basilica. According to ICb, B. 1 contains no less than *ten* titles, whereas ICb 2 has B. 1 consist of only one title.³⁶ Heimbach's observation is very important for a number of reasons.

- 33 Cf. B. 9,4,8. The text of this Basilica chapter was taken from D. 42,2,8. The final words of the chapter read *εἰ ἔστιν*. However, both manuscripts that hand down the text of B. 9 - viz. the codd. Coisl. gr. 151 and Paris. gr. 1352 - transmit an addition that is quoted in the critical apparatus of BT: Cb reads *ἔστιν δεκάσιον ἐβονόρουμ, Ρ ἔστι δε κessione bonorum*. We are here dealing with the Latin rubric of D. 42,3: De cessione bonorum. When the (Greek) Summa of the Older Anonymous was detached from its original Latin Digest manuscript and started to live a life of its own, somehow this Latin rubric was copied as well. Eventually, the rubric found its way into the Digest part of B. 9,4; for all this, cf. BT 491 app. ad l. 4 *ἔστιν*. Cf. also H.J. Scheltema, 'Das Kommentarverbot Justinians', *TRG* 45 (1977), 307-331 (313). Theophilus's Paraphrase of the Institutes must originally have contained Latin rubrics as well; on the present state of the rubrics - which were certainly not written by Theophilus himself -, cf. W.O. Reitz, *Theophili Antecessoris Paraphrasis Graeca Institutionum Caesararum*, II, s'-Gravenhage 1751, 1175-1177 (Excursus VI. De inscriptione operis Theophilini et de titulorum Rubricis). I owe this reference to N. van der Wal.
- 34 Cf. again Scheltema, 'Kommentarverbot', 313, referring to BS 433/29, 71/26, 87/4 and 88/7. We also come across Greek translations of title-rubrics from the Code among the fragments borrowed for the greater part from the Summa of the Code of Anatolios, and handed down in the codd. Vatic. Pal. gr. 19 (= V) and Laurent. Plut. LXXX, 6 (= L); cf. VL 95, VL 144 and the gloss pertaining to VL 172, in the new edition by J.H.A. Lokin and R. Meijering (Groningen 1999). On the Excerpta Vaticana et Laurentiana in general, cf. also N. van der Wal / B.H. Stolte, [eds.], *Collectio Tripartita. Justinian on Religious and Ecclesiastical Affairs*, Groningen 1994, p. xxiv n. 33. On Anatolios, cf. the literature quoted in Van Bochove, *To Date and Not to Date*, 125 n. 13.
- 35 Cf. Scheltema / Van der Wal, *Basilicorum libri LX*, A I, p. xii: 'Titulorum e Digestis et Codice sumptorum rubricae latinae saepe tam prave graece vertuntur, ut bonum sensum non praebeant. Quas tamen emendare vitiosum est; ipsa enim mendosa versione noscitur exhellenista'.
- 36 Cf. again Heimbach, *Basilicorum libri LX*, I, p. xv n. b: 'In libro primo maxime differunt titulorum indices. In Codice Coislino, uti in editione Fabrotiana, liber primus uno tantummodo titulo absolvitur. Etiam index Coisl. II. unum tantum titulum huius libri continet, adiectis titulis Corporis Iuris, ex quibus compositus est. Sed secundum indicem Coisl. I. liber primus ex his decem titulis constat (...)'.

First, apart from the fact that ICb 2 covers nine books of the Basilica, while ICb covers B. 1 - B. 60, the two indices are very similar in their general characteristics:³⁷ they both contain source-references to Justinian's legislation and provide Greek translations of Latin rubrics from the Digest and the Code. Because the two indices occur in one and the same manuscript and because of their overall similarity, one wonders whether ICb 2 was copied directly from ICb.³⁸ The fact that according to ICb 2 the first book of the Basilica consists of just one title clearly demonstrates that ICb 2 is not a direct copy of ICb.³⁹ ICb and ICb 2, then, are not directly interdependent. However, in view of their overall similarity and their correspondence in details the two indices are very likely to have a common ancestor.

- 37 The two indices do not only correspond in their main features, but in particular details as well. One example may suffice. Both ICb and ICb 2 contain two additions to B. 1. The texts occur on f. 1^r (ICb) and f. 19^r (ICb 2) respectively. The first text directly follows the source-reference to C. 1,3 with accompanying rubric and reads: *χρὴ δὲ εἰδέναι ὅτι δύο μόναι διατάξεις τούτου τοῦ γ' τίτλου ἐνταῦθα παρεβλήθησαν· διάταξις κθ' περὶ τοῦ μὴ ἐν πόλει μοναχὸν διατρέβειν εἰ μὴ μόνον τὸν ἀποκρισιάριον καὶ διάταξις κς' περὶ τοῦ μὴ σταυρὸν ἢ λείψανα ἀγίων εἰς οἴκους δημοσίων ἢ τόπους πρὸς τέρψιν τοῦ δημοσίου ἀφωρισμένους εἰσφέρειν* 'You should know that only two constitutions of this third title [viz. C. 1,3] have been incorporated here in extracted form; viz. constitution 29: no monk may dwell in cities with the only exception of the steward; and constitution 26: it is forbidden to bring a Cross or relics of Saints into public buildings or places destined for popular amusement'. The second text follows the reference to C. 1,4 with its rubric, and reads: *χρὴ εἰδέναι ὅτι μὴ ἓξ διάταξις ἐνταῦθα ἐστὶ· περὶ μαθηματικῶν* 'You should know that only the tenth constitution [viz. of C. 1,4] occurs here: on mathematicians'. The two texts can be found in Heimbach, *Basilicorum libri LX*, I, p. xv n. b; Heimbach erroneously read *δόμους* instead of *οἴκους* in the first text in ICb.
- 38 The possibility that ICb was copied directly from ICb 2 is highly unlikely in view of the difference in the respective coverage of Basilica books by the two indices.
- 39 Minor variants support the conclusion that ICb 2 was not copied directly from ICb. Heimbach, *Basilicorum libri LX*, I, p. xv n. b observed the following variants as regards B. 1: *τιτ. γ' κεφ. ἡ* ICb, *τιτ. ε' κεφ. ρ'* ICb 2; *δόμους* ICb, *οἴκους* ICb 2 (cf., however, n. 37 above); *τιτ. δ' κεφ. κ'* ICb, *τιτ. ια' κεφ. ια'* ICb 2; *κεφ. λα'* ICb, *κεφ. λβ'* ICb 2; *διαίρεσις κε' κα' κη'* ICb, *διαίρεσις κ' κα' κβ'* ICb 2. With respect to B. 2 Heimbach remarked in note c: 'Conspirat ceterum in hoc libro uterque index, nisi quod numeri titulorum in indice tantum I., non in indice II. ad marginem notati sunt, quod in hoc omisum est usque ad librum VI. medium. Mentionem tantum facio indicis Coisl. I., nisi index II. ab eo differat.'. Heimbach, *Basilicorum libri LX*, I, p. xv n. c - p. xix n. w then observed no further variants between ICb and ICb 2, thereby suggesting that the two indices are completely identical with regard to B. 3 - B. 9. This is certainly not the case. I have noted several variants, of which I quote just a few random examples. First, in B. 6,20 ICb (Heimbach, I, p. xvii; cf. his note d) reads *δοῦκα* (Cb, f. 3^r: *τὸν δοῦξ*), ICb 2 (Cb, f. 21^r) *δοῦναι*; second, in B. 6,22: ICb (Heimbach, I, p. xvii) *πάντως*, ICb 2 (Cb, f. 21^v) *πέντε*; third, again in B. 6,22, just a few words away: ICb *παρά*, ICb 2 *περί*; fourth, in B. 7,7 ICb (Heimbach, I, p. xviii) reads *πειθαρχήση*, ICb 2 (Cb, f. 22^r) *πειθαρχήσει*; fifth, in B. 7,10: ICb (Heimbach, I, p. xviii) *τοῖς ἀγροῖς*, ICb 2 (Cb, f. 22^r) omits this phrase; sixth, in B. 9,2: ICb (Heimbach, I, p. xix n. v) *ὥστε*, ICb 2 (Cb, f. 22^v) *ζητεῖ*. This list is not exhaustive.

Second, several years ago Schminck came up with a hypothesis concerning the version of the text of the Basilica as transmitted by cod. Coisl. 151. He argued that in the first - and the sixth book this manuscript does not present the authentic Basilica text. The version of the text in the Coislinianus would rather represent an earlier, official stage in the genesis of that text. This stage would precede the original version of the "Sixty Books" of Leo the Wise (= our Basilica⁴⁰) and would correspond to the version of the text of the "Forty Books" of Basil the Macedonian, referred to in the preface to the Eisagoge. Schminck concluded that cod. Coisl. 151 transmits a text that is older than Zachariä's reconstructed version (of B. 1), and that the manuscript thus proves the existence of (a) version(s) of the Macedonian purification of the old laws alongside and prior to the Basilica.⁴¹ In a more recent study, Schminck enlarged upon this hypothesis. He there expressed the view that the version of the text of the first "Basilica" books in cod. Coisl. gr. 151 in all probability mirrors the pre-leontic condition of the purification; the Coislinianus faithfully reproduces provisions from Justinian's legislation - viz. provisions from the Code and the Novels concerning church law. Moreover, the index titulorum of the manuscript indicates no less than ten titles for the first book of the "Basilica".⁴² Schminck's entire line of reasoning comes down to the suggestion that according to the testimony of ICb the first book of Basil the Macedonian's "Forty Books" consisted of ten titles. This suggestion is countered by ICb 2, the main text of the codd. Coisl. gr. 151 and Paris. gr. 1352, and indeed by all sources of Byzantine law: all these sources unanimously have B.

40 On the "Sixty Books" of Leo the Wise and the Basilica, cf. Van Bochove, *To Date and Not to Date*, 107-121.

41 Cf. A. Schminck, *Studien zu mittelbyzantinischen Rechtsbüchern*, [Forschungen zur byzantinischen Rechtsgeschichte, Band 13], Frankfurt / M. 1986, 53: 'Einerseits kann es nämlich (...) keinem Zweifel unterliegen, daß der Cod. Coisl. (im 1. Buch und anderswo, namentlich im 6. Buch) nicht den echten *Basiliken*-Text bietet. Andererseits ist es aber (...) ganz und gar unwahrscheinlich, daß der vielfach aus kurzen Auszügen bestehende *Basiliken*-Text erst nachträglich von einem Privatmann zu der viel vollständigeren (...) Textfassung des Cod. Coisl. erweitert wurde. Vielmehr muß diese eine frühere (offizielle) Textstufe repräsentieren, die wegen der Divergenzen zu der Textfassung in der *Synopsis maior* auch der ursprünglichen Version der 60 Bücher Leons VI. vorausgehen und daher am ehesten der Fassung der (im *Eisagoge*-Prooimion erwähnten) 40 Bücher Basileios' I. entsprechen dürfte. (...) Der Cod. Coisl. bietet also einen älteren Text als die von Zachariä rekonstruierte Fassung und beweist damit, daß es neben und vor den *Basiliken* noch (eine) andere Textfassung(en) der makedonischen "ἀνακάθαρσις τῶν παλαιῶν νόμων" gab.'

42 Cf. Schminck, 'Frömmigkeit ziere das Werk', 90: 'Daß nun diese Beschneidungen des Kirchenrechts erst unter Leon VI. vorgenommen wurden und nicht etwa schon dem Patriarchen Photios zuzuschreiben sind, ist nicht nur ohnehin plausibel, sondern wird insbesondere durch die Textfassung der ersten "Basiliken"-Bücher im Cod. Par. Coisl. 151 nahegelegt, welcher, allem Anschein nach den vorleontischen Zustand der ἀνακάθαρσις (wenn auch interpoliert) widerspiegelnd, die justinianischen Vorlagen (und zwar sowohl den Codex als auch die Novellen) getreulich reproduziert und dessen Titelverzeichnis für das 1. Buch der "Basiliken" nicht weniger als zehn Titel (statt des einen vorhandenen) angibt.' In n. 115 Schminck referred to B. 1 in ICb (cod. Coisl. 151 f. 1^r).

