

# Tyre and Berytus in the Mid-Fifth Century: Metropolitan Status and Ecclesiastical Hierarchy

Fergus Millar

## 1. Introduction

One of the most characteristic aspects of provincial society under the Roman Empire was rivalry between neighbouring cities, for titles and status. As we will see, far from becoming an irrelevance in the new world created by the conversion of Constantine, inter-city rivalry gained an extra significance from the integration of the Church into the network of cities, and into the Imperial structure. The statuses of cities had long been the topic of vigorous debate and rhetorical expression, often directed to the Emperor in person. But the terms of such debate were now to gain weight and significance by virtue of providing a basis for specific — but contested — rules of canon law.

What allows us to see the precise terms of such debates in unprecedented detail, however, is the fact that questions arising from the conferment of the title of *metropolis* were among the issues discussed at the Council of Chalcedon in 451 C.E., whose *Acta* represent some of the most detailed and extensive reports of proceedings which survive from the ancient world; they are now illuminated by the masterly English translation, with an extensive introduction and commentary, by Richard Price and Michael Gaddis.<sup>1</sup> An abundant source for everything — from religious and social history, to toponymy and nomenclature, language and the workings of government — is thus made incomparably more accessible for historians. As a source, they are paralleled by the *Acta* of the Council of Ephesus of 431 C.E., not yet translated into English or made accessible in the same way; they are in some ways less complex in structure, but are equally fruitful for social and religious history.<sup>2</sup>

---

\* My treatment of this topic was earlier greatly helped by its presentation at seminars held by the Dept. of Classics at the Hebrew University, Jerusalem, in November 2005, and at the American University of Beirut in May 2006. We can only hope fervently that the border between these two countries will one day be open. This paper represents a revised version of one which is due for publication in *Studi in Onore del Prof. Mario Mazza*, ed. C. Molè and Cl. Giuffrida. I am very grateful for comments and corrections to Glen Bowersock, P.-L. Gatier, John Ma, Stephen Mitchell, and Peter Thonemann, and not least to the reviewer for *SCI*, whose comments have been very helpful.

<sup>1</sup> R. Price and M. Gaddis, *The Acts of the Council of Chalcedon I-III (Translated Texts for Historians 45)*, Liverpool, 2005.

<sup>2</sup> The *Acta* of Ephesus are translated, but without detailed commentary, by A.-J. Festugière, *Ephèse et Chalcédoine: Actes des Conciles*, Paris 1982, 27-650. For an example of one “local history” drawn from this material, see F. Millar, ‘Repentant Heretics in Fifth-Century Lydia: Identity and Literacy’, *SCI* 23, 2004, 111-130. A new translation, destined for *Translated Texts for Historians*, is being prepared by Richard Price and Thomas Graumann.

Both sets of *Acta* play a crucial role in the author's study of the 'Greek Roman Empire' of Theodosius II;<sup>3</sup> but it was at Chalcedon under the reign of the next Emperor, Marcian (450-457 C.E.), that there took place an intense series of debates over canon law, on the one hand, and Imperial rulings on the other. In one respect, this debate, which involved Tyre and Berytus, can be seen as an episode in the local history of the ancient cities on the Phoenician coast, and therefore contributes to the history of the Near East in the fourth to sixth centuries. In another sense, and the more prominent one, it belongs in the long history of relations between Greek cities and Imperial government, in which a variety of status-designations — *neokoros*, *colonia*, *metropolis*, as well as descriptions such as *libera* or *foederata*, might either be conferred by the Emperor or be the subject of rulings by him.<sup>4</sup> Both Berytus, as a real veteran colony founded under Augustus, and Tyre, granted the title by Septimius Severus, were *coloniae* — and the *Acta* of Chalcedon reveal, as we will see, that both still enjoyed this title in the mid-fifth century.<sup>5</sup>

## 2. The Title *Metropolis* in the First to Third Centuries

What is at stake in the present context, however, is specifically the title *metropolis*, or 'mother-city', whose various uses have been intensively discussed in recent years, and most fully, by Bernadette Puech.<sup>6</sup> The results can be summarised briefly, as regards the Empire of the first three centuries. Firstly, the term *metropolis* gains a prominent place

<sup>3</sup> F. Millar, *A Greek Roman Empire: Power and Belief under Theodosius II (408-450)*, Berkeley, 2006.

<sup>4</sup> For 'free' or 'federate' cities, the classic study remains J.M. Reynolds, *Aphrodisias and Rome*, London, 1982; for *neokoroi* see now B. Burrell, *Neokoroi. Greek Cities and Roman Emperors*, Leiden, 2004.

<sup>5</sup> For the title *colonia* as conferred on Greek cities, see F. Millar, 'Roman *Coloniae* in the Greek East', in H. Solin and M. Kajava (eds.), *Roman Eastern Policy and Other Studies in Roman History*, Helsinki, 1990, 7-58, esp. 10-23 (Berytus) and 34-38 (Tyre). For a more general view see the masterly survey and analysis by M. Sartre, 'Les colonies romaines dans le monde grec — essai de synthèse', *Electrum* 5, 2001, 111-152. I am very grateful to Glen Bowersock for sending me a text of this paper. Note also G. Salmeri, A. Raggi, A. Baroni (eds.), *Coloniae romane nel mondo Greco*, Rome, 2004.

<sup>6</sup> See esp. G.W. Bowersock, 'Hadrian and Metropolis', in *Bonner Historia-Augusta Colloquium 1982/3*, Bonn, 1985, 75-88 = *Studies on the Eastern Roman Empire*, Goldbach, 1994, 371-384; C. Roueché, 'Floreat Perge', in M.M. Mackenzie and C. Roueché (eds.), *Images of Authority* (Camb. Philol. Soc., Supp. 16), Cambridge, 1989, 206-228; G.W. Bowersock, *Martyrdom and Rome*, Cambridge, 1995, 85-98; R. Haensch, *Capita Provinciarum. Statthaltersitze und Provinzialverwaltung in der römischen Kaiserzeit*, Mainz, 1997, esp. 24-28 and 251-261; R. Merkelbach, S. Sahin, 'Kaiser Tacitus erhebt Perge zur Metropolis Pamphyliens und erlaubt einen Agon', *Epig. Anat.* 29, 1997, 69-74; P. Arnaud, 'Titulatures municipales et réseaux urbains: le titre de métropole dans les provinces romaines d'Orient', in R. Escablier (ed.), *Les enjeux de la métropolisation en Méditerranée* (*Cahiers de la Méditerranée* 64), 2002, 23-37. B. Puech, 'Des cités-mères aux métropoles', in S. Follet (ed.), *L'hellénisme d'époque romaine. Nouveaux documents, nouvelles approches (I<sup>er</sup> s. a.C.-III<sup>e</sup> s. p.C.)*. Actes du Colloque international à la mémoire de Louis Robert, Paris 7-8 juillet 2000, Paris, 2004, 357-404.

among the status-designations open to cities from the end of the first century C.E. onwards. Secondly, it could be associated with provincial, or sub-provincial, *koina*. Thirdly, there is no specific indication that the term designated the ‘capital’ city of a province (more evidence on this point will be offered below). Fourthly, even though we should not envisage a *metropolis* as a provincial ‘capital’, formally recognised as such by Rome, the holding of the title could be the subject of an appeal to the Emperor. Several of these points come together in the well-known inscription from Beroea in Macedonia in honour of a regional notable, C. Popillius Python. I cite the first ten lines of the inscription:<sup>7</sup>

<p>Τὸν διὰ βίου ἀρχιερῆ τῶν Σεβαστῶν καὶ ἀγνωσθέντων τοῦ κοινου Μ[α]κε- δόνων Κ. Ποπίλλιον Πύθωνα πρεσ- βεύσαντα ὑπὲρ τῆς πατρίδος Βεροί- ας ἐπὶ Θεὸν Νέρουαν ὑπὲρ τοῦ μό-</p>	<p>νην αὐτὴν ἔχειν τὴν νεοκορίαν τῶν Σε- βαστῶν καὶ τὸ τῆς μητροπόλεως ἀξίω- μα καὶ ἐπιτυχόντα καὶ δόντα ἐν τῷ τῆς ἀρχιερωσύνης χρόνῳ τὸ ἐπικε- φάλιον ὑπὲρ τῆς ἐπαρχίας ...</p>
--	--

The High Priest of the *Augusti* for life and president of the games of the *koinon* of the Macedonians, Quintus Popillius Python, who went on an embassy on behalf of his home city Beroea to Divus Nerva to ensure that it alone holds the temple-wardenship of the *Augusti* and the honour of *metropolis*, and was successful, and in the time of his High Priesthood paid the *tributum capitis* on behalf of the province ...

The context revealed here is very suggestive: the games associated with the Imperial cult conducted by the *koinon* of the Macedonians, and threats to the status of Beroea as the only city to possess both the *neokoria* (the wardenship of a temple of the Emperors) and the title of *metropolis*. Equally significant is the fact that the procedure required in order to secure these rights had been an embassy to Nerva (96-8 C.E.).

As hinted above, in the first century of the Empire it does not seem that *metropolis* had yet gained an established place among the honorific titles contested by Greek cities. It is surely significant that in the first volume of that great and indispensable work, *Roman Provincial Coinage*, covering the period up to 69 C.E., only two cities, Tarsus and Antioch, appear with this title.<sup>8</sup> In the second volume, covering 69-96 C.E., the title is found attributed to Nicomedia (see below), to Tarsus again, and to Tyre.<sup>9</sup> In the coins and inscriptions of the second century, however, Antioch, Samosata, Damascus and Tyre all appear as *metropoleis* of the ‘four eparchies’, or sub-divisions, of the province of

<sup>7</sup> See J.M.R. Cormack, ‘The Nerva Inscription in Beroea’, *JRS* 30, 1940, 50-52; L. Gounaropoulou, M.B. Hatzopoulos, *Inscriptiones Macedoniae Inferioris I: Inscriptiones Beroeae*, Athens, 1998, no. 117. For the *koinon* see J. Deininger, *Die Provinziallandtage der römischen Kaiserzeit*, Munich, 1965, 91-6. For this episode, as regards the *neokoria*, see also Burrell (n. 4), 191-197.

<sup>8</sup> A. Burnett, M. Amandry, P.P. Ripollès, *Roman Provincial Coinage I*, London and Paris, 1992, 590-592 (Tarsus) and 606-630 (Antioch).

<sup>9</sup> A. Burnett, M. Amandry, I. Carradice, *Roman Provincial Coinage II.2*, London and Paris, 1999, 360 (Index); for Nicomedia see II.1, 103-5 (nos. 648-664) and for Tyre see II.1, 294-5 (nos. 2057-2087).

Syria.<sup>10</sup> The Phoenician letters which still appear in the coins of Tyre reflect awareness of the city's long pre-Greek past (see further below).

It is in the second century and onwards that the title becomes more widely used, and, in the case of Tyre, also comes to revert to another long-attested meaning of *metropolis*, or 'mother-city', namely as the historic founder of other cities. This appears most vividly in the inscription from Didyma, put up in honour of C. Antius Iulius Aulus Quadratus, who had been *legatus* of Syria in about 101/2 C.E.:<sup>11</sup>

ἡ βουλὴ καὶ ὁ δῆμος Τυρίων τῆς ἱερᾶς καὶ ἀσύλου καὶ αὐτονόμου μητροπόλεως  
Φοινείκης καὶ τῶν κατὰ Κοίλην Συρίαν καὶ ἄλλων πόλεων καὶ ναυαρχίδος

The Council and People of the holy and inviolable autonomous (city) of the Tyrians, *metropolis* of Phoenicia and of those (cities) in Coele Syria and of other cities, and fleet-commander.

The reference to 'other cities' and to Tyre's command of the sea clearly alludes to its colonising role in the archaic period. Possibly even more significant is the description of the city as '*metropolis* of Phoenicia and those (cities) in Coele Syria'. What might be meant by the latter term is very indeterminate, but it is clear at least that both geographical expressions allude to sub-regions of the then Roman province of Syria. Equally, there can be no question of 'mother-city' here expressing a claim to be the chief city, or 'capital', of the province; for there were several cities with the title *metropolis*, and if there was a 'capital', clearly it was Antioch.<sup>12</sup>

This documentary evidence that by the late first and early second century Tyre already laid claim to the title *metropolis* means that the entry in the *Suda* referring to a rhetor named Paulos, 'who in the time of Hadrian, by going on an embassy, made Tyre a *metropolis*', cannot be literally correct.<sup>13</sup> If historical at all, it must mean either that Tyre's claim had been contested, or that some other neighbouring city or cities had aspired to it also (as with Popillius Python's embassy to Nerva above).

In the 190s and the early decades of the third century C.E. three linked developments occurred: Septimius Severus divided Syria into two provinces, Syria Coele and Syria Phoenice (very roughly, its northern and southern halves); a wave of Imperial grants of the status of *colonia* took place in the Near East, duly commemorated by a contemporary, and native of Tyre, Ulpian, in his *De censibus* (*Dig.* L.15.1); and there was a heavy emphasis, in coins and inscriptions, on the Phoenician past of Tyre.<sup>14</sup> It is perhaps also relevant to rivalries in the Late Empire that it is now, for the first time, that we hear of the established role of Berytus as a place where Roman law was taught.<sup>15</sup>

<sup>10</sup> See now K. Butcher, *Coinage in Roman Syria: Northern Syria, 64 BC-AD 253*, London, 2004, 13.

<sup>11</sup> A. Rehm (ed.) *Didyma III: die Inschriften*, Berlin, 1958, n. 151, ll. 9-11.

<sup>12</sup> See Haensch, (n. 6), 244-261, and for the coins n. 10.

<sup>13</sup> *Suda*, ed. Adler, s.v. Παῦλος ὁ Τυρίος.

<sup>14</sup> For this phase, note F. Millar, 'Roman *Coloniae*' (n. 5); *The Roman Near East, 31 BC-AD 337*, Cambridge, Mass., 1993, 111-126, and 290-295.

<sup>15</sup> H. Crouzel (ed.), *Grégoire le thaumaturge, Remercement à Origène* (SC 148, Paris, 1969, 5-6/62-73, 120-124); see P. Collinet, *Histoire de l'école de droit de Beyrouth*, Paris, 1925; H.I. Macadam, 'Studia et circenses: Beirut's Roman Law School in its Colonial Cultural

It was now possible for a city to be both a *colonia* and a *metropolis* (or, in the case of Palmyra, to be described by the hybrid Greek-Latin term *metrokoloneia*). Thus in the first of the important papyri deriving from the middle-Euphrates zone and dated to 245 C.E., Antioch appears as both: ἐν Ἀντιοχ(εία) κολ(ωνία) μητροπόλει.<sup>16</sup>

The same double designation was now enjoyed by Tyre, along with an emphasis on the city's colonial past.<sup>17</sup> At Severus' home town, Lepcis Magna in Africa, an inscription was put up honouring *Septimia Tyros Colonia, Metropolis Phoenices et aliarum civitatum*, while in Tyre itself we find a bilingual dedication, also erected by Lepcis:

Col(onia) Ulpia Traiana Aug(usta) Fidelis Lepcis Magna Tyron et suam metropolim  
Κολωνία Οὐλπία Τρα[ιανή] Αὐ[γουστα] Πιστή Λεπκ[ις] Με-|γάλη Τύρον τὴν καὶ  
ἐαυτῆς] μητροπόλιν

The Colonia Ulpia Traiana Augusta Fidelis Lepcis Magna (honours) Tyre which is also its own mother-city.

Now that the city belonged to a new province representing roughly half of the old province of Syria, it may seem more feasible that, in this case at least, the term 'metropolis' might also have denoted the chief city, or 'capital', of the province. But in fact four different items of evidence from the province of Asia, dating to the second and third centuries, show conclusively that there cannot yet have been a general rule that there should be only one *metropolis* in each province, for there were several different *metropoleis* in this province, and apparently five in all.

Firstly, Ulpian, in his *De officio proconsulis* (*Dig.* I.16.4.5), quotes a letter of Antoninus Pius to the *koinon* of Asia laying down that by established custom it was obligatory on a newly arrived proconsul 'to reach Asia by sea, and to make his landfall at Ephesus first of the *metropoleis*': *per mare Asiam applicare καὶ τῶν μητροπόλεων Ἐφεσον primam attingere*.

Secondly, the indication that there were several *metropoleis* is confirmed by an inscription from Ephesus itself, *I.K. Ephesos* VII.1, no. 3072, alluding in ll. 25-6 to the fact that the father of the lady honoured had been High Priest 'in the five *metropoleis* (ἐν ταῖς ἑκτοσὶν μητροπόλεσιν ἀρχιερασαμένου)'. Thirdly, the number five fits exactly with the interpretation given in the earlier third century by Modestinus (*Dig.* XXVII.1.62), commenting on another letter of Antoninus Pius addressed to the *koinon* of Asia, which laid down the number of doctors, sophists and grammarians to whom cities of various categories could grant exemption from liturgies, depending on whether the cities counted as 'greatest', 'greater' or 'lesser'. It was natural, Modestinus suggests, to interpret these ranks as, first, the *metropoleis* of the provinces (*ethne*); then those cities acting as

---

Context', *Aram* 13-14, 2001-2, 193-206; see also F. Alpi, 'Un regard sur Beyrouth byzantine (IV<sup>e</sup>-VII<sup>e</sup> s.)', *ibid.*, 313-321; and most recently L. Jones Hall, *Roman Berytus: Beirut in Late Antiquity*, London and New York, 2004, esp. ch. IX.

<sup>16</sup> *P. Euphr.* no. 1, published by D. Feissel and J. Gascou, *Documents d'archives romaines inédits du Moyen Euphrate (III<sup>e</sup> s. après J.-C.)*, *Journal des Savants* 1995, 65-119. Similarly, for the titles of Petra, see H. Gitler, 'A Group of 120 Clay Bullae from Petra with Titles of the City', *Num. Chron.* 165, 2005, 183-192.

<sup>17</sup> See J.-P. Rey-Coquais, 'Une double dédicace de Lepcis Magna à Tyr', *L'Africa Romana* 4, 1986, 597-602. For the inscription from Lepcis, see *IRT*, no. 437.

*conventus* centres (τὰς ἐχούσας ἀγορὰς δικῶν); and finally the rest. Since there seem to have been some twelve *conventus*-centres in the province of Asia,<sup>18</sup> this interpretation offers a picture of an intelligible hierarchy extending from several hundred ordinary cities, to a dozen or so *conventus*-centres, to five *metropoleis*. A very similar structure is suggested by the letter of Valerian to Philadelphia, written from Antioch in Syria in 255 C.E., which refers to the contributions in respect of high-priesthoods and offices connected with festivals made by the city to the *metropoleis* (τῆς ἐπὶ τὰς [ἀρχιερ]ωσύνας καὶ τὰς τῶν πανηγύρεων ἀρχὰς [πρὸς τὰς μητροπόλεις συντελείας), which had been due in the period before Philadelphia itself became a *metropolis*.<sup>19</sup> Given the historical complexity of the area which the Romans designated as ‘Asia’, and the large number of cities within it, it is not surprising that the structure of city-statutes was particularly complex.

It is therefore quite clear both that one prominent context in which the term *metropoleis* was used was that of the provincial (and sub-provincial) *koina* and the rituals of the Imperial cult, and that there could be several *metropoleis* in a single province. As regards the subsequent role of the concept *metropolis* in the structure of the Church in the fourth-fifth centuries, this conclusion can be seen as both suggestive on the one hand and puzzling on the other. It is suggestive, because it offers a model of the organisation of the Late Roman Church which was perhaps borrowed — not, as normally supposed, from the structure of the Roman provinces, but from the *koina* of cities which celebrated the Imperial cult. But it is puzzling because, as we will see below, the organisation of the Constantinian and post-Constantinian Church depended absolutely on the rule that there should be one *metropolis*, and one only, in each province (or that, if there were to be more than one, this status should be purely titular). It has often been supposed, including by the author, that the terms of this clearly-established item of canon law were derived from the custom of designating the main city, and residence of the governor, of each Roman province as the *metropolis*. That this cannot have been the only use of the term in the pre-Tetrarchic Empire is already clear from the evidence given above. But was it at least a possible use? That it was, is suggested (for instance) by the fact that Josephus speaks of Antioch ‘which is the *metropolis* of Syria’.<sup>20</sup> So is it possible that when Modestinus, quoted above, speaks of ‘the *metropoleis* of the *ethne*’, we should read this as referring not so much to Asia, with its three grades of city, but to the (one) *metropolis* of (each) province (*ethnos*)? In general, however, it would be appropriate to assert that in the first three centuries C.E. there was no stable connection between a city having the title ‘metropolis’ and its being the normal seat of the provincial governor.

On the available evidence, there seems no certain answer for the pre-Tetrarchic period. Moreover, as we will see, almost equal uncertainty applies to the Late Empire, as

<sup>18</sup> See Chr. Habicht, ‘New Evidence on the Province of Asia’, *JRS* 65, 1975, 64-91; G.P. Burton, ‘Proconsuls, Assizes and the Administration of Justice under the Empire’, *ibid.* 92-106; S. Mitchell, ‘The Administration of Roman Asia from 133 BC to AD 250’, in W. Eck (ed.), *Lokale Autonomie und römische Ordnungsmacht in der kaiserzeitlichen Provinzen von 1. bis 3. Jahrhundert*, München, 1999, 17-46, esp. 22-29.

<sup>19</sup> *SEG* XVII, no. 528. For the *koinon* of Asia see Deininger (n. 7), 36-60.

<sup>20</sup> Joseph. *BJ* II.2.4 (29).

regards the structure of the civil government of the provinces. Where we encounter strict and explicit rules is not there, however, but in the context of the Church. Equally, while the evidence shows clearly that in the earlier Empire the title ‘metropolis’ could be contested before the Emperor in person, the nature of the arguments deployed is never explicitly attested. But one significant aspect of the *Acta* of the Council of Chalcedon is their revelation of the precise issues relating to this status, and to the contested borderland between canon law and Imperial legislation.

### 3. Provincial *Metropoleis* in the Fourth-Fifth Centuries

Even if the use of the term *metropolis* for the chief city of each province was not securely established in the preceding period, it could well have come into use as part of the Tetrarchic re-structuring. Two relevant aspects of the latter were, firstly, the separation between military and civil functions, leaving the governor (normally with the title *praeses*) with essentially a judicial and financial role; and secondly, following an evolution traceable since the second century, the sub-division of provinces into smaller units, now some one hundred in all. Hence, insofar as provinces now became smaller and more coherent, rather than being larger conglomerations of disparate regions, it would have been more natural both for the governor to give jurisdiction in one city, and for the population to think of one city as the chief one, as a *metropolis* in relation to the other cities. The repeated use of the self-description *metropolis* in the epigraphy of late antique Aphrodisias is very indicative, and one dedication to the Empress Aelia Flacilla (379-86 C.E.) expresses a province-wide recognition of this status: *Κάρεις ἱδρυσαν ἐν τῇ ἑαυτῶν μητροπόλει* (‘the Carians have set up (this statue) in their own *metropolis*’).<sup>21</sup> But was the civil institution of the ‘mother-city’ of each province established by Imperial legislation, or did it represent a gradual evolution by custom, or neither?

There seems to be no specific evidence either in narrative sources for the Tetrarchic period or in Late Antique legal texts for Imperial legislation which defined one city in each province as its *metropolis* (the word is not used anywhere in the *Codex Theodosianus*). But, as will be seen, the Church was to accept the principle of the one metropolitan bishop of each province as early as the Council of Nicaea in 325 C.E. Frustratingly, the most consistent evidence for the connection between secular province and (single) secular *metropolis* is offered by one of the least reliable of narrative sources, the sixth-century *Chronographia* of Ioannes Malalas. Here, indeed, the institution is initially projected back to the early second century and to a context which is certainly not historical; but he also returns to it repeatedly later.<sup>22</sup> Among the relevant passages relating to the Near Eastern provinces are the following:

<sup>21</sup> C.M. Roueché, *Aphrodisias in Late Antiquity*, London, 1989, no. 23.v. Note also no. 32, l.2: ἡ Φρυγίης μήτηρ (Hierapolis?) μητέρα τῆς Καρίας.

<sup>22</sup> For this recurrent element in the material recorded by Malalas see E. Jeffreys *et al.* (ed.), *Studies in John Malalas*, Sydney, 1990, 205-6 and 226-8. The text used is that of I. Thurn, *Ioannis Malalae Chronographia*, Berlin and New York, 2000. Note the excellent study by S. Métivier, ‘La création des provinces romaines dans la *Chronique* de Malalas’, in S. Augusta-Boularot *et al.*, *Recherches sur la Chronique de Jean Malalas II*, Paris, 2006, 155-171, see esp. 156-159, and the Appendices 1 and 2 tabulating Malalas’ reports of the creation of provinces.

- XIII.3 (317) Constantine makes Euphratesia a province, and Hierapolis its *metropolis*.
- 37 (345) Theodosius I makes Phoenice Libanensia a province, and gives Emesa metropolitan status and an *archon ordinarios*.
- 41 (347) Theodosius I makes Palaestina Secunda a province, with Scythopolis as its *metropolis*, and gives it an *archon*.
- XIV.24 (364) Ὁμοίως δὲ ὁ αὐτὸς βασιλεὺς καὶ Συρίαν δευτέραν ἀπομερίσας ἀπο τῆς πρώτης ἐποίησεν ἐπαρχίαν, δούς δίκαιον μητροπόλεως καὶ ἄρχοντα Ἀπαμεία τῇ πόλει, καὶ Κιλικίαν δευτέραν ἀπομερίσας ἀπὸ τῆς πρώτης ἐποίησεν ἐπαρχίαν, δούς δίκαιον μητροπόλεως καὶ ἄρχοντα Ἀναζάρβω τῇ πόλει.

Similarly, the same Emperor, having also separated Syria Secunda from Prima, made it a province, giving the status of *metropolis* and an *archon* to the city of Apamea, and, having separated Cilicia Secunda from Prima, made it a province, giving the status of *metropolis* and an *archon* to the city of Anazarbus.

In Malalas' view, therefore, the designation of a new *metropolis* followed necessarily from the creation of a new province, or (more commonly) the sub-division of an old one. What is more, the 'gift' of an *archon* must mean the appointment of a governor — and this gift is conceived of as a gift *to* the relevant new *metropolis*. The meaning can only be that the governor would reside there.

We might well hesitate to treat Malalas as an authority for fourth- or fifth-century practice. But in fact the existence of this rule, at least in the earlier fifth century, is confirmed by a letter of Innocent, bishop of Rome in 402-17 C.E., writing to Alexander, bishop of Antioch in 413-21 C.E.: *nam quod sciscitaris utrum divisio imperiali iudicio provinciis, ut duo metropoleis fiant, sic duo metropolitani (sc bishops) debeant nominari...* ('as regards your enquiry as to whether when provinces have been divided by imperial decisions, with the effect that two *metropoleis* are created, correspondingly two metropolitans should be nominated...').<sup>23</sup> Innocent here argues against treating this as a necessary consequence, but the rule clearly prevailed. In the form of an assumption that each individual province will have one metropolitan bishop (*metropolitans*), it is present already in Canon 4 of the Council of Nicaea:<sup>24</sup>

Ἐπίσκοπον προσήκει μάλιστα μὲν ὑπὸ πάντων τῶν τῆς ἐπαρχίας ἐπισκόπων καθίστασθαι· εἰ δὲ δυσχερὲς εἴη τοῦτο ἢ διὰ κατεπίγουσαν ἀνάγκην ἢ διὰ μῆκος ὁδοῦ, ἐξάπαντος τρεῖς ἐπὶ τὸ αὐτὸ συναγομένους, συμπήφων γινομένων καὶ τῶν ἀπόντων καὶ συντιθεμένων διὰ γραμμάτων, τότε τὴν χειροτονίαν ποιέσθαι· τὸ δὲ κύρος τῶν γινομένων δίδοσθαι καθ' ἑκάστην ἐπαρχίαν τῷ μητροπολίτῃ ἐπισκόπῳ.

<sup>23</sup> Innocent, *Ep.* 24.2 (Migne, *PL* XX, col. 548), quoted by A.H.M. Jones, *The Later Roman Empire*, Oxford, 1964, II, 881. See J. Balty, 'Sur la date de création de la *Syria Secunda*', *Syria* 57, 1980, 465-481; for Innocent's letter see 476-478.

<sup>24</sup> Text from N.P. Tanner, *Decrees of the Oecumenical Councils*, London and Washington, 1990, I, 7.



It is by all means desirable that a bishop should be appointed by all the bishops of the province. But if this is difficult because of some pressing necessity or the length of the journey involved, it is appropriate that, with at least three coming together and performing the ordination, and with only the absent bishops having taken part in the vote and given their written consent, the election should then take place. But in each province the right of confirming the proceedings belongs to the metropolitan bishop.

Behind this regulation lies a much wider problem, or two problems: firstly the origin and status of the concept of the *κανών*, or general rule binding on the Church as a whole; and secondly, given that we have no verbatim record of the proceedings of Nicaea, the absence of any indication of the context in which this particular rule was formulated.<sup>25</sup> But, granted that from this moment on the concept of a “canon” was indeed current, it is evident that this one presupposes, rather than lays down, the rule that in each (civil) province there will be one ‘metropolitan’ bishop. Following on that, Canon 9 of the Council of Antioch of 341 C.E. lays down as a starting point that the bishop in charge of the *metropolis* (τὸν ἐν τῇ μητροπόλει προεστῶτα ἐπίσκοπον) has a general oversight over the affairs of the whole province, but then goes on to make clear that within his own see each bishop has responsibility — only outside it must he involve both the metropolitan and the other bishops.<sup>26</sup>

Thus, though we still lack any evidence which records the rule being laid down in the civil sphere that in each province one city should be identified as the *metropolis* (and, as it seems, should in consequence function as the normal residence of the governor), it is clear that in the fourth century and subsequently, this rule was in effect. If so, the rule adopted by the Church as to the role of the single *metropolitans* of each province seems to have followed from it.

Characteristically, however, it is in this (in principle) secondary sphere, that of the Church, that our evidence records vigorous arguments, disputes and expositions of relevant principles. We can see this in the well-known case of the division of Cappadocia into two provinces, I and II, by Valens in 371/2 C.E.: ‘Our homeland having been divided into two governorships and *metropoleis*’, as Gregory of Nazianzus puts it, looking back on the career of Basil of Caesarea.<sup>27</sup> He is referring in this phrase to the civil structure; but in this instance it was to be both within the civil structure and within the Church that dissension arose, in the latter sphere over the consequential creation of a

<sup>25</sup> No attempt is made here to go into the questions either of how oecumenical councils, beginning with Nicaea, came to formulate universal rules and to describe them as ‘canons’, or of the forms in which collections of canons came to circulate. See *Theologische Realenzyklopaedie* XIX, Berlin and New York, 1990, 1-51, s.v. ‘Kirchenrechtsquellen’, *Religion in Geschichte und Gegenwart* IV, Tübingen, 2001, 774-776, s.v. ‘Kanones/Kanonensammlungen’, and above all the exhaustive study by H. Ohme, *Kanon ekklesiastikos: Die Bedeutung des altkirchlichen Kanonbegriffs*, Berlin and New York, 1998, with ch. XVIII on Nicaea.

<sup>26</sup> E.J. Jonkers, *Acta et Symbola Conciliorum quae saeculo quarto habita sunt*, Leiden, 1954, 50-51. Note also Canons 19 and 20 (p. 54).

<sup>27</sup> Gregorius, *Oratio XVIII In laudem Basili Magni*, 58 (Migne, PG XXXVI, col. 572).

second metropolitan see, and the attribution to the new metropolitan bishop of rights and of sees which had previously been Basil's.<sup>28</sup>

This episode illustrates one of the three prime ways in which Imperial civil legislation, or grants of status, could have profound effects on the hierarchy of the Church, without the relevant pronouncements making any specific allusion to the Church at all. These ways were: the division of provinces, with the consequential creation of new civil *metropoleis*; the conferment of the title of *metropolis* on a city; and the creation of a new city. The second and third of these types of measure are illustrated by steps taken in the middle of the fourth century as regards the province of Bithynia, first by Julian and then by Valentinian and Valens. But we owe our knowledge of this phase also to the fact that a long-standing dispute between Nicomedia and Nicaea formed the subject of another of the sessions at the Council of Chalcedon.<sup>29</sup> Looked at from the earlier centuries of the Empire, this prime instance of local rivalry was the theme of a classic paper by Louis Robert.<sup>30</sup> It is surprising, however, that Robert, whose knowledge of the Late Antique and Byzantine evidence for the Greek city was so remarkable, did not pursue the story into this period.

In the early Empire the established *metropolis* of Bithynia (rather than of the whole province of Pontus and Bithynia) had been Nicomedia. So it remained in the Christian period — but then, in the middle and later fourth century, Imperial grants began to disturb the existing pattern. Firstly, Julian (361/3 C.E.) had conferred the rank of city on a place which had previously been what the *Acta* of Chalcedon call a *ῥεγεῶν* in the territory of Nicaea, and had given it the name 'Basilinopolis', evidently after his mother Basilina. But there remained, so it was claimed, a degree of subordination to Nicaea: so, if there were a lack of *politeuomenoi* for the new city, they were supplied from Nicaea; and bishops of Nicaea had quite frequently ordained bishops for Basilinopolis (by implication, without the normal participation of the metropolitan bishop of Nicomedia).<sup>31</sup> Moreover, the current bishop of Nicaea had excommunicated some clerics from Basilinopolis, a step which was in principle outside his powers.<sup>32</sup>

More complications were to follow as a consequence of subsequent Imperial grants. At Chalcedon in 451 C.E. Anastasius of Nicaea laid before the bishops a document described as a translation of a law (*ἔρμηνεῖα νόμου*) of Valentinian and Valens, addressed to the Nicaeans, and granting their city the rank of *metropolis*. In this

<sup>28</sup> On the various ramifications of this issue, see e.g. S. Mitchell, *Anatolia II: The Rise of the Church*, Oxford, 1993, 77-78; R. Van Dam, *Kingdom of Snow: Roman Rule and Greek Culture in Cappadocia*, Philadelphia, 2002, esp. 28-38 (an illuminating discussion for the wider theme of this paper); and S. Métivier, *La Cappadoce (IV<sup>e</sup>-VI<sup>e</sup> siècle): Une histoire provinciale de l'Empire romain d'Orient*, Paris, esp. ch. II, on provincial structures, and ch. IV-V, on metropolitans and bishops.

<sup>29</sup> E. Schwartz (ed.), *Acta Conciliorum Oecumenicorum* II.1.3, 56-62 [415-21]: Session XIV, Oct. 30, 451 C.E.; henceforward *ACO*. Note the invaluable discussion and translation in Price and Gaddis, (n. 1), III, 23-33.

<sup>30</sup> L. Robert, 'La titulature de Nicée et de Nicomédie: la gloire et la haine', *HSCPh* 81, 1977, 1-39 = *Opera Minora Selecta* VI (Amsterdam, 1989), 211-249.

<sup>31</sup> *ACO* II.1.3, para. 12 (p. 59 [418]). See A.H.M. Jones, *Cities of the Eastern Roman Provinces*<sup>2</sup>, Oxford, 1971, 164-165.

<sup>32</sup> *ACO* II.1.3, para. 9 (p. 59 [418]).

document, probably written soon after their assumption of power, the two Emperors refer to the fact that their (in fact only Valentinian's) elevation to power had taken place in Nicaea, in 364 (see Ammianus XXVI.2), and to the fact that Nicaea had at some earlier time been a *metropolis*. So the city should now enjoy this rank once again, and the custom of conducting the 'procession' (πρόσδος) of the Bithyniarch at Nicaea should remain in force.

Immediately after this point in the proceedings at Chalcedon Eunomius of Nicomedia had the text of a letter of Valentinian to the Nicomedians read out:<sup>33</sup>

Οὐαλεντινιανὸς Εὐσεβῆς Εὐτυχῆς Αὐγουστος Νικομηδεῦσι χαίρειν. Ἡ περὶ τὰ πριμιλίγια (*sic*) τῆς πόλεως τῆς ὑμετέρας πάλαι ὑπάρξασα ἀρχαία συνήθεια φυλαχθήσεται. οὔτε γὰρ ἡ προσθήκη τῆς τιμῆς τῆς Νικαέων πόλεως τὸ δίκαιον τὸ ὑμέτερον δύναται βλάψαι, ὅποτε ἐπαύξεται τὸ ἀξίωμα τῆς Νικομηδέων πόλεως, εἴπερ ἐκείνη ἢ ἐν δευτέρῳ τόπῳ οὔσα μητροπόλεως ὀνόματι καλεῖται.

Valentinian, Pious, Fortunate, Augustus, sends greetings to the people of Nicomedia.

The ancient custom that has long existed regarding the privileges of your city is to be preserved. Nor can the addition to the honour of the city of Nicaea harm your rights, since the dignity of the city of Nicomedia will actually increase if the city in second place receives the title of *metropolis*.

It is noteworthy that Valentinian stresses the conception that raising the status of a rival city might actually enhance the dignity of the one which enjoyed precedence. As the Imperial officials presiding at the session at Chalcedon now pointed out, the Emperors had been speaking solely of civil status, and the rights of Nicomedia had been explicitly protected. The session concluded by re-affirming the principle of the single (effective) *metropolis* per province, as laid down at the Council of Nicaea, and the continued enjoyment of this role and status by Nicomedia, both in the period of Valentinian and Valens and in the present. In fact, the principle of the distinction between the single provincial *metropolis* with effective rights in the civil sphere (whatever these may have been, other than, as it seems, the residence there of the governor) on the one hand, and the possession of the mere title *metropolis* on the other, had already been deployed at the Council of Chalcedon as regards Bithynia, namely in the pronouncement made by Marcian at the conclusion of Session VI, at which both he and the Empress Pulcheria appeared in person:<sup>34</sup>

Ὁ θειότατος καὶ εὐσεβέστατος ἡμῶν δεσπότης πρὸς τὴν ἁγίαν σύνοδον εἶπεν· Εἰς τιμὴν τῆς τε ἁγίας μάρτυρος Εὐφημίας καὶ τῆς ὑμετέρας ὁσιότητος τὴν Χαλκηδονέων πόλιν, ἐν ᾗ τὰ τῆς ἁγίας πίστεως κατὰ σύνοδον διεκροτήθη, μητροπόλεως ἔχειν πρεσβεῖα ἐθεσπίσαμεν, ὀνόματι μόνῳ ταύτην τιμήσαντες, σφζομένου δηλαδὴ τῆ Νικομηδέων μητροπόλει τοῦ οἰκείου ἀξιώματος.

Our most divine and pious master said to the holy council: 'In honour of the holy martyr Euphemia and your sacredness we have decreed that the city of Chalcedon, in which the holy faith has been defined in council, shall have the rank of a metropolis, this honour being purely titular since the metropolis of Nicomedia will of course keep its own status'.

<sup>33</sup> ACO II.1.3, para. 30 (p. 61 [420]), trans. Price.

<sup>34</sup> ACO II.1.2, para. 21 (p. 157 [353]), trans. Price.

It is striking that, even in the context of an Oecumenical Council, the grant of the status of *metropolis* was a pure prerogative of the Emperor — and was expressed in terms which made no explicit allusion to the ecclesiastical hierarchy. That there could be consequential effects on precedence within the Church was however clearly shown by the debate over Tyre and Berytus which took place at the same Council.

#### 4. Tyre and Berytus

We touched earlier on the status of Tyre and Berytus in the third century, when Syria had just been divided by Septimius Severus into Syria Coele and Syria Phoenice, to which both cities, naturally enough, belonged; both had gained the status of *colonia*, Berytus under Augustus, and Tyre by conferment of this status by Severus; on the other hand Tyre, but not Berytus, is found with the appellation *metropolis*, which cannot be shown for that period, to have implied its role as the ‘capital’ of the province; and Berytus had by now come to be known as a favoured location for the teaching of Roman law.

Given endemic local rivalries, conflict about honorific statuses could well have been expected. But in fact, so far as we know, the only structural change that took place for the next two centuries was the further sub-division of Syria Phoenice, instituted by Theodosius I according to Malalas (p. 71-72), by which the inland part became Phoenice Libanensis (or Secunda), with its *metropolis* at Emesa. Coastal Phoenicia (Phoenice Paralos, or Maritima, otherwise Phoenicia Prima) now regained something very close to the geographical shape associated historically with the term ‘Phoenicia’; namely a line of cities on or near the Mediterranean coast: from south to north, Porphyreon, Ptolemais, Caesarea Paneas (the only truly inland city, and with no specific evidence for a bishop in the fifth century), Tyre, Sidon, Berytus, Byblus, Botrys, Tripolis, Orthosias, Arca/Caesarea ad Libanum, and Antaradus and/or Aradus.<sup>35</sup> Tyre retained the status of *metropolis*, which, as we have seen, probably now indicated the seat of the governor, who in this case had the relatively prestigious title of *consularis*; and both Tyre and Berytus were still known as *coloniae*. We might wonder whether this latter title was still used in the fifth century, but the *Acta* of Chalcedon reveal, among so many other details of local history, that it was. For they give the following as the formal titles of the two cities at which an ecclesiastical enquiry had been held early in 449 C.E.<sup>36</sup>

Ἐν κολωνίᾳ Τυρῶ λαμπροτάτη μητροπόλει ὑπατικῇ  
Ἐν κολωνίᾳ φιλοχρίστῳ Βηρύτῳ

In the light of what was soon to follow, it would be interesting to know if Sidon, named as *colonia*, *metropolis*, and Arca/Caesarea ad Libanum as *colonia*, on their third-century coins,<sup>37</sup> still claimed the title; but there seems to be no evidence. The designation *hupatike* for Tyre, the Greek equivalent of *consularis*, seems to be unique;<sup>38</sup> no better

<sup>35</sup> For the known cities/episcopal sees of the fifth century, I have relied essentially on G. Fedalto, *Hierarchia Ecclesiastica Orientalis* II, Padova, 1988, 708-28.

<sup>36</sup> Tyre: *ACO* II.1.3, para. 7 (p. 14 [373]); Berytus: para. 28 (p. 19 [378]).

<sup>37</sup> B. Galsterer-Kroll, *Untersuchungen zu den Beinamen der Städte des Imperium Romanum, Epigraphische Studien* IX, Bonn, 1972, 44-143, on p. 140; F. Millar, ‘Roman *Coloniae*’ (n. 5 above), on pp. 50-51.

<sup>38</sup> See Galsterer-Kroll (n. 37), providing no example of this title.

explanation offers than that this honorific term meant concretely that the city was *consular*, that is, was the seat of the governor.<sup>39</sup> If so (and there is a danger of circularity in the argument), that is a further confirmation of the role of *metropoleis* as provincial ‘capitals’ in the Late Empire.

That at any rate was the situation in early 449, and it was thus certainly later in 449, or in 450, before his accidental death in July of that year, that Theodosius issued a pronouncement elevating Berytus to the rank of *metropolis*. We owe our knowledge of this grant to an entry in the *Codex Justinianus*; like nearly all such entries in the legal *Codices*, it is in the form of a letter, addressed in this case to Hormisdas, Praetorian Prefect of Oriens. The very brief text which survives is certainly only an extract from the original, and has lost not only the standard indication of date and place of issue, but all of the elaborate, and often verbose, reasoning and self-justification which characterises the full texts of letters of Theodosius of the years 438-447, as preserved in his *Novellae*. So we gain no information as to the context, or as to whether it had been the role of Berytus as a centre for the teaching of Roman law, or some initiative from below, whether by the city or perhaps (see below) by its bishop, which had led to this step. What is visible is, first, that there is once again no allusion to the ecclesiastical aspect of the status of *metropolis*; and second that, exactly as with both Valentinian and (later) Marcian in relation to Nicomedia, the Emperor is well aware of the danger of seeming to infringe on the status of the effective *metropolis* of the province.<sup>40</sup>

Impp. Theodosius et Valentinianus AA. Hormisdas pp. Propter multas iustasque causas metropolitanano nomine ac dignitate Berytum decernimus exornandam iam suis virtutibus coronatam. igitur haec quoque metropolitanam habeat dignitatem. Tyro nihil de iure suo derogatur. sit illa mater provinciae maiorum nostrorum beneficio, haec nostro, et utraque dignitate simili perfruatur.

For many good reasons we have decided that Berytus, which is already crowned by its own virtues, should be adorned with the metropolitan title and rank. Therefore let this (city) also possess the metropolitan rank. Tyre suffers (thereby) no loss to its rights. Let that city (Tyre) be mother of the province by the benevolence of our ancestors, and this city (Berytus) by ours, so that each may enjoy a similar rank.

The Emperor seems clearly to use *mater provinciae* here as an equivalent, or stylistic variant, for *metropolis*. However, even if, as indicated, a certain awareness of the possible complications arising from such a disturbance of the established order of precedence in the province can be perceived between the lines of the Imperial letter, the reader of the *Codex* would have no reason to imagine the intensity of the conflicts and (in the ecclesiastical context) constitutional issues which now arose. In fact, the record of the session at the Council of Chalcedon which heard the dispute which arose between the two bishops concerned, Photius of Tyre and Eustathius of Berytus, is prime evidence for the character of the Late Roman Empire: far from being an autocracy, in which the Emperor had an unfettered freedom of decision, it was a system of vigorously guarded (and vigorously disputed) rights, privileges and precedences. More than that, it was a system within which two intersecting legal structures operated; the secular law of the

<sup>39</sup> So Price and Gaddis (n. 1), II, 261, following a tentative suggestion by the author.

<sup>40</sup> *CJ* XI.22.1. See *PLRE* II, s.v. ‘Hormisdas’, and Hall, *Roman Berytus* (n. 15), 107-108.

Empire itself, and the canon law of the Church. So what would be the result if a privilege or status granted by an Emperor led to consequences which disturbed the working of canon law as laid down at Nicaea? Few texts from Late Antiquity give so clear a view of the Empire as a system of rights. The Greek text of the relevant session, as edited by Eduard Schwartz, is now illuminated by the introduction, translation and commentary by Price and Gaddis.<sup>41</sup>

To introduce the issues, we cannot do better than quote in translation the entire text of the substantial Greek ‘petition and supplication’ (δέησις καὶ ἱκεσία) presented by bishop Photius of Tyre to Marcian (and notionally to the now senior Augustus, Valentinian III, in Rome), given in the translation by Price and Gaddis, with some relevant Greek technical terms, and some further punctuation, inserted. As such, it is immediately significant as being one of a long list of petitions to the Emperors preserved from the Late Empire in the East.<sup>42</sup> The assertion of rights had to begin with a personal affirmation, couched in an elaborate rhetorical form, in which expressions of obeisance contrasted with contentious claims; and it then concluded with something absolutely characteristic of the period, namely a promise of future prayers for the Emperors — provided that a favourable answer had been received:<sup>43</sup>

To the masters of earth and sea and of every tribe and race of men, Flavius Valentinian and Flavius Marcian, perpetual and triumphant *Augusti*, a petition and supplication from Photius, bishop of the *metropolis* of Tyre of your province of Phoenice Prima.

All who wish to obtain their desire will not be able to do other than by falling at your feet, from where they will be able to enjoy some fruit of their hopes, especially when their supplication is awarded its rights. Therefore I too have proceeded to this entreaty, having persuaded myself that I shall not be disappointed in the hope of my expectations, since justice is fighting on my side. What then is the reason for my petition, a brief account will indicate. To the most holy church of Tyre there have been assigned by the holy canons from ancient and immemorial times certain rights in ecclesiastical administration and in consecrations. These rights Eustathius, the most devout bishop of the city of Berytus, supported by the opportune zeal of certain persons, tried to abolish, obtaining a divine rescript (θείας πορισάμενος ἀντιγραφάς) in the reign of Theodosius of divine memory,

<sup>41</sup> ACO II.1.2, para. 19 (pp. 101-110 [460-469]); Price and Gaddis. (n. 1) II, 169-182. The date and context of this session are uncertain, since in the *mss.* it is unnumbered, and follows on the sequence of numbered sessions, which stretched from October 8 to 31; but it itself is dated to October 20. Price and Gaddis therefore place it between Session IV, of October 17, and V, of October 22. For present purposes, determination of the exact date is not essential. From this point on, the numbers in brackets accompanying quotations, or indicated in the text, are those of subsections of ACO II.1.2, para. 19, as printed by Schwartz, and the translations are those of Price and Gaddis (with some added punctuation).

<sup>42</sup> See the list in D. Feissel, ‘Pétitions aux Empereurs et formes du rescrit dans les sources documentaires du IV<sup>e</sup> au VI<sup>e</sup> siècle’, in D. Feissel and J. Gascou (eds.), *La pétition à Byzance*, Paris, 2004, 33-52. For Photius’ petition, see no. 29 (p. 47). See now also F. Millar, ‘Un dossier d’accusation déposé auprès du *praeses* de Syrie Seconde pour transmission à Justin I’, *Antiquité Tardive* 18, 2010, 231-242, on p. 232.

<sup>43</sup> The characteristic conditional promise of future prayers can be seen as a precise counterpart to the ‘contract’ clause in Hellenistic royal letters to cities, in which the King promises future benefits to cities, on condition of their loyal conduct. See J. Ma, *Antiochus III and the Cities of Western Asia Minor*, Oxford, 2000, esp. 101, 179-80, 185-6, 200, 237, 240.

by means of which, claiming for himself the consecrations in certain cities, he intended to transfer some of the rights of the aforesaid church to himself. The aforesaid most sacred bishop used such determination in circumventing the rights of the church that he contrived that a synodical letter be sent to me, threatening deposition if I did not subscribe the document. I subscribed it, not out of free choice, but in fear of the threat it contained, and indicated the compulsion applied to me in my signature; for I wrote that I had signed under duress, knowing that this in no way prejudiced by case, since both the godly and the divine laws define that what is done not from free choice but from compulsion has no force. In the reign of your piety all men who have had experience know well that groundless patronage does not prevail, and that anyone who wants to arrogate to himself by innovation something unrecognized in antiquity will not be able to do so. I therefore, prostrate at your feet, beg your celestial power to decree that everything assigned from of old to the aforesaid most holy church by the divine canons is to remain undisturbed, and that, if anything contrary to antiquity should be attempted by the above-mentioned, or by anyone else acting for him, it is vain and has no force, but that the rights of the most holy church at Tyre are to be restored inviolate, while everything procured by fraud by the above-mentioned is without validity, whether divine rescripts (θεῖα γράμματα) or even the decisions of whatever great law-courts; and if on account of this there has occurred any consent on the part of any most holy bishops to the overturning of antiquity and the divine canons, it is to have no force, while I am to suffer no prejudice from the subscription I made on the synodical document in the way I have described. Your divine and venerable pragmatic sanction (θείου ὑμῶν καὶ προσκυνουμένου τύπου πραγματικοῦ) on the matter is to be sent to the most magnificent and glorious prefects of your sacred praetorians, and to the most magnificent and glorious Magister Utriusque Militiae in the East, the former consul and patrician Zeno, and to the most magnificent and glorious Master of your Divine Offices; and the holy and ecumenical council, convoked at Chalcedon by the grace of Christ and your command, is also to be informed of this, so that nothing will be able to proceed contrary to the decrees of your piety. (For in the nature of things the rights of sacred things are never lessened as a result of the slackness of those placed in charge.) If I obtain this request, I shall constantly perform the customary prayers for your everlasting reign.

The full story of the events leading up to this petition, and the full details of the proceedings at this session of the Council, can be followed in the presentation by Price and Gaddis. So what follows will attempt solely to pick out the procedural points at issue, as well as constitutional questions bearing on Imperial powers on the one hand and canon law on the other. Various different, but interconnected, issues were involved:

(a) In his petition Photius attributes the origin of the dispute to an initiative taken by Eustathius of Berytus, allegedly along with others, to request from Theodosius the transfer to himself of the right of consecration to various sees within the province of Phoenicia. It is unclear whether this approach, if historical, lay behind the original grant of the title of *metropolis* to Berytus, or whether it had followed that grant (which in itself related to the secular status of the city), and had been an attempt to take advantage of it. At any rate, in the course of subsequent proceedings, Eustathius firmly denied that he had presented any petition to the Emperor asking that Berytus be made a *metropolis* (23):

Εὐστάθιος ἐπίσκοπος εἶπεν· Διδάσκω τὴν ὑμετέραν ἐξουσίαν καὶ τὴν ἀγίαν σύνοδον ὡς οὐ δικαιολογῶμαι περὶ τοῦ πάντως λαβεῖν, ἀλλὰ περὶ τοῦ πείσαι ὅτι ἐσυκοφάντησέν με. ἐγὼ γὰρ οὔτε δεήσεις ἐπέδωκα τῷ εὐσεβεστάτῳ βασιλεῖ ἵνα

μητρόπολιν Βηρυτὸν ποιήσῃ (ἔθος δὲ τοῖς βασιλεῦσι ποιεῖν τὰς μητροπόλεις), καὶ τὰς πόλεις δὲ οὐκ ἐγὼ διείλον, ἀλλ' ἅγια σύνοδος διείλεν. ὥσπερ καὶ νῦν ὀλίγων συνελθόντων ἐν Κωνσταντινουπόλει ἐπέμφθη ἡ ἐπιστολὴ τοῦ ὀσιωτάτου ἀρχιεπισκόπου Λέοντος τοῖς ἀπανταχοῦ μητροπολίταις καὶ ὑπεγράφη, οὕτως καὶ τότε τὰ δόξαντα τοῖς παροῦσιν ὀσιωτάτοις ἐπισκόποις προσηνέχθη καὶ ὑπεγράφη.

Bishop Eustathius said: 'I inform your authