

# Secondary Publication



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## A New Edition of Marcian's First Anti-Eutychian Law (CN 480)

Date of secondary publication: 03.02.2026

Version of Record (Published Version), Bookpart

Persistent identifier: urn:nbn:de:bvb:473-irb-112911x

### Primary publication

Riedlberger, Peter (2025): A New Edition of Marcian's First Anti-Eutychian Law (CN 480), in: Giuseppe De Gregorio, Günter Prinzing, und Raimondo Tocci (Ed.), *Folia Byzantina : Schrift- und Buchkultur in Byzanz und in der Frühen Neuzeit*, Berlin ; Boston: De Gruyter, pp. 651–672, doi: 10.1515/9783111340432-029.

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Peter Riedlberger

## A New Edition of Marcian's First Anti-Eutychian Law (CN 480)

Funded by the ERC,<sup>1</sup> we are presently preparing a collection of the unabridged late antique constitutions. While the Theodosian and Justinian Codes transmit the cores of several thousand such legal texts from the time of Constantine onward,<sup>2</sup> full constitutions are much rarer, and only a low three-digit number of them are extant.<sup>3</sup> Their modern editor faces multiple challenges. The first of these is definitional: what qualifies as a constitution, and what does not? Most of these texts take the form of a letter by (nominally) the imperial college to some official, but one would be reluctant to classify just any imperial letter to a dignitary as a “law”. In addition, some such texts are medieval fakes, which is in some cases (e.g. Sirm. 20)<sup>4</sup> acknowledged by everybody (as far as there is an “everybody” in scholarship), while other cases remain contested.<sup>5</sup> Furthermore, which version of any given law should be included? For example, there is an extant Greek version of an anti-Nestorian law,<sup>6</sup> the Latin original of which is lost except for the Theodosian Code excerpt.<sup>7</sup> Later Latin translations of the Greek version are obviously of little interest, but should one privilege the Greek full version over the fragments of the Latin original? Finally, full constitutions come from multiple, highly diverse sources, including conciliar acts (both from attached material and the minuted proceedings themselves, as evidence allegedly read out in its entirety during the transactions), as well as from independent canonical collections, letter collections, inscriptions and – to a more limited extent – also from papyri and chance finds in manuscripts. This

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1 This contribution is part of a project that has received funding from the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation program under grant agreement No. 101001991 (AntCoCo: Understanding Late Antique Top-Down Communication: a Study of Imperial Constitutions). I wish to record my gratitude to Gavin Kelly and Lorenzo Livorsi.

2 See P. RIEDLBERGER, *Prolegomena zu den spätantiken Konstitutionen. Nebst einer Analyse der erbrechtlichen und verwandten Sanktionen gegen Heterodoxe*. Stuttgart / Bad Cannstatt 2020, 172 n. 262.

3 See RIEDLBERGER, *Prolegomena* (as footnote 2 above) 201.

4 See RIEDLBERGER, *Prolegomena* (as footnote 2 above) 50 n. 58.

5 See RIEDLBERGER, *Prolegomena* (as footnote 2 above) 111sq. n. 165.

6 CN 422; *Acta Conciliorum Oecumenicorum*. Ed. E. SCHWARTZ. Tomus primus, volumen primum, pars prima. Concilium universale Ephesenum. Volumen primum. Acta Graeca. Pars tertia. Collectio Vaticana 81–119. Berlin 1927 (= ACO 1.1.3), 68, 5–31.

7 *Theodosiani libri XVI cum constitutionibus Sirmondiani*. Voluminis I pars posterior. Textus cum apparatu. Ed. TH. MOMMSEN. Berlin 1905 (= CTh. 16.5.66).

means that it is impossible to follow the practices and structure of a traditional edition, i.e., presentation of the manuscripts, construction of a stemma, indication of all or nearly all readings in the apparatus and so on. Instead, whenever any constitution has already been edited in a serious way, we will rely on these editions, thus usually not verifying the witnesses themselves. Otherwise, there would be little chance of publishing our collection of several hundred constitutions within a reasonable timeframe. We will refer to the prefaces of such earlier high-quality editions and briefly summarize their main findings. The lowest possible number of sigla will be used, and the apparatus will indicate only textual divergences “of interest”. This means that we will leave out not only clearly wrong readings of less important manuscripts, but also that we will adopt obvious emendations without notation, and unify the orthography. Obviously, the “of interest” criterion is fully subjective, but any user of the collection can fall back on the indicated full editions. Some textual critics will censure this approach, as will many epigraphers, as adapting the orthography of an inscription is especially objectionable. Yet it would make little sense to make these texts the exception by failing to subject them to the orthographical rules we use for the texts transmitted through medieval manuscripts. However, there are challenges for this standard policy. For example, there are several constitutions for which we merely have pre-19th-century editions which relied on a very limited selection of the extant manuscripts. Within the AntCoCo grant, Aäron Vanspauwen took care of these texts. He is publishing them with full apparatus and all stemmatic details in separate journal articles. This means that the collection itself can simply refer to these extensive editions, but otherwise follow the standard policy of giving a limited apparatus. Another exceptional case is provided by those texts in which we diverge far from the original editor’s opinion. One such text, which I took care of personally, is Marcian’s first anti-Eutychian law, and this is what I will present now.

Before we enter the details of the textual transmission, let me start with a few preliminary remarks. One problem of the full constitutions today is that there is no convenient numbering system. Our collection will assign individual numbers to all constitutions and break them up into sections. So far, however, scholars need to cite them mostly by edition, which can be quite cumbersome (especially if this edition uses a notation as complex as e.g. ACO does). The only workaround I can think of is using the numbers of the three-volume translation of Coleman-Norton (= CN henceforth).<sup>8</sup> Despite some drawbacks – CN does not only translate full constitutions, but also many other types of texts, and these volumes do of course not

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<sup>8</sup> P.R. COLEMAN-NORTON, *Roman State & Christian Church. A collection of legal documents to A.D. 535. I. II. III.* London 1966. (= CN)

include all laws, and certainly none of those unrelated to religious affairs – it is still better than nothing, and provides handy labels for the vast majority of extant unabridged constitutions. As our own final list for the compilation is not yet set in stone, I will – for the purposes of the present article – refer to this constitution by a Coleman-Norton label, which is CN 480.

CN 480 belongs to the context of the council of Chalcedon. As is well known, it was the archimandrite Eutyches's views that lit the fuse on unresolved Christological disagreements. The controversy culminated in the great council of Chalcedon. During its course, Eutyches was damned, as were his ideas. In the immediate aftermath of the council, emperor Marcian issued a constitution against "Eutychnianists" (even if it is rather dubious that Eutyches ever enjoyed a following of any significant size), imposing against them the customary set of sanctions reserved for heretics. This constitution, our CN 480, has been edited by the great Eduard Schwartz as part of his monumental ACO edition. Often an edition by Schwartz can be regarded as definitive, but in the case of CN 480 my views diverge far enough from his that it is necessary to justify them in full. Let us start by reviewing what we actually have.

## The Evidence

An editor of CN 480 must take three different transmission strands into account, namely (1) the contemporary Greek translation **G** (Schwartz's  $\Gamma$ ), (2) Rusticus's edition of the Acts of Chalcedon **R** (Schwartz's  $\Phi'$ ) and (3) the consent of the canonical collections Hispana and Albigensis **C** (Schwartz's S and t).<sup>9</sup> Soon after the conclusion of Chalcedon, apparently before March 455,<sup>10</sup> the council's minutes were published

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<sup>9</sup> Readers might wonder why I do not simply use Schwartz's designations. I have several reasons for that. I find Greek letters (always, but especially when combined with a superscript Latin letter) inconvenient for manuscripts. Schwartz's abbreviations are unintuitive (why does he use S for the Hispana, when he does not use the letter H?) and even ambiguous (he uses the abbreviation t in CN 480 for two different mss., namely one specific Hispana ms. and the Albi ms. It remains inexplicable to me why he chose to deliberately create confusion instead of simply opting for a different designation).

<sup>10</sup> The Ballerini brothers (P. BALLERINI / G. BALLERINI, *Sancti Leonis Magni Romani Pontificis Opera* [...] Tomus primus. Venice 1753, 539sq., § XVIII, no. 34; cf. ACO 2.1.1 [SCHWARTZ] XII) put forward the following argument to date the letter collection transmitted with the Greek acts: mentioned personalities, if already deceased, are marked as "late" by the addition of "of blessed memory". While Valentinian is still alive (d. March 455), Pulcheria (d. July 453) is not. Yet strictly speaking, by this argument we can only date the letter collection itself, and whoever wishes to date the complete

in an edition which Schwartz suggested was put together under direct orders of the emperor.<sup>11</sup> The excellent quality of the translations from the Latin (whenever this is verifiable)<sup>12</sup> supports the idea of some kind of official project. This first edition presented the conciliar interventions of Latin speakers both in the original Latin and in a Greek translation, but at a later stage of transmission the Latin portions were unfortunately omitted. Orphaned references, however, still attest to an earlier existence.<sup>13</sup> Attached documents in Latin were likewise presented both in the original and in a Greek translation.<sup>14</sup> However, the extant manuscripts of the Greek edition do not comprise the same set of documents, but rather diverging collections (with some overlap), which indicates that the document dossier at some point ceased to be a stable part of the Chalcedon Acts.<sup>15</sup>

We do not need to get into the details of the transmission of **G**.<sup>16</sup> Suffice it to say that CN 480 is included in both main manuscripts (which represent individual branches; Schwartz calls them M and B<sup>a</sup>/B) and two further manuscripts (which corroborate or correct the readings of B<sup>a</sup>; Schwartz calls these B<sup>b</sup> and B<sup>o</sup>). The few passages we are interested in are fortunately uncontroversial. The Greek version of CN 480 was edited by Schwartz with a full apparatus,<sup>17</sup> detailing any differences in the transmission. This law's Greek is elegant and idiomatic,<sup>18</sup> but nevertheless

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edition in this way implicitly rules out that the document collection arose independently. See also below, footnote 15.

**11** Acta Conciliorum Oecumenicorum. Ed. E. SCHWARTZ. Tomus alter, volumen primum, pars tertia. Concilium universale Chalcedonense. Volumen primum, pars tertia. Actiones VIII–XVII. 18–31. Berlin 1935. (=ACO 2.1.3), XXIII. This idea is mostly based on the political spin of that edition, matching Marcian's interests at that time.

**12** For example, in the case of the letters by bishop Leo of Rome, as their originals are extant, too.

**13** T. MARI, The Latin translations of the Acts of the Council of Chalcedon. *GRBS* 58 (2018) 126–155, here 129–130.

**14** Acta Conciliorum Oecumenicorum. Ed. E. SCHWARTZ. Tomus alter, volumen primum, pars prima. Concilium universale Chalcedonense. Volumen primum, pars prima. Epistularum collectiones. Actio prima. Berlin 1933. (=ACO 2.1.1), X; ACO 2.1.3 (SCHWARTZ), XVIII; Acta Conciliorum Oecumenicorum. Ed. E. SCHWARTZ. Tomus alter, volumen quartus. Concilium universale Chalcedonense. Volumen quartum. Leonis papae I epistularum collectiones. Berlin 1932 (=ACO 2.4), XX.

**15** This is why this method of dating, i.e., according to the attached documents, is not 100% airtight, as we cannot prove that the collections actually formed part of the original edition. Therefore, it could be that we just date a (hypothetical) individually circulating document collection instead of the Acts of Chalcedon themselves.

**16** ACO 2.1.3 (SCHWARTZ), V–VII.

**17** ACO 2.1.3 (SCHWARTZ), 122[481]–124[483].

**18** The translator does not shy away from changing the grammatical structures if the target language so requires. For example, in § 4 *quo et indignus et spoliatus est*, “of which he is undeserving and of which he has been stripped”, becomes ἧς ἀνάξιος ὢν ἐγυμνώθη; and in § 8 *venerabilis*

extremely close to the wording of the Latin text<sup>19</sup> wherever we can claim so without problem (that is, when both Latin strands coincide anyway). There is little if anything that might seem questionable.<sup>20</sup> This means in turn that any obvious divergencies from the Latin deserve our attention.<sup>21</sup>

Without much of an argument, Schwartz suggested that this Greek text is the official translation in which the law was posted in the Eastern Empire.<sup>22</sup> At first sight, this might appear possible. However, given the overall quality of the Greek of all the translated documents in the Chalcedon Acts, it is likewise probable that the same proficient translator working on the other letters quickly took care of it instead of searching around for the official translation. We will come back later to this question.

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*synodicae definitionis*, “of the venerable conciliar resolution”, becomes τῶν ὠρισμένων παρὰ τῆς ἁγίας συνόδου. Polysemantic Latin words are correctly rendered by the respective Greek equivalent, thus § 3, *quae ... processerunt*, “which originated”, becomes πεφυκότας, while § 7, *qui ad hoc usque insaniae processerunt*, “who progressed to this degree of lunacy that”, results in τοὺς εἰς τοῦτο ἐλάσαντας μανίας. Further, a *venerabili synodo* in § 3 gives ὑπὸ τῆς προσκυνητῆς συνόδου, while *civitate venerabili* of § 6 leads to βασιλίδος πόλεως. Another especially impressive rendering is § 8, οὕτω γὰρ ἢ πρόφασις ἢ τῆς πλάνης ὑφελκυσθήσεται, εἰ τῶν ἀμαρτημάτων ἐλλείψοι καὶ ἀκροατῆς καὶ διδάσκαλος for *ita enim materia subtrahetur erroris, si peccatorum et doctor defuerit et auditor*.

**19** It is almost always crystal-clear which word in the Greek translates which word in the Latin. Obvious later mistakes apart, there are only four cases in which the translator deliberately modified the text: twice he paraphrases *deportatio* as μετὰ δημεύσεως ἐξορία, “banishment with forfeiture of property” (§§ 5, 8); in § 3 (*Proxime etenim innumerabiles ex toto paene orbe beatissimi episcopi Chalcedone congregati improba praedicti Eutychetis una cum synodo eius causa habita expulere commenta*), where *una cum synodo eius* refers to Ephesus II (a reference not made explicit), the Greek translator chooses to expand this to the much clearer μετὰ τῆς πλάνης τῆς ἐν Ἐφέσῳ συνόδου τῆς αὐτοῦ χάριν γεγεννημένης. The last case is § 6, *hac labe polluti sunt*, which results in τῷ μιάσματι τοῦδε τοῦ νοσήματος, but this might simply be a case of idiomatic rendition (I cannot judge if μιάσμα on its own would have sounded convincing to a Greek native speaker of that time).

**20** In § 4, *praesumentes sibi clericorum gradum* certainly means “those arrogating to themselves the rank of clerics”, i.e., *praesumere* in the sense of the modern word “presumption” (see especially ThLL 10.2, col. 960.22–40), while I could not find any evidence that the translation περιποιοῦντας, “obtaining”, has any negative ring to it. In § 6, *quodsi* becomes ὡς εἴ γε. I cannot construe the resulting Greek phrase, and such an overly “literal” (i.e., wrong) translation does not match the rest of it. In a private communication, Gavin Kelly convincingly suggested that the Greek translation was based on a misreading of *quasi* for *quodsi*.

**21** Obviously, we can ignore gaps in **G** easily supplied from the Latin, or copying mistakes just as easily corrected (for example, both Latin strands concur on *perversitas* where the two Greek strands have διατροφήν and ἀναστροφὴν, respectively; the correction to διαστροφὴν does not require further comment).

**22** ACO 2.1.3 (SCHWARTZ), XVIII–XX.

Let us now focus on the Latin transmission strands, starting with the one extant in the context of the Acts. We do not have any evidence that would point to Latin translations of Chalcedon before the mid-6th century. But then, three editions were created in a short time, one after the other, with each one improving on its respective predecessor.<sup>23</sup> All of these three editions are transmitted to us. While no. 1 completely left out the letter collections, no. 2 included some such texts, but not CN 480. This is why we are only interested in edition no. 3. Rusticus, a nephew of bishop Vigilius of Rome, had created it during the period between 21 February 565 and after 1 April 566, using both the Greek and Latin manuscripts of the library of the Acoemete monastery in Constantinople for emending the text. How can we know such precise details? It's because Rusticus at times left remarkably detailed notes in his edition,<sup>24</sup> such as *Rusticus ex Latinis et Graecis exemplis maxime Acoemit. Monast. emendavi* or *Coepit emendari d. K. Mar. X Ind. XII*. He even left several "critical" remarks, "critical" almost in the sense of modern textual criticism. These show that Rusticus compared and emended beyond language barriers. Thus, we find indications like *hanc lectionem ex codice Latino contulimus* or, the other way around, *Graeci codices non Basilium*, meaning that the mention of Basilium at that spot was interpolated in the Latin version.<sup>25</sup> Despite the absence of CN 480 from the earlier Latin editions of the Chalcedon Acts, Rusticus's text of it is certainly based on the original (i.e., it is not a retranslation from the Greek). We may be sure of this because it perfectly conforms to the style of a Roman constitution, and moreover is mostly identical to the other, independent transmission strand of it (see my next section). As CN 480 is part of the extant Greek edition, it is very likely that the original bilingual Chalcedon edition included the Latin version too, and this must hence be Rusticus's source. Just as in the case of the Greek, we do not need to get into the details of the transmission of **R**. It is enough to know that there are two manuscript strands which either confirm one another or present mistakes which can easily be emended by comparing these two groups.<sup>26</sup> I call the result of their comparison and weighting **R**.

<sup>23</sup> R. PRICE / M. GADDIS (trans.), *The Acts of the Council of Chalcedon*. Liverpool 2005, I 83–84; *Acta Conciliorum Oecumenicorum*. Ed. E. SCHWARTZ. Tomus alter, volumen tertium, pars prima. Concilium universale Chalcedonense. Volumen tertium, pars prima. Epistularum ante gesta collectio. Actio prima. Berlin 1935 (=ACO 2.3.1), V–XII.

<sup>24</sup> *Acta Conciliorum Oecumenicorum*. Ed. E. SCHWARTZ. Tomus alter, volumen tertium, pars tertia. Concilium universale Chalcedonense. Volumen tertium, pars tertia. Actiones VII–XVI. Concilii allocutio ad Marcianum. Berlin 1937 (=ACO 2.3.3), XIII–XVIII.

<sup>25</sup> ACO 2.3.3 (SCHWARTZ), XIII–XVIII.

<sup>26</sup> These two strands are represented by two mss., Parisinus 11611 (ACO 2.3.1 [SCHWARTZ], XII) and Veronensis 58 (ACO 2.3.1 [SCHWARTZ], XIII–XVIII), which Schwartz calls C and Y. In his apparatus for

Our third strand of evidence is provided by two canonical collections called *Hispana* and *Albigensis*. The *Hispana* (Schwartz's S) was compiled from various sources before the time of the Fourth Council of Toledo, i.e., before AD 633.<sup>27</sup> A comprehensive and clearly structured collection of canonical law, it was much cherished and extensively copied during the Middle Ages. It is structured into two main sections, namely councils and decretals, the council section being arranged by region, and within the region chronologically. So, within *Graecia* we have the *Synodus Chalcedonensis concilii DCXXX episcoporum*. It consists of the introduction to session VI, Marcian's speech, the *definitio*, the canons, the emperor's concluding remarks of session VI, the subscriptions, and three Marcianic constitutions,<sup>28</sup> among them CN 480. The *Hispana* is partly edited (fortunately including the part of interest to us) by Martínez Díez.<sup>29</sup> This unusual edition is limited to a reconstruction of what the last common ancestor of the extant manuscripts presented yet refrains from emending even the most blatant grammatical mistakes. While there is a discouraging multitude of *Hispana* manuscripts (at least from the perspective of an editor), the other collection of interest, the *Albigensis*, is flimsily represented.<sup>30</sup> There are some scraps of a Toulouse manuscript of before AD 666/667 which would be the only relevant witness if it only were complete. As it is not, however, a fully extant direct copy of it, a 9th century codex from Albi, must fill in whenever the Toulouse manuscript fails – which is the case for CN 480. In other words, for somebody working on CN 480, the collection *Albigensis* is identical with the Albi manuscript (which is Schwartz's t). The composition of this collection is not safely dated, but it possibly transpired a few decades before the *Hispana*.<sup>31</sup> While the general structure of the *Albigensis* collection has been described “höchst planlos”, “highly haphazard”,<sup>32</sup> CN 480 is included in a section called *Sinodus Calcidonensis* which includes the latter part of what the *Hispana* presents for Chalcedon (namely the canons, the emperor's concluding remarks of session VI, and the subscriptions), plus the first two of the

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CN 480, he also mentions D (Montepessulanus 58, which largely coincides with C, ACO 2.3.1 [SCHWARTZ], X, XII–XIII) and y (Vaticanus 1321, a 16th century copy of Y, but sometimes important, as today Y is unreadable in places because of later damage, XIII–XV).

27 F. MAASSEN, *Geschichte der Quellen und der Literatur des canonischen Rechts im Abendlande*. I. Die Rechtssammlungen bis zur Mitte des 9. Jahrhunderts. Graz 1870, 684–688.

28 MAASSEN, *Geschichte der Quellen* (as footnote 27 above) 679.

29 G. MARTÍNEZ DÍEZ/F. RODRÍGUEZ, *La colección canonica Hispana*. III. Concilios griegos y africanos. Madrid 1982, 269–274.

30 L. KÉRY, *Canonical collections of the early Middle Ages (ca. 400–1140)*. A bibliographical guide to the manuscripts and literature. Washington, D.C. 2013, 47.

31 Kéry summarizes the various ideas that have been proposed, see KÉRY, *Canonical collections* (as footnote 30 above) 46.

32 MAASSEN, *Geschichte der Quellen* (as footnote 27 above) 592.

three constitutions included in the Spanish collection, with a Leonine letter filling in for the third law.<sup>33</sup> Given this largely identical structure, we can safely assume a shared ancestor of the Hispana and the Albigensis, and this assumption is confirmed by the text of CN 480 presented by both. It is so similar that we can combine their evidence as **C** (“canonical collections”). Just as in the case of the various strands of the Rusticus transmission, Hispana and Albi usually confirm one another, or, if not, contain obvious mistakes easily corrected. In the case of such divergences, it is usually the Hispana which presents the correct text, although in a few rare cases the Albi ms. coincides with Rusticus and confirms *his* version (such as *scita* against *sanctiones*, or the number 520 against 620). With respect to CN 480, there is only one single passage in which Schwartz preferred a reading of Albi against the versions of Rusticus, the Hispana, and the Greek translation (namely in the case of *praevaricandi*), and I doubt that he was right in doing so (see below).

While our two Latin strands **R** and **C** largely converge (with otherwise rare and mostly harmless differences), there is a major deviance with respect to the two sentences which open the law. **R** has *Amplae omnipotenti deo referendae atque habendae sunt gratiae, quod scelera nec latere concedit nec durare impunita permittit. Horum enim alterum laedendi habet plurimam facultatem, alterum peccandi ceteris praestat exemplum*, while **C** presents *Divinae semper potentiae referendae atque agenda sunt gratiae, quia auctores haeresisque occulta nec latere concedit nec durare impunita permittit, quorum unum malorum laedendi habet plurimam facultatem, alterum praevaricandi ceteris praestat exemplum*. **G** reads Μεγίστας τῷ παντοκράτορι θεῷ χρῆ ἔχειν καὶ ὁμολογεῖν τὰς χάριτας ὅτι τὰ μύση οὔτε λανθάνειν παντελῶς οὔτε διαμένειν ἀτιμώρητα συγχωρεῖ, ὧν θάτερον μὲν τοῦ βλάπτειν πλείστην ἔχει τὴν ἄδειαν, θάτερον δὲ τοῦ ἀμαρτάνειν ὑπόδειγμα δίδωσι τοῖς λοιποῖς, which largely (but not fully) matches **R**'s version. Given the traditional method of labelling constitutions according to their opening words, committing to one of the two Latin versions potentially also affects the very name of this law. Customarily it is labelled according to the **C** version, i.e., *Divinae semper potentiae*,<sup>34</sup> but using CN 480 avoids any such issues.

Naively, one might edit these sentences according to **R**, as the Greek version seems to corroborate this text. But there is a problem: we have seen that Rusticus himself states that he had employed both Greek and Latin manuscripts to emend the text he finally published. How can we be sure that his Latin version isn't a pastiche based on **G**, i.e., did Rusticus perhaps modify an original Latin version he found (possibly identical to the one extant in **C**) by retranslating bits of **G** in the

<sup>33</sup> MAASSEN, *Geschichte der Quellen* (as footnote 27 above) 603.

<sup>34</sup> E.g. MAASSEN, *Geschichte der Quellen* (as footnote 27 above) 489.

erroneous belief that this would constitute an emendation? This was Schwartz's thinking according to which he edited the Latin version of CN 480, i.e., Schwartz preferred **C** to **R**.<sup>35</sup> Schwartz does not weigh the respective arguments for his editorial decision at any great length, and Rusticus himself unfortunately did not leave a critical remark for CN 480. Therefore, let us check what speaks for, and against, Schwartz's idea.

Limiting our comparison for the moment to these opening phrases, one must notice that Rusticus' *habendae* is, combined with *gratiae*, unidiomatic in Latin, while it is a direct rendering of Greek (χάριτας) ἔχειν. His *horum enim alterum* is possible, but unusual, while *quorum unum malorum* runs smoothly. Rusticus' *pec-candi* works very well in the context, but *praevaricandi* of the Albi ms. is definitely a *lectio difficilior* (the Hispana mss. have the nonsensical *pr(a)ecavendi*). Schwartz must have reasoned in similar ways when he concluded that Rusticus modified his Latin text in all of these cases according to the Greek translation. He therefore also accepted the text of **C** for the two other problematic parts of these opening phrases.

Yet we run into problems. First, beyond these two opening phrases (in which Rusticus, according to Schwartz, interfered five<sup>36</sup> times to bend a sound Latin text to a Greek manuscript), Schwartz indicates only three more spots in which Rusticus, allegedly, changed the text. The first is **C**'s *nullum episcopum, nullum habere presbyterum, nullos creare vel appellare clericos*, where **R** has *nullum episcopum, nullum habere presbyterum, nullos habere vel appellare clericos* instead (**G** presents μηδένα <ἐπίσκοπον, μηδένα> ἔχειν πρεσβύτερον μηδέ τινας κληρικούς ἢ ἔχειν ἢ ὀνομάζειν, the loss of ἐπίσκοπον, μηδένα being an obvious *saut du même au même*). The other is **C**'s *aedificandi monasteria nullam eos iubemus habere licentiam, loca in qua(e) forte ausi convenire aliquando temptaverint confiscari* (*quae* is the Albi, *qua* is the Hispana version) against **R**'s *aedificandi monasterii nullam eos iubemus habere licentiam, locaque ipsa si forte convenire aliquando temptaverint, confiscari*. **G** has οικοδομεῖν μοναστήριον οὐδεμίαν αὐτοὺς ἔχειν κελύομεν ἄδειαν, καὶ αὐτοὺς δὲ τοὺς τόπους, εἰ πειραθεῖεν ἴσως ποτὲ συνιέναι, δημοσιεύεσθαι. So, Schwartz asks us to accept that Rusticus decided to "enhance" his Latin text in three random passages of this lengthy constitution while leaving most of the constitution's text alone. This seems unlikely.

After all, these are (and here we get to my second argument against Schwartz's approach) not the only passages in which **C** and **R** differ. Another such example is the following:

<sup>35</sup> ACO 2.1.3 (SCHWARTZ), XVIII–XX.

<sup>36</sup> To be exact: Schwartz explicitly mentions **G** four times in the apparatus of this passage but prefers **C**'s text against **R** (and **G**) one more time.

*Eos vero qui vel scripserint vel aliis legenda tradiderint docendi studio vel discendi censemus deportatione puniri. **Docendi etenim hanc infaustam haeresim**, sicut pridem edictis Serenitatis Nostrae continetur, omnibus ademimus facultatem, quia ultimo supplicio coercebitur qui illicita docere temptaverit. Eos vero qui sequendi studio audierint scelerata disserentem decem **librarum auri multa** compescimus.*

This is Schwartz's text who in all three marked passages now follows **R** (and the **R** version is matched by **G**), while **C** has *delenda est enim haec infausta haeresis, denarum*, and *multatione*.<sup>37</sup> The *delenda* version does not make much sense in the context, and most likely is the result of a desperate attempt to make sense of a partly readable sentence. While *denarum* is obvious nonsense, *multatione* is a superior reading. It is not only the *lectio difficilior* (the word may be exceedingly rare, but it is attested in a more or less comparable context<sup>38</sup>), but also creates a far more convincing clausula, namely a double cretic. The same reasoning applies in § 9.

A further case in point is provided by *Quodsi qui eorum in hac alma urbe [...] geniti sunt, tam hac civitate venerabili quam sacratissimo comitatu et omni excludantur metropolitana civitate*. This is **R**'s version, supported by **G** (ἀπὸ ταύτης τε τῆς βασιλίδος πόλεως καὶ τοῦ θείου κοιμητηρίου καὶ πάσης ἐλαυνέσθωσαν μητροπόλεως), and printed by Schwartz. **C**, however, instead of *tam* presents *et damnati de*, which is not construable.

With some polemic (but not without justification), one could claim that in the case of a divergence between **R** and **C**, Schwartz follows **R** (supported by **G**) whenever the **C** text does not make any sense to him, and that whenever he believes that some sense can be made out of the **C** version, he usually claims that **R** tinkered with the text. However, he does not consistently follow this approach. In the case of *eos qui Eutychetis decipiuntur furore*, he prints **R**'s version (supported by **G**'s ὑπὸ τῆς μανίας) while **C** has *errore*. He does not explain this departure from his methodological supposition. A few times, Schwartz even follows **G** against the consent of **R** and **C**. We have one example here: the *ademimus* in the last passage I cited can be found only in a single Hispana ms. (without doubt a conjecture by a scribe who also otherwise made proof of his intelligence by adding several clever conjectures), while the Hispana, the Albi ms. and the Rusticus mss. all agree on *adimimus*, which is not necessarily wrong ("we take away their license [now]", just as older constitutions contain such passages [against other heretics, that is]), while only **G**

<sup>37</sup> Actually, the Hispana has *multatione*, while the Albi ms. has *multationem*. This is one example of an obvious correction to make which does not require mention in a select apparatus.

<sup>38</sup> CTh. 6.4.2 (MOMMSEN), *certo generi multationis obiecti sunt*.

(περιείλομεν) supports Schwartz's preference for the past tense.<sup>39</sup> To be clear: there are passages in which **G** can demonstrably help correct the text unanimously transmitted by **R** and **C**. The clearest example of that is *monachi qui idem quod Eutyches habitavere diversorium*, where **R** and **C** agree on *quidem* in lieu of the obviously correct *qui idem*, which is reflected in **G**'s μοναχοὺς τοὺς τὸ αὐτὸ οἰκήσαντας Εὐτυχεῖ καταγώγιον.

Before we return to the question of the opening sentence, I must also stress that the agreement of **R** and **G** against **C** can sometimes be demonstrably wrong, too. An obvious example of that is the missing address to the praetorian prefect, *Palladi parens carissime atque amantissime*. It is present in the Hispana and in a garbled although easily emendable version in the Albi ms. (*p. clare*).<sup>40</sup> Both **R** and **G** lack it, but the address to the praetorian prefect is *de rigueur* in a constitution addressed to him, so **C** is certainly right (the more so as the address is at the correct location and uses the correct adjectives for a praetorian prefect). I cannot imagine that Rusticus removed it from his Latin text just because he did not find it in the Greek version and therefore took it for a gloss; this idea would be far-fetched. If my thinking is correct, the only explanation for both the Latin and Greek versions leaving out the same words is that the Greek version in the Acts of Chalcedon is not an official Greek version of this constitution (i.e., it does not have an independent pedigree), but was created by a highly proficient translator from a Latin version already devoid of this address, namely the one which was part of the conciliar material and is transmitted to us thanks to Rusticus.

There is another curious observation to make. The law under discussion is one of those very few for which we have a (full?) list of carbon-copy recipients.<sup>41</sup> While being addressed to the praetorian prefect of Oriens, additional copies were mailed to the praetorian prefect of Illyricum, to the urban prefect, and to the magister officiorum. One may assume that such information was kept in the outward register (*Ausgangsbuch*) of the sender, and it was only rarely added to transcriptions made from this register, as we would otherwise expect many more eastern CTh. fragments derived directly from the Constantinopolitan archives<sup>42</sup> to include it.<sup>43</sup>

39 Cf. CTh. 16.5.7 (MOMMSEN), *Si quis Manichaeus Manichaeave ex die latae dudum legis ... testandi ... eripimus facultatem*. This is stunningly similar, with a reference to older legislation, but a present tense for the verb expressing the removal of a legal capacity. I therefore do not support Schwartz's emendation against the consent of both strands.

40 The Hispana actually has *carissime*.

41 RIEDLBERGER, *Prolegomena* (as footnote 2 above) 69–75.

42 RIEDLBERGER, *Prolegomena* (as footnote 2 above) 189.

43 However, there is a counterexample: S. Aureli Augustini operum section II. S. Aureli Augustini Hipponiensis episcopi epistulae. Pars IV. Ep. CLXXXV–CCLXX. Ed. A. Goldbacher. Wien 1911 (=Aug.

In the case of CN 480, the recipients' list is transmitted only in the **G** and **R** versions, while the **C** version omits it.<sup>44</sup> This can mean one of two things: either it was lost in any earlier antigraph of **C**, or **C** derives from a version of CN 480 which never included this list in the first place. Note that **C** *does* include the subscription (which follows *after* the recipients' list in **R**), which makes it impossible to claim that some scribe of a **C** antigraph simply left out all formal indications. **G** has the recipients' list at the end of the body text, but still *before* the subscription, while in the Codes and the Novels we usually find it after the subscription, not before, although there are exceptions (e.g., Nov. Marcian. 2). It is not surprising that the position of the recipients' list was not stable, as this was not an established part of the text but must have been copied from an indication placed "somewhere" in the outward register. **R**, interestingly, presents it twice:<sup>45</sup> first at the same position as **G**, and a second time in the inscription. This is a clear case of how a recipient's list moved into the address, a phenomenon we can also suspect in the case of some CTh. fragments.<sup>46</sup> The translator of **G** simply got rid of this repetition, while the original **R** maintained the illogical duplication of its antigraph. Furthermore, note that despite Schwartz's claims, Rusticus did not emend according to **G** even in this clear case.

Let us sum up. **R** and **C** seem unrelated to a surprising extent. Their respective transmission strands must have diverged at a very early date. We do not get much past speculation when it comes to the shared ancestor of the Hispana and the Albigensis, but it is safe to say that the two are siblings, as the Albigensis is older, but starts with respect to Chalcedon rather in the middle of the material extant in the Hispana. Some of the Hispana's material on Chalcedon is certainly older than

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epist. 201). This imperial letter includes such information, although the extant text is derived from the copy the addressee, bishop Aurelius of Carthage, had received.

44 There is a mistake in Schwartz's Greek edition (ACO 2.1.3 [SCHWARTZ], 122[481]): in the apparatus to line 16, Schwartz indicates that Hispana/Albigensis does indeed have the recipients' list at the start, which does not match this apparatus of the Latin edition itself (Acta Conciliorum Oecumenicorum. Ed. E. Schwartz. Tomus alter, volumen tertium, pars altera. Concilium universale Chalcedonense. Volumen tertium, pars altera. Actiones II–VI. Berlin 1936 [=ACO 2.3.2], 90[349], apparatus to line 32/33).

45 My claim that **R** (i.e., the reconstructed shared antigraph of the two Rusticus transmission strands) has it twice requires some justification, for the two transmission strands do not coincide: both (i.e., **C** and **Y**) have it at the start, but only one of the two, namely **C**, in addition at the end. One might be tempted to deem it equally likely that **Y** shows the original arrangement, while **C** introduced a duplicate. But this is impossible, because **G** (which translates the shared antigraph of the **R** mss.) confirms the list's position immediately before the subscription (even if it omits the list in the address). Thus, **Y** removed the doublet, although in a different way than **G** did.

46 Cf. RIEDLBERGER, Prolegomena (as footnote 2 above) 70–71.

Constantinople II (553); Schwartz dates it to the first years of the 6th century and quite convincingly argues that it originated in Rome.<sup>47</sup> There is no way to be sure that we can simply adopt these conclusions for the case of the Marcianic constitutions, but they indeed seem immensely attractive when it comes to explaining the textual differences between **R** and **C**. The reconstructed forebear of the Hispania and the Albigensis, my **C**, would hence originate as a Roman (i.e., a “papal”) document collection, with **C** deriving from a dispatched copy of the law. This version would be transmitted quite independently from the original bilingual Constantinopolitan (“imperial”) edition which has come down to us via **R** and **G**. Given the recipients’ list, its origin must be an archive entry.

From an editor’s viewpoint, this means that **C** and **R** carry equal weight, while **G**, as derived from **R** at a very early point in time, may just help to establish **R**’s readings at that time. For example, in § 7 the constitution’s author uses either *definivere* (thus **C**) or *decrevere* (thus **R**) for the decision-taking of the bishops at Chalcedon. However, given **G**’s ὄρισαν, *decrevere* in **R** must be a scribal mistake which occurred after the creation of **G**. On the other hand, in § 4 it is forbidden to Eutychians to *creare* (thus **C**) or *habere* (thus **R**) clerics. **G** cannot provide any help, because its ἔχειν merely proves that an **R** antigraph already had *habere* at a very early point in time (yet it might still be wrong). Let us now return to the one real conundrum of this constitution, the initial passage. For convenience, I repeat both versions, assigning numbers to the problems:

**R:**

*(1) Amplae omnipotenti deo referendae atque (2) habendae sunt gratiae, (3) quod scelera nec latere concedit nec durare impunita permittit. (4) Horum enim alterum laedendi habet plurimam facultatem, alterum (5) peccandi ceteris praestat exemplum*

**C:**

*(1) Divinae semper potentiae referendae atque (2) agendae sunt gratiae, (3) quia auctores haeresisque occulta nec latere concedit nec durare impunita permittit, (4) quorum unum malorum laedendi habet plurimam facultatem, alterum (5) pr(a)ecavendi (Hispana)/praevaricandi (Albi) ceteris praestat exemplum.*

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<sup>47</sup> Acta Conciliorum Oecumenicorum. Ed. E. SCHWARTZ. Tomus alter, volumen alterum, pars altera. Concilium universale Chalcedonense. Volumen alterum, pars altera. Rerum chalcidonensium collectio Vaticana. Canones et symbolum. Berlin 1936. (=ACO 2.2.2), XVIII.

The first thing that jumps out is that, excepting (3), all passages in question have a similar number of letters with a similar outward appearance. Contrary to what Schwartz claimed, we are not faced with a retranslation in which words were purposefully exchanged. Rather, we see a scribe at some point in time struggling to make sense of a hardly readable antigraph. The one exception is (3). I fail to understand how Schwartz wanted to make sense of this sentence in the **C** version (which he prints): we have predicates in the singular certainly referring to God, yet there are the words *occulta* and *impunita*, which cannot go together with *divina potentia*. If we take the unanimously transmitted *impunita* for granted, we need something in the neuter plural, like **R**'s *scelera*. If so, an original but almost unreadable *quod scelera* might have been misread as *quia occulta* and then glossed as *auctores haeresisque*, with the gloss later entering the text.

Removing this gloss, adding a line-break before any major problem (i.e., ignoring *habendae/agendae*), and ignoring punctuation and blanks, we have 54–56 letters per line, with one exception:

*Amplae omnipotenti Deo referendae atque habendae sunt gratiae*  
*Divinae semper potentiae referendae atque agendae sunt gratiae*

*quod scelera nec latere concedit nec durare impunita permittit*  
*quia occulta nec latere concedit nec durare impunita permittit*

*Horum enim alterum laedendi habet plurimam facultatem, alterum*  
*Quorum unum malorum laedendi habet plurimam facultatem alterum*

*peccandi ceteris praestat exemplum Curae igitur esse divinitati*  
*precavendi ceteris praestat exemplum Curae igitur esse divinitati*  
*praevaricandi ceteris praestat exemplum Curae igitur esse*

This exception is (5) in the **C** version. The Hispana version *precavendi* would fit better in the same line (i.e., together with *divinitati*), but does not make any sense. Compared to **R**'s *peccandi*, the Albi version *praevaricandi* is certainly a *lectio difficilior*, and this is likely why Schwartz preferred it. But the sense is far-fetched: if God lets heresy persist unpunished, he gives a questionable precedent (to other Gods out there? to humble humans acting as judges?) of treacherous behavior. I can't imagine that somebody would say any such thing about God. In **R**'s version, we have: if one lets crime persist without punishing it, this will set a bad example for others, as they can watch this ongoing behavior (of the villains, not of God). So here again, I certainly prefer Rusticus.

If my idea that either the **C** or the **R** antigraph was damaged in the left margin of the first four lines is sound, we must suspect that it was a **C** exemplar that was affected, and this would provide support to the other **R** versions as well. In the case of (1), while *divinae semper potentiae* is quite straightforward in terms of vocabulary and grammar, the combination *amplae ... gratiae* in hyperbaton is a lot more *recherché* and certainly nothing one would introduce into the text for no good reason. Again, even for pure philological reasons, I prefer **R**, and all the more so according to the damaged margin hypothesis.

Instinctively, I think many readers in the case of (3) would go for *quorum unum malorum* rather than for *horum enim alterum*, because *unum* is rarer than *alterum* and, conversely, the relative connection *quorum* more frequent than a *horum*. But if you think about it, you could argue exactly in the same manner for **R**'s version: *quorum* is a *facilior*, and *unum ... alterum* is unusual. At any rate, I do not like *malorum* much. After all, the constitution talks about God. Even if it is clear from the context that we are talking about potential evils which God fortunately avoids, I am not sure whether it is appropriate to use this word with possible reference to his deeds.

However, the damaged margin theory cannot support the reading of *habendae* against *agenda*, and these two are only one letter apart anyway. Here I rather proceed according to my basic assumption of giving equal weight to **R** and **C**, and, for reasons of language use, prefer the connection of *gratias* with *agere*.

There are a few things that require additional explanation, which I will quickly provide here. As I assign equal weight to **R** and **C**, it can be difficult to resolve divergences if both versions might work and typical editorial rules (*lectio difficilior* principle etc.) cannot help. I have indicated all such cases in my apparatus, even if there is little semantic difference (i.e., *servare* versus *conservare*). In several cases, my decision is based on a preferable prose rhythm (e.g., twice thus in § 3). In § 7, both strands transmit *Eos autem qui antehac clerici orthodoxorum fidei et monachi qui*, where apparently a verb is missing. One clever corrector of one Hispana manuscript added *fuere* in the following way: *Eos autem qui antehac clerici orthodoxorum fidei <fuere> et monachi qui*. Faute de mieux, this obvious *ope ingenii* manuscript reading was adopted by modern editors. My version is *Eos autem qui antehac clerici orthodoxorum fidei et monachi <fuerunt> qui*, which is based on CN 489, a text largely derived from CN 480, although it underwent significant rephrasing. Its version is *Eos vero qui antehac catholicarum ecclesiarum clerici vel orthodoxae fidei monachi fuerunt*. One can see that much has changed (*autem* to *vero*, *orthodoxorum fidei* to *orthodoxae fidei*, *et* to *vel*) but much remains as it was (*eos ... qui antehac ... clerici ... orthodox[...]* *fidei ... monachi*). Accepting *fuerunt* according to CN 489 is therefore not more than a tentative suggestion, but not a completely unfounded one.

## Constitution CN 480 (“Divinae semper potentiae” or “Amplae omnipotenti deo”)

Date: 452

Transmission: In addition to a Greek translation done in antiquity (**G**), the Latin original of this text is extant in two different and apparently completely unrelated transmission strands, namely Rusticus’s edition **R** (which is the source of **G**) and **C** (the consent of two canonical collections, namely Hispana and Albigensis). **R** and **C** carry equal weight, while **G** can serve only to correct early transmission mistakes in **R**.

Relevant editions: Schwartz: ACO 2.3.2, 90[349]–93[352] (his mss. CDY and the siglum  $\Phi^f$  correspond to my **R**, his St to my **C**, his  $\Gamma$  to my **G**). Martínez Díez: CCH 3, 269–274 (only the Hispana transmission, but very detailed). The Greek translation: Schwartz: ACO 2.1.3, 122[481]–124[483].

Relevant translations: CN 480 (II, 820–826); Price/Gaddis (III, 133–136)

*1 Imp. Valentinianus et Marcianus Augg. Palladio praefecto praetorio.*

*Amplae omnipotenti deo referendae atque agenda sunt gratiae, quod scelera nec latere concedit nec durare impunita permittit. Horum enim alterum laedendi habet plurimam facultatem, alterum peccandi ceteris praestat exemplum.*

*1 Imp. Valentinianus et Marcianus Augg. (partly abbreviated) C : Idem Augusti R : Οἱ αὐτοὶ αὐγουστοὶ G 2 Amplae omnipotenti deo R : Divinae semper potentiae C : Μεγίστας τῷ παντοκράτορι θεῷ G referendae atque agenda C : referendae atque habendae R : χρῆ ἔχειν καὶ ὁμολογεῖν G quod scelera R : quia auctores haeresisque occulta C : ὅτι τὰ μύση G 3 horum enim alterum R : quorum unum malorum C : ὧν θάτερον 4 peccandi R : praevericandi or precavendi C : ἀμαρτάνειν G*

1 The emperors Valentinian and Marcian to Palladius, praetorian prefect:

We must give and render abundant thanks to almighty God for neither letting wicked acts lie hidden nor permitting them to remain unpunished. After all, the former of these things could potentially cause a great deal of harm, while the latter would provide others with an example of [continued] sinning.

*2 Curae igitur esse divinitati hominum actus et maxime reverentiam religionis proxime in confirmanda catholica fide evidenter apparuit, cum Eutychem sceleratorum dogmatum sectatorem nec latere (ut diu latuerat) sivit nec patefacto scelere passa est poenam sceleris evitare. Sententiis itaque divinis humanisque*

*damnatus synodicum decretum, ut merebatur, exceptit, reus divinitati, cui faciebat iniuriam, reus hominibus, quos decipere conabatur.*

2 A short while ago, when the [content of the] Catholic faith was established, it became clearly apparent that the deeds of humans and especially their respect for religion matters to the Godhead, since he did not permit Eutyches – this proponent of nefarious teachings – to hide (as he had done for a long while) nor to let him avoid the punishment for his crime once it had become known. Guilty before the Godhead whom he wronged, guilty before the humans whom he attempted to trick, Eutyches was condemned by divine and human verdicts and received a conciliar sentence as he deserved.

*3 Proxime etenim innumerabiles ex toto paene orbe beatissimi episcopi Chalcedone congregati improba praedicti Eutychetis una cum synodo eius causa habita expulere commenta secuti sanctorum definita maiorum quae vel apud Nicaeam a trecentis decem et octo constituta sunt vel in hac postea alma urbe a CL sunt episcopis declarata vel apud Ephesum, cum Nestorii est error exclusus praesidentibus Caelestino Romanae urbis et Cyrillo Alexandrinae civitatis episcopis. Ea igitur quae sunt iuxta pristinam disciplinam a venerabili synodo Chalcedone definita illa fide qua deum colimus, per omnia servanda censuimus atque censemus, quia valde consequens est quingentorum viginti sacerdotum pura mente deum colentium definita, quae pro orthodoxorum fide sacrosancta secundum patrum regulas processerunt, summa cum veneratione servare.*

5 *declarata* C : *decreta* R : om. G 11 *servare* R : *conservare* C : φυλάττεσθαι G

3 After all, a short while ago countless blessed bishops had come together from practically the whole world in Chalcedon and, after having heard the case, repudiated the shameless lies of the said Eutyches together with his council. In doing so, they followed their holy predecessors' resolutions which were reached at Nicaea by the 318, later enunciated in this blessed city by the 150 bishops, and at Ephesus, when Nestorius' error was banished under the presidency of the bishops Caelestinus of Rome and Cyrill of Alexandria. With respect to the resolutions which have been reached in keeping with the ancient teachings by the venerable council in Chalcedon in the faith in which we revere God, we have [already] ordered them and order them [once more] to be kept everywhere, because it is absolutely crucial to preserve with utmost reverence the resolutions of the 520 bishops who revered God in a pure mind, as these resolutions originated according to the rules of the fathers for the benefit of the holy faith of the orthodox.

4 *Verum quoniam principalis providentiae est omne malum inter initia opprimere et serpentem morbum legum medicina resecare, hac lege decernimus eos qui Eutychetis decipiuntur furore ad exemplum Apollinariorum, quos Eutyches secutus est quosque venerabiles parentum regulae (id est, ecclesiastici canones et divorum principum sacratissima scita) condemnant, nullum episcopum, nullum habere presbyterum, nullos creare vel appellare clericos ipsumque Eutychem nomine presbyteri, quo et indignus et spoliatus est, in totum carere. Si qui tamen contra definita nostra episcopos, presbyteros ceterosque clericos ausi fuerint creare, tam factos quam facientes vel praesumentes sibi clericorum gradum bonorum amissione percussos exilio perpetuo praecipimus contineri.*

1 *verum quoniam* R : *quoniam* C : ἐπειδὴ δὲ G 3 *furore* R : *errore* C : μανίας G 4 *divorum principum* C : *principum divorum* R : τῶν πάλαι βασιλέων G 6 *creare* C : *habere* R : ἔχειν G 9 *gradum* R : *gradus* C : βαθμὸν G

4 But since it is a sign of imperial forethought to crush any evil right from the start and to suppress a creeping sickness by the medicine of legislation, we command by the present law that those who are deceived by Eutyches' insanity shall be punished like the Apollinarians whom Eutyches followed and whom the venerable rules of our forefathers condemn (that is, the ecclesiastical canons and the imperial enactments of *divi* emperors). This means that they shall have no bishop, no presbyter, they shall not ordain any cleric or call anybody that. Eutyclus himself shall be totally deprived of the title "presbyter" of which he is undeserving and of which he has been stripped. If anybody, however, should dare ordain bishops, presbyters or other clerics against our commands, we order that those ordained, those ordaining and those arrogating themselves the rank of clerics shall be punished by loss of their property and detention in lifelong exile.

5 *Coeundi vel colligendi vel congregandi monachos aut aedificandi monasteria nullam eos iubemus habere licentiam, locaque ipsa in quae forte convenire aliquando temptaverint confiscari, si tamen domino loci sciente convenerint, quodsi ignaro, actorem conductoremve loci fustibus caesum deportationem subire censemus.*

1 *monasteria* C : *monasterii* R : μοναστήριον G 2... *que ipsa* R : om. C : καὶ αὐτοὺς δὲ G *in qua(e)* C : *si* R : εἰ G *ausi* post *forte* add. C 4 *caesum* R : *caesos* or *caesus* C : βασανισθέντα G *deportationem* edd. : *deportatione* C : om. R : μετὰ δημεύσεως ἐξορίαν G

5 We command that they shall have no license whatsoever to meet or convene, or to gather monks or build monasteries. Further, we order that the locations themselves in which they should dare meet later on shall be confiscated, provided

that they meet with the knowledge of the location's owner. However, should this happen unbeknownst to him, the manager or tenant of this place shall be beaten with rods and suffer deportation.

*6 Ipsos praeterea nihil ex testamento cuiusquam capere, nihil eis qui eiusdem erroris sint relinquere testamento, ad nullam eos patimur aspirare militiam, nisi forte ad cohortalinam vel limitaneam. Si quis etiam extra praedictam militiam inventus fuerit militare (vel quia ignorabatur eius in religione perversitas vel quia post adeptum cingulum ad hunc devenit errorem), solutus militia infidelitatis suae fructum hunc habeat, ut optimorum et palatii communione privetur nec alibi quam in quo natus est vico vel civitate versetur. Quodsi qui eorum in hac alma urbe (quod credi nefas est) geniti sunt, tam hac civitate venerabili quam sacratissimo comitatu et omni excludantur metropolitana civitate. Et haec quidem generaliter circa omnes constituimus, qui hac labe polluti sunt vel polluentur.*

3 quis edd. : qui RC : τῆς G 3 inventus fuerit R : inventi fuerint C : εὐπεθεῖν G 8 tam R : et damnati de C : τε (with corresponding καὶ later) G

6 Furthermore, we do not permit that they obtain anything from the testament of anybody, that they leave anything through a testament to those who share in the same error and that they strive for any position in the *militia*, except in the *militia cohortalina* or *limitanea*. Should anybody be found in the *militia* beyond the aforementioned exceptions (because his perverse religious opinion remained unknown or because he degenerated to this error after his entry into the *militia*), he shall be dismissed from the *militia* and have the following reward for his disloyalty, namely that he shall be deprived of the company of the best people and the palace. He shall not stay anywhere else except in the village or town in which he was born. However, should any of them have been born in this blessed city (God forbid!), then they shall be banished both from this venerable city and from the imperial court, and from all provincial capitals. We order this generally against all who have been, or will be, poisoned by this venom.

*7 Eos autem qui antehac clerici orthodoxorum fidei et monachi <fuerunt> qui idem quod Eutyches habitavere diversorium (neque enim monasterium dicendum est quod religionis habuit inimicos), qui ad hoc usque insaniae processerunt, ut relicto venerabilis religionis cultu et synodico decreto quod totius paene orbis Chalcedone coadunati definivere sacerdotes, infaustam Eutychetis sequantur assertionem (quia vera luce deserta tenebras eligendas esse crediderunt), omnibus poenis quae vel hac vel praecedentibus legibus adversus haereticos definitae sunt, iubemus teneri, immo extra Romanum expelli solum, sicut praecedentes religiosissimae constitutiones de*

*Manichaeis constituere, ne eorum venenatis fraudibus sceleratisque commentis innocentum et infirmorum animi decipiantur.*

1 *eos* R : *eos illi* C : τούς G *antehac* R : *ante hoc* C : πρὸ τούτου G *fuerunt* addidi (cf. the derived text of CN 489) : om. RC : a corrector of one Hispana manuscript added *fuere* after *fidei* which is doubtless a conjecture : ὄντας G *qui idem* Schwartz : *quidem* RC : τούς τὸ αὐτὸ G 2 *quod Eutyches* R : *quo Eutyches* C : Εὐτυχεῖ G 3 *ad hoc* R : *adhuc* C : εἰς τοῦτο G *ut* R : om. C : ὥστε G 5 *definivere* C : *decrevere* R : ὥρισαν G 10 *et* (before *infirmorum*) R : *vel* C : καὶ G

7 With respect to those, however, who earlier used to be clerics of the faith of the orthodox and monks living in the same hostel (as one must not call “monastery” a place which sheltered the enemies of religion) as Eutyches did and who progressed to this degree of lunacy that they abandoned the worship of the venerable religion and the conciliar resolution which the bishops of practically the whole world gathered in Chalcedon had defined, and followed the baneful claims of Eutyches (as they believed that after leaving the true light they had to choose darkness), we order that they shall be liable to all punishments which have been defined by either this or earlier constitutions against heretics, no indeed, they shall even be ejected from Roman soil, as earlier thoughtful constitutions instructed for the Manichees, in order to prevent the deception of naive and weak minds by their toxic deceits and criminal lies.

8 *Comperimus praeterea quaedam eos in contumeliam religionis et invidiam venerabilis synodicae definitionis fuisse mentitos conscriptisque libris et chartarum tomis plura finxisse quae eorum insaniam adversus veram fidem aperte signarent, atque ideo praecipimus, ubicumque huiusmodi scripta reperta fuerint, ignibus concremari. Eos vero qui vel scripserint vel aliis legenda tradiderint docendi studio vel discendi censemus deportatione puniri. Docendi etenim hanc infaustam haeresim, sicut pridem edictis Serenitatis Nostrae continetur, omnibus adimimus facultatem, quia ultimo supplicio coercebitur qui illicita docere temptaverit. Eos vero qui discendi studio audierint scelerata disserentem decem librarum auri multatione compescimus. Ita enim materia subtrahetur erroris, si peccatorum et doctor defuerit et auditor, Palladi parens carissime atque amantissime.*

6 *docendi etenim hanc infaustam haeresim* R : *delenda est enim haec infausta heresis* C : τοῦ δὲ διδάσκειν τὴν ἀσεβῆ ταύτην αἵρεσιν G 7 *adimimus* RC : περιείλομεν G : *ademimus* Schwartz (also as obvious conjecture in one Hispana ms.) 9 *librarum* R : *denarum* C : λιτρῶν G *multatione* C : *multa* R : τιμωρία G

8 Further, as we were told, they have contrived things insulting to religion and inimical to the venerable conciliar resolution. They wrote scrolls and papyrus

codices and thus concocted many things blatantly attesting to their raging against the true faith. Therefore, we order that in all places where such writings should be found, they shall be burned by fire. We further command that those who wrote them or gave them to others to read with an intention of teaching or learning shall be punished by deportation. As [already] contained earlier in edicts of Our Serenity, we take away from everybody the license to teach this baneful heresy. Whoever should try to teach these illegal things shall suffer the death penalty. We punish with a fine of ten pounds of gold those who, with an intention of learning, should listen to somebody teaching sacrilegious things. For if there is neither teacher nor learner of sins, all occasion for this error will be removed, my most dear and beloved kinsman Palladius.

*9 Illustris igitur et magnifica Auctoritas Tua edictis propositis omnibus faciat nota quae iussimus, cognoscentibus moderatoribus provinciarum eorumque officiis, defensoribus etiam civitatum quod, si ea quae mera fide et sancto proposito custodienda censuimus, aut neglexerint aut permiserint temerari, denarum librarum auri multatione percussi ut religionis legumque proditores etiam de existimatione laborabunt.*

*Dat. XV Kal. Aug. Constantinopoli Sporacio v. c. et “qui fuerit nuntiatus” consulibus. [18 Jul 452]*

*Eodem exemplo scripta Valentiniano v. i. praefecto <praetorio> Illyrici et Tatiano praefecto urbis et Vincomalo magistro officiorum et consuli designato.*

**1** *igitur* R : *itaque* C : τοιγαροῦν G **5** *multatione* C : *multa* R : προστίμω G *de* C : om. R : περὶ G **6** *legi* add. R after *laborabunt* (which however is not part of the original constitution, but rather an ill-understood checkmark used in the redaction of the conciliar acts)

**7** *dat.* edd. : ἐδόθη G : various manuscripts of both strands have *data* or *datum*, which suggests caution, as the original (if it was not abbreviated anyway) cannot be established with any certainty  
**7** *XV Kal. Aug.* mss. : πρὸ 1ε Καλανδῶν Αὐγούστῳ G : *V Kal. Aug.* thus Labbé and, following him, Mansi, although no relevant manuscript exhibits this reading

**7** *Constantinopoli* scripsi : *Constantinopolim* or *-is* C : ἐν Κωνσταντινουπόλει G

**9** <*praetorio*> add., as *de rigueur* in the title : om. mss.

**9–10** *Eodem – designato* I moved this bit here, according to the usage of the CTh. editors : om.  
 C : G has it between the body text and the dat. indication : both R strands have it directly after the inscription, one strand has it in addition between the body text and the dat. indication

**9** Hence, Your illustrious and magnificent Authority shall make known to everybody by way of posted edicts what we have ordered. The provincial governors and their *officia* as well as the *defensores civitatum* shall know that in case they should neglect or permit to flout what we (in pure faith and with a saintly purpose) enacted as rules to follow, then they shall be liable to a fine of ten pounds of gold

and, as traitors against religion and legislation, must furthermore worry about infamy.

Despatched on the 15th day before the Calends of August in Constantinople under the consuls Sporatius v.c. and “whoever is going to be nominated”.

From the same master copy written [also]:

- to Valentinian v.i., praetorian prefect of Illyricum,
- to Tatian, urban prefect, and
- to Vincomalus, magister officiorum and consul designate.