1 consist of only *one* title.⁴³ There is more. Heimbach drew the attention to the fact that in ICb the note κεφ. - this abbreviation stands for κεφάλαιον 'chapter' - with the addition of a number designates a chapter from the Basilica. Heimbach then observed that the numbers of the chapters of B. 1 in ICb tallied nearly exactly with the numbers of the chapters in 'his' Basilica text. This would not have been the case, if the chapters of B. 1 would have been divided over ten titles. All this led Heimbach to the conclusion that the ten titles of the first book of the Basilica in ICb are a falsehood.⁴⁴ The above state of affairs is confirmed by ICb 2: in this index - as in ICb - we encounter in B. 1 an uninterrupted rising sequence of Basilica chapters.⁴⁵ If B. 1 did indeed have more than one title, one might have expected ICb 2 - like ICb - to commence a new sequence of chapters in every new title, each sequence starting with chapter 1.

7. We have already paid some attention to Heimbach's observation that title-rubrics occurring in the main text of Cb do not always correspond with rubrics provided by ICb and ICb 2.⁴⁶ In fact, this marks one of the major differences⁴⁷ between the two indices on the one hand and the main text of cod. Coisl. gr. 151 on the other hand. It is quite possible to provide an explanation for the divergencies between the rubrics in Cb and those in ICb and ICb 2. This explanation concerns the nature of the rubrics in the two indices, and may ultimately allow us an insight into the true nature of ICb and ICb 2 in their entirety.

The rubric of B. 4,1 reads: Περὶ μοναστηρίων καὶ μοναχῶν καὶ ἀσκητριῶν καὶ διαγωγῆς αὐτῶν⁴⁸ 'Monasteries and monks and nuns and their way of life'. Exactly the same rubric occurs in ICb and ICb 2; however, both indices come up with an additional clause. Directly following αὐτῶν ICb reads διαίσεις πρώτη, ICb 2 διαίσεις α'⁴⁹ 'sec-

43 On this, cf. Heimbach, *Basilicorum libri LX*, I, p. xv n. b: 'Licet in hoc indice (= ICb) liber primus in decem titulos divisus sit, tamen non potui, quin ab eo discederem, et auctoritate Codicis, quo Fabrotus usus est (= cod. Paris. gr. 1352), Codicis Coisl. ipsius et eiusdem indicis II. (= ICb 2) et omnium iuris Graeco-Romani fontium librum primum uno tantum titulo expleri crederem'.

44 Cf. Heimbach, *Basilicorum libri LX*, I, p. xv n. b: 'Signum κεφ. addito numero i.e. κεφάλαιον, capitulum, denotat capitulum Basilicorum. (...). Nam et eum titulum numerum, qui indice Coisl. I. continetur, falsum esse, abunde ex eo patet, quod numeri capitulum libri primi ex Basilicis in hoc indice conspicui fere cum nostris consentiunt, quod fieri non posset, si omnia huius libri capitula decem titulis dispersa essent'.

45 ICb 2 designates for B. 1 (cod. Coisl. 151, f. 19^v) the following rising sequence of chapters: κεφ. η', κεφ. ια', κεφ. κ', κεφ. κα', κεφ. λβ', κεφ. μδ', κεφ. με', κεφ. μθ', κεφ. ν', κεφ. να', κεφ. νβ', κεφ. νγ' and κεφ. νδ'.

46 Cf. § 4 with n. 27 above.

47 Another important divergence is the absence of source-references in the main text of Cb, whereas both indices abound in those references to the legislation of Justinian; cf. § 5 above.

48 BT 112/4-5.

49 Cf. Heimbach, *Basilicorum libri LX*, I, p. xvi n. q (ICb), and Cb, f. 20^r (ICb 2).

tion 1'. The phrase *διαίρεσις* does not refer to a subdivision of the text of Basilica titles: when a chapter of the latter text is referred to in ICb and ICb 2, we encounter the term *κεφάλαιον*.⁵⁰ Consequently, ICb and ICb 2 do not transmit the rubric of B. 4,1, but render the rubric of another text, viz. the rubric of Justinian's Nov. 5: the first chapter of this Novel was incorporated into the text of B. 4,1.⁵¹ The observation that ICb and ICb 2 come up with the rubric of Nov. 5 is not new: it was Heimbach who had already noticed this.⁵² It should be pointed out, however, that the rubric transmitted by the two indices is not identical with the rubric of Nov. 5 in the edition of Schöll and Kroll.⁵³ Despite this, we can be fairly certain that in the case of ICb and ICb 2 we are dealing with Nov. 5, on the basis of a scholion pertaining to Nov. 5 rubr.⁵⁴

ICb and ICb 2 come up with more rubrics belonging to the different parts of Justinian's legislation rather than to Basilica titles. In B. 6,8 - B. 6,20, e.g., both indices transmit rubrics of Novels of Justinian instead of the rubrics of the relevant Basilica titles, even though the text of the rubrics in ICb and ICb 2 is identical with that of the rubrics of the Basilica titles: in the two indices the clause *νεαρά* 'Novel' - with relevant number - precedes every rubric.⁵⁵ If we extrapolate the above, we can easily explain the differences between the rubrics as observed by Heimbach. By assuming that the two indices originally were nothing more than bare listings of source-references to the legislation of Justinian with accompanying rubrics, we can account for divergencies in the following way: ICb and ICb 2 render (Greek versions of) rubrics from the Digest, the Code and the Novels, whereas the main text of Cb contains the rubrics of Basilica titles.⁵⁶

50 Cf. § 6 above.

51 Cf. BT 112/6-14.

52 Cf. Heimbach, *Basilicorum libri LX*, I, p. xvi n. q: '(...) διαίρεσις πρώτη (Supple: νεαρά ε')'.

53 Here, Nov. 5 rubr. (SK 28/9-10) reads: *Περὶ μοναστηρίων καὶ μοναχῶν καὶ ἡγουμένων* 'Monasteries and monks and abbots'.

54 The scholion - handed down in cod. Marc. gr. 179 (siglum M) and elsewhere - was edited by Schöll and Kroll and reads as follows (SK 28 test.): *Αὕτη ἡ νεαρά οὐκ ἐτέθη ὅλη εἰς τὰ βασιλικά ἀλλὰ παρεσιωπήθη, ὅτι τὰ μὲν ἀναιρεῖται ὑπὸ τῆς ρηγ' νεαρᾶς, τὰ δ' ὁμοίως διατάττεται ὑπ' αὐτῆς. Μόνον δὲ τὸ ἐν ταύτῃ πρῶτον κεφάλαιον κατεστρώθη ἐν βιβ. δ' τῶν βασιλικῶν τιτ. α' κεφ. α' (...) 'This Novel was not completely adopted into the Basilica but was passed over in silence, because some [of its provisions] are abrogated by Novel 123, [whereas] others are likewise ordered by that same Novel. Only the first chapter in the present Novel [viz. Nov. 5] was incorporated into book 4 of the Basilica, title 1, chapter 1; (...)'*

55 Cf. Heimbach, *Basilicorum libri LX*, I, p. xvii n. d (ICb), and Cb f. 21^r (ICb 2).

56 Of course, divergencies do not preclude correspondence. One example may suffice to illustrate this. B. 1,1 rubr. (BT 1/5-6) reads: *Περὶ τῆς ἀνωτάτω τριάδος καὶ πίστεως καθολικῆς καὶ περὶ τοῦ μηδένα τολμᾶν περὶ αὐτῆς δημοσίως ἀμφισβητεῖν* 'The Highest Trinity and the catholic faith; let nobody dare to argue about it in public'. ICb and ICb 2 come up with exactly the same text; cf. Heimbach, *Basilicorum libri LX*, I, p. xv n. b (ICb; Heimbach erroneously read *δημοσίω*) and Cb f. 19^r (ICb 2). In this case, however, the two indices do not present the rubric of B. 1,1, but the Greek

The above hypothesis may give us a clear insight into the true nature of ICb and ICb 2 in their entirety. For, if these two indices are essentially indeed nothing more than lists of source-references to the legislation of Justinian with accompanying rubrics, these lists may have served a twofold purpose: first, to determine the contents of Basilica titles; second, to compose the rubrics of Basilica titles. To what extent all this can be substantiated is obviously a matter for further research. The provisional conclusion is that both indices offer ample reason for further investigation; a critical edition of ICb 2 is justified.

ICb 2

8. ICb 2, then, is a partial index titulorum of the Basilica, covering the first nine books of the latter compilation of laws. The index is transmitted in cod. Coisl. gr. 151, on the ff. 19^r - 22^v, directly following ICb and preceding the main text of B. 1 - B. 9. The Frankfurt repertory does not list ICb 2 separately, but considers the index to be part of the text of the Basilica. ICb 2 and the text of B. 1 - B. 9 were written by one and the same scribe (hand A).⁵⁷

The condition of the text of ICb 2 in the Coislinianus allows us to be brief and outspoken concerning the general features of the index. In its original and purest form, ICb 2 must have been nothing more than a bare list of Corpus iuris source-references. This list enumerated for each of the clearly marked titles of B. 1 - B. 9 which provisions from Justinian's legislation - which were always accompanied by their rubrics - made up the respective titles. Within each Basilica title, the index even indicated the chapters marking the beginning of a new series of fragments derived from one particular Digest title, of constitutions from one particular title from the Code and of (parts from) particular Novels. Of course, this pattern is not equally perceptible throughout the entire text of ICb 2. What has come down to us is a curious amalgam, providing full-scale information in some of its parts and being seriously defective in others. The index explicitly mentions Basilica chapters - always using the phrase *κεφάλαιον* - in B. 1,1; B. 2,1 - B. 2,6; and in B. 6,1 and B. 6,8. Basilica titles are clearly indicated by the phrase *τίτλος* with corresponding number in B. 1,1; B. 2,6; B. 6,4; B. 6,8 - B. 6,35; and in all titles of B. 7 - B. 9. ICb 2 contains explicit Corpus iuris source-references with accompanying rubrics in all titles of B. 1 - B. 5; B. 6,1 - B. 6,25; B. 6,29; B. 6,31-34; B. 9,2 and B. 9,5. The index is completely void of those references and rubrics in B. 7, B. 8 and the remaining

version of the rubric C. 1,1. It should be noted that the editors of BT restituted the text of B. 1 on the basis of testimonies. In doing so, they followed the example set by Zachariä von Lingenthal; cf. Scheltema / Van der Wal, *Basilicorum Libri LX*, A I, p. xi.

57 Cf. Burgmann / Fögen / Schminck / Simon, RHBR I, No. 202, descriptive heading and pos. 2.

titles of B. 9; in these cases, ICb 2 merely lists Basilica title-rubrics.

In all probability, it is the transmission of the text of the index through the centuries that can be held responsible for the loss of Corpus iuris source-references in the titles 26, 27, 28, 30 and 35 of B. 6, all titles of B. 7 and B. 8, and in the titles 1, 3, 4, and 6 - 11 of B. 9. The same goes for the loss of Basilica chapter and Basilica title indications.

9. Do we have any clue as to when the original form of the text of ICb 2 came into existence? As a matter of fact, the present state of the text of the index⁵⁸ enables us to establish a firm terminus ante quem.

ICb 2 lists C. 1,16 as a constituent part of B. 2,6.⁵⁹ The main text of the Basilica, however, contains no trace whatsoever of a Greek version of title 16 of the first book of the Code: in BT, Greek renderings of C. 1,17,1 § 10 + 2 § 22 directly follow C. 1,15,2.⁶⁰ The above observation is by no means new. Heimbach had already noticed the absence of a Greek version of C. 1,16 in the text of the Basilica: he did so while editing the text of the Index Coislinianus (ICb).⁶¹ Heimbach also came up with an explanation. He remarked that many constitutions originating from Justinian's Code had not found a place in the Basilica, which was partly due to a number of Novels of emperor Leo the Wise (886-912): the Novv. Leon. 46, 78 and 91. Heimbach argued that Nov. Leon. 78 which deprived senatorial decrees of their legal force, was instrumental in the omission of C. 1,16. The Index Coislinianus, however, casts doubt on that omission, because that index does list C. 1,16 as part of B. 2,6. Despite this, Heimbach concluded that the compiler of the index must have made an error, because the main text of B. 2,6 in cod. Coisl. 151 does not contain any text fragment derived from C. 1,16.⁶²

58 In what follows, the text of ICb 2 will be quoted after line, in accordance with the edition presented below.

59 Cf. ICb 2, l. 97: Βιβ. α' τοῦ Κωδ. τιτ. ις'· περὶ συγκλήτου δόγματος 'Book 1 of the Code, title 16: decree of the senate'.

