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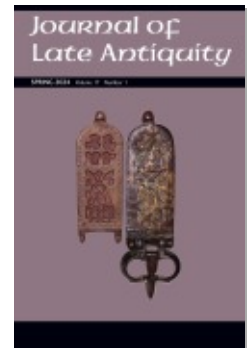
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Hans-Ulrich Wiemer

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Legal Knowledge among Late Roman Elites: The Evidence of Jerome

Hans-Dieter Spengler sodali et iuris consulto

Jerome's oeuvre is huge; it comprises translations and commentaries of many books of the Christian Bible, a universal history, a history of Christian literature, biographies of monks, many treatises, and more than 130 letters addressed to people from the educated upper classes of the late Roman West. This article investigates what role Roman law played in Jerome's writings, what he knew about it, and how he evaluated it. It also looks at his views on late Roman jurisdiction and collects the evidence he provides for petitions to the emperor and for imperial rescripts. The main section analyzes Jerome's ideas about imperial legislation, his knowledge of individual laws, and the way he presented them. On this basis, it is argued that Jerome's writings bear impressive witness to the importance of Roman law for both the social practice and the mindset of the provincial and local elites in the late Roman empire.

I. Introduction

Jerome's fame rests on his achievements as a translator and exegete of biblical texts.¹ His translation of the Bible superseded all others in the Latin West and remained the authoritative text of sacred Scripture until the Reformation and, in the Roman Catholic Church, even far beyond; his commentaries on

This article has grown out of a paper I read at the university of Bamberg on June 22, 2022. In the process of converting it into an article I have received help from several quarters which I gratefully recall: Charlotte Köckert, Stefan Rebenich, Peter Riedlberger, Benet Salway, Sebastian Schmidt-Hofner and Hans-Dieter Spengler read earlier drafts and commented on both substance and form. Clemens Weidmann shared his ideas on Valens's prohibition to eat the meat of calves, Rainer Thiel gave advice on points of Latinity, and Günter Stemberger answered questions about Jewish dietary laws. I have also profited from the comments and suggestions of Andrew Cain and an anonymous reader. All remaining imperfections are of course my own.

¹ Details of critical editions of Jerome's works, translations into modern languages, and commentaries can be found in Fürst 2016, 398–429. I found particularly useful the first-rate commentaries by Andy Cain on the *Commentary on Galatians* (Cain 2010), on *Ep. 108* (Cain 2013a) and on *Ep. 52 to Nepotian* (Cain 2013b). I have used existing translations where they exist but have modified them when necessary. For the dates of Jerome's letters, I rely mostly on Cavallera 1922, and for those of his other writings on Fürst 2016; many of them are conjectural.

the books of the Old Testament provided the basis for the linguistic and historical interpretation of texts that were inaccessible in the original. Through his translations of Origen's works, Jerome helped to ensure that the thought of the Greek theologian was never forgotten in the West, despite the fact that he had been accused of heresy and was eventually condemned. Through his translation of the *Chronicle* of Eusebius of Caesarea, he invented a new genre of Latin literature;² with his book on ecclesiastical authors, he transferred the genre of literary history to the Christian sphere.³ In largely fictional biographies of ascetics, he competed with the *Life of Antony* by Athanasius, which in Latin translation was also very successful in the West.⁴ In addition, Jerome wrote numerous treatises, mostly of polemical content, and a large number of letters, some of which also have the character of a treatise. All of this constitutes a huge oeuvre that even patristics scholars can hardly keep track of.

This article deals with an aspect of Jerome's life and writings that was of secondary importance, at best, to him: I will investigate the role Roman law plays in his writings with the aim of demonstrating that he had a basic knowledge of Roman private law and legal history, and that he also presupposed such knowledge among his intended audience. This corpus of texts thus provides valuable evidence for the legal culture of Roman elites in the provinces. In addition, I will call Jerome up as a witness to the jurisdiction of governors and bishops. In a third step, I will analyze his view of imperial legislation and seek out the traces left by imperial rescripts and constitutions in his writings, some of which have hardly been noticed as yet. The analysis of these texts will throw light on the way imperial laws were perceived in the provinces and on how they were used by interested parties for their own, personal and polemical purposes.⁵

The life of Jerome is well known.⁶ It will therefore suffice to recall the basic outline: Jerome was probably born around 347 in the *oppidum* Stridon

² For an introduction to the *Chronicle* as a historical source, see Burgess 2002; Vessey 2010 assesses its role in the transition from classical to Christian historiography. Benoît and Lançon 2004 provide a useful commentary on the years 326 to 378; Donalson 1996 gives an English translation. Brugnoli 1995 has collected parallels from other authors but adds little to them.

³ For a critical edition with German translation, a detailed and thorough introduction and a very full commentary, see Barthold 2011. For an attempt to reconstruct the lost parts of Suetonius's book *De viris illustribus* from the entries Jerome added to Eusebius's *Chronicle*, see Wallace-Hadrill 1983, 50–59.

⁴ Athanasius's *Life of Antony* was translated into Latin twice, by Evagrius of Antioch and by an unknown author; for critical editions of these two translations, see now Bertrand and Gandt 2018.

⁵ The only study of the subject I am aware of is excellent but brief: Gaudemet 1978, 112–26. Liebs 1987, 99–101 looks at Jerome as testimony for jurists and law as a field of study. Violardo 1937 tries to determine the influence of legal concepts on Jerome's theological thinking.

⁶ For useful biographies of Jerome, see J. N. D. Kelly 1975; Schlange-Schöningen 2018. Rebenich 1992 is the fundamental study of the social context of Jerome as an ecclesiastical writer. Excellent

in the border region between Dalmatia and Pannonia.⁷ His parents were wealthy landowners and Christians. They sent Jerome to Rome in around 360 to study with the famous grammarian Aelius Donatus and an unknown rhetor.⁸ There, Jerome acquired an education that was typical for young men belonging to the upper classes: he studied the classics of Latin literature, first poets, then orators and historians, under the guidance of his teachers and with the aid of philological commentaries and antiquarian literature that were necessary to understand both content and form.⁹ Legal issues also played a role in these lessons;¹⁰ it is no coincidence that the Virgil commentator Servius quotes Gaius's textbook on Roman law.¹¹ In the classroom, Jerome will also have learned the proverb *summum ius summa iniuria*, which he later cited twice, if in a slightly modified form—*summum ius, summa malitia*.¹² He himself reports that as a pupil he enjoyed listening to the speeches that advocates gave in the courts:

As a young man, I would deliver rhetorical declamations in Rome and would engage in real contests in which I argued mock court cases. Many times I

introductions to his life and writings (each with a sample of texts) are provided by Rebenich 2002; Fürst 2016 (which also has a useful bibliography). Cavallera 1922 is still useful for the dating of Jerome's writings. The birth date of 347 has been widely accepted (with the exception of J. N. D. Kelly 1975, 337–39).

⁷ For Jerome's hometown, see *de vir. ill.* 135: "Hieronymus, natus patre Eusebio, oppido Stridonis, quod a Gothis euersum Dalmatiae quondam Pannoniaeque confinium fuit." The location of Stridon is still under dispute.

⁸ Jerome's studies in Rome: *Jer. Chron.* 354 CE; *Comm. Eccl.* 1.10–11; *Apol. adv. Ruf.* 1.16.410A. On Aelius Donatus, see Kaster 1988, 275–78 no. 52; Schmidt 1989, 143–58. His major works were commentaries on Virgil (lost) and Terence (preserved incompletely) and treatises on Latin grammar and speech (extant).

⁹ In *Apol. adv. Ruf.* 1.16.410A, Jerome provides a list of authors and commentaries read in school; for Virgil he singles out Asper and Donatus. Augustine takes it for granted that in order to understand a poet one needed many "teachers" like Asper, Cornutus, Donatus, and others: *Util. Cred.* 17.

¹⁰ For Roman law in Latin declamations, see the profound study by Lanfranchi 1938 (with a comprehensive collection of texts), and also now Lentano 2014. See further below section VI with note 151.

¹¹ Servius quotes the jurist Gaius: *Serv. Georg.* 3.306 (compare *Gai. Inst.* 3.141). On Servius and his commentary, see Kaster 1988, 169–97; Jeunet-Mancy 2021, vii–cxliv. Gaius's textbook is also cited in a late antique commentary on Cicero's *Verrines* wrongly ascribed to Asconius (*Ps. Ascon. Verr.* 2.1.26; compare *Gai. Inst.* 4.15) and by the grammarian Priscian, who taught in sixth-century Constantinople but hailed from Caesarea (in Mauretania?): Priscian, *Inst.* 6.96 (*Gramm. Lat.* 2: 282, lines 8–10). See also Manthe 2020 and below section VI.

¹² *Jer. Comm. Os.* 3.11: "non sum unus de his, qui in urbibus habitant, qui humanis legibus uiuunt, qui crudelitatem arbitrantur iustitiam, quibus ius summum summa malitia est." See also *Ep.* 54.14: "et—o uere ius summum summa malitia!—post tanta miracula adhuc saeuiunt leges." Compare *Cic. Off.* 1.33: "Exsistunt etiam saepe iniuriae calumnia quadam et nimis callida, sed malitiosa iuris interpretatione. Ex quo illud "Summum ius summa iniuria" factum est iam tritum sermone proverbium."

rushed to the courtroom (*ad tribunalia iudicum*) and watched extraordinary orators argue so bitterly that at times they would momentarily forget the case at hand and become sidetracked with their own personal quarrels, trading sarcastic barbs with each other.¹³

At the time, Jerome seems to have hoped that his studies would get him a post in the imperial service; later in life he would describe law as one of the *artes liberales*, a field of study and a profession that was both honorable and lucrative.¹⁴ We find him in Gaul after Julian's death, where the court of Valentinian I was then located.¹⁵ Against this background, we are entitled to expect that Jerome had a basic knowledge of Roman law, even though he decided at an early age to lead the life of a Christian ascetic, was ordained priest in Antioch in 378, took part in the Synod in Constantinople in 381,¹⁶ served Bishop Damasus of Rome as a kind of secretary from 383 to the latter's death in December 384,¹⁷ and was from 386 permanently resident in Bethlehem. There, at the reputed birthplace of Jesus, he presided until his death in 420 over a monastic community financed by wealthy ladies from the senatorial class, but he remained in contact by correspondence with much of the western Mediterranean world, especially Rome.¹⁸

II. Jerome on Roman Law and Legal History

So what did Jerome know of Roman law? First of all, it should be noted that he readily presupposes knowledge of the basic institutes of inheritance law among his audience. In the *Chronicle* of Eusebius, Jerome inserted the additional information that the *lex Falcidia*—which established the rule

¹³ Jerome in the courts of Rome at *Comm. Gal.* 1.2.11-15: "aliquoties cum adolescentulus Romae controuersias declamarem, et ad uera certamina fictis me litibus exercebam, currebam ad tribunalia iudicum, et disertissimos oratorum tanta inter se uidebam acerbitate contendere, ut omissis saepe negotiis, in proprias contumelias uerterentur, et ioculari se inuicem dente morderent."

¹⁴ Law as a field of study and a profession: *Adv. Iov.* 1.36 (*non oratores, non iurisconsulti, non reliquarum artium praeceptores*); *Dial. adv. Pel.* 1.21 (*Deus possibiles dedit humano ingenio omnes artes, quippe quas plurimi didicerunt [. . .] iuris quoque et legum scientiam*). The two passages are discussed by Liebs 1987, 99–101.

¹⁵ Jerome in Trier: Steinhausen 1951; Rebenich 1992, 32–41. It is generally assumed that Jerome found himself in Trier because he entertained ambitions for a career in the emperor's service, even though the suggestion of Courcelle 1950, 180–81, that he was one of the two *agentes in rebus* mentioned in Augustine's *City of God* (8.6.15) is attractive, but beyond proof. Compare Rebenich 1992, 36 ("möglich, aber keinesfalls zwingend").

¹⁶ Jerome in Constantinople: Rebenich 1992, 115–40.

¹⁷ Jerome's second stay in Rome: Rebenich 1992, 141–92. On Jerome's relationship with Damasus, see Cain 2009, 43–67. Duval 2005 provides a critical edition and a detailed commentary of a papal decretal addressed to bishops in Gaul in the 380s that Jerome may have drafted.

¹⁸ On Jerome's epistolary network, see Rebenich 1992, 209–98; Cain 2009. His death is dated to 419 by Prosp. Tiro 419 CE, but his dating must be too early by one year.

that at least a quarter of the estate was to go to the testamentary heir—had been introduced to the popular assembly (*comitia*) by the tribune Falcidius when the triumvirs held sway over Rome.¹⁹ Jerome mentions *fideicommissa* as a frequent means of circumventing restrictions on the ability of clerics to inherit. Nor does he need to explain to his audience that Constantine had granted court officials the right to dispose of their property as *castrense peculium*.²⁰ In two passages Jerome refers to the law of sale; in the *Commentary on Ephesians* he explains the difference between a down payment (*arrhabo*) and a pledge (*pignus*), citing the purchase of a *villa* as an example: for a *villa* worth 100 *solidi*, 10 *solidi* are paid down, and for a *villa* worth 1,000 *solidi*, the down payment is 100 *solidi*.²¹ In the *Commentary on Jeremiah* we read that when the prophet bought land he concluded a contract of sale through *stipulatio* and *responsio*.²²

In addition to the law of succession and the law of sale, the tireless campaigner for celibacy is of course also familiar with family law.²³ Since the Augustan legislation on marriage, adultery (*adulterium*) had been a public crime defined as extramarital sex by or with a married woman; a husband would thus only commit adultery if the person he had sex with was another man's wife.²⁴ Jerome rejects this double standard, stressing the difference between the rules of Roman law and the precepts of the Church:

¹⁹ *Lex Falcidia* in Jer. *Chron.* (for 42 BCE): "C. Falcidius tribunus plebis legem tulit ne quis plus testamento legaret quam ut quarta pars heredibus superesset." On the *Lex Falcidia*, see Kaser 1971, 756–57; Riedlberger 2020, 238–39.