60 Cf. BT 77/15 - 78/7: C. 1,15,2 = B. 2,6,19, C. 1,17,1 § 10 + 2 § 22 = B. 2,6,20. The two manuscripts handing down these texts (viz. the codd. Coisl. gr. 151 and Paris. gr. 1352) do not give any reason to suppose the existence of an intermediate chapter - containing the text of C. 1,16 - between B. 2,6,19 and B. 2,6,20; cf. Cb, f. 69^r l. 2 and P, f. 12^v ll. 2-3.

61 Cf. Heimbach, *Basilicorum libri LX*, I, p. xvi n. i: 'Index Coisl. I. (...) βιβ. α'. τοῦ κωδ. τιτ. ις'. περὶ δογμάτων συγκλήτου. (Ex hoc titulo autem nihil in Basilicis nostris reperitur.)'.

62 Cf. Heimbach, *Prolegomena*, 129-130 and 130 n. 17: 'Multae Codicis constitutiones in Basilicis praetermissae sunt. Quod factum est ratione habita (...) nonnullarum Novellarum Leonis. (...). Inter Novellas Leonis inprimis Novellae 46. 78. 91. causam dederunt locis Codicis in Basilicis praetermittendis. (...). Novella Leonis 78., quo Senatusconsultis vis legum adempta est, causam dedisse videtur titulo Codicis de Senatusconsultis (lib. I. tit. 16.) praetermittendo. Dubitationem tamen de hoc titulo in Basilicis praetermisso merito excitat index titulorum totius Basilicorum operis in Codice Coisliniano 151 conspicuus, qui titulum de Senatusconsultis inter eos recenset, qui Basilicorum lib. II. tit. 6. contineantur. (...). Sed cum in ipso Codice Coisliniano sub Basilicorum lib. II. tit. 6. locus extet nullus ex illo Codicis titulo desumptus, auctor illius indicis errasse videtur'. Cf. also Heimbach, GRR,

Heimbach's conclusion is open to adjustment in view of the fact that not only ICb, but also ICb 2 considers C. 1,16 to be part of B. 2,6. Moreover, the explicit reference to C. 1,16 in no less than two indices, and the conspicuous absence of C. 1,16 in BT can hardly be coincidental in the light of Fögen's research concerning the interrelation of the Basilica and the Novels of Leo the Wise. Fögen convincingly showed that Leo issued his Novels concurrently and in conjunction with the genesis of the text of the Basilica: she regarded Leo's Novels as 'kodifikationsbegleitende Legislation'.⁶³ Nov. Leon. 78 is just one of the many cases in which a Novel of Leo led to an adjustment of the text of the Basilica.⁶⁴ But how are we to explain the reference to C. 1,16 in ICb and ICb 2 in connection with Nov. Leon. 78? I can only think of one logical explanation, an explanation which makes more sense than Heimbach's conclusion according to which the reference to C. 1,16 in ICb would be the result of a mere error. The core of the text of ICb 2 (and of ICb as well, for that matter) must predate Nov. Leon. 78. The dating of the Novel of Leo the Wise is to be regarded as the terminus ante quem for the dating of the original form of the text of ICb 2. Leo's Novels are usually dated on the basis of their inscriptiones. These inscriptiones exhibit the names of two addressees: Stephen, the emperor's brother and patriarch of Constantinople, and Stylianos Zaoutzes, the emperor's father-in-law. Stephen was patriarch from 18 December 886 to 17 or 18 May 893. Thus, the Novels addressed to Stephen can be dated to those years. Stylianos was Leo's 'prime minister' from 886 to 899 at the latest. Therefore, the Novels addressed to Stylianos were issued in that period.⁶⁵ The inscriptio of Nov. Leon. 78 reads: 'Ο αὐτὸς βασιλεὺς Στυλιανῶ τῷ αὐτῷ'⁶⁶ 'The same emperor to the same Stylianos'. This means that the Novel was issued between 886 and 899,⁶⁷ and that the core of the text of ICb 2 predates that period.

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- 63 Cf. M.Th. Fögen, 'Legislation und Kodifikation des Kaisers Leon VI.', *SG III* (1989), 23-35 (esp. 30ff.); cf. also Van Bochove, *To Date and Not to Date*, 203-221.
- 64 On all these Novels - Fögen counts 20 -, and in particular on Nov. Leon. 78, cf. Fögen, 'Legislation und Kodifikation', 28-29 with the notes 22 and 23.
- 65 On the dating of Leo's Novels in general, cf. Schminck, 'Frömmigkeit ziere das Werk', 91-93; Van Bochove, *To Date and Not to Date*, 118-119. Cf. most recently Sp. Troianos, 'Die Novellen Leons VI.', in: Sp. Troianos, [ed.], *Analecta Atheniensi ad ius byzantinum spectantia*, I, [Forschungen zur byzantinischen Rechtsgeschichte. Athener Reihe, Band 10], Athen - Komotini 1997, 141-154 (145-146).
- 66 P. Noailles / A. Dain, *Les Nouvelles de Léon VI le Sage*, Paris 1944, 271/2.
- 67 Schminck argued that Leo promulgated most of his Novels before the end of August 889. Leo wrote the preface to his entire Collection of Novels on or shortly before 25 December 888, and continued to issue Novels after this date. Among these was Nov. Leon. 1: Leo promulgated this Novel on 23 March 889. Nov. Leon. 1 constituted the final conclusion to the entire Collection. For all this, cf. Schminck, 'Frömmigkeit ziere das Werk', 91 with the notes 127-131, and 93 with n. 153; see also Van Bochove, *To Date and Not to Date*, 119 with the notes 82-84; Troianos, 'Die Novellen Leons VI.', 146.

The above explanation inevitably calls to mind Scheltema's, Van der Wal's and Lokin's proposition concerning the hypothetical index titulorum which as an editorial plan may have underlain the genesis of the text of the Basilica.⁶⁸ For, the dating of the ultimate original of ICb 2 (and of ICb) brings us back to Leo's⁶⁹ day, and thus strongly suggests a connection between that original and the idea of an editorial plan. It is quite possible that the core of the text of the indices indeed represents a list indicating which titles from the Digest and the Code and which Novels were to make up the titles of Leo's new compilation of laws, viz. the Basilica. This list may exactly have been what caused Leo to deprive senatorial decrees of their legal force: while supervising the compilers of the text of the Basilica who worked on the basis of a previously established list, Leo observed - or was informed of - the reference to C. 1,16 in that list. Considering that it was the emperor who ruled,⁷⁰ Leo decided to abrogate the legislative power of the senate. Thus, C. 1,16 was not incorporated into the text of the Basilica.

All in all, the core of the text of ICb 2 (and of ICb, too) is more than a plain and simple *πίναξ*: we are here indeed dealing with the *ἀρχὴ σὺν Θεῷ τῶν Βασιλικῶν*.

10. The text of ICb 2 as given below⁷¹ essentially constitutes the editio princeps of the index: Heimbach did pay some attention to ICb 2 and even noted some of its variant readings, but he did so inadequately.⁷² Although we know the approximate date of the ultimate original of the index, no attempt has been made to cull from the text of ICb 2 as it has come down to us the form which that ultimate original may have had. For instance, we have not aimed at restoring the missing Basilica chapter indications by means of adding the phrase *κεφάλαιον* in places where we might have done so in theory; neither have we tried to establish exact correspondence between the extant chapter indications in ICb 2 and those in the main text of BT. Mutatis mutandis, the same goes for title

68 Cf. § 1 above.

69 Or Basil the Macedonian's (867-886). Cf. Heimbach's suggestion regarding Basil's list drawn up for the benefit of the latter's compilation of laws in sixty books referred to in the preface to the Prochiron. In Leo's early regnal years, the compilers of the text of the Basilica may have used this list which probably divided the Justinian legislation into sixty books and classified it thematically into titles; cf. Heimbach, *Prolegomena*, 111 and 117; Heimbach, *GRR*, 313. On Basil's compilation of laws in sixty books referred to in the preface to the Prochiron, cf. Van Bochove, *To Date and Not to Date*, 173-186 (passim). The Prochiron was promulgated by Basil in the period 870-879, *pace* A. Schminck in *JÖB* 48 (1998), 350-354.

70 Cf. Nov. Léon. 78 (Noailles / Dain, 271/9-10).

71 I am greatly indebted to Roos Meijering for her help in establishing the text, the critical apparatus and the translation of ICb 2.

72 Cf. the notes 37 and 39 above.

indications: we have not supplemented Basilica title indications lacking in ICb 2. What we have essentially done is provide an instantaneous image of the text at a certain moment in the course of its transmission, in this case the first half of the fourteenth century, during which cod. Coisl. gr. 151 was written.⁷³

Nevertheless, intervening in the text of ICb 2 proved inevitable. Two major issues stand out. First, we have already seen that in B. 1 the index contains two additions, viz. the *χρῆ εἰδέναι* clauses.⁷⁴ These clauses have not been adopted into the text of the index as edited below, but have been relegated to the critical apparatus. The phrases under discussion cannot be regarded as source-references to the legislation of Justinian, despite the fact that they do refer to that legislation. The *χρῆ εἰδέναι* clauses allude to Justinian's legislation as part of a comment on an already existing text, viz. the text of the index. In doing so, the clauses do not concur with the overall pattern of ICb 2. The *χρῆ εἰδέναι* clauses must be regarded as "Fremdkörper", elements that are alien to the original text of the index, but that somehow entered that text in the course of its transmission. The second major intervention concerns the extant Basilica chapter indications, already referred to above. As a general rule, the manuscript transmits the phrase *κεφάλαιον* - in its abbreviated form - embedded in the middle of Corpus iuris source-references with their accompanying rubrics, thereby potentially creating considerable confusion.⁷⁵ In order to avoid confusion, the clause *κεφάλαιον* has always been detached from its immediate context and been assigned its own line in the text of ICb 2. The information regarding the original context of the phrase *κεφάλαιον* can be found in the critical apparatus on B. 1,1, B. 2,1 - B. 2,6, B. 6,1 and B. 6,8. Further interventions in the text of the index have usually been dictated by grammatical⁷⁶ or syntactical reasons.⁷⁷ Another cause for

73 Cf. again Burgmann / Fögen / Schminck / Simon, RHBR I, No. 202.

74 Cf. n. 37 above, and ICb 2 app. ad ll. 14 *ἐπιτετραμμένων*, 23 *ἱερατικὴν* resp..

75 A glance at the facsimile of the manuscript (cod. Coisl. gr. 151, f. 19^v, upper part) added to the present article may illustrate this.

76 Cf. e.g. *τοῦ* in the rubric of B. 7,8 (ICb 2, l. 363; Cb reads *τῶν*), *οἵτινες τῶν δυναστῶν* in the rubric of B. 7,10 (ICb 2, l. 370; Cb reads *τῶν δυναστῶν οἵτινες*), and *αὐθεντεῖα* in the rubric of B. 9,7 (ICb 2, l. 451; Cb dubiously reads *αὐθεντῶν*). In cases like these, emendations have been adopted into the text of ICb 2, because the transmission of the corresponding rubric in the main text of the Basilica is either dubious or not uniform: the relevant information on that issue can be found via the reference to the apparatus of BT. If, however, the transmission of the corresponding rubric in the main text of the Basilica is uniform, no emendation has been incorporated into the text of the index: in this case, the apparatus merely suggests another reading; cf. e.g. *ἰδικούς* in the rubric of B. 7,11 (ICb 2, l. 375), and *τίνες* in the rubric of B. 9,6 (ICb 2, l. 449).

77 Cf. e.g. the deletion of *παρὰ ἀρχόντων γινομένης* after *κρατύνεσθαι* in the rubric of B. 6,22 (= Nov. 86 rubr.; ICb 2, l. 290-291). This case is a special one. Cb reads *κρατύνεσθαι περὶ ἀρχόντων γινομένης*. *Περὶ* has no sensible meaning here, contrary to *παρὰ*. Confusion between *περὶ* and *παρὰ* can easily be explained on palaeographical grounds; moreover, *παρὰ* occurs in the corresponding rubric in BT and in the rubric of Nov. 86. The reading *γινομένης* is syntactically rather difficult. The corresponding rubric in BT offers no help here, as this rubric reads *κρατύνεσθαι παρὰ ἀρχόντων*

intervening is the obvious absence of a sensible meaning of the Greek as transmitted by Cb.⁷⁸ Abbreviations in Cb have been written in full in the text of ICb 2, save the abbreviations in the Corpus iuris source-references. All in all, the Greek as it has come down to us in the manuscript has been left untouched as much as possible.

For clarity's sake, the text of the index has been arranged in columns. The first column contains the line-numbers of ICb 2, the second the Corpus iuris source-references (if extant). The third column consists of (the Greek renderings of) the rubrics from the Justinian legislation; in the titles 26, 27, 28, 30 and 35 of B. 6, all titles of B. 7 and B. 8, and in the titles 1, 3, 4, and 6 - 11 of B. 9, the third column obviously contains the rubrics of the relevant Basilica titles. Extant Basilica title and Basilica chapter indications do not occur in the columns but in the centre of the page. The same applies to the clauses marking the beginning of every new Basilica book.⁷⁹ The critical apparatus occurs in the fourth column; unfortunately, the word processing program used for the compilation of the text of the index is unable to generate footnotes while columns are worked with: thus, it proved impossible to create a critical apparatus at the bottom of the page. The fifth column contains a translation of the text of ICb 2. For convenience sake, the index is followed by a concordance listing the individual titles of B. 1 - B. 9 and the corresponding lines of ICb 2.

γενέσθαι. The infinitive γενέσθαι is syntactically impossible, because in this case the participle ὀφειλούσης in ICb 2, l. 289 would have two infinitives depend on it, viz. κρατύνεσθαι and γενέσθαι. The apparatus of BT records no variant readings, save two omissions; cf. BT 266 app. ad l. 4 καὶ ὥστε - 9 γενέσθαι. In this case, then, I have followed Schöll and Kroll, the editors of the rubric of Nov. 86, who in Zachariä von Lingenthal's wake deleted the clause παρὰ ἀρχόντων γενέσθαι altogether; cf. SK 419 app. ad l. 12.

- 78 Cf. e.g. ἡττημένον in the Greek rendering of the rubric of C. 1,22 in B. 2,5 (ICb 2, l. 82; Cb reads ἡττημένον, which means 'is defeated'). In cases like this (and everywhere else, too), I have always consulted the original rubrics from the Digest, the Code and the Novels. C. 1,22 rubr., for instance, reads 'postulatum', of which ἡττημένον is a good rendering. I have also consulted ICb as edited by Heimbach; cf. n. 15 above. Heimbach, however, must be used (if at all) with extreme caution. According to him, ICb reads ἡττημένον in the case of the Greek translation of C. 1,22 rubr.; cf. Heimbach, *Basilicorum libri LX*, I, p. xvi n. h. The manuscript, however, reads ἡττημένον (Cb, f. 1^v). Heimbach failed to notice this.
- 79 With the exception of B. 1, these clauses invariably state the number of titles contained in the relevant Basilica book; cf. ICb 2, ll. 55 (B. 2: ἔχει τίτλους ζ'), 112 (B. 3: ἔχει τίτλους δ'), 130 (B. 4: ἔχει τίτλων α'), 141 (B. 5: ἔχει τίτλους γ'), 154 (B. 6: ἔχει τίτλους λε'), 340 (B. 7: ἔχει τίτλους ιθ'), 417 (B. 8: ἔχει τίτλους β'), 422 (B. 9: ἔχει τίτλους ια').

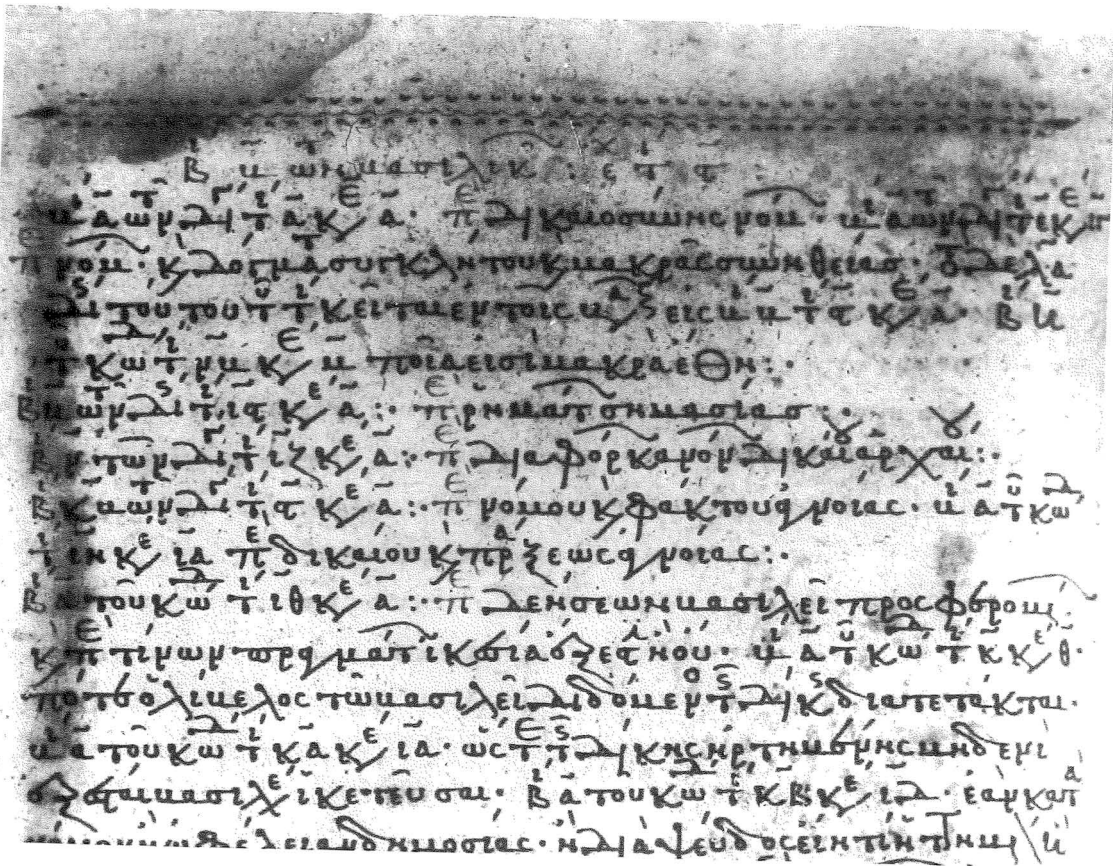
Conspectus siglorum

Cb Coisl. 151, ff. 19^r - 22^v

Bas. Basilicorum libri LX, edd. Scheltema / Holwerda / Van der Wal, 1953-1988

Nov. Novellae, edd. Schöll / Kroll [Corpus iuris civilis III]

[] His uncinis saepsi quae verba delenda esse putavi



Cod. Coisl. gr. 151, f. 19^v, upper part. Photo Bibliothèque nationale de France

INDEX TITULORUM

APPARATUS CRITICUS*

- 7 κεφάλαιον η': κεφ. η' post τιτ. γ' (8) pon. Cb
- 8 τιτ. γ': τιτ. ε' Cb
- 14 ἐπιτετραμμένων: χρηὴ δὲ εἰδέναι ὅτι δύο μόναι διατάξεις τούτου τοῦ γ' τίτλου ἐνταῦθα παρεξεβλήθησαν· διατάξεις καθ' περὶ τοῦ μὴ ἐν πᾶλει μοναχὸν διατρίβειν εἰ μὴ μόνον τὸν ἀποκρισιάριον καὶ διατάξεις κς' περὶ τοῦ μὴ σταυρὸν ἢ λείψανα ἁγίων εἰς οἴκους δημοσίου ἢ τῶπος πρὸς τέρψιν τοῦ δημοσίου ἀφωρισμένων εἰσφέρειν add. Cb
- 18 κεφάλαιον ια': κεφ. ια' post τιτ. ια' (19) pon. Cb
- 20 κεφάλαιον κ': κεφ. κ' post τιτ. δ' (21) pon. Cb
- 22 πρὸς: πρὸ Cb
- 23 ἱερατικὴν: χρηὴ εἰδέναι ὅτι μόνη ἰ διατάξεις ἐνταῦθα ἐστὶ περὶ μαθηματικῶν add. Cb
- 24 κεφάλαιον κα': κεφ. κα' post τιτ. ε' (25) pon. Cb
- 27 κεφάλαιον λβ': κεφ. λβ' post διατ. γ' (28/29) pon. Cb

TRANSLATON*

With God's help, beginning of the Basilica.

Book 1 of the Basilica.

Title 1.

The Highest Trinity and the (5) catholic faith; let nobody dare to argue about it in public.

Chapter 8: Book 1 of the Code, title 3: bishops and clerics and (10) orphanages and hospitals for infants and poorhouses and inns and hermitages and monasteries and their privileges and privately owned working capital and ransoming prisoners and forbidden or permitted marriages of clerics.

(15) Book 1 of the Code, title 8: nobody is allowed either to carve or to paint the sign of Christ the Saviour or of the Cross in the pavement or in marble.

Chapter 11: Book 1 of the Code, title 11: pagan sacrifices and temples.

(20) **Chapter 20:** Book 1 of the Code, title 4: episcopal audience and various (subjects) pertaining to priestly jurisdiction and care and reverence.

Chapter 21: (25) Book 1 of the Code, title 5: heretics and Manichaeans and Samaritans.

Chapter 32: Book 1 of the Code, title 6, constitution 3: do not rebaptize Holy Baptism.

(30) Book 1 of the Code, title 9, several constitutions: Jews and synagogues.

* The numbers between brackets () refer to the line numbers of the main text.

Κεφάλαιον μδ'

Βιβ. α' τοῦ Κωδ. τιτ. ιβ' διατ. περὶ τῶν ἐν ἐκκλησίᾳ προσφευγόντων καὶ
α' μόνη· περὶ τῶν ἀναβοώντων.

35

Κεφάλαιον με'

Νε. λζ'· περὶ τῶν ἐν Ἀφρικῇ ἐκκλησιῶν διαίρεσις β',
γ', δ', ε'.

Νε. ρλα'· περὶ ἐκκλησιαστικῶν κανόνων διαίρεσις κ',
κα', κβ', κγ', κδ'.

40

Κεφάλαιον μθ'

Νε. μβ'· περὶ ἐπισκόπων ἀναθεματισθέντων
διαίρεσις β'.

Κεφάλαιον ν'

Νε. ρθ'· περὶ αἵρετικῶν καὶ γυναικῶν αὐτῶν ἡ ὅλη
νεαρά.

45

Κεφάλαιον να'

Κεφάλαιον νβ'

Νε. ρμδ'· περὶ Σαμαρείτων ὅλη.

Κεφάλαιον νγ'

Νε. ρμς'· περὶ Ἑβραίων πῶς δεῖ τὰς γραφὰς
ἀναγινώσκειν ὅλη.

50

Κεφάλαιον νδ'

Νε. ρλβ'· ἵδικτον Κωνσταντινουπολίταις ἡ περὶ
αἵρετικῶν.

- 32 κεφάλαιον μδ': κεφ. μδ' post διατ.
α' μόνη (33/34) pon. Cb
- 34 τῶν: τῶν post κεφ. με' (35) pon. Cb
- 43 κεφάλαιον ν': κεφ. ν' post νε. ρθ'
(44) pon. Cb
- 46 κεφάλαιον να': νε. ρμδ' κεφ. νβ'
κεφ. να' Cb
- 49 κεφάλαιον νγ': κεφ. νγ' post νε.
ρμς' (50) pon. Cb
- 50 ρμς': ρμβ' Cb
- 52 κεφάλαιον νδ': κεφ. νδ' post νε.
ρλβ' (53) pon. Cb

Chapter 44: Book 1 of the Code, title 12, constitution 1 only: those who seek refuge in Church and those who shout aloud.

(35) **Chapter 45:** Novel 37: the Churches in Africa; sections 2, 3, 4, 5.

Novel 131: ecclesiastical canons; sections 20, 21, 22, 23, 24.

(40) **Chapter 49:** Novel 42: anathematized bishops; section 2.

Chapter 50: Novel 109: heretics and their wives; the entire (45) novel.

Chapter 51.

Chapter 52: Novel 144: (50) Samaritans; the entire novel.

Chapter 53: Novel 146: Hebrews, how to read the Scriptures; the entire novel.

Chapter 54: Novel 132: edict to the people of Constantinople, or [the edict] on heretics.

55

Βιβλίον β' τῶν Βασιλικῶν ἔχει τίτλους ζ'

Κεφάλαιον α'

Βιβ. α' τῶν Διγ. τιτ. α'. περὶ δικαιοσύνης καὶ νόμων.

Κεφάλαιον ιγ'

60

Βιβ. α' τῶν Διγ. τιτ. γ'. περὶ νόμων καὶ δόγματος συγκλήτου καὶ
μακρᾶς συνηθείας.

Κεφάλαιον μ'

Βιβ. η' τοῦ Κωδ. τιτ. νβ'. ποῖά εἰσι μακρὰ ἔθη.

Κεφάλαιον α'

Βιβ. ν' τῶν Διγ. τιτ. ιζ'. περὶ ρημάτων σημασίας.

65

Κεφάλαιον α'

Βιβ. ν' τῶν Διγ. τιτ. ιζ'. περὶ διαφόρων κανόνων δικαίου ἀρχαίου.

Κεφάλαιον α'

Βιβ. κβ' τῶν Διγ. τιτ. ζ'. περὶ νόμου καὶ φάκτου ἀγνοίας.

Κεφάλαιον ια'

70

Βιβ. α' τοῦ Κωδ. τιτ. ιη'. περὶ δικαίου καὶ πράξεως ἀγνοίας.

Κεφάλαιον α'

Βιβ. α' τοῦ Κωδ. τιτ. ιθ'. περὶ δεήσεων βασιλεῖ προσφερομένων καὶ
περὶ τίνων πραγμάτων ἰκεσία ἔξεστιν ἢ οὐ.

Κεφάλαιον θ'

75

Βιβ. α' τοῦ Κωδ. τιτ. κ'. πότε ὁ λίβελλος τῷ βασιλεῖ διδόμενος τῆς
δίκης διατέτακται.

- 56 κεφάλαιον α': κεφ. α' post τιτ. α'
(57) pon. Cb
- 57 καὶ: om. Cb
- 58 κεφάλαιον ιγ': κεφ. ιγ' post τιτ. γ'
(59) pon. Cb
- 59 τιτ. γ': τιτ. ε' Cb
- 60 συνηθείας: τὸ δὲ λα' διῆς (leg.
δίγεστον) τούτου τοῦ τίτλου κείται ἐν
τοῖς βασιλικαῖς εἰς βιβ. β' τιτ. ζ'
κεφ. α' add. Cb
- 61 κεφάλαιον μ': κεφ. μ' post τιτ. νβ'
(62) pon. Cb
- 63 κεφάλαιον α': κεφ. α' post τιτ. ις'
(64) pon. Cb
- 64 βιβ. ν': βιβ. η' Cb | διγ.: διῆς Cb
- 65 κεφάλαιον α': κεφ. α' post τιτ. ιζ'
(66) pon. Cb
- 67 κεφάλαιον α': κεφ. α' post τιτ. ζ'
(68) pon. Cb
- 69 κεφάλαιον ια': κεφ. ια' post τιτ. ιη'
(70) pon. Cb
- 71 κεφάλαιον α': κεφ. α' post τιτ. ιθ'
(72) pon. Cb
- 74 κεφάλαιον θ': κεφ. θ' post τιτ. κ'
(75) pon. Cb
- 75 λίβελλος: λίβελος Cb

(55) Book 2 of the Basilica contains 6 titles.

Chapter 1: Book 1 of the Digest, title 1: justice and laws.

Chapter 13: Book 1 of the Digest, title 3: laws and senatorial decree and (60) longstanding custom.

Chapter 40: Book 8 of the Code, title 52: what are longstanding customs.

Chapter 1: Book 50 of the Digest, title 16: signification of words.

(65) **Chapter 1:** Book 50 of the Digest, title 17: various rules of ancient law.

Chapter 1: Book 22 of the Digest, title 6: ignorance of law and fact.

Chapter 11: (70) Book 1 of the Code, title 18: ignorance of right and action.

Chapter 1: Book 1 of the Code, title 19: petitions addressed to the emperor and on which matters supplication is or is not permitted.

Chapter 9: (75) Book 1 of the Code, title 20: when the petition of the lawsuit given to the emperor is constituted.

Κεφάλαιον ια΄

Βιβ. α΄ τοῦ Κωδ. τιτ. κα΄· ὥστε τῆς δίκης ἡρτημένης μηδενὶ ἐξέσται βασιλεῖ ἱκετεῦσαι.

80

Κεφάλαιον ιδ΄

Βιβ. α΄ τοῦ Κωδ. τιτ. κβ΄· ἐὰν κατὰ νόμον ἢ ὠφελείαν δημοσίαν ἢ διὰ ψεύδους εἴη τι ἡττημένον ἢ διατετάγμενον.

Κεφάλαιον κ΄

85

Βιβ. α΄ τοῦ Κωδ. τιτ. κγ΄· περὶ διαφόρων ἀντιγραφῶν καὶ περὶ πραγματικῶν θεσπισμάτων.

Τίτλος ζ΄

Κεφάλαιον α΄

Βιβ. α΄ τῶν Διγ. τιτ. γ΄ διγ. λα΄·

90

Κεφάλαιον β΄

Βιβ. α΄ τῶν Διγ. τιτ. δ΄· περὶ διατάξεων βασιλέων.

Κεφάλαιον ζ΄

Βιβ. α΄ τοῦ Κωδ. τιτ. ιδ΄· περὶ νόμων καὶ θεσπισμάτων βασιλικῶν καὶ διατάξεων.

95

Κεφάλαιον ιθ΄

Βιβ. α΄ τοῦ Κωδ. τιτ. ιε΄· περὶ βασιλικῶν ἐνταλμάτων.

Βιβ. α΄ τοῦ Κωδ. τιτ. ις΄· περὶ συγκλήτου δόγματος.

100

Βιβ. α΄ τοῦ Κωδ. τιτ. ιζ΄· περὶ παλαιῶν δικαιωμάτων καὶ διατάξεων καὶ περὶ αὐθεντείας τῶν νομοθετῶν ἐν τοῖς Διγέστοις ἀναφερομένων.

Νε. ξς΄· περὶ τοῦ τὰς γινομένης νέας διατάξεις

- 77 κεφάλαιον ια': κεφ. ια' post τιτ. κα' (78) pon. Cb
- 80 κεφάλαιον ιδ': κεφ. ιδ' post τιτ. κβ' (81) pon. Cb
- 81 δημοσίαν: δημοσίας Cb
- 82 ήττημένον: ήττημένον Cb
- 83 κεφάλαιον κ': κεφ. κ' post τιτ. κγ' (84) pon. Cb
- 84 καί: om. Cb
- 86 τίτλος ζ' - 91 τιτ. δ': βιβ. α' τών διγ. τιτ. γ' διγ. λα' βιβ. α' τών διγ. τιτ. δ' κεφ. α' κεφ. β' τιτ. ζ' Cb
- 88 (γ') διγ.: διατ. Cb
- 91 τών: τῶ Cb
- 92 κεφάλαιον ζ': κεφ. ζ' post τιτ. ιδ' (93) pon. Cb
- 95 κεφάλαιον ιθ': κεφ. ιθ' post τιτ. ιε' (96) pon. Cb
- 98 τοῦ κωδ.: τῶν διγ. Cb

Chapter 11: Book 1 of the Code, title 21: that pending the proceedings nobody will be allowed to supplicate the emperor.

(80) **Chapter 14:** Book 1 of the Code, title 22: when something is demanded or procured contrary to law or public interest or by deceitful means.

Chapter 20: Book 1 of the Code, title 23: various rescripts and (85) pragmatic ordinances.

Title 6.

Chapter 1: Book 1 of the Digest, title 3, digeston 31.

(90) **Chapter 2:** Book 1 of the Digest, title 4: constitutions of emperors.

Chapter 6: Book 1 of the Code, title 14: laws and imperial ordinances and constitutions.

(95) **Chapter 19:** Book 1 of the Code, title 15: imperial mandates.

Book 1 of the Code, title 16: decree of the senate.

Book 1 of the Code, title 17: ancient ordinances and constitutions; authority of the lawgivers (100) who are represented in the Digest.

Novel 66: that, when new constitutions are issued, they

		μετὰ τὴν ἐμφάνισιν αὐτῶν μετὰ β' μῆνας ἄλλους κρατεῖν διαίρεσις α'.
105	Νε. ριγ'.	ἡ διάταξις ὥστε ἐν μέσῳ δίκης μὴ γίνεσθαι θείους τύπους ἢ θείας κελεύσεις ἀλλὰ κατὰ τοὺς γενικοὺς νόμους τέμνεσθαι τὰς ὑποθέσεις καὶ ὥστε τὴν παροῦσαν διάταξιν πρὸ τῆς τῶν προσώπων βεβαιώσεως ἐντάττεσθαι τοῖς πραττομένοις ἢ ὅλη νεαρά.
110	Νε. ριδ'.	περὶ θείων κελεύσεων ἢ ὅλη νεαρά.

Βιβλίον γ' τῶν Βασιλικῶν ἔχει τίτλους δ'

	Βιβ. α' τοῦ Κωδ. τιτ. γ' διατ. διάφοροι.	περὶ ἐπισκόπων καὶ κληρικῶν χειροτονίας καὶ προνομίων αὐτῶν.
115	Νε. ρκγ' καὶ νε. ρλζ'.	περὶ ἐκκλησιαστικῶν διαφόρων κεφαλαίων διαίρεσις θ' καὶ ἐφεξῆς μέχρι τῆς ξε'.
	Νε. γ'.	περὶ τοῦ ὠρισμένον εἶναι τὸν ἀριθμὸν τῶν κληρικῶν τῆς μεγάλης ἐκκλησίας Κωνσταντινουπόλεως διαίρεσις α', β', γ'.
120	Νε. ις'.	περὶ τοῦ τοὺς κληρικοὺς ἐξ ἐτέρας ἐκκλησίας μετατίθεσθαι εἰς ἑτέραν εἰς τὸν τῶν ἐλλειπόντων στατοῦτον ἀριθμὸν ἢ ὅλη νεαρά.
125	Βιβ. α' τοῦ Κωδ. τιτ. γ' διατ. διάφοροι.	

Τίτλος δ'

Νε. νζ'.	περὶ κληρικῶν ἀποστάντων τῆς κατ' αὐτοὺς ἐκκλησίας καὶ περὶ τῶν οἰκοδομούντων εὐκτηρίους οἴκους διαίρεσις α' καὶ β'.
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102 ἀντῶν: ἦν add. Cb

109 τοῖς πραττομένοις: τὴν
πραττομένην Cb

113 διατ. διάφοροι: διατ. διάφοροι post
ἀντῶν (114) pon. Cb

117 τῶν: τῆς Cb

122 στατοῦτον: στατούτων Cb

are not valid until after two months from their publication; section 1.

Novel 113: the constitution ordering that in the midst of a trial no (105) imperial rescripts or imperial commands are issued, but that the lawsuits are decided in accordance with the general laws; and that the present constitution is inserted in the records before the confirmation of the persons; the entire (110) novel.

Novel 114: imperial commands; the entire novel.

Book 3 of the Basilica contains 4 titles.

Book 1 of the Code, title 3, various constitutions: the ordination of bishops and clerics, and their privileges.

(115) Novel 123 and Novel 137: various ecclesiastical subjects; section 9 and what follows as far as section 65.

Novel 3: the number of clerics of the Great Church of Constantinople is limited; sections 1, 2, 3.

(120) Novel 16: clerics are transferred from one church to another in order to produce the prescribed number by filling the vacancies; the entire novel.

Book 1 of the Code, title 3, various (125) constitutions.

Title 4.

Novel 57: clerics who abandon their own church and builders of houses of prayer; sections 1 and 2.

130

Βιβλίον δ' τῶν Βασιλικῶν ἔχει τίτλον α'

Περὶ μοναστηρίων καὶ μοναχῶν καὶ
ἀσκητριῶν καὶ διαγωγῆς αὐτῶν διαίρεσις
α'.

135

Νε. ρκγ'.

περὶ ἐκκλησιαστικῶν διαφόρων κεφαλαίων
διαίρεσις ξς' καὶ μέχρι κεφαλαίου β'
τέλους ἢ νεαρά.

Νε. ρλγ'.

περὶ τοῦ πῶς δεῖ βιοῦν τοὺς μοναχοὺς ἢ ὅλη
νεαρά.

140

Βιβ. α' τοῦ Κωδ. τιτ. γ' διατ.
κθ' μόνη.

Βιβλίον ε' τῶν Βασιλικῶν ἔχει τίτλους γ'

Βιβ. α' τοῦ Κωδ. τιτ. β' διατ.
διάφοροι.

περὶ τῶν σεβασμίων καὶ ἀγίων ἐκκλησιῶν
καὶ τῶν πραγμάτων καὶ προνομίων αὐτῶν.

145

Βιβ. α' τοῦ Κωδ. τιτ. ιβ' διατ. γ'
καὶ ἐφεξῆς ὁ ὅλος τίτλος.

περὶ τῶν ἐν ἐκκλησίᾳ προσφευγόντων καὶ
ἀναβοώντων.

Νε. ρκ'.

περὶ ἐκποιήσεως καὶ ἐμφυτεύσεως
ἐκκλησιαστικῶν πραγμάτων ἢ ὅλη.

Νε. ριθ'.

διαίρεσις θ' καὶ μόνη.

Νε. ρκ'.

ἢ ἐν ἀρχῇ τοῦ τίτλου ὅλη.

150

Νε. ρια'.

περὶ τοῦ χρόνου τῶν ἀρμοξουσῶν ἀγωγῶν
τοῖς εὐαγέσι τόποις.

Νε. ρλα'.

περὶ ἐκκλησιαστικῶν κανόνων καὶ προνομίων
ἢ περὶ ἐκκλησιαστικῆς καταστάσεως.

Βιβλίον ζ' τῶν Βασιλικῶν ἔχει τίτλους λε'

155

Τίτλος α'

Κεφάλαιον α'

Βιβ. α' τῶν Διγ. τιτ. θ'.

περὶ συγκλητικῶν ἀρχόντων.

131 ante *περὶ* suppl. Νε. ε'.

(130) **Book 4 of the Basilica contains 1 title.**

[Novel 5:] Monasteries and monks and nuns and their way of life; section 1.

Novel 123: various ecclesiastical subjects; (135) section 66 and up to the end of chapter 2 [viz. of B. 4,1], the novel.

Novel 133: how monks must live; the entire novel.

Book 1 of the Code, title 3, constitution (140) 29 only.

142 *διατ. διάφοροι*: *διατ. διάφοροι* post *αὐτῶν* (143) pon. Cb

Book 5 of the Basilica contains 3 titles.

Book 1 of the Code, title 2, various constitutions: the revered and holy Churches and their assets and privileges.

Book 1 of the Code, title 12, constitution 3 (145) and in succession the entire title [viz. C. 1,12]: those who seek refuge in Church and who shout aloud.

Novel 120: alienation and emphyteusis of ecclesiastical assets; the entire novel.

Novel 119, section 9 only.

Novel 120: [the remainder of] the constitution [already partly incorporated] in the beginning of the [present] title; the entire novel.

(150) Novel 111: the terms of the actions to which holy places are entitled.

Novel 131: ecclesiastical rules and privileges or the status of the Church.

155 *τίτλος α'*: *τιτ. α'* in marg. pon. Cb

Book 6 of the Basilica contains 35 titles.

156 *κεφάλαιον α'*: *κεφ. α'* in marg. pon. Cb

(155) **Title 1.**

Chapter 1: Book 1 of the Digest, title 9: senatorial magistrates.

157 *διγ.*: *διτ.* Cb

Κεφάλαιον ια'

Βιβ. ιβ' τοῦ Κωδ. τιτ. α'· περὶ ἀξιωματικῶν καὶ συγκλητικῶν.

160

Κεφάλαιον λα'

Βιβ. α' τῶν Διγ. τιτ. ιη'· περὶ τάξεως ἀρχόντων.

Κεφάλαιον νβ'

Βιβ. ιβ' τοῦ Κωδ. τιτ. η'· περὶ τῆς τῶν συγκλητικῶν τάξεως.

165

Βιβ. α' τοῦ Κωδ. τιτ. λα'· περὶ ἀξιώματος τοῦ μαγίστρου τῶν
ὀφφικίων.

Κεφάλαιον ξα'

Βιβ. α' τοῦ Κωδ. τίτλος να'· περὶ συνέδρων καὶ δομεστικῶν καὶ
καγγελαρίων τῶν κριτηρίων.

Βιβ. α' τοῦ Κωδ. τιτ. λς'· περὶ ἀξιώματος τοῦ κόμητος τῆς Ἑώας.

170

Βιβ. α' τοῦ Κωδ. τιτ. μ'· περὶ ἀξιωματῶν ἀρχόντων τῆς ἐπαρχίας.

Βιβ. α' τοῦ Κωδ. τιτ. μα'· ἵνα μηδεὶς τῆς ἰδίας πατρίδος ἄρχῃ.

Βιβ. α' τοῦ Κωδ. τιτ. λζ'· περὶ τάξεως ἐπάρχων Αὐγουσταλίων.

Βιβ. α' τοῦ Κώδικος τιτ. μς'· περὶ ἀξιωματῶν ἀρχόντων τοῦ στρατοῦ.

175

Βιβ. α' τοῦ Κωδ. τιτ. μζ'· τίνα οὐκ ἀναγκάζονται λειτουργεῖν αἱ
πόλεις τοῖς κόμησι καὶ τριβούνοις.

Βιβ. α' τοῦ Κωδ. τιτ. μδ'· περὶ ἀξιώματος τοῦ στρατηγοῦ τῶν
ἀννόνων.

Ὅμοίως τιτ. νβ'.

180

Βιβ. α' τοῦ Κωδ. τιτ. λδ'· περὶ ἀξιώματος τῶν κομήτων τῆς θείας
περιουσίας.

Βιβ. α' τοῦ Κωδ. τιτ. λγ'· περὶ ἀξιώματος τοῦ κόμητος τῶν
πραγμάτων τῶν ιδιοκτητῶν.

Βιβ. α' τοῦ Κωδ. τιτ. μβ'· περὶ τετραμήνου ἥτοι πολιτικῶν ἢ
στρατιωτικῶν βρεβίων.

158 κεφάλαιον ια': κεφ. ια' post τιτ. α'
(159) pon. Cb

159 τοῦ: τῶν Cb

160 κεφάλαιον λα': κεφ. λα' in marg.
pon. Cb

162 κεφάλαιον νβ': κεφ. νβ' in marg.
pon. Cb

166 κεφάλαιον ξα': κεφ. ξα' in marg.
pon. Cb

173 μζ': μβ' Cb

176 στρατηγού: στρατοῦ Cb

Chapter 11: Book 12 of the Code, title 1: dignities and senatorials.

(160) **Chapter 31:** Book 1 of the Digest, title 18: office of magistrates.

Chapter 52: Book 12 of the Code, title 8: the hierarchy of the senatorials.

Book 1 of the Code, title 31: office of the master of the (165) offices.

Chapter 61: Book 1 of the Code, title 51: assessors and retinue and secretaries of the tribunals

Book 1 of the Code, title 36: office of the count of the East.

(170) Book 1 of the Code, title 40: offices of the governors of the provinces.

Book 1 of the Code, title 41: that nobody will govern his native country.

Book 1 of the Code, title 37: office of Augustal prefects.

Book 1 of the Code, title 46: offices of magistrates of the army.

Book 1 of the Code, title 47: which service the cities are not compelled to render (175) to the counts and tribunes.

Book 1 of the Code, title 44: office of the magistrate of the corn supply.

Likewise [Book 1 of the Code], title 52.

Book 1 of the Code, title 34: office of the counts of the imperial (180) property.

Book 1 of the Code, title 33: office of the count of the private assets (of the emperor).

Book 1 of the Code, title 42: four-month period of either civil or military tax lists.

- 185 Βιβ. α' τοῦ Κωδ. τιτ. λη'. *περὶ ἀξιώματων τῶν βικαρίων.*
 Βιβ. α' τοῦ Κωδ. τιτ. με'. *περὶ ἀξιώματων τῶν πολιτικῶν δικαζομένων.*
 Βιβ. α' τοῦ Κωδ. τιτ. μη'. *περὶ ἀξιώματων διαφορῶν κρίσεων.*
 Βιβ. α' τῶν Διγ. τιτ. ι'. *περὶ τάξεως ὑπάτων.*
 190 Βιβ. α' τῶν Διγ. τιτ. ις'. *περὶ ἀνθυπάτου καὶ τοῦ τοποτηρητοῦ αὐτοῦ.*
 Βιβ. α' τοῦ Κωδ. τιτ. λε'. *περὶ ἀξιωματοῦ ἀνθυπάτου καὶ λεγάτων αὐτῶν.*
 Νε. η'. *περὶ τοῦ τοῦς ἄρχοντας χωρὶς τῆς οἰασοῦν δόσεως γίνεσθαι.*
 195 Βιβ. α' τοῦ Κωδ. τιτ. μθ'. *ὥστε πάντας τοὺς ἄρχοντας μετὰ τὸ ὀφθίκιον ἀποθέσθαι πεντήκοντα ἡμέρας κατὰ χώραν μένειν.*
 Νε. ρκη' διαίρεσις κζ'. *περὶ τῶν αὐτῶν ν' ἡμερῶν.*
 200 Νε. ρξα' διαίρεσις β'. *περὶ ἀρχόντων πρὸ τοῦ πληρῶσαι τὰς ν' ἡμέρας ἀναχωρούντων.*
 Βιβ. α' τοῦ Κωδ. τιτ. να'. *ὥστε καὶ τοὺς καγγελαρίους καὶ δομεστικούς μένειν τὰς αὐτὰς ν' ἡμέρας.*
 Νε. ρε' διαίρεσις β'. *περὶ τοῦ μὴ λιπεῖν ἄρχοντα τὴν ἄρχην χωρὶς θείας κελεύσεως.*
 205 Νε. ιζ'. *περὶ παραγγελμάτων ἀρχόντων ἢ ὅλη νεαρά.*
 Νε. ρμθ'. *περὶ τοῦ προῖκα γίνεσθαι τοὺς ἄρχοντας ἢ ὅλη νεαρά.*
 Νε. η'. *ἵδικτον.*
 210 Νε. η' κεφ. δ'. *ὅρκος διδόμενος παρὰ τῶν τὰς ἀρχὰς λαμβανόντων.*
 Βιβ. α' τοῦ Κωδ. τιτ. νγ'. *περὶ τοῦ μήτε ἀγοράζειν μήτε κτίζειν μήτε δωρεὰς λαμβάνειν τοὺς ἄρχοντας ἐν αἰς ἄρχουσιν ἐπαρχίαις μήτε δὲ τοὺς ἐν Κωνσταντινουπόλει ποιεῖν τι τούτων ἄνευ θείας κελεύσεως.*
 215

186 τῶν: διαφόρων τῶν Cb

206 νεαρά: νε. om. Cb

209 ἡ': ἡ' om. Cb

(185) Book 1 of the Code, title 38: offices of the deputies.

Book 1 of the Code, title 45: offices of the civil litigants.

Book 1 of the Code, title 48: offices of various judgments.

Book 1 of the Digest, title 10: office of consuls.

(190) Book 1 of the Digest, title 16: proconsul and his deputy.

Book 1 of the Code, title 35: office of proconsul and their legates.

Novel 8: the governors are appointed without any gift.

(195) Book 1 of the Code, title 49: that all the governors after relinquishing office remain in the region for fifty days.

Novel 128, section 27: the same fifty days.

Novel 161, section 2: governors who retire before having completed the fifty (200) days.

Book 1 of the Code, title 51: that both the secretaries and retinue remain the same fifty days.

Novel 95, section 2: a governor does not relinquish his magistracy without imperial command.

(205) Novel 17: instructions for governors; the entire novel.

Novel 149: the governors are appointed without gift; the entire novel.

Novel 8: edict.

(210) Novel 8, chapter 4: oath sworn by those who enter the magistracies.

Book 1 of the Code, title 53: the governors do not buy or build or accept gifts in the provinces in which they exercise their office; nor do they do (215) any of those things in Constantinople, without imperial command.

Τίτλος δ'

	Βιβ. α' τῶν Διγ. τιτ. ια'.	περὶ τάξεως ἐπάρχων πραιτωρίων.
	Βιβ. α' τῶν Διγ. τιτ. ιβ'.	περὶ τάξεως ἐπάρχων πόλεως.
220	Βιβ. α' τῶν Διγ. τιτ. ιζ'.	περὶ τάξεως ἐπάρχου τοῦ λεγομένου ἀνγουσταλίου.
	Βιβ. α' τοῦ Κωδ. τιτ. κς'.	περὶ ἀξιώματος ἐπάρχου τῶν πραιτωρίων τῆς Ἀνατολῆς καὶ τοῦ Ἰλλυρικοῦ.
	Βιβ. α' τοῦ Κωδ. τιτ. κη'.	περὶ ἀξιώματος ἐπάρχου τῆς πόλεως.
225	Βιβ. α' τοῦ Κωδ. τιτ. κθ'.	περὶ ἀξιώματος τοῦ μαγίστρου τῶν στρατιωτῶν.
	Βιβ. ιβ' τοῦ Κωδ. τιτ. δ'.	περὶ ἐπάρχου πόλεως καὶ πραιτωρίων καὶ στρατηλάτου ἱππέων καὶ πεζῶν.
	Βιβ. α' τῶν Διγ. τιτ. ιε'.	περὶ τάξεως τῶν νυκτεπάρχων.
230	Νε. ιγ'.	περὶ τῶν πραιτῶρων τοῦ δήμου.
	Βιβ. α' τῶν Διγ. τιτ. ιγ'.	περὶ τάξεως κοιαίστωσης.
	Βιβ. ιβ' τοῦ Κωδ. τιτ. ς'.	περὶ τῶν ἀποκοιαιστώρων καὶ ἀπομαγίστρων.
	Βιβ. α' τοῦ Κωδ. τιτ. λ'.	περὶ ὀφφικίου τοῦ κοιαίστωσης.
235	Νε. π'.	περὶ κοιαίστωσης.
	Βιβ. ιβ' τοῦ Κωδ. τιτ. θ'.	περὶ τῶν ἀντιγραφέων καὶ τῶν τεσσάρων σκρινίων τῶν ὑπ' αὐτούς.
	Νε. λε'.	περὶ τῶν βοηθῶν τοῦ κοιαίστωσης.
	Βιβ. α' τῶν Διγ. τιτ. ιδ'.	περὶ τάξεως τῶν πραιτῶρων.
240	Βιβ. ιβ' τοῦ Κωδ. τιτ. β'.	περὶ πραιτῶρων καὶ τιμῆς πραιτωρίας.
	Βιβ. α' τοῦ Κωδ. τιτ. λθ'.	περὶ ἀξιώματος τῶν πραιτῶρων.

Τίτλος η'

Κεφάλαιον α'

Νε. κδ'.	περὶ τοῦ πραιτῶρος Πισιδίας.
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217 τίτλος δ': τιτ. δ' in marg. pon. Cb

220 διγ.: διγ⁷⁵ Cb

230 πραιτῶρων: πραιτωρίων prius, corr.
Cb

240 πραιτωρίας: vs. ε' add. Cb

Title 4.

Book 1 of the Digest, title 11: office of the prefects of the praetorian guards.

Book 1 of the Digest, title 12: office of the prefects of the City.

(220) Book 1 of the Digest, title 17: office of the so-called Augustan prefect.

Book 1 of the Code, title 26: office of the prefect of the praetorian guards of the East and of Illyricum.

Book 1 of the Code, title 28: office of the prefect of the City.

(225) Book 1 of the Code, title 29: office of the master of the soldiers.

Book 12 of the Code, title 4: the prefect of the City and of the praetorian guards and the master of cavalry and infantry.

Book 1 of the Digest, title 15: office of the prefects of the watch.

(230) Novel 13: the praetors of the people.

Book 1 of the Code, title 13: office of quaestor.

Book 12 of the Code, title 6: the ex-quaestors and ex-masters.

Book 1 of the Code, title 30: office of quaestor.

(235) Novel 80: the quaestor.

Book 12 of the Code, title 9: the chief secretaries of state and the four imperial bureaux under their authority.

Novel 35: the assistants of the quaestor.

Book 1 of the Digest, title 14: office of the praetors.

(240) Book 12 of the Code, title 2: praetors and praetorian dignity.

Book 1 of the Code, title 39: office of the praetors.

Title 8.

Chapter 1: Novel 24: the praetor of Pisidia.

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Τίτλος θ'

Νε. κε'.

περὶ τοῦ प्रातृवरोꝛ Λυκαονίᾱς.

Τίτλος ι'

Νε. κς'.

περὶ τοῦ प्रातृवरोꝛ Θράκης.

Τίτλος ια'

250

Νε. κζ'.

περὶ τοῦ κόμητοꝛ Ἰσανυρίᾱς.

Τίτλος ιβ'

Νε. κη'.

περὶ τοῦ μοδεράτωροꝛ Ἐλενοπόνοῦ.

Τίτλος ιγ'

Νε. κθ'.

περὶ τοῦ प्रातृवरोꝛ Παφλαγονίᾱς.

255

Τίτλος ιδ'

Νε. λα'.

περὶ διατυπώσεωꝛ τῶν δ' ἀρχόντων
Ἀρμενίᾱς.

Τίτλος ιε'

Νε. ρβ'.

περὶ τοῦ μοδεράτωροꝛ Ἀραβίᾱς.

260

Τίτλος ις'

Νε. λ'.

περὶ τοῦ ἀνθυπάτοῦ Καππαδοκίᾱς.

Τίτλος ιζ'

Νε. ργ'.

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Title 12.

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(255) Title 14.

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Title 20.

(270) Novel 145: that from now on no duke or protector against violence will have permission, and so forth.

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		Τίτλος κδ'	
295	Βιβ. α' τῶν Διγ. τιτ. κ'.	περὶ τάξεως δικαιοδότη.	
	Βιβ. α' τῶν Διγ. τιτ. κα'.	περὶ τάξεως τούτων οἷς ἐπιτέτραπται ἡ δικαιοδοσία ἥτοι περὶ ἀρχόντων ἐντελλομένων ἑτέροις δικάζειν.	
	Βιβ. α' τῶν Διγ. τιτ. κβ'.	περὶ τάξεως συνέδρων.	
300		Τίτλος κε'	
	Βιβ. ιβ' τοῦ Κωδ. τιτ. ε'.	περὶ πραιποσίτων τοῦ ἱεροῦ κουβουκλείου καὶ πάντων κουβικουλαρίων καὶ προτιμήσεως αὐτῶν.	
	Βιβ. ιβ' τοῦ Κωδ. τιτ. ζ'.		
305		Τίτλος κς'	
		Περὶ τῶν ἀρχιατρῶν τοῦ παλατίου.	
		Τίτλος κζ'	
		Περὶ δομεστίκων καὶ προτικτόρων.	
		Τίτλος κη'	
310		Περὶ τῶν δ' σκρινίων τῆς μνήμης, τῶν ἐπιστολῶν, τῶν λιβελλῶν.	
		Τίτλος κθ'	
		Περὶ τῆς σχολῆς τῶν μαγιστριάνων.	
315	Βιβ. ιβ' τοῦ Κωδ. τιτ. κα'.	περὶ ἀρχόντων τῶν πραττόντων ἐν πράγμασιν.	
		Τίτλος λ'	
		Περὶ φροντιστῶν τοῦ δρόμου.	

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300 τίτλος κε': τιτ. κε' ante περι (296)
pon. Cb

Title 24.

(295) Book 1 of the Digest, title 20: office of judge.

Book 1 of the Digest, title 21: office of those to whom jurisdiction is entrusted, or magistrates authorizing others to judge.

Book 1 of the Digest, title 22: office of the assessors.

(300) **Title 25.**

Book 12 of the Code, title 5: the overseers of the imperial bed-chamber and all chamberlains and their high honour.

Book 12 of the Code, title 7.

(305) **Title 26.**

The chief physicians of the palace.

Title 27.

Household guards and bodyguards.

Title 28.

(310) The four imperial bureaux, of the records, of the letters, and of the petitions.

Title 29.

The department of the staff-officials of the master of offices.

Book 12 of the Code, title 21: the chiefs of the officers (315) of the secret service.

Title 30.

The inspectors of the public post.

Τίτλος λα΄

320

Βιβ. ιβ΄ τοῦ Κωδ. τιτ. κγ΄.

Περὶ τοῦ ἀξιώματος τῶν κομήτων τῶν
διαγνωμῶν.

περὶ παλατίνων τῶν ἱερωτάτων θησαυρῶν
καὶ πραγμάτων ἰδίων.

Τίτλος λβ΄

325

Βιβ. ιβ΄ τοῦ Κωδ. τιτ. κε΄.

Περὶ στρατόρων.

περὶ ἀξιωμαίων καὶ ὑπηρεσιῶν.

Τίτλος λγ΄

330

Βιβ. ιβ΄ τοῦ Κωδ. τιτ. κζ΄.

Περὶ δεκανῶν.

περὶ μετρητῶν.

Βιβ. ιβ΄ τοῦ Κωδ. τιτ. κη΄.

περὶ προτιμήσεως ἐκείνων οὔτινες ἐν τῷ
ιερώ παλατίῳ στρατεύονται.

Τίτλος λδ΄

Βιβ. ιβ΄ τοῦ Κωδ. τιτ. λβ΄.

Περὶ ἱππέων ἀξιώματος.

περὶ ἀξιώματος ἀπὸ ἐπάρχων.

Τίτλος λε΄

335

Περὶ ταβουλαρίων καὶ ἀκτουαρίων καὶ
χαρτουλλαρίων βοηθῶν ἥτοι σκρινιαρίων καὶ
ἐξεκπτόρων τοῦ θρόνου τοῦ ὑψηλοῦ καὶ τῶν
λοιπῶν ἀρχόντων τῶν τε πολιτικῶν καὶ
στρατιωτικῶν.

340

Βιβλίον ζ' τῶν Βασιλικῶν ἔχει τίτλους ιθ΄

Τίτλος α΄

Περὶ δικαστῶν ἐμπράκτων καὶ περὶ τοῦ μῆ

336 βοηθῶν: post βοηθῶν Cb paucas literas continere videtur, quae omnimodo supervacuae sunt; nescio quid velint

Title 31.

Office of the counts of the (320) imperial decrees.

Book 12 of the Code, title 23: palatines of the most imperial treasury and of the privy purse.

Title 32.

Grooms.

(325) Book 12 of the Code, title 25: offices and services.

Title 33.

Court ushers.

Book 12 of the Code, title 27: quartermasters.

Book 12 of the Code, title 28: privilege of those who serve in the (330) imperial palace.

Title 34.

Equestrian dignity.

Book 12 of the Code, title 32: dignity of ex-prefects.

Title 35.

(335) Registrars and accountants and assistant keepers of the court archives or bureau clerks and secretaries of the high throne and of the other magistrates, both civil and military.

342 ἐμπράκτων: ἐμπράτων Cb

(340) **Book 7 of the Basilica contains 19 titles.**

Title 1.

Judges holding office; the assessors do not carry

τοὺς παρέδρους προκατάρξεις δικῶν ποιεῖν
μήτε ἀποφάσεις ἐκφέρειν.

345

Τίτλος β΄

Περὶ δοκιμασίας μεσιτευνόντων καὶ αἵρετῶν
δικαστῶν.

Τίτλος γ΄

Περὶ τάξεως δικαστηρίων καὶ δικαιοδοσίας.

350

Τίτλος δ΄

Περὶ τῶν ἐκβιβαστῶν καὶ τῶν αἰτιωμένων
καὶ ἀνταιτιαθέντων καὶ τῶν δικαζομένων.

Τίτλος ε΄

355

Περὶ δικαστηρίου καὶ ὅπου ἕκαστος ἐνάγειν
καὶ ἐνάγεσθαι καὶ συνελθεῖν ὀφείλει.

Τίτλος ς΄

Περὶ δικῶν καὶ δαπανημάτων αὐτῶν καὶ
συνηθειῶν καὶ ὑπεραπαιτήσεως καὶ
ὑπερθέσεως.

360

Τίτλος ζ΄

Ἐάν τις δικαιοδοτοῦντι μὴ πειθαρχήσῃ.

Τίτλος η΄

Περὶ τοῦ οὔτινες εἰς δικαστήριον καλούμενοι
ὀφείλουσιν ἔλθειν ἢ μὴ ἔλθειν.

365

Τίτλος θ΄

Ὡστε μὴ ἐξεῖναι δυνατοῖς προσώποις

INDEX TITULORUM

352 ἀντατιαθέντων: αἰτιαθέντων Cb

354 ἐνάγειν: ἐνάγει Cb

358 ὑπεραπατήσεως: ὑπὲρ ἀπατήσεως
Cb

361 πειθαρχήση: πειθαρχήσει Cb

363 τοῦ: τῶν Cb Bas. (cf. BT 357 app.)

through the formal entering of suits in law, nor do they pronounce judgements.

(345) Title 2.

Examination of mediators and chosen judges.

Title 3.

Position of law courts and administration of justice.

(350) Title 4.

The executors of sentences and those who enter claims and counterclaims and those who litigate.

Title 5.

Court of law and where everybody must prosecute (355) and be prosecuted and commence legal actions.

Title 6.

Lawsuits and their costs and fees and demand in excess of what is due and postponement.

(360) Title 7.

If someone should not obey him who administers justice.

Title 8.

Who when summoned to court must appear or not appear.

(365) Title 9.

That powerful persons are not permitted to provide pro-

προστασίαν τοῖς δικαζομένοις παρασχεῖν ἢ
τὰς ἀγωγὰς εἰς ἑαυτοὺς μεταφέρειν.

Τίτλος ι'

370

Περὶ τούτων, οἵτινες τῶν δυναστῶν ὀνόματι
τοὺς τίτλους τοῖς ἀγροῖς προσπηγνύουσιν ἢ
τὰ αὐτῶν ὀνόματα εἰς τὴν δίκην
προτείνουσι.

Τίτλος ια'

375

Ὅστε μηδεὶς ἰδικοὺς τίτλους τοῖς ἀγροῖς
αὐτοῦ ἢ ἀλλοτρίοις ἐπιθήσοι ἢ προσηγορίαν
βασιλικὴν ἀναρτήσοι καὶ περὶ τοῦ μὴ τὸν
δημόσιον χάριν τινὸς προστασίας ἐν δίκῃ
πράγματα ἀπὸ τινος λαμβάνειν καὶ περὶ
380 τοῦ μηδενὶ ἐξεῖναι ἄνευ τῆς τοῦ δικαστοῦ
αὐθεντείας ἐπισφραγίσαι πράγματα ἅπερ
ἄλλος κατέχει.

Τίτλος ιβ'

385

Περὶ τοῦ εἰς δικαστήριον καλουμένου, ἵνα
ἀσφάλειαν δῷ.

Τίτλος ιγ'

Ἵνα μὴ τις τοῦτον, ὅστις εἰς δικαστήριον
καλεῖται, βίᾳ ἀφέληται.

Τίτλος ιδ'

390

Οἵτινες ἱκανὰ δοῦναι ἀναγκάζονται ἢ ὅρκῳ
ἐπαγγέλλονται ἢ δι' ὁμολογίας
καταπιστεύονται καὶ περὶ τύπων καὶ
ὀρκωμοσίας δι' ἐπήρειαν διδομένης.

Τίτλος ιε'

395

Ἐὰν ἀμαρτήσαντος οἰκέτου πρὸς ἐξωτικὸν
ὁ δεσπότης τοῦτον οὐ διεκδικῇ ἢ οὐ φαίνεται
ὥστε εἰς ἐξέτασιν δοθῆναι ἐπὶ τῷ τὰ δέοντα

370 οἵτινες τῶν δυναστῶν: τῶν δυναστῶν
οἵτινες Cb Bas. (cf. BT 363 app.)

371 τοῖς ἀγροῖς: τοῖς ἀγροῖς om. Cb

375 ἰδικὸς: Cb, fortasse leg. ἰδικὸς

391 δι': διὰ Cb

tection to litigants or to transfer the actions to themselves.

Title 10.

(370) Those who fix inscriptions to landed properties in the name of the powerful, or pretend their names in trial.

Title 11.

(375) That no one shall place private inscriptions upon his own or another man's landed properties or suspend an imperial banner, and that the treasury shall not receive assets from someone for the sake of protection in a trial, and (380) that without the authority of the judge no one shall be allowed to put a seal on things which another man holds.

Title 12.

That he who is summoned to court (385) provides security.

Title 13.

That no one takes away with force him who is summoned to court.

Title 14.

(390) Who are forced to give security or who promise by oath or who are bound by promise; formulas and oath given through deception.

Title 15.

(395) If the master, when his slave has committed an offense against a third party, does not vindicate him or if he does not appear in order to be given for examination so that the necessary steps proceed against him, in

400

ἐπ' αὐτῷ προελθεῖν, ποίῳ τρόπῳ
ἀσφαλίζεται ὁ δεσπότης τοῦτον παριστᾶν,
καὶ περὶ τοῦ εἶ τις ἐν δικαστηρίῳ ὁμολογίαν
ποιήσῃ τοῦ παραστήναι καὶ μὴ
πειθαρχήσῃ.

Τίτλος ις'

405

Περὶ τοῦ ὀρισμοῦ τῶν μιλίων τοῦ μέλλοντος
ἔν τινι τόπῳ ἀποδημεῖν καὶ αὐθις
ἐπανέρχεσθαι.

Τίτλος ιζ'

Περὶ ἀπράκτων ἥτοι σχολαζουσῶν ἡμερῶν
καὶ ὑπερθέσεων καὶ διαφόρων χρόνων.

410

Τίτλος ιη'

Περὶ ἐκδόσεων.

Τίτλος ιθ'

415

Περὶ τοῦ οὔτινες νόμιμον πρόσωπον ἐν ταῖς
δίκαις ἔχουσιν ἢ οὐ, καὶ περὶ τοῦ ὅπως
μηδεὶς ἄκων κινεῖν ἢ κατηγορεῖν
ἀναγκάζεταιται.

Βιβλίον η' τῶν Βασιλικῶν ἔχει τίτλους β'

Τίτλος α'

Περὶ συνηγόρων.

420

Τίτλος β'

Περὶ προκουρατῶρων καὶ διεκδικητῶν.

INDEX TITULORUM

what way the master then guarantees him to be available, (400) and if someone makes a promise to appear in court and does not obey.

Title 16.

Limitation of the miles for him who will (405) be abroad in a certain place and will return again.

Title 17.

Holidays or restful days and delays and various times.

(410) Title 18.

Publications.

Title 19.

Who have or do not have legal personality in the lawsuits, and how (415) nobody is forced to litigate or accuse against his will.

Book 8 of the Basilica contains 2 titles.

Title 1.

Public advocates.

(420) Title 2.

Procurators and defenders.

Βιβλίον θ' τῶν Βασιλικῶν ἔχει τίτλους ια'

Τίτλος α'

Περὶ ἐκκλητήτων.

425

Τίτλος β'

Περὶ τῶν ὑπηρετουμένων ὁφικίων ταῖς ἐκκληήτοις.

Νε. κ'.

Νε. μα'.

430

Νε. μθ'.

Νε. ργ'.

περὶ ἐφέσεων ἢ ὅλη νεαρά.

Νε. ριε'.

Νε. ριθ'.

435

ὥστε τὴν διὰ τοὺς γάμους δωρεὰν ἰδικὸν συνάλλαγμα εἶναι καὶ περὶ ἐτέρων κεφαλαίων διαίρεσις δ', ε'.

Νε. ρκς'.

ἴσον θείου τύπου περὶ ἐκκλητήτων ἢ ὅλη νεαρά.

Νε. ρλδ'.

περὶ ἀρχόντων καὶ μοιχείας καὶ τιμωριῶν διαίρεσις ιε'.

440

Τίτλος γ'

Περὶ πράγματος κεκριμένου καὶ καρπῶν ἀμφιβαλλομένων καὶ ἡρτημένων.

Τίτλος δ'

Περὶ ὁμολογησάντων.

445

Τίτλος ε'

Περὶ ἐκστάσεως ὑπαρχόντων.

Νε. ρλε'.

433 ὥστε: ζητεί Cb

441 κεκριμένον: κεκριμμένον Cb

Book 9 of the Basilica contains 11 titles.

Title 1.

Appeals.

(425) **Title 2.**

Offices that serve appeals.

Novel 20.

Novel 41.

(430) Novel 49.

Novel 93: appeals; the entire novel.

Novel 115.

Novel 119: that the counterdowry is a special contract, and other (435) subjects; sections 4 and 5.

Novel 126: copy of an imperial decree concerning appeals; the entire novel.

Novel 134: magistrates and adultery and penalties; section 15.

(440) **Title 3.**

Decided issues and disputed and pending fruits.

Title 4.

Those who have acknowledged [liability].

(445) **Title 5.**

Cession of property.

Novel 135.

Τίτλος ζ'

Τίνες ἐξ αἰτιῶν εἰς διακατοχὴν πέμπονται.

450

Τίτλος ζ'

Περὶ πραγμάτων αὐθεντεῖα τῶν δικαστῶν
κατεχομένων ἢ πιπρασκομένων καὶ περὶ
χωρισμῶν.

Τίτλος η'

455

Τὰ εἰς περιγραφὴν τῶν δανειστῶν γεγονότα
ἵνα ἀποκαταστῶσιν.

Τίτλος θ'

Περὶ προνομίου τοῦ δημοσίου καὶ περὶ
προνομίου προικός.

460

Τίτλος ι'

Ἡ ἀπὸ ψήφου ἥτοι καταδίκης ἱκανοδοσία.

Τίτλος ια'

Περὶ τοῦ τὴν ἱκανοδοσίαν ἔχειν καὶ τὸ
δεκτὸν ἡγεῖσθαι.

449 *τίνες*: Cb, fortasse leg. *τίνων*

451 *αὐθεντεία*: *αὐθεντ' Cb, αὐθεντίας*
Bas. (cf. BT 499 app.)

464 *ἡγείσθαι*: *ἦτοι περὶ τοῦ γαταμ γέμ*
καὶ περὶ τῶν γάτων ἀβιτευνόντων καὶ
περὶ κουρατώρων add. Cb

Title 6.

Who enter into possession for [what] reasons.

(450) **Title 7.**

Things possessed or sold on authority of the judges,
and separations.

Title 8.

(455) That the things done in fraud of the creditors are
restituted.

Title 9.

Privilege of the treasury and privilege of dowry.

(460) **Title 10.**

The security of pronounced judgement, viz. of the
sentence.

Title 11.

Having security and regarding as ratified.

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Th.E. van Bochove