²⁰ On the *castrense peculium*, see *Ep.* 60.10.1: "uerumtamen uelut incunabula quaedam nascentis fidei conprobemus, ut, qui sub alienis signis deuotus miles fuit, donandus laurea sit, postquam suo regi coeperit militare. balteo posito habituque mutato, quidquid castrensis peculii fuit, in pauperes erogauit." Constantine's law on *castrense peculium*: *CTh* 6.36.1 (23 May 326).

²¹ On *arrhabo* versus *pignus*, see *Comm. Eph.* 1.2.14 (=PL 26: 560–61): "pignus Latinus interpret pro arrhabone posuit. non id ipsum autem arrhabo, quod pignus sonat. arrhabo enim futurae emptioni quasi quoddam testimonium, et obligamentum datur. pignus uero, hoc est, ἐνέχυρον, pro mutua pecunia opponitur: ut cum illa reddita fuerit, reddenti debitum pignus a creditore reddatur [. . .] et quomodo ex arrhabone aestimatur qualis emptio futura sit, et quae possessio: uerbi causa, ex decem solidis, centum solidorum uilla, et ex centum solidis mille solidorum possessio; ita ex uarietate arrhabonis, haereditatis, quoque postea secuturae magnitudo cognoscitur." For Jerome's discussion of this passage, see now Cain 2021, 80–81.

²² For sale by *stipulatio* and *responsio*, see *Comm. Ier.* 6.34.5: "in hoc igitur numero a propheta et sacerdote emitur possessio scribiturque in libro atque signatur et adhibentur testes argentumque diligenter appenditur, ut omnia uenditionis et emtionis iura seruentur et sit certa possessio stipulationibus et responsionibus roborata. uel hoc audiant, qui falsa testamenta et interdum ne testamenta quidem sibi adhibitis testibus uindicare conentur."

²³ Jerome's attitude to marriage: Hunter 2007. His stance on divorce and second marriage was more flexible: compare *Ep.* 55 (written 393/397) with *Ep.* 77 (written 399/400 on the occasion of Fabiola's death). For discussion, see Violardo 1937, 154–71; Crouzel 1971, 284–96; Evans Grubbs 1995, 248–50.

²⁴ *Stuprum* and *adulterium* in Late Roman law: *CTh* 3.16.1 (331); Evans Grubbs 1995, 203–60, especially 248–50.

Among them the reins of shame are relaxed for men and their lust is let loose hither and thither through brothels and slave girls; only *stuprum* and adultery are condemned – as if the sin were that of status, not lust. Among us, what is not permitted to women, is equally not permitted to men and the same servitude is decreed by an equal condition.²⁵

Like Augustine,²⁶ Jerome deplors the common practice of men living together with a socially inferior woman without entering into marriage with her. He also notices that concubinage was a common way of circumventing legal impediments to marriage due to status disparity between the partners (which could be overridden by imperial privilege).²⁷ One can add that Jerome mentions the legal prohibition of forced castration; this might or might not imply knowledge of the law that the emperor Constantine issued to reaffirm this rule.²⁸

In a number of instances, Jerome uses legal terms as a metaphor but in such a way that the technical sense is still recognizable. The legal term *postliminium* technically means the rule by which Roman citizens who were taken captive by the enemy resumed their status and property if they were able to return from captivity to Roman territory.²⁹ Jerome draws on this meaning in order to analogize his move from Rome to Bethlehem to the return of the Jews from captivity in Babylon: “Immediately I returned to Bethlehem as it were by the right of return” (*velut postliminio*).³⁰ Elsewhere, he writes that he

²⁵ Translation from Evans Grubbs 1995, 249 of *Ep.* 77.3.3 on the double standard in the Roman law on adultery: “apud illos in uiris pudicitiae frenata laxantur et solo stupro atque adulterio condemnato passim per lupanaria et ancillulas libido permittitur, quasi culpam dignitas faciat, non uoluptas. apud nos, quod non licet feminis, aequè non licet uiris et eadem seruitus pari condicione censetur.”

²⁶ Augustine on concubinage: *De bono Coniugali* 5; *Serm.* 289; *Serm.* 392.2; Evans Grubbs 1995, 294–300. Augustine himself had as a young man lived with a concubine for 15 years: *Civ. Dei* 4.2, 6.15.

²⁷ For Jerome on concubinage, see *Ep.* 69.5.7: “multos uidemus ob nimiam paupertatem uxoribus sarcinam declinare et ancillulas suas habere pro uxoribus susceptosque ex his liberos colere ut proprios; si forte ditati ab imperatore stolas illis meruerint, confestim apostolo colla submittet et inuitus inter uxores eas recipere cogetur; sin autem principale rescriptum eadem tenuitas inpetrare non quierit, cum Romanis legibus scita ecclesiae mutabuntur.”

²⁸ For Jerome on forced castration, see *Comm. Gal.* 3.5.12: “tam enim detestanda abscisionis est passio, ut et qui inuitis eam intulerit, legibus publicis puniatur, et qui seipsum castrauerit, infamis habeatur.” Constantine’s law on forced castration: *CJ* 4.42.1 (307/337, death penalty).

²⁹ *Postliminium* as a legal concept: Kaser 1971, 250–51. For its application in the fourth century, see *CTh* 5.7.1 (366); 5.7.2 (408); *Amm.* 19.9.6–8; Kaser 1975, 129–30.

³⁰ Jerome on his (spiritual) “homecoming” from Rome to Jerusalem is in the *Praefatio* to Didymus of Alexandria’s treatise *On the Holy Spirit*: “cum in Babylone uersarer et purpuratae meretricis essem colonus et iure Quiritum uiuerem [. . .] illico ego, uelut postliminio, Ierosolymam sum reuersus: et post Romuli casam, et ludorum Lupercalia, diuersorium Mariae et Saluatoris speluncam aspexi.”

resumed working on his translation of the book of Joshua, “re-claiming this long interrupted work by a certain right of return (*quodam postliminio*).³¹ But Jerome can also employ the word loosely to mean “absence” or “interval.” The monk Malchus who decides to leave his monastery after the death of his father, describes himself as “an owner by inheritance after a long absence (*longo postliminio hereditarius possessor*),” before being captured on his way home and carried off into slavery by “Saracens.”³²

Jerome, however, not only knows individual institutes of Roman law; he also mentions stages of its development and names prominent jurists. We have already seen that he deemed the *lex Falcidia* worth mentioning in the *Chronicle*. In the same text, he duly records the introduction of the Twelve Tables from Athens which were considered to be the source of all civil law.³³ He also inserted a notice about the late Republican orator and teacher of law Servius Sulpicius Rufus, the author of the first commentary on the Praetorian Edict, being honored by a public funeral.³⁴ Two famous jurists of the High Empire are also deemed worthy of an entry: Domitius Ulpianus³⁵ and Salvius Julia-

³¹ The *Praefatio* to the book of Joshua: “decreuimus ‘dum spiritus hos regit artus’ prophetarum explanationi incumbere, et omissum iam diu opus quodam postliminio repetere.” Compare *Comm. Ion.*, praef.: “igitur tanto post tempore, quasi quodam postliminio a Iona interpretandi sumens principium.”

³² *V. Mal.* 4.3 (written 391/392): “ego interim longo postliminio hereditarius possessor et sero mei consilii paenitens, cum altera muliercula in unius heri seruitutem sortitus uenio.” For a thorough discussion of this passage, see Gray 1995, 177–80 who defends the interpretation adopted by me, adducing *Ep.* 128.5 as a parallel (*ut [. . .] post neces amicorum luctumque perpetuum infanti senex longo postliminio scriberem*). See also *TLL* 10.2 under *postliminium* (col. 236). In both passages, Jerome adds the adjective *longum* to make clear that *postliminium* is not to be taken literally. If Malchus were equating his former life as an ascetic to captivity, he could hardly be considered a saint by the standards of Jerome. Weingarten 1995, 148–50, on the other hand, ascribes a spiritual meaning to the passage; according to her, Malchus was spiritually dead when he left his monastery but was brought back to a life in Christ when the Saracens thwarted his plans and forced him to live as a slave on Persian soil. This interpretation, however, does not explain why this return is described as “long-lasting”.

³³ Twelve Tables: Jer. *Chron.* 452 BCE (*Romani per legatos a Atheniensibus iura petierunt, ex quibus XII tabulae conscriptae*). Compare Liv. 3.31.8, 3.34.6 (*fons omnis publici privati que est iuris*); Pomponius in *Dig.* 1.2.2.5–6 (*lege duodecim tabularum ex his fluere coepit ius civile*).

³⁴ Servius Sulpicius: Jer. *Chron.* 44 BCE (*Sergius [sic] Sulpicius iuris consultus et P. Servilius Isauricus publico funere elati*). Servius Sulpicius Rufus was consul in 51 BCE. For his career, see Münzer 1931; Kunkel 2001 (1967), 25 no. 40. He was said to have written 180 books. It seems unnecessary to assume with Helm 1929, 55–56 that Jerome drew this information from a book on Roman customs or an epitome of Livy; he might well have known about Sulpicius’s burial from his reading of Cicero’s *Ninth Philippic Oration*.

³⁵ Domitius Ulpianus: Jer. *Chron.* 226 CE (*Ulpianus iuris consultus assessor Alexandri insignisimus habetur*). Domitius Ulpianus was praetorian prefect from 222 and a prolific author, producing an authoritative commentary on the Praetorian Edict in eighty-one books; he died in 228. For his career, see Kunkel 2001 (1967), 245–54 (add *AE* 1988, no. 1051); Liebs 1997a; Honoré 2002, 1–36.

nus.³⁶ Ulpianus appears as legal advisor to the emperor Alexander Severus, Julianus as the man who under Hadrian “composed” the *Edictum Perpetuum*.³⁷ In both cases, Jerome may have taken his information from the *Breviarium* of Eutropius or from a source shared by both authors.³⁸ What matters for my argument is that he considered the subject to have so much interest for his readers that he added these entries to the text he translated from the Greek. In a law of the emperor Gratian strictly contemporary with Jerome’s *Chronicle*—it was promulgated in Trier on 5 April 379—the imperial chancery also refers to the codification but ascribes it to the emperor who seems to have commissioned it, calling it “the edict put together by the divinized Hadrian.”³⁹ It seems unlikely, on the other hand, that the Roman cleric we call Ambrosiaster, in using the phrase *edictum Iuliani*, alludes to the edition produced by Salvius Julianus rather than to an otherwise lost edict of the emperor Julian.⁴⁰

In a letter to his Roman patron Oceanus, Jerome contrasts the teachings of the jurist Papinianus with those of the Apostle Paul: “the Laws of the emperors are one thing, the laws of Christ another; Papinian taught one thing, our Paul

³⁶ Salvius Julianus: Jer. *Chron.* 131 CE (*Salvius Iulianus perpetuum composuit edictum*). Salvius Julianus was a member of the imperial council under Hadrian; his major work apart from the codification of the praetorian Edict was a collection of *responsa* on real and hypothetical cases in ninety books with the title “Digesta.” For his career, see Kunkel 2001 (1967), 157–66; Liebs 1997c.

³⁷ For the *Edictum Perpetuum*, see the classic reconstruction by Lenel 1927. As a name for the codified form of the Praetorian Edict, the term came into use in the third century but never entirely replaced the older name: Pringsheim 1935. The theory of Guarino 1980 that there was no codification under Hadrian and that all testimonies for this idea ultimately derive from a historiographical construct of the fourth century (see next note) has met with little approval outside Italy; for a summary of the debate see Tuori 2006. Such extreme criticism is indeed hard to sustain considering that the imperial chancery also took the codification for a fact; see the laws cited below in note 39.

³⁸ Eutr. 8.17 (*Post eum Salvius Iulianus rem publicam invasit, vir nobilis et iure peritissimus, nepos Salvii Iuliani qui sub divo Hadriano perpetuum composuit edictum*) and 8.23 (*adessorem habuit vel scrinia magistrum Ulpianum iuris conditorem*). Helm 1927 and Burgess 1995 argue that Jerome did not use Eutropius directly, but drew his information from the “Enmannsche Kaisergeschichte.” The *Edictum Perpetuum* is also mentioned by Aurelius Victor in his *Liber de Caesaribus* (19.1–2), a text demonstrably known to Jerome (*Ep.* 10.3) but not used in the *Chronicle* elsewhere. On Roman law in Aurelius Victor, see below at the end of this section.

³⁹ *CTh* 11.36.26.4 (379): “*heredes edicti per divum Hadrianum conditi beneficium consequantur*.” Compare *CTh* 4.4.7.9 (426); *Nov. Val.* 21.1.5 (446).

⁴⁰ Ambrosiast. *Quaest.* 115.12: “Quantum autem possit timor legis, hinc aduertamus. ante Iuliani edictum mulieres uiros suos dimittere nequibant. accepta autem potestate coeperunt facere quod prius facere non poterant; coeperunt enim cottidie licenter uiros suos dimittere. ubi latuit fatum tantis temporibus? timore, credo, legis occultabat se.” The identification with the *Edictum Perpetuum* was suggested by Heggelbacher 1959, 57 n. 4. Evans Grubbs 1995, 232–34 rightly takes the passage as a reference to a lost law of Julian abrogating Constantine’s law restricting unilateral divorce (*CTh* 3.16.1). The objection raised by Gaudemet 1978, 102–3 that such a law would hardly have vanished without a trace, given the polemical attention Julian’s legislation attracted, can be met by the observation that Julian’s Christian successors, Valentinian and Valens, upheld this law; see Lenski 2002, 267–68.

another” (*aliae sunt leges Caesarum, aliae Christi; aliud Papinianus, aliud Paulus noster praecipit*).⁴¹ Jerome calls the apostle Paulus *noster* because he had to distinguish him from the jurist of the same name if the punch line was to be clear and unmistakable to his audience.⁴² In Jerome’s day, the jurist Julius Paulus was believed to be the author of an authoritative textbook of Roman law, the so-called *Sententiae Pauli*.⁴³ A sermon by Augustine confirms that he was well known among the elites of the Late Roman West, and this not only in Rome but also in Roman North Africa.⁴⁴ In another letter addressed to an audience in the city of Rome, Jerome ridicules a Roman cleric, perhaps to be identified with Pelagius, by claiming that he was so shrewd that he could have shone as an advocate in inheritance cases if he had not entered the service of the Church. In this context, he presupposes knowledge that inheritance cases were called *causae centumvirales* because they had once been tried before *centumviri*.⁴⁵

It seems justified to conclude from the evidence discussed that Jerome was writing for an audience that not only had a basic knowledge of Roman law, but also a certain familiarity with legal history. A look at contemporary Latin authors shows that he was far from alone in doing so. Aurelius Victor, too, had such readers in mind when he wrote his *Liber de Caesaribus*; he also is clearly interested in law and jurists, citing by name four of the five authors mentioned by Jerome.⁴⁶ The so-called *Historia Augusta*, an anonymous collection of emperors’ biographies which playfully mix fact and fiction, is an even more eloquent testimony to the appeal which the lives of prominent

⁴¹ Jer. *Ep.* 77.3.3 (quoted more fully above in note 25). On Oceanus, see *PLRE* 1: 636, “Oceanus”; *PCBE* 2: 1547–49 “Oceanus”; Fürst 2016, 219–20.

⁴² The jurist Julius Paulus was praetorian prefect under Alexander Severus and wrote about 320 books (*libri*), among them an extensive commentary on the praetorian Edict in eighty books; for his career, see Kunkel 2001 (1967), 244–45; Liebs 1997b.

⁴³ On the *Sententiae Pauli*, see Liebs 2005, 41–128. The emperor Constantine ordered that all opinions expressed in Paulus’s writings should be given effect in court, singling out the *Sententiae* as a particularly outstanding work: *CTh* 1.4.2 (327/328).

⁴⁴ Aug. *Serm.* 52.9: “Paulum recito, ideoneum iuris divini consultum—nam et causidici habent hodie Paulum dictantem iura litigatorum, non Christianorum—recito, inquam Paulum dictantem pacis iura, non litis . . .”

⁴⁵ Jer. *Ep.* 50.1–2: “inuentus est homo absque praecceptore perfectus, πνευματοφόρος καὶ θεοδίδακτος, qui eloquentia Tullium, argumentis Aristotelen, prudentia Platonem, eruditione Aristarchum, multitudine librorum χαλκέντερον Didymum, scientia scripturarum omnes sui temporis uincat tractatores. denique dicitur materiam poscere et Carneadeum aliquid referens in utramque partem, hoc est et pro iustitia et contra iustitiam, disputare. liberatus est mundus de periculo et hereditariae uel centumuirales causae de barathro erutae, quod hic forum neglegens se ad ecclesiam transtulit. Quis hoc nolente fuisset innoxius?” The identification of the anonymous cleric attacked by Jerome with Pelagius is widely accepted (for example, by J. N. D. Kelly 1975, 187–88), but Löhr 2014, 63–68 remains skeptical.

⁴⁶ Aur. Vict. *Caes.* 19.1–20, 5 (Julianus); 20.33–34 (Papinian); 24.6 (Ulpian and Paulus); Liebs 1987, 89–92.

jurists from the second and third centuries held for readers in the late Roman West, even for those who had no inclination or leisure to read scholarly books: they show up in several biographies, in some quite often. Good emperors promote their careers and value their advice.⁴⁷

III. Jurisdiction: Governors and Bishops

No letters have come down to us from Jerome in which he gives advice to governors on the exercise of their office as judges; in this extensive corpus of texts, there is no equivalent to the letters which Augustine addressed to governors and other officials.⁴⁸ Jerome presents it as a well-known fact that officials and judges take bribes and extort money; “the violence of officials and judges” is a theme he can refer to in passing.⁴⁹ According to the *Commentary on Habakkuk*, written in 393, the charge of corruption can be laid not only against governors but also against bishops, the “leaders of the churches” (*principes ecclesiarum*); they too, Jerome declares, trample the law because of gifts. In the court of bishops, as in the court of governors, corruption and social bias are common vices; the culpable misdemeanor of a rich man is usually more powerful than the truth of a poor man.⁵⁰

The earliest extant letter of Jerome⁵¹ depicts a criminal case that was tried in the early 370s in Vercelli before the *consularis* of the province of Aemilia and Liguria.⁵² A husband had accused his wife and a young man of adultery

⁴⁷ Law and jurists in the *Historia Augusta*: see the many passages cited and discussed by Liebs 1987, 104–19; Honoré 1991; Honoré 1998, 191–210.

⁴⁸ On Augustine’s letters to governors and other officials, see now Preuß 2022.

⁴⁹ Jer. *Comm. Hiez.* 6.18: “ut taceam de militantium et iudicum uiolentia, qui opprimunt per potentiam uel furta committunt, ut de multis parua pauperibus tribuant et in suis sceleribus gloriantur.”

⁵⁰ *Comm. Hab.* 1.1: “haec propheta de suorum temporum statu—sequimur enim quia semel uoluisti et historiae uilitatem—ceterum iuxta LXX communis ad Deum querela sanctorum est, quare contra eos iniustum iudicium fiat, et innoxium in persecutionibus sanguinem fundant; ac si quando ante tribunal steterint iudicium saecularium iudex acceptis muneribus, condemnet insontem et reum liberet. quod quidem non solum de iudicibus saeculi sed interdum de ecclesiarum quoque principibus dici potest, quod propter munera lacerent legem, et non perducant usque ad finem iudicium, et impius praeualeat aduersus iustum, et magis in iudicio peccatum diuitis, quam pauperis ueritas defendatur.”

⁵¹ Adultery in Vercelli: *Ep.* 1 (to Innocentius, written 374/375). The *terminus ante quem* can be deduced from the fact that the dedicatee Innocentius (*PCBE* 2: 1044 “Innocentius 3”) died in 375 at the latest; for his death in Syria, see *Ep.* 3.3. This conclusion ties in with a reference to bishop Auxentius of Milan who died in 374 (*PCBE* 2: 238–41 “Auxentius 1”) as having been buried recently in *Ep.* 1.15. The traditional dating has been challenged by Schwind 1997; for a convincing rebuttal see Müller 1998. The letter has been studied intensively from a literary point of view; the most recent contribution is Shantzer 2018. For a short discussion of the legal issues involved, see Evans Grubbs 1995, 220.

⁵² If the trial was both historical and recent, readers would inevitably have thought of Ambrose, who we know was *consularis Aemiliae et Liguria* in 374. Both assumptions are open to serious

(*adulterium*). We are not told whether he had already divorced her before he entered the accusation. The governor had the accused arrested and then subjected them to an examination under torture. The young man pleaded guilty because, Jerome stresses, he could not bear the pain.⁵³ The woman, on the other hand, a devout Christian, bravely endures the torments and denies the charge. The evidence is thus inconclusive at best, but the governor finds them both guilty and orders their execution (*Ep.* 1.4–6). Thereupon, the young man is beheaded with a sword in front of a large, jeering crowd. The young woman, on the other hand, miraculously survives; when the headman gives up in desperation because despite all his efforts he finds himself unable to finish his job, a second executioner takes his place. After the seventh stroke, the Christian heroine is finally considered dead and carried off to a graveyard where “her body is quickened to life again” (*Ep.* 1.7–12).

In this letter, the brutal reality of late Roman criminal justice serves as a foil for the steadfastness of a Christian woman “with a courage superior to her sex” in a way that is typical of martyr acts and other hagiographical texts. Jerome depicts the governor as a bloodthirsty monster; he “had been feasting his eyes on the gory spectacle, like some wild animal that has once tasted blood and is evermore thirsty.”⁵⁴ Although the evidence he has obtained by torture is contradictory, the “cruel judge” sentences both defendants to death whereas jurists like Ulpian emphasized the dubious value of statements extorted by torture and thus counselled caution in drawing conclusions from them.⁵⁵ Accordingly, the moral dilemma of the judge, who runs the risk of condemning innocent people if he forces statements through torture, plays no role in this hagiographic account. Augustine, who discusses the problem in the *City of God*, advised against the use of torture in trials for precisely this reason.⁵⁶

doubt, however, even though it seems ominous that Ambrose’s biographer Paulinus stresses that his hero subjected some people to torture right after his election to bishop “contrary to his usual practice” (*contra consuetudinem*): Paulin. *V. Amb.* 7.1. On this episode, see McLynn 1994, 44–45.

⁵³ *Ep.* 1.3.1–2: “igitur Vercellae ligurum ciuitas haud procul a radicibus Alpium sita, olim potens, nunc raro habitatore semirutata. hanc cum ex more consularis inuiseret, oblatam sibi quandam mulierculam una cum adultero—nam id crimen maritus inpegerat—poenali carceris horrore circumdedit. neque multo post, cum liuidas carnes ungula cruenta pulsaret et sulcatis lateribus dolor quaereret ueritatem, infelicissimus iuuenis uolens compendio mortis longos uitare cruciatus, dum in suum mentitur sanguinem, accusauit alienum solusque omnium miser merito uisus est percuti, quia non reliquit innoxiae, unde posset negare.”

⁵⁴ *Ep.* 1.3.35 (*mulier sexu fortior suo*); *Ep.* 1.4: “igitur consularis pastis cruore luminibus ut fera, quae gustatum semel sanguinem semper sitit, duplicari tormenta iubet et saeuum dentibus frendens similem carnifici minitatus est poenam, nisi confiteretur sexus infirmior, quod non potuerat robur uirile reticere.” See also *Ep.* 1.5.2 (*iudex crudelis*).

⁵⁵ Ulpian on torture: *Dig.* 48.18.1.23 and 27.

⁵⁶ Augustine on torture: *Civ. Dei* 19.6; *Ep.* 133 (to Marcellinus, written 412). On Augustine’s attitude to religious coercion, see the classic study by Brown 1964.

Jerome, by contrast, takes torture for granted as a normal means of procuring evidence in criminal cases. He does not call into question the death penalty for adultery either, even though it was in fact only one of several options, with the choice depending mostly on the social status of the persons involved but also on the judge's evaluation of the particular case.⁵⁷ In the *Commentary on Jeremiah*, he declares that "to punish killers, those who commit sacrilege or poisoners is not bloodshed but the administration of justice (*ministerium legum*)."⁵⁸

We can close this section with the observation that Jerome rarely comments on an emperor acting as a judge.⁵⁹ The only instance of an emperor described in this role concerns Theodosius I condemning to death a governor of Palestine in the early 390s on the accusation that the latter had illegally seized the papers of the Jewish patriarch Gamaliel. Gamaliel, a *vir illustris* and thus superior in rank to the governor, who was only a *consularis*, might have turned directly to the emperor to bring about this verdict or he might have lodged an accusation with the praetorian prefect, who then involved the emperor. The release of prisoners by act of amnesty is something Jerome takes for granted; in fact, he uses the right of pardon exercised by emperors as a model for the remission of sins by Christ, transferring the technical term *indulgentia principis* (or *principalis*) from decisions motivated by imperial clemency to those willed by the grace of God.⁶⁰

IV. Petitions to the Emperor and Imperial Rescripts

The story of the female martyr of Vercelli goes a little further in Jerome. She is nursed back to health in a church and secretly taken out of the city. She has lost her freedom, however, because she has been legally convicted of

⁵⁷ Legal penalties for adultery: Evans Grubbs 1995, 216–21.

⁵⁸ Jer. *Comm. Ier.* 4, p. 255: "homicidas enim et sacrilegos et uenenarios punire non est effusio sanguinis, sed legum ministerium." Compare *Chron.* 91 CE: "Maxima virginum Vestalium Cornelia convicta stupri iuxta legem viva defossa est."

⁵⁹ *Ep.* 57.3: "dudum Hesychium, uirum consularem, contra quem patriarcha Gamalihel grauisimas exercuit inimicitias, Theodosius princeps capite damnauit, quod sollicitato notario chartas illius inuasisset." For Hesychius, a former advocate and correspondent of Libanius, see *PLRE* 1: 429, "Hesychius 4." For Gamaliel, the last Jewish patriarch we hear of, *PLRE* 1: 385, "Gamalielus," and for his office, Stemberger 2000, 230–68.

⁶⁰ *Indulgentiae* granted by both emperors and by God: *Alt. Luc. et Orth.* 19 (quoted below in note 90). See also Jer. *Adv. Iovinian.* 2.32, col. 344: "unus autem denarius non unum est praemium, sed una uita, et una de gehenna liberatio. caeterum quomodo ad indulgentiam principalem, diuersorum criminum rei dimittuntur de carcere, et unusquisque, pro labore uel operibus suis, in hoc uel in illo statu uitae est: ita et denarius quasi indulgentia ueri principis [sc. Christi], omnes per baptismum emittit de carcere." *Ep.* 69.1.1: "numquam, fili Oceane, fore putabam, ut indulgentia principis [sc. Christi] calumniam sustineret reorum et de carceribus exeuntes post sordes ac uestigia catenarum dolerent alios relaxatos." *Apol. adv. Ruf.* 2.12: "in restitutione omnium, quando indulgentia uenerit principalis [sc. Christi]."

adultery. Therefore, Evagrius of Antioch, Jerome's patron at the time, turns to the emperor himself; through persistent pleading he finally brings it about that her freedom (*libertas*) is returned to her; the governor's sentence is overturned by the emperor. The happy ending of this edifying story brings us to the question of what role petitions to the emperor and imperial rescripts play in Jerome's life and writings.⁶¹ To anticipate the result: Jerome presupposes the practice of addressing the emperor directly as common, and he also gives a number of specific examples in which he is often somehow personally involved. The sample includes a petition from the city of Gaza to the emperor Julian to sentence two monks to death, which resulted in a search warrant being posted up all over the empire.⁶² In several cases, a petition to the emperor appears as an instrument in conflicts between bishops, clerics, and monks. In a letter to Theophilus of Alexandria, Jerome accuses John, the Bishop of Jerusalem, of having procured a rescript from the praetorian prefect Rufinus—who was the *de facto* ruler of the eastern empire during the absence of the emperor Theodosius—banishing Jerome from Palestine.⁶³ This rescript, presumably issued in the emperor's name, was not carried out because Rufinus was murdered soon afterwards (on 27 November 395).⁶⁴ In the controversy with Rufinus of Aquileia, Jerome defended himself against the accusation that he had urged an Egyptian bishop named Paul, who had been deposed by a synod presided over by Theophilus, to petition the emperor to reinstate him in his see.⁶⁵ Jerome also rejects the idea that he was personally responsible for the

⁶¹ For imperial rescripts legitimizing marriage with women of inferior status, see *Ep.* 69.5.7 (paraphrased above in note 27).

⁶² Jer. *V. Hilar.* 33.5: “*urbs enim Gaza, postquam profecto de Palaestina Hilarione Iulianus in imperium successerat, destructo monasterio eius, precibus ad imperatorem datis et Hilarionis et Hesychii mortem impetrauerat, amboque ut quaererentur toto orbe scriptum erat.*” For the historical context, see Lenski 2016, 131–35.

⁶³ Rufinus and Jerome: Jer. *Ep.* 82.10.1–3: “*nuper nobis postulauit et impetrauit exilium [sc. Ioannes] [. . .] monachus—pro dolor!—monachis et minatur et inportat exilium, et hoc monachus apostolicam cathedram tenere se iactans. non nouit terrori natio ista succumbere et inpendenti gladio magis ceruices quam manus subicit. quis enim monachorum exul patriae non exul est mundi? quid necesse est auctoritate publica et rescripti inpendiis et toto orbe discursibus? tangat saltem digitulo, et ultro exhibimus.*” Jer. *c. Job.* 43: “*Nosne sumus qui ecclesiam scindimus, an ille [sc. Ioannes], qui uivis habitaculum, mortuis sepulcrum negat, qui fratrum exilia postulat? Quis potentissiam illam feram, totius orbis cervicibus imminentem [sc. Rufinum], contra nostras cervices specialiter incitavit?*” For the historical context, see J. N. D. Kelly 1975, 203–4.

⁶⁴ For the downfall of Rufinus (*PLRE* 1: 778–81, “Rufinus 18”), see Liebeschuetz 1990, 89–92.

⁶⁵ Theophilus, Paulus, and Jerome: *Apol. adv. Ruf.* 3.17.469B and 18.470B: “*porro quod interrogas [sc. Rufinus] quando papae Theophili sententiam sequi coeperim eique fidei communionem sociatus sim, et tibi ipse respondes: ‘tunc, credo, quando Paulum quem ille damnauerat summo nisu et omnibus studiis defendebas; quando eum per imperiale scriptum recipere sacerdotium quod episcopali iudicio amiserat instigabas.’ [. . .] impium putas [sc. Rufine] post sententias sacerdotum imperiale rescriptum?*” The conflict between Theophilus and Paulus is only known from these allusions and thus rather obscure to us.

banishment of the Origenists—meaning the so-called “Tall Brothers”—from Egypt by an imperial decree.⁶⁶ Since he describes this decree un-technically as *scripta* (“deeds”) or *scita* (“decisions”), it remains unclear in what form the will of the emperors issued this order.

V. Legislation

This brings us to the last and most important point of this investigation: imperial legislation. For Jerome, there are two types of laws: human laws (*humanae leges*),⁶⁷ also called public laws (*leges publicae*),⁶⁸ and the laws of Christ; the two converge in many areas but differ when it comes to marriage, divorce, and adultery. In Jerome’s view, legislation has rested with the emperors since the beginnings of the Roman monarchy, which like Suetonius he links with both Julius Caesar, the first to rule as a monarch in Rome, and Augustus, the founder of the principate:⁶⁹ in the *Chronicle*, Jerome reports that “Augustus gave a great many laws (*leges*) to the Roman people”;⁷⁰ in the *Commentary on Galatians*, he applies the term laws (*leges*) to the privileges which were granted to the Jews by Julius Caesar, Augustus, and Tiberius:

Gaius (Julius) Caesar, Octavian Augustus, and Augustus’s successor Tiberius had published laws (*leges promulgaverant*) that allowed the Jews throughout the whole stretch of the Roman power to live by their own rites and to keep their ancestral ceremonies.⁷¹

⁶⁶ Theophilus and the “Tall Brothers”: *Apol. adv. Ruf.* 1.12.406D: “ergo et epistulae papae Theophili et Epiphani et aliorum episcoporum, quas nuper ipsis iubentibus transtuli, te petunt, te lacerant? imperatorum quoque scripta, quae de Alexandria et Aegypto Origenistas pelli iubent, me suggerente dictata sunt?” *Jer. Apol. adv. Ruf.* 3.18.470C: “quis papam Theophilum aduersus perduelles in Aegypto suscitauit? quis regum scita? quis orbis in hac parte consensus?” For Theophilus and the “Tall Brothers,” see *Apol. adv. Ruf.* 3.18.470B (*qui damnati palatia obsident*); J. N. D. Kelly 1975, 259–72; Russel 2007, 18–34, with 89–174 for a collection of sources in English translation.

⁶⁷ Human laws (*leges humanae*): *Comm. Os.* 3.11: “non sum unus de his, qui in urbibus habitant, qui humanis legibus uiuunt.” *Comm. Mt.* 3.22.15–16: “non debere populum Dei qui decimas solueret et primitiua daret et cetera quae in Lege scripta sunt humanis legibus subiacerere.”

⁶⁸ For public laws (*leges publicae*), see *Ep.* 22.31: “auaritia quoque tibi uitandum est malum, non quo aliena non adpetas – hoc enim et publicae leges puniunt –, sed quo tua, quae sunt aliena, non serues.” *Ep.* 57.3: “quod leges publicae, quod hostes tumentur, quod inter bella et gladios sanctum est, hoc nobis inter monachos et sacerdotes Christi intutum fuit.” The term appears also in *Comm. Gal.* 3.5.24; *Comm. Is.* 3.6.10–12.

⁶⁹ Suetonius on Augustus: Wallace-Hadrill 1983, 110–12. Julius Caesar the first monarch: *Jer. Chron.* 509 BCE, 49 BCE; *Comm. Mt.* 3.22.21; *Comm. Agg.*, praef. Principate founded by Augustus: *Chron.* 44 BCE, 31 BCE, and 29 BCE (quoted in the next note); *Comm. Gal.* 3.6.12 (quoted below in note 71); *Comm. Mic.* 1.4; *Comm. Hiez.* 9.29.1–3a.

⁷⁰ Augustus as lawgiver: *Chron.* 29 BCE (*Augustus Romanis plurimas leges statuit*).

⁷¹ Translation from Cain 2010, 262 of *Comm. Gal.* 3.6.12 on privileges granted to the Jews: “Caius Caesar, et Octavianus Augustus, et Tiberius successor Augusti, leges promulgauerant, ut

It seems clear that Jerome took this information from the *Jewish Antiquities* of Josephus, a text he used extensively.⁷² The designation of these privileges as laws (*leges*), however, is due entirely to Jerome's interpretation: Josephus attests to a *senatusconsultum* passed under Caesar, an edict of Augustus, and a rescript of Tiberius.⁷³ In a Christmas sermon of uncertain date, the word *lex* also appears in this non-technical meaning which is typical of post-classical usage.⁷⁴ On this occasion, Jerome speaks of the emperor Hadrian as having issued a law (*legem tunc dedit*) to the effect that no Jew was allowed to enter Jerusalem.⁷⁵ This prohibition is also mentioned in Jerome's *Chronicle* and, according to his commentaries on Zephaniah and on Isaiah, was still valid around 400.⁷⁶ Jerome uses *lex* for every kind of enactment by a ruler, as it had become customary to do since Constantine, and *legem promulgare*, *legem statuere* or (more often) *legem dare* to describe the act of legislation.⁷⁷

Iudaei qui erant in toto Romani imperii orbe dispersi, proprio ritu uiuerent, et patriis caeremoniis deseruirent."

⁷² Jerome's knowledge and use of Josephus: *Chron.* 93 CE; *de vir. ill.* 13 and many other texts cited by Schreckenberg 1972, 91–95. In *Ep.* 22.35.8, Jerome calls Josephus the "Greek Livy" (*Graecus Livius*).

⁷³ Joseph. *AJ* 14.185–215 (*synklêtou dogmata* passed under Caesar at 14.189); 19.282–310 (Augustus, *diatagma* to the Jews of Alexandria at 19.283; *diatagma* to the rest of the Oecumene at 19.286); 15.404–5 (Tiberius gives Jews custody of priestly robes in a rescript).

⁷⁴ For the tendency of post-classical law to use legal terms in a non-technical way (often called "vulgarization" in older scholarship), see Kaser 1975, 17–31; Voß 1982; Sirks 2007, 91–93; Riedlberger 2020, 227–40. For a judicious survey of the origins, merits, and limits of the concept of Roman vulgar law, see Liebs 2008.

⁷⁵ For Hadrian's "law," see *Hom. de natiuitate Domini* 4 (ed. Morin – Gourdain 2018, 130): "uenit Hadrianus, et quoniam rursus in Galilaea rebellauerunt Iudaei, reliquias ipsius ciuitatis desolauit: legem tunc dedit, ut nullus Iudaeorum Hierosolymis accederet, et in istam ciuitatem de diuersis prouinciis adduxit neotericos. denique dicebatur Hadrianus, Aelius Hadrianus: nomine ergo suo, quoniam Hierosolymam subuerterat, Aeliam nuncupauit." In the *Chronicle* under 134 CE, Jerome speaks of several "Roman bans" imposed on the Jews: "Bellum Iudaicum quod in Palaestina gerebatur finem accipit rebus Iudaeorum penitus oppressis. Ex quo tempore etiam introeundi eis Hierosolymam licentia ablata Dei nutu, sicut profetae vaticinati sunt, deinde Romanis interdictionibus."

⁷⁶ Jews forbidden to enter Jerusalem at *Comm. Soph.* 1.15: "usque ad praesentem diem, perfidi coloni post interfectionem seruorum, et ad extremum filii Dei, excepto planctu, prohibentur ingredi Hierusalem; et ut in ruinam suae eis flere liceat ciuitatis, pretio redimunt." *Comm. Is.* 3.6.11–13: "post annos ferme quinquaginta Adrianus uenerit, et terram Iudaeam penitus fuerit depraedatus. [. . .] denique post extremam uastitatem, etiam leges publicae pependerunt, et prohibiti sunt Iudaei terram, de qua eiecti fuerant, ingredi."

⁷⁷ *Lex* as a general term for imperial enactments: Liebs 1992, 12. *Legem dare*: see also *Jer. Chron.* 363 CE (*lege data*) and *Chron.* 375 CE (*lege data*); *Adv. Iovinian.* 2.7.334D (*Valens . . . legem . . . dederat*). Compare *Chron.* 29 BCE (*leges statuit*). For examples from Augustine, see *Conf.* 8.5 (*lege data*); *Retract.* 2.26 (*leges dederat Honorius*); *Ep.* 105.2 (*legem dedit Constantinus prior*); and *Ep.* 10.3 Divjak (*Honorius ad praefectum Hadrianum legem dedit*). This usage does not support the assertion of Riedlberger 2020, 247 n. 373 that the abbreviation *dat.* in subscriptions to imperial constitutions does not, as has been universally assumed, denote the date when a law was enacted but rather when it was sent.

On the other hand, he consistently avoids the term *constitutio* for an imperial law; a single instance (under the year 178 in the *Chronicle*) is the exception that proves the rule.⁷⁸

All the other constitutions mentioned by Jerome come from Christian emperors. In his *Chronicle*, an entry for the year 331 says that “the temples of the pagans were destroyed due to an edict of Constantine.”⁷⁹ Jerome probably spun this statement out of the *Life of Constantine* by Eusebius of Caesarea, who claims that the emperor destroyed a small number of temples in Cilicia and Phoenicia.⁸⁰ This passage deserves closer scrutiny, mainly because it provides the only example of Jerome referring to an order of a late Roman emperor as an edict (*edictum*). The other two examples refer to emperors of the first century: one is Tiberius threatening accusers of Christians with the death penalty “by an edict,” the other Domitian expelling philosophers and astrologers from Rome “by an edict.”⁸¹ Moreover, Jerome consistently uses the term “edict” for enactments of Persian kings; in his translations of Old Testament books, we find “edicts” of Cyrus, of Ahasuerus, and of King Artaxerxes.⁸² This way of denominating the ordinances of Persian kings is significant because it is not derived from the Septuagint; in the Greek version, they are called *gnōmē* (“decree,” at Ezra 2.6.3) or *epistolē* (“letter,” at Esth 3.13a and 7.22). What connects all these texts is not a peculiar style of address—be it epistolary or edictal—but rather the way they were published: that is, by posting them up.⁸³ For Jerome, the distinctive feature of an edict seems to be the way in which the decision of a ruler was made public. This conclusion is confirmed by the observation that in his *Commentary on Isaiah* Jerome twice uses the verb *pendere* (“to be posted up”) of laws (*leges*) issued

⁷⁸ *Chron.* 178 CE (*imperatores [. . .] severiores quasque leges novis constitutionibus temperaverunt*).

⁷⁹ Destruction of pagan temples: *Chron.* 331 CE: (*Edicto Constantini gentilium templa subversa sunt*). The ninth-century *Chronicle* of Theophanes also has an entry under the year 5822 after creation, which corresponds to 329/330 CE, asserting that in this year Constantine “intensified the destruction of idols and their temples”; this entry might ultimately go back to the hypothetical “Arian history” composed during the reign of Valens. The emperor Constans invoked a law of his father Constantine as a precedent when he legislated against pagan sacrifice: *CTh* 16.10.2 (341). See against this, *Lib. Or.* 30.6 and 62.8.

⁸⁰ Eus. *V. Const.* 3.55–56 (shrine of Aphrodite at Aphaca and temple of Asclepius at Aegeae), 3.58 (shrine of Aphrodite at Heliopolis), 4.23.1, and 4.25.1 (ban on pagan sacrifice).

⁸¹ Tiberius and Domitian: *Chron.* 36 CE: (*Tiberius per edictum accusatoribus XPistianorum comminatus est mortem*) and *Chron.* 95 CE (*Domitianus rursus philosophos et mathematicos Roma per edictum extrudit*).

⁸² “Edicts” of Persian kings: *Comm. Is.* 12.44.21–23 (*edictum Cyri regis*); *Comm. Zach.* 1.6 (*Assueri regis edictum*); *Comm. Agg.*, praef. (*Artaxerxis regis edictum*).

⁸³ On the formal characteristics and terminology of imperial enactments in Late Antiquity, see Van der Wal 1981; Riedlberger 2020, 40–77.

by Roman emperors.⁸⁴ In his view, all imperial enactments are laws, and laws are posted up as edicts. This terminology mirrors the way in which someone who knew little about law-making at court learned about the emperor's will from the edicts that were posted up in the provinces.

In the same commentary, written thirty years after the *Chronicle* (in 408 to 410), Jerome credits Constantine with having “blotted out the unbelief and moral turpitude of the nations”; the context shows that Jerome has sexual relationships between men and male prostitution in mind.⁸⁵ Since no law of Constantine on this subject has been preserved, this could be another case of Jerome freely generalizing from the *Life of Constantine*; according to Eusebius, the temple in Aphaca destroyed on Constantine's orders was “a school of vice for all dissolute persons,” including “womanish men” (*gynides*). It is tempting, however, to link Jerome's statement with a passage in the *Ecclesiastical History* of Sozomen claiming that Constantine “corrected many licentious and depraved forms of intercourse (*akolastoi kai kateblakeumenai mixeis*), which until that period had not been forbidden.” The church historian provides no further details, directing his readers to “the existing laws (*nomoi*) about this subject.”⁸⁶ As he was a lawyer by profession and knew the *Theodosian Code* in its complete form, this reference should not be lightly dismissed. A possible explanation is that the law adduced by Sozomen has simply been lost. Perhaps, however, Sozomen ascribes to Constantine legislation actually authored by his son, Constans. In a law issued in Milan in 342 and preserved in the *Theodosian Code*, Constans strongly condemns sexual activities in which men take the role of women and orders the “statutes to arise and the laws to be armed with an avenging sword” against offenders.⁸⁷ Sozomen might have interpreted

⁸⁴ Laws “posted up”: *Comm. Is.* 3.6.11–13; 17.60.10–12. For the technical use of the verb *pendere*, see *TLL* 10.1.1 under *pendere* (col. 1031): “tabulae, edicta vel sim. proponendi, promulgandi causa.”

⁸⁵ For extinction of male homosexuality, see *Jer. Comm. Is.* 1.2.6d: “et pueris alienis adhaeserunt’ [. . .] in tantum autem Graeci et Romani hoc quondam uitio laborauerunt, ut et clarissimi philosophorum Graeciae haberent publice concubinos; et Adrianus philosophiae artibus eruditus, Antinoum consecrarit in deum templumque ei ac uictimas et sacerdotes instituerit et ex eo Aegypti ciuitas ac regio nomen acceperit. inter scorta quoque in fornicibus spectaculorum pueri steterint publicae libidini expositi, donec sub Constantino imperatore, Christi euangelio coruscante et infidelitas uniuersarum gentium et turpitudine deleta est.”

⁸⁶ *Soz.* 1.8.14: “φαίνεται [sc. Constantine] γοῦν τὰς ἀκολάστους καὶ κατεβλακευμένας μίξεις, πρὸ τούτου μὴ κωλυόμενας, ἐπανορθώσας, ὡς ἐξ αὐτῶν συνιδεῖν ἔστι τῶν περὶ τούτων κειμένων νόμων.” Most of the laws cited by Sozomen are included in the *Theodosian Code*, which was clearly a major source for him; the extent to which he used other juristic texts and archival materials is disputed: contrast Harries 1986 with Nuffelen 2004, 54–55 and 252–54, who is much more skeptical.

⁸⁷ *CTh* 9.7.3 (= *CJ* 9.9.30): “Impp. Constantius et Constans AA. ad populum. Cum vir nubit in feminam, femina viros proiectura quid cupiat, ubi sexus perdidit locum, ubi scelus est id, quod non proficit scire, ubi venus mutatur in alteram formam, ubi amor quaeritur nec videtur, iubemus

this as a reference to earlier legislation on the subject, or he might have been misled by the fact that the law of Constans follows two laws of Constantine in the *Code*. Be that as it may, Jerome was not alone in believing that effective legislation against male homosexuality had started with the first Christian emperor, despite the fact that consenting to sexual intercourse between men in a passive role had been penalized before Constantine,⁸⁸ and that the first preserved law to put the death penalty on male prostitution was issued by Theodosius I in 390.⁸⁹ To Jerome, the difference between these two offences would have been slight. Like so many other ecclesiastical authors of his time, he regarded all forms of extra-marital sex as a grave sin and fully approves legal sanctions against same-sex relations.⁹⁰ This attitude was also shared by the anonymous author of a work conventionally called *Comparison between the Laws of Moses and the Laws of the Romans*, which was composed in Rome in the 390s.⁹¹ With the declared aim of demonstrating the fundamental harmony between the Mosaic prohibition of male homosexuality and Roman

insurgere leges, armari iura gladio ultore, ut exquisitis poenis subdantur infames, qui sunt vel qui futuri sunt rei. Dat. prid. non. Dec. Mediolano, proposita Romae XVII kal. Ianuar. Constantio III et Constante II AA. Cons.” On this much abridged and barely intelligible law, see the discussion by Dalla 1987, 167–70; compare Hoheisel 1994, 359–60; Frakes 2011, 266.

⁸⁸ Paulus, *Sent.* 2.26.13 (= *Coll.* 5.2): The person consenting to take the passive role was fined with the loss of half of his property and forbidden to bequeath more than half of the remainder by testament. Rape of free young men was punished with death: Paulus, *Sent.* 2.26.12, 5.4.14; compare Dalla 1987, 109–11; Hoheisel 1994, 326–27. On legal disabilities of “passive homosexuals” and male prostitutes in Classical Roman law, see McGinn 1998, 44–69. On the obscure *lex Sca(n)tinia*, first attested in 50 BCE, see Dalla 1987, 71–100; Williams 2010, 130–36 (who argues that it penalized *stuprum* in general, while the Augustan *lex Iulia de adulteriis* focused on adultery as a particular species of it).

⁸⁹ The law of Theodosius is found in *Coll. Mos. et Rom. Leg.* 5.3; see Liebs 1987, 165–69; Dalla 1987, 167–70; Frakes 2011, 265–67. Aur. Vict. *Caes.* 28.6–7 (compare *SHA Alex. Sev.* 24.4) asserts that the emperor Philip tried to suppress male prostitution but concedes that the practice, although forbidden, continued into his day. On the attitudes of upper-class Romans to homosexuality during the early and high empire, see MacMullen 1982; Williams 1999.

⁹⁰ For Jerome’s attitude to male homosexuality, see *Comm. Eph.* 2.4.17 (*PL* 26: 504): “ultra concessam uiri ad feminam coniunctionem, ad maiora conscendunt, masculi in masculos turpitudinem operantes, et mercedem erroris sui in semetipsis recipiunt.” *Comm. Is.* 18.66.7: “in correctionem eorum, qui talia committere non erubescunt, quae turpe est et dicere, dum scortis adhaerent in modum canum, et masculi in masculos exercent turpitudinem, retributionem peccati in semetipsum recipiunt.” *Comm. Ioel.*; compare *Apol. adv. Ruf.* 2.18.441C/D. On homosexuality in Mosaic law, see Lev 18.22, 20.13; Daube 1985; Hoheisel 1994, 327–30. The attitudes of Jewish and Christian writers before and after Constantine are surveyed in Dalla 1987, 135–64; Hoheisel 1994, 334–48.

⁹¹ The identity and purpose of the scholar who put together the *Collatio*—the manuscripts have the title *Lex dei quam praecepit dominus ad Moysen*—is still under dispute; for an overview, see Frakes 2015. Liebs 1987, 162–74 and Frakes 2011, 124–54 hold that the author was a Christian lawyer living in Rome in the 390s, while Manthe 2021 defends the view that he was a Jewish scholar and also identifies him with the so-called Ambrosiaster. According to Barnes 2012, the transmitted text represents the revised version of a work composed in the early fourth century by a Jewish scholar.

law, the collator cites in full the law of Theodosius ordering that male prostitutes be burned alive. The unabridged text begins with a strong condemnation of men playing the passive role in same-sex relationships which would later be cut out by the compilers of the *Theodosian Code*.⁹²

The information Jerome gives about the legislation of Julian is more circumstantial. In the treatise against the followers of Lucifer of Cagliari, written soon after the death of the emperor Valens, we find the purely factual statement that the bishops who had been banished by the emperor Constantius had returned to their churches because of an act of amnesty (*per indulgentiam*) by his successor—that is, Julian.⁹³ According to the so-called *Acephalous History*, a partisan history of Athanasius and the see of Alexandria based on documents, this order (*praeceptum*) was delivered to Gerontius, the prefect of Egypt, on 14 Mecheir 362 and published on the next day; the date of publication in Alexandria was thus 9 February 362.⁹⁴ Latin ecclesiastical writers are remarkably reluctant even to mention this act of amnesty among whose beneficiaries were bishops of their own faction. Rufinus of Aquileia reports it but with the comment that Julian had wanted to put his predecessor in a bad light;⁹⁵ in this way, he devalues a decision he could not criticize as such by linking it to a sinister motive. In the *Chronicle* we find Jerome asserting that the sophist Prohaeresius had declined Julian's offer to continue teaching, despite a legal ban on Christians teaching “the liberal arts”:

When a law was enacted (*lege data*) which forbade Christians to be teachers of the liberal arts, Prohaeresius the Athenian sophist abandoned his school of his own accord, although Julian granted an exception for him so that he could carry on teaching despite being a Christian.⁹⁶

⁹² *CTh* 9.7.6; compare Dalla 1987, 182–84. The compilers of the *Codex Theodosianus* used a copy, which was posted on 6 August 390 in the Forum of Trajan while the copy cited by the collator was posted on the 14 May 390 in the Atrium Minervae.

⁹³ Return of banished bishops under Julian, Jer. *Alt. Luc. et Orth.* 19: “Omnes episcopi qui de propriis sedibus fuerunt exterminati, per indulgentiam novi principis (sc. Iuliani) ad ecclesias redeunt.” Compare Jul. *Ep.* 46 (ed. Bidez, *Budé*) and *Ep.* 110 (ed. Bidez, 398D, *Budé*); Amm. 22.5.3. For the historical context, see Brennecke 1988, 96–100.

⁹⁴ *Hist. Aceph.* 3.2: “Post dies autem III<I>, methir XIX, datum est preceptum Gerontio prefecto eiusdem Iuliani imperatoris nec non etiam vicarii Modesti, precipiens episcopos omnes functionibus antehac circumventos et exiliatos reverti ad suas civitates et provincias. Hae autem litterae, sequenti die methir XV, propositae sunt.” We also learn from this account that the order had been forwarded by the *comes Orientis* Domitius Modestus under whose supervision the prefect of Egypt acted; see *PLRE* 1: 605–09, “Modestus 2.” Gerontius is attested as prefect of Egypt since 30 November 361: *PLRE* 1: 393, “Gerontius 2.”

⁹⁵ Ruf. *HE* 10.28: “is [sc. Iulianus] primo, velut arguens perperam gesta Constantii, episcopos iubet de exiliis relaxari.”

⁹⁶ Jer. *Chron.* 363 CE: “Prohaeresius sofista Atheniensis lege data, ne Xpiani liberalium artium doctores essent, cum sibi specialiter Iulianus concederet, ut Xpianus doceret, scholam sponte deseruit.”

In contrast to later ecclesiastical authors, Jerome explicitly speaks of a ban on Christian teachers; in Ambrose, Rufinus, and Augustine, Julian not only forbids Christians to teach the liberal arts in school but also bars Christian pupils from learning them.⁹⁷ They all agree, however, that Julian's law applied to all teachers, regardless of whether they were appointed by municipal decree or taught in private schools. How much weight can be put on this consensus is problematic because the *Theodosian Code* contains a law of Julian on teachers whose provisions seem to point in another direction. The law prescribes that teachers of rhetoric and language (*grammatici*) need to be approved by the decree of the city council after an examination of both their eloquence (*facundia*) and their moral probity (*mores*); there is no mention of their faith.⁹⁸ The compilers of the *Code of Justinian* thus saw no reason to exclude this law from the lawbook that they produced for their most Christian emperor.⁹⁹

On the other hand, a letter of Julian, written in Greek, which has survived without an addressee, in fact denies Christians the ability to teach texts in which the gods of Homer are taken for granted. How the evidence of the *Code*, the Greek letter, and the literary sources can be reconciled, has been debated endlessly,¹⁰⁰ and I have no new solution to offer.¹⁰¹ In my opinion, municipal councilors were to examine only those instructors that applied to them for employment; an order to search out actively all rhetors and grammarians teaching in a city would have been not only unprecedented but also almost impossible to implement, at least in bigger cities. A problem more directly relevant to Jerome is why he connects Julian's "school law" with

⁹⁷ Ruf. *HE* 1.33 (*studia auctorum gentilium Christianos adire prohibens ludos litterarum illis solis, qui deos deasque venerarentur, patere decernit* [sc. Iulianus]); Amb. *Ep.* 72 (17).4 (*qui loquendi et docendi nostris communem usum Iuliani lege proxima denegarunt*); Aug. *Conf.* 8.5.10 (*imperatoris Iuliani temporibus lege data prohibiti sunt docere litteraturam et oratoriam*) and *Civ. Dei* 18.52.1 (*Christianos liberales litteras docere ac discere vetuit* [sc. Iulianus]). The main sources in Greek are Gregory of Nazianzen's two "Invectives against Julian" (*Or.* 4.101–3; *Or.* 5.29 and 5.39); see also John Chrysostom's sermon *On St. Iuveninus and Maximinus* 1; Soc. 3.12–13 and 3.16; Soz. 5.18.1; Theod. *HE* 3.4.

⁹⁸ *CTh* 13.3.5 (17 June 362): "magistros studiorum doctoresque excellere oportet moribus primum, deinde facundia. sed quia singulis civitatibus adesse ipse non possum, iubeo, quisque docere vult, non repente nec temere prosiliat ad hoc munus, sed iudicio ordinis probatus decretum curialium mereatur optimorum conspirante consensu. hoc enim decretum ad me tractandum referetur, ut altiore quodam honore nostro iudicio studiis civitatum accedant. Dat. xv kal. Iul., acc. iiii kal. Augustas Spoletio Mamertino et Nevitta cons." *CJ* 10.53.7.

¹⁰⁰ Modern literature on Julian's "school law" continues to grow; I confine myself to citing five major studies from the last two decades (in chronological order): Germino 2004; Goulet 2008; McLynn 2014; Cecconi 2015; Vössing 2018; see also Matthews 2000, 274–77; Schmidt-Hofner 2018, 160–62; Marcone 2019, 182–86.

¹⁰¹ Jul. *Ep.* 61c (ed. Bidez, *Budé*), correctly, if critically reported by Amm. 25.4.20: "docere vetuit [sc. Iulianus] magistros rhetoricos et grammaticos Christianos nisi transissent ad numinum cultum."

Prohaeresius. This is all the more remarkable because he must have known that Marius Victorinus, who was professor of rhetoric in Rome, also chose to renounce his post when Julian's law was promulgated.¹⁰² Jerome was studying in Rome at the time, albeit with another rhetor whose name we do not know, and he makes disparaging remarks about Marius Victorinus as an exegete of the Bible in other writings.¹⁰³ He thus deliberately ignores a man who was not only a very successful teacher of rhetoric but also the author of theological tracts and commentaries on the epistles of Paul and thus a rival in the field of study where Jerome claimed superior expertise. Being a young writer of talent and great ambition when he composed the *Chronicle*, Jerome could not bring himself to proclaim Marius Victorinus a confessor, since that would have meant to acknowledge that the man with whom he competed could claim spiritual authority on top of his fame as a man of letters.

This hypothesis still does not explain the connection with Prohaeresius, however. Jerome presents the Athenian sophist as a steadfast Christian, but at the time his religious stance was clearly ambiguous and after his death became the subject of controversy. Julian himself asked Prohaeresius to write a historical account of his "return" from Gaul to the east shortly after the beginning of his sole reign, heaping praise on him as an orator and instructor.¹⁰⁴ Eunapius, an ardent pagan and at the same time a pupil of Prohaeresius, briefly records that "when Julian was emperor," his teacher "was shut out from teaching <by a law>," but adds "because he seemed to be a Christian" and goes on to record that he consulted a pagan priest, the hierophant of the Eleusinian mysteries, about Julian's future.¹⁰⁵ Jerome is clearly responding to a pagan tradition about Prohaeresius, although it seems unlikely that he used Eunapius as a source, as has been argued.¹⁰⁶

¹⁰² Marius Victorinus (*PLRE* 1: 964, "Victorinus 11"; *PCBE* 2: 2289–93, "Victorinus 1"). For Julian, see Aug. *Conf.* 8.5.10: "loquacem scholam deserere maluit [sc. Victorinus] quam verbum tuum [sc. Dei]."

¹⁰³ Jerome on Marius Victorinus at *de vir. ill.* 101: "in extrema senectute Christi se tradens fidei scripsit aduersus Arium libros more dialectico ualde obscuros, qui nisi ab eruditis non intelleguntur." *Comm. Gal.*, praef.: "occupatus ille eruditione saecularium litterarum, scripturas omnino sanctas ignorauerit et nemo possit, quamvis eloquens, de eo bene disputare quod nesciat." For Jerome's literary strategy of obliterating Victorinus as the first Latin commentator on the Pauline epistles, see now the penetrating analysis by Cain 2021, 63–72.

¹⁰⁴ Julian's letter to Prohaeresius: *Ep.* 31 (ed. Bidez, *Budé*).

¹⁰⁵ Eun. *V. Soph.* 10.8.1 (ed. Giangrande 1956, 79, writing <έν> τόπω) = 10.85 ed. Goulet 2014, 265): "Ἰουλιανοῦ δὲ βασιλευόντος, <νόμος> τοῦ παιδεύειν ἐξειργόμενος—ἔδοκει γὰρ [sc. Προαιρέσιος] εἶναι χριστιανός . . ." <νόμος> is an easy emendation for the manuscript reading τόπω which doesn't make sense. The emendation, first proposed by Giangrande 1953, 305 (but abandoned later) and then developed by Guida 1996, has been accepted by all recent editors and commentators. See Penella 1990, 92; Criviletti 2007, 615–16 n. 697; Becker 2014, 481–82; Goulet 2014, 265.

¹⁰⁶ The case made by Banchich 1987 for direct use of Eunapius (in a first edition of the *Histories* published, according to him, around 380) in Jerome's *Chronicle* is unconvincing. The parallels

Julian's successor Jovian ruled only eight months; his successor in the west, in turn, was Valentinian I. An entry in Jerome's *Chronicle* under the year 370 says that "on the orders" (*iussus*) of this emperor, the *praefectus annonae* Maximinus conducted trials at Rome which resulted in the death of many senators (*plurimi nobiles*).¹⁰⁷ Ammianus gives a detailed account of these trials, which he regards as cruel and contrary to the law:¹⁰⁸ Maximinus had investigated cases of magic and informed Valentinian by an official report (*relatio*) about his findings; he was then instructed to apply torture to all defendants, even to those of senatorial rank, who were normally protected by law from this kind of treatment. The instruction Maximinus received will presumably have taken the form of a letter.¹⁰⁹

The only legislative measure of Valentinian which Jerome discusses in more detail is again preserved, in an abridged version, in the *Theodosian Code*; the copy we find there is addressed to Damasus as bishop of Rome.¹¹⁰ According to the subscription, the law was read out in the churches in Rome on 30 July 370, but it was certainly known beyond this area, since Ambrose used it as an argument in the controversy about the restoration of the altar of victory

adduced are few and can be explained differently; they do not therefore necessitate the assumption that Jerome turned to an openly and aggressively pagan account of the recent past when he continued Eusebius's chronological tables into his own time. Banchich's assertion that Eunapius's historical monograph "only gradually assumed the character of an anti-Christian polemic" (324) runs counter to the testimony of Photius, who asserts the direct opposite (*Phot. Cod.* 77).

¹⁰⁷ For trials in Rome, *Jer. Chron.* 371 CE: "Maximinus praefectus annonae maleficos ab imperatore [sc. Valentiniano] inuestigare iussus plurimos Romae nobilium occidit."

¹⁰⁸ *Amm.* 28.1.5–57. For the historical context, see Matthews 1989, 209–11; Barnes 1998, 241–46; Errington 2006, 118–20, who discusses three laws addressed to recipients in Rome between 368 and 371 which define the limits of legal protection of senators against the application of torture: *CTh* 9.40.10, 9.35.1, and 9.16.10.

¹⁰⁹ *Amm.* 28.1.10–11: "cognitor relatione maligna docuit principem, non nisi suppliciis acrioribus scrutari posse vel vindicari, quae Romae perpetrare conplures. his ille cognitis efferatus, ut erat vitiorum inimicus acer magis quam severus, uno proloquio in huius modi causas, quas adroganter proposito maiestatis inminutae miscebat, omnes quos iuris prisci iustitia divorumque arbitria quaestionibus exemere cruentis, si postulasset negotium, statuit tormentis adfligi."

¹¹⁰ *CTh* 16.2.20: "Imppp. Valentinianus, Valens et Gratianus AAA. ad Damasum episcopum urbis Romae. ecclesiastici aut ex ecclesiasticis vel qui continentium se volunt nomine nuncupari, viduarum ac pupillarum domos non adeant, sed publicis exterminentur iudiciis, si posthac eos adfines earum vel propinqui putaverint deferendos. censemus etiam, ut memorati nihil de eius mulieris, cui se privatim sub praetextu religionis adiunxerint, liberalitate quacumque vel extremo iudicio possint adipisci et omne in tantum inefficax sit, quod alicui horum ab his fuerit derelictum, ut nec per subiectam personam valeant aliquid vel donatione vel testamento percipere. quin etiam, si forte post admonitionem legis nostrae aliquid isdem eae feminae vel donatione vel extremo iudicio putaverint relinquendum, id fiscus usurpet. ceterum si earum quid voluntate percipiunt, ad quarum successionem vel bona iure civili vel edicti beneficiis adiuvantur, capiant ut propinqui. Lecta in ecclesiis Romae III kal. Aug. Valentiniano et Valente III AA. Conss." Compare Riedlberger 2020, 296–99. On Damasus, see *PCBE* 2: 530, "Damasus"; Reutter 2009. His intimate relationships with wealthy women earned him the pejorative nickname *matronarum auriscalpius* (*Coll. Avell.* 1.10); compare Fontaine 1988. On legacy hunting in Rome, see also *Amm.* 14.6.22.

(384).¹¹¹ Valentinian's law forbade clerics, former clerics, and monks to enter the houses of widows and fatherless young women (*pupillae*), and it declared gifts and testamentary bequests in their favor invalid unless they were entitled to them by virtue of kinship.¹¹² There is no need to assume that the law was also published in the east; Jerome—who was a recent convert to asceticism when the law was issued—may have known it because he had access to the archives of the Curia when he was secretary to Damasus in 382 to 384.¹¹³ Legacy hunting (called *captatio* in legal sources) by clerics and monks was still a topic that stirred public debate in the late 380s when Ambrose wrote his book *On Duties*: the bishop of Milan advises younger clergy not to enter the dwellings of widows or virgins at all; elder clergy should visit widows and virgins only in the company of a bishop or a priest, otherwise they would bring the Church into discredit.¹¹⁴ Jerome touches on the subject a few years later, in a letter he wrote to the priest Nepotianus in 393/394. While not denying that Valentinian's law was directed against behavior that deserved to be forbidden, he turns the loss of the right to accept gifts or testamentary benefits from wardens and widows into a general inability to inherit:

I am ashamed to say it, but priests who serve idols, actors, charioteers, and harlots can all inherit property: clergymen and monks alone are by law debarred, a law passed not by persecutors but by Christian emperors. I do not complain of the enactment, but it grieves me to think that we deserved it. A cautery is a good thing, but how is it I have a wound that needs a cautery? The law's precaution is stern and prudent; yet even so greed is not checked. By means of trusts (*fideicommissa*) we elude its provisions, and, as though imperial enactments were of more importance than Christ's commands, we fear the laws and despise the Gospels.¹¹⁵

¹¹¹ Amb. *Ep.* 73 (18).13–14: “At contra nobis etiam privatae successionis emolumenta recentibus legibus denegantur et nemo conqueritur; non enim putamus iniuriam quia dispendium non dolemus [. . .] soli ex omnibus clerico commune ius clauditur a quo solo pro omnibus votum commune suscipitur, officium commune defertur, nulla legata vel gravium viduarum, nulla donatio.”

¹¹² Constantine had recognized the Church as a legitimate beneficiary of inheritances: *CTh* 16.2.4 (321). Compare Evans Grubbs 1995, 102–39, especially 138–39. On earlier attempts to suppress legacy hunting (*captatio*) by legislation, see Tellegen 1979.

¹¹³ Riedlberger 2020, 90 adduces this passage as evidence against the theory that, after the formal division of the imperial administration in 364, emperors could only legislate in their part of the empire. For the debate, see Riedlberger 2020, 77–112 (arguing that imperial laws were in principle valid in the whole empire) and Sirks 2021 (defending what has become the *communis opinio* since the 1950s).

¹¹⁴ Ambrose's advice at *Off.* 1.20.87: “Viduarum ac virginum domos, nisi visitandi gratia, iuniores adire non est opus: et hoc cum senioribus, hoc est, vel cum episcopo, vel si gravior est causa, cum presbyteris.”

¹¹⁵ Translation (slightly modified) in Cain 2013, 43 of Jer. *Ep.* 52.6.1–2: “pudet dicere: sacerdotes idolorum et mimi et aurigae et scorta hereditates capiunt; solis clericis et monachis hoc lege prohibetur et prohibetur non a persecutoribus, sed a principibus Christianis. nec de lege conqueror,

Jerome lived in the East in the 370s, staying temporarily in Antioch, where the court of Valens then resided.¹¹⁶ It is, therefore, hardly surprising that he is able to report three legislative measures by this emperor. In the *Chronicle*, under the year 377, he reports that “shortly before his departure from Antioch, Valens, in late repentance, recalled the exiled bishops from exile.”¹¹⁷ Because this report is very close to the events, it should be preferred to later accounts which attribute the recall to Theodosius I. It is far more likely that authors adhering to the Nicene Creed deliberately transferred an amnesty which had been granted by an emperor labelled an Arian to an emperor they regarded as the champion of the Nicene Creed than vice versa. Unfortunately, Jerome does not say how the recall was communicated and implemented; perhaps the emperor preferred to have letters sent to the exiles individually over publishing his decision by an edict which could be construed as an admission of defeat.

Jerome is somewhat more specific, if still very brief, about a law (*lege data*) by which Valens forced monks to serve the emperor (*ut monachi militarent*); in case of violation, the emperor threatened execution with cudgels.¹¹⁸ It is easy to understand why this law aroused Jerome’s indignation and how he knew about it, especially since at the time he was in both direct and indirect contact with Egyptian monks who had been banished to Syria. Whether he also recorded the law’s provisions correctly is not entirely clear: the verb *militare* could mean “imperial service” in a broad sense and thus include the *militia cohortalis* of governors, a class of officials who on their retirement were required to undertake a particularly burdensome and expensive task.¹¹⁹

sed doleo, cur meruerimus hanc legem. cauterium bonum est, sed quo mihi uulnus, ut indigeam cauterio? prouida seueraque legis cautio, et tamen nec sic refrenatur auaritia. per fideicommissa legibus inludimus et, quasi maiora sint imperatorum scita quam Christi, leges timemus, euangelia contemnimus.” Compare Cain 2013, 156–61. The *fideicommissa* used to circumvent the law were not fictitious (Cain translates “by a fiction of trusteeship”) but rather requests addressed by the testator to the heir to give property to a person who was not legally entitled to inherit directly. If made orally, such requests were likely to stir controversy; see Riedlberger 2020, 299.

¹¹⁶ Barnes 1998, 247–54 sets out the evidence for Valens’s movements.

¹¹⁷ *Chron.* 377 CE: “Valens de Antiochia exire compulsus sera paenitentia nostros de exiliis reuocat.” The notice is repeated by Ruf. *HE* 11.13: “seraque paenitentia episcopos et prebyteros relaxari exiliis ac de metallis resolvi monachos iubet.” For the historical context, see Snee 1985; Lenski 2002, 261 (a reversal of policy in the face of military crisis); contrast Errington 2006, 187–88. (“the connection with the Gothic crisis was merely accidental, the recall of the worthy Nicenes long planned”). Brennecke 1988, 241 seems doubtful as to whether Valens really is the author of the recall.

¹¹⁸ *Jer. Chron.* 375 CE: “Valens lege data, ut monachi militarent, nolentes fustibus iussit interfici.” Jerome is the sole independent witness to this law. All later references to it (cited by Lenski 2004, 93) are derived from it. Lenski 2004, 100–102 rightly points out that *fustuarium* was a traditional punishment inflicted for military desertion, arguing that Valens regarded monasticism as a threat to military manpower.

¹¹⁹ *Militia cohortalis*: Jones 1964, vol. 2: 594–95.

Punishment with cudgels would, however, be more appropriate (according to Roman penal law) if monks who did not comply with the law were regarded as deserters from the army and who were thus subject to *fustuarium*.¹²⁰

Scholars have often connected this law to the riots in Alexandria that followed on the death of Athanasius on 3 May 373: after Petrus, brother of Athanasius and consecrated as his successor, had been driven out of the city, the Homoean Lucius took control of the see with the help of a military escort and began to “purify” the clergy which had been appointed by his predecessor Athanasius.¹²¹ Accordingly, the law mentioned by Jerome has been assumed to have had a narrowly limited temporal and spatial scope.¹²² This interpretation fits the entry’s date—which is precisely 373—and is also encouraged by the fact that the entry reporting it immediately follows on the statement that “many monks” in the Nitrian desert had been killed by *tribuni* and soldiers.¹²³ As Noel Lenski has demonstrated, however, one must be cautious in inferring the scope of the law’s application from the occasion of its issue; there is circumstantial evidence that this law was also applied to monks in other provinces.¹²⁴

The third enactment of Valens which Jerome mentions was not included in the *Theodosian Code* either. Modern accounts of Valens or late Roman legislation take note of it only rarely and mostly in passing.¹²⁵ Jerome, in his treatise against the Roman priest Jovinian, written in 393, explains in detail and with great erudition that the customs and traditions of different peoples

¹²⁰ Jer. *Ep.* 3.2 (*quidam Alexandrinus monachus, qui ad Aegyptios confessores et voluntate iam martyres pio plebes fuerat transmissus obsequio*) and *Ep.* 15.2 (*hic collegas tuos Aegyptios confessores sequor et sub onerariis navibus parva navicula delitesco*).

¹²¹ For the events, see Brennecke 1988, 236–38; Mratschek 2012, 251–52. The main source is a letter written by Petrus during his exile in Rome and partially inserted into Theodoret’s *Ecclesiastical History* (4.22); the other relevant texts are cited by Lenski 2004, 96–97. Jerome is remarkably cool towards Petrus: while he does not mention that he had been designated by Athanasius, he reports that his conciliatory attitude towards the “heretics” aroused the suspicion that he had been bribed: Jer. *Chron.* 373 CE (*tam facilis in recipiendis haereticis fuit, ut nonnullis suspicionem acceptae pecuniae intulerit*). Rufinus, on the other hand, depicts his opponent Lucius as a veritable monster: Ruf. *HE* 11.3.

¹²² Errington 2006, 175–88, especially 186–87. (“doubtless mainly of local Egyptian application”). Brennecke 1988, 236–38 does not pronounce on the scope of the law.

¹²³ Jer. *Chron.* 375 CE (*Multi monachorum Nitriae per tribunos et milites caesi*); compare Rufin. *HE* 11.3 (an eye-witness account) and the other sources cited by Lenski 2004, 97–99. For legislation against see Lenski 2004, 99–101.

¹²⁴ Lenski 2002, 211–63, especially 256–57; Lenski 2004.

¹²⁵ There is no reference to the law in Seock 1919, Stemberger 1993, or Pergami 1993. J. Kelly 1944, 13; Demandt 2007, 392; and Millar 2010, 71 cite Jerome’s paraphrase of the law without an attempt to explain it. A notable exception is the short article of Opelt 1971 which has been overlooked in most subsequent scholarship. Like Bartoldus 2014, 230, she surmizes that Valens intended to increase the number of cattle (“um den Viehbestand zu heben”). For the interpretation of Lenski 2002, 390, see below note 136.

often differ considerably.¹²⁶ In the context of eating habits, he refers to a law of Valens that is not mentioned anywhere else. The passage reads:

In Egypt and Palestine, owing to the scarcity of cattle no one eats (the meat of) a cow, and they make the meat of bulls, oxen, or calves, a portion of their food. Moreover, in my province it is considered a crime to eat (the meat of) calves. Accordingly, the emperor Valens recently promulgated a law throughout the East, forbidding people to eat the meat of calves. He had in view the benefit of agriculture, and wished to correct the bad practice of the Judaizing populace who, *pro altibus et lactentibus*, eat calves.¹²⁷

Understanding (and translating) the passage is far from easy;¹²⁸ several points call for clarification: in the opening sentence, Jerome draws a contrast between the eating of cows, which was taboo in Egypt and Palestine, and the eating of bulls (*tauri*), oxen (*boves*), or calves (*vituli*), which were part of the Egyptian diet. For this statement, Jerome relies on Porphyry's defense of vegetarianism, his major source in this section, replacing "the Phoenicians" with Palestine.¹²⁹ The phrase "in my province" refers to Jerome's actual place of residence rather than to the province in which he grew up: it is a colloquial way of saying "where we live"¹³⁰—that is, in the area around Jerusalem, which in his day

¹²⁶ For a rhetorical analysis of this treatise, see Opelt 1974, 37–63, especially 54–57.

¹²⁷ My translation. Jer. *Adv. Iov.* 2.7.334D Vallarsi (= *PL* 23: 308): "in Aegypto et Palaestina propter boum raritatem nemo uaccam comedit, taurorumque carnes et boum uitulorumque assumunt in cibis. at in nostra prouincia scelus putant uitulos deuorare. unde et imperator Valens nuper legem per Orientem dederat, ne quis uitulorum carnibus uesceretur, utilitati agriculturae prouidens, et pessimam Iudaizantis uulgi emendans consuetudinem, pro altibus et lactentibus, uitulos consumentis." A critical text of this passage was established by Ernst Bickel in his Latin monograph on Seneca's lost treatise *On Matrimony* (Bickel 1915, 373–420, here: 401–2), which I use with one small alteration, reading *lactentibus* instead of *lactantibus*. In the context of animals, Jerome prefers the adjective *lactens* over the adjective *lactans*; for the former, see *TLL* 7.2 under *lactens* (col. 850), and for the latter see *lactans* (col. 849–50). Jerome's usage is clear from the examples cited in the next note.

¹²⁸ Millar 2010, 70 still relies on the translation by William Henry Fremantle first published in the "Library of the Nicene and Post-Nicene Fathers" (2nd series, vol. 6) in 1893 and now accessible on the internet. Fürst 2016, 372 does not list any other translation of this text into a modern language. *Vitulus* is the technical term for cattle in its first year of life (see Varro, *Rust.* 2.5.6; *Ling.* 5.96; Vincke 1931, 64), but Jerome distinguishes between *vituli lactentes* (*Comm. Am.* 3.6; *Comm. Nab.* 3.l.574; *Comm. Hab.* 1.1) and *vituli saginati* (*Comm. Am.* 3.6; *Ep.* 21.54, and so on).

¹²⁹ Porph. *Abst.* 2.11.1: "Παρὰ γοῦν Αἰγυπτίοις καὶ Φοίνιξι θάττων ἄν τις ἀνθρωπειῶν κρεῶν γεύσαιτο ἢ θηλείας βοός. Αἴτιον δὲ ὅτι χρήσιμον τὸ ζῶον ὃν τοῦτο ἐσπάνιζε παρ' αὐτοῖς. Διὸ ταύρων μὲν καὶ ἐγεύσαντο καὶ ἀπὴρξαντο, τῶν δὲ θηλειῶν φειδόμενοι τῆς γονῆς ἔνεκα, ἐν μύσει τὸ ἄσπασθαι ἐνομήτησαν." See also 2.61.7 and 4.7.3; compare Hdt. 2.41.1.

¹³⁰ Fremantle 1893, 393 n. 2; Newman 2001, 436; and Millar 2010, 70 understand the phrase as a reference to Dalmatia or Pannonia. This is unlikely because Jerome, the *homo Romanus*, never identifies himself as Dalmatian, Pannonian, or Illyrian; he only once mentions his birthplace Stridon as a town on the border between Dalmatia and Pannonia: *de vir. ill.* 135. Moreover, in *Ep.* 22.34, written in Rome and addressed to Eustochium, the phrase *in nostra prouincia* clearly refers

was populated mostly by Christians.¹³¹ In the last sentence, Jerome does not oppose the consumption of veal to the consumption of poultry and suckling pigs, as the only complete translation of the treatise into English has it; this would make nonsense of the text, as a ban on eating poultry is not attested in Jewish dietary laws.¹³² The Jewish rule to which Jerome alludes is clearly the ban on eating pigs; *pro altilibus et lactentibus* in this context signifies “instead of fattened or suckling pigs.”¹³³

With the meaning of the text established, we can try to analyze its content. There is no reason to doubt that Valens did actually promulgate such a law. The statement that the emperor enacted it all over the East (*per Orientem*)—that is, in and thus for the part of the empire he ruled—also seems credible.¹³⁴ Problematic, however, are the goals Jerome imputes to the emperor: the claim that Valens wanted to dissuade Judaizing Christians from eating veal instead of fattened or suckling pigs strains credulity. It is true that Christian preachers like John Chrysostom were worried about members of their flock who participated in Jewish festivals and took over Jewish customs; his *Sermons against Judaizing Christians* were delivered in Antioch in 386.¹³⁵ But an emperor like Valens, who dealt with religious issues only when he could not avoid it, hardly saw it as his duty to emphasize and enforce the separation between Christians and Jews.¹³⁶ This motive is a product of Jerome’s imagination.

If we accept the claim that the emperor forbade the consumption of veal, the prohibition can be interpreted in two ways. Either it applied only to

to Rome, since Jerome says that, by contrast with Egypt, communal life in groups of two or three is the first and only form of monasticism known *in nostra provincia*. This expression clearly includes the addressee; compare Rebenich 1992, 177; Adkin 2003, 320.

¹³¹ Jerusalem as the center of Christianization in Palestine: Stemberger 2000, 48–120; Stemberger 2007, 8–11.

¹³² The problem is noted but not solved by Newman 2001, 436. Jewish dietary laws: Simon 1964, 183; Safrai 1993, 172–73. Fowl and poultry raised in Roman Palestine: Safrai 1993, 179–82.

¹³³ Neither *lactens* nor *lactans* (see above note 127) was restricted to a particular kind of farm animal; see Cato, *Agr.* 2.4.16; Marc. *Med.* 22.3; and Columella, *Rust.* 7.9.4 and 7.9.13 for their application to pigs. According to *TLL* 1 under *altilis* (col. 1763), the adjective *altilis* was likewise applied all kinds of farm animals.

¹³⁴ A similar formulation appears in *CTh* 10.19.7 (373?): “quemadmodum dominus noster Valens per omnem Orientem eos, qui ibidem auri metallum vago errore sectantur, a possessoribus cunctis iussit arceri, ita sinceritas tua universos per Illyricum et dioecesim Macedonicam provinciales edicto conveniat.” For the ongoing debate on the validity of imperial laws, see above note 100. The passage under discussion lends itself more easily to the traditional interpretation.

¹³⁵ John Chrysostom on “judaizing Christians”: Wilken 1983; Brändle 1995, 36–80. “Judaizers” in Jerome: Newman 2001 (with a useful collection of all relevant texts). Stemberger 1993 rightly stresses the polemical character of Jerome’s engagement with contemporary Judaism.

¹³⁶ Religious policies of Valens: Lenski 2002, 211–63, especially 256–57; Lenski 2004; Kahlos 2019. Opelt 1971, 765 accepts Jerome’s anti-Jewish interpretation of Valens’s law, whereas Newman 2001, 455 shrewdly remarks that “prohibition of the consumption of veal is an oddly oblique way to battle Judaizers”.

civilians or to both civilians and soldiers. In the first case, one would have to assume that the emperor was concerned with improving the meat supply for the army by reserving veal for them. This is perfectly possible, since Roman soldiers were entitled not only to bread, oil, and wine but also to meat. This interpretation is hard to reconcile, however, with Jerome's statement that the emperor had the benefit of agriculture in mind when he issued this law. If, on the other hand, the ban also applied to the army, the law was directed against their claims; soldiers were supposed to be content with pork. In fact, I have been unable to find a reference to veal as part of soldiers' rations in the legal sources.¹³⁷ If the ban was of general application, it would actually have benefited agriculture, because oxen were needed as work animals. Talmudic sources attest to their use all over the Roman east.¹³⁸ There might have been a particular reason why Valens saw fit to restrict the army's claim on veal: Lenski has connected the law with a cattle plague that is attested for Cappadocia around 370.¹³⁹ But this is not, of course, the only problem that might have prompted the emperor to curb the demands of the military on the civilian population: since the field army was concentrated on the eastern frontier in the 370s, complaints about the burden this entailed will have been frequent.¹⁴⁰ Be that as it may, it is entirely feasible that the cultivation of land was on the emperor's mind when the law was drafted; deserted lands (*agri deserti*) and fugitive peasants (*coloni*) are consistent themes of imperial legislation.¹⁴¹ Late Roman emperors clearly were concerned that the available land be cultivated, if only for fiscal reasons. In fact, Constantine prohibited the seizure of field-slaves and plough oxen (*boves aratorii*) as pledges for debts to the fiscus, adding that, as a result, "the payment of tribute was delayed." Valens and Valentinian are no exception to this rule.¹⁴² Even so, the phrase "for the benefit

¹³⁷ Meat as part of soldiers' rations in legal sources: *CTh* 7.4.2 (355, cured or fresh pork); *CTh* 7.4.6 (360, pork and mutton); *CTh* 8.4.17 (389, cured pork); Jones 1964, vol. 2: 628–29; Mitthof 2001, 208–17, especially 214–16. According to Drexhage 1997 and Drexhage 2011, oxen or calves are but rarely mentioned in Egyptian papyri relating to the provision of the army; veal clearly was an add-on to the diet of soldiers and regarded as a luxury. The former soldier Ammianus (22.12.6, with 25.4.17) censures the emperor Julian for having stuffed the troops quartered in Antioch with the meat of cattle, sheep, and goats.

¹³⁸ Oxen in Talmudic sources: Krauss 1911, 113–17; compare Safrai 1994, 173. Discharged veterans were supplied with a yoke of oxen: *CTh* 7.20.8 (365). See also Jer. *Comm. Is.* 3.7.21 (*asperos montes manu fodiant, quia boues, aratra et uomeres non habebunt*) and Amb. *Abr.* 2.8.50 (*vitulus enim aratorum animal est deditum terreno labori*).

¹³⁹ Cattle plague: Lenski 2002, 389–90, adducing Greg. Naz. *Or.* 16.10.

¹⁴⁰ Relations with Persia 370–377: Lenski 2002, 174–85.

¹⁴¹ *Agri deserti* and fugitive *coloni* in legal sources: *CTh* 5.15 (*agri deserti*); *CTh* 5.17 (fugitive *coloni*); and many other laws, cited and discussed in Jones 1964, vol. 2: 795–803, 812–23.

¹⁴² Law of Constantine: *CTh* 2.30.1 (315) with Dillon 2012, 173–74. The laws on agricultural matters issued by Valens and Valentinian are cited and briefly discussed by Lenski 2002, 283–86. Schmidt-Hofner 2008, 263–87 has shown that they do not result from a policy of economic development but from routine administration responding to situational challenges.

of agriculture” was presumably coined by Jerome himself; there is no parallel for it in the legal sources, as far as I can see.¹⁴³

Jerome deals only summarily with the legislation of Theodosius and his sons. In a letter to Paulinus of Nola, he praises the latter’s panegyric oration on Theodosius, who had died shortly before, on 19 January 395; according to Jerome, Paulinus had let the benefits of this emperor’s laws (*utilitas legum*) shine brightly for future generations.¹⁴⁴ This praise is probably aimed at the anti-pagan laws that Theodosius had been enacting since the early 390s;¹⁴⁵ Jerome repeatedly acclaims the destruction of the Serapeum of Alexandria, and Sophronius, who translated some of Jerome’s works into Greek, dedicated a separate writing to the joyful event.¹⁴⁶ The reference to laws against pagans and heretics is clear in Jerome’s *Commentary on Isaiah*, written when Honorius ruled in the West and Theodosius II, the minor son of Arcadius, was emperor in the East. In this text, Jerome, like many Christian theologians of his time, strikes a triumphalist tone:

We see that Roman emperors bow their necks to the yoke of Christ; that they build churches at public expense; and that against the persecution by pagans and the ambushes of heretics the enactments of laws (*legum scita*) are being posted up (*pendere*).¹⁴⁷

VI. Summary

Although the texts I have scrutinized seldom allow unambiguous answers to the questions I have put to them, some conclusions can, I think, be drawn

¹⁴³ The phrase *utilitas agriculturae* is not found in the “Theodosian Code.” *TLL* 1 under *agricultura* (col. 1427) cites Ulp. *Dig.* 7.1.13.5 (*si nihil agriculturae nocebit*) and *CJ* 11.10.7 as examples from legal sources. *Agricultura* is common in Ambrose and Augustine. Jerome has the word in *Ep.* 106.49.

¹⁴⁴ *Jer. Ep.* 58.8: “librum tuum, quem pro Theodosio principe prudenter ornateque compositum transmisisti [sc. Pauline], libenter legi [. . .] felix Theodosius, qui a tali Christi oratore defenditur. illustrasti purpuras eius et utilitatem legum futuris saeculis consecrasti.” Compare Paul. *Nol. Ep.* 28.6; Gennad. *de vir. ill.* 48: “composuit [sc. Paulinus] [. . .] et ad Theodosium imperatorem ante episcopatum prosa panegyricum super victoria tyrannorum, eo maxime, quod fide et oratione plus quam armis vicerit.” Mratschek 2002, 218–27 tells the story from the point of view of Paulinus.

¹⁴⁵ Anti-pagan legislation of Theodosius I: *CTh* 16.10.10; 16.11.11; 16.10.12. For their reception by Latin Christian writers, see Amb. *de ob. Theod.* 38; Ruf. *HE* 11.19; Aug. *Civ. Dei* 5.26. Errington 1997 analyzes both Latin and Greek accounts of Theodosius’s religious legislation, reaching the questionable conclusion that contemporaries took little notice of the laws passed in this area; they were “simply forgotten,” he says, “until the Compilers of the Code found them in the archives” (435).

¹⁴⁶ Destruction of the Serapeum in Alexandria: *Jer. de vir. ill.* 134; *Ep.* 107.2; *Comm. Is.* 7.17.2–3; Ruf. *HE* 11.22. For the historical context, see Hahn 2004, 78–105.

¹⁴⁷ My translation of *Jer. Comm. Is.* 17.60.10–12: “uidemus Caesares Romanos Christi iugo colla submittere, et aedificare ecclesias expensis publicis, et aduersus persecutiones gentium atque insidias haereticorum legum scita pendere.”

with a reasonable degree of certainty. First of all, it is clear that Jerome was familiar with the basic concepts of Roman private law and with the outlines of Roman legal history. According to himself, he had acquired this knowledge early in life as a student of Latin literature and eloquence in Rome.¹⁴⁸ This testimony ties in with what we know about late Roman schools. Law was not, of course, part of the curriculum as such,¹⁴⁹ but some familiarity with its institutions and procedures was part of the traditional ideal of education, as the study of rhetoric was widely regarded as a preparation for giving speeches in court proceedings.¹⁵⁰ Julius Victor, the author of a rhetorical handbook roughly contemporary with Jerome, still counsels students to study civil law (if only to a certain degree).¹⁵¹ Moreover, legal knowledge was necessary for a proper understanding of the forensic speeches of Cicero and also for many other authors that were read and interpreted in the lessons of grammarians and rhetors. Late antique commentaries provide ample evidence that the ideas and the language of Roman law were used to explain poetical and rhetorical texts.¹⁵² In Jerome's case, we know that he also heard speeches that were actually delivered in the courtrooms of Rome. As it has recently been argued that the fictitious laws on which rhetorical declamations were often based had a considerable impact on the development of Roman law,¹⁵³ it seems worthwhile to stress that the speeches that impressed Jerome were real speeches held by advocates in support of their clients. The fictitious laws cited in the classroom, on the other hand, have left no discernible trace in his writings. Jerome clearly did not confuse the law of declamations with the law of the jurists.

The investigation undertaken has also shown that Jerome presupposed the same level of legal knowledge he possessed in those for whom he wrote. Legal history is most prominent in the *Chronicle*, but allusions to legal concepts

¹⁴⁸ It is possible that Jerome undertook some preliminary legal training after the end of his studies in Rome when he was still hoping for a career in the emperor's service. There is, however, no evidence to substantiate this hypothesis, as we know next to nothing about what he actually did during his stay in Trier (on which see above note 15).

¹⁴⁹ On the curriculum of late Roman schools, see, for example, Marrou 1983; Vössing 1997, 367–410, 574–85 (who does, however, underestimate the range of legal training available in Roman North Africa; see Liebs 2005, 19–36, 129–34).

¹⁵⁰ Cic. *Orat.* 120; *De or.* 1.160–201; Quint. *Inst.* 12.3. On advocates in the Roman World, see Crook 1995, especially 172–97; Wieling 1997.

¹⁵¹ *Rhet. Lat. Min.* 2: 356, lines 2–3: “Iuris vero civilis neque omittendum studium est nec penitus adpetendum.” On Julius Victor, see *PLRE* 1: 961, “Victor 15;” Sabbah 2020.

¹⁵² Late antique commentaries on authors read in school—for an overview, see now Zetzel 2018—are a largely untapped source for the legal culture of Roman elites. The old book of Thomas 1879 contains a brief discussion of passages where Servius explains Virgil by reference to institutes of Roman law or to legal terminology; more can be found in the commentaries on books 4 and 6 of the *Aeneid*: see Guillaumin 2019, xxvii–xxviii; Jeunet-Mancy 2021, lxxii–lxxxiii. For law and legal terminology in Porphyrio's commentary on Horace, see Diederichs 1999, 77–78, 105. Dirksen 1871 traces juristic writings in the commentaries of Boethius.

¹⁵³ Thus Lendon 2022, 107–47.

and to specific laws appear in every kind of text Jerome composed—in letters, treatises, and commentaries, and over the whole span of his long life. What seems particularly striking is that Jerome freely used legal terms and ideas metaphorically and also transferred them to the religious sphere. This way of writing was only possible because these terms and ideas were a cultural matter-of-course for both Jerome and the audience he intended to reach; this reflects a shared mental framework. Since Jerome was neither a former advocate, legal advisor (*adessor*), or provincial governor, as Ambrose had been before he became bishop of Milan,¹⁵⁴ nor was he a provincial bishop heavily involved in legal matters like Augustine,¹⁵⁵ his views on Roman law stand a better chance of being representative of ordinary upper-class men devoid of any special legal training or professional concern for legal matters. Jerome's writings thus bear impressive witness to the importance of Roman law both for the social practice and for the mindset of the provincial and local elites in the late Roman empire.

For Jerome, petitions addressed to the emperor are an instrument routinely used by municipal councils, palatine officials, and ecclesiastical elites to pursue their interests. Imperial rescripts thus obtained might lead to the grant of privileges; to the banishment of monks, clerics, and bishops; or to the execution of a provincial governor. As a theologian, Jerome draws a line between the laws of men (*humanae leges*), which differ across cultural boundaries and are subject to change, and the law of Christ, which has been valid since the Incarnation of God and applies to all human beings until the Second Coming. Jerome is aware that Roman law has developed over time and from different sources. Legislation, however, had in his view become the prerogative of the emperor since the beginnings of the monarchy; Augustus is for him not only the founder of the monarchy but also the first lawgiver.

In Jerome's imagination, the usual way for imperial laws to be published is to post them up in public. An imperial law of general application thus typically takes the form of an edict. This view would seem to reflect the perspective of someone who perceived legislation from below and was unacquainted with the process of law-making at court and the channels of imperial communication. Jerome cites some constitutions that are found in the *Theodosian Code*, but he also mentions some others that have gone missing. Almost all

¹⁵⁴ For Roman law in Ambrose, see Gaudemet 1978, 71–111; Liebs 1987, 97. For his secular career, see Paul. Med. V. *Ambros.* 2.5; *PLRE* 1: 52, “Ambrosius 3.” His father had been praetorian prefect of Gaul: see *PLRE* 1: 51, “Ambrosius 1”; *PCBE* 2: 104, “Ambrosius 1.”

¹⁵⁵ The “new” letters of Augustine discovered by Divjak have substantially added to what Gaudemet 1978, 127–66, and Liebs 1987, 101–4, were able to say about Roman law in Augustine's writings. See, among others, Lenski 2001 (on *episcopalis audientia*); Riedlberger 2020, 600–603 (on *Ep.* 10 Divjak). Liebs 2005, 128–32 gathers the evidence which Augustine provides for lawyers in North Africa.

of these constitutions were enacted by the emperors Constantine, Julian, Valentinian, or Valens; the anti-pagan legislation of Theodosius I and his son Arcadius is noticed (and praised) but treated cursorily and taken as a uniform package in intent and impact. Where we can compare Jerome's account with an extant excerpt of the constitution in question, his summary often turns out to be highly colored by his preconceptions and intentions. It is hardly surprising that all the constitutions to which he refers concern the Christian faith, the Church, and the clergy; this selection corresponds to the character of his writings and his personal interests. His knowledge of imperial laws seems also to have been dependent on whether they were easily accessible where he was staying; it is striking that the laws he seems to know in detail were published and presumably kept in places where he himself lived for some time—that is, in Rome, in Constantinople, and in Antioch. This is exactly what one would expect: before the *Theodosian Code*, knowledge of imperial laws depended entirely on access to places where they were first publicly read out and then posted up, to provincial archives where they were kept, or to private collections made for specific purposes.¹⁵⁶

Friedrich-Alexander Universität Erlangen-Nürnberg
hans-ulrich.wiemer@fau.de

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¹⁵⁶ On the ways laws were published in the late Roman empire, see Matthews 2000, 187–90; Pulitatti 2008; Riedlberger 2020, 64–77; compare Wiemer 2014, 206–8 and 216 for evidence from Libanius. Major recent contributions to the debate on the sources of the "Theodosian Code" are Matthews 2000, 280–93; Sirks 2007, 109–77; Sirks 2012; Riedlberger 2020, 185–213, especially 188–90. Few historians would be as optimistic as Sirks when it comes to assessing the completeness and tidiness of the central archives for the period before 395, but this controversy is irrelevant to the question how Jerome and others living far from the center of power gained knowledge of imperial laws.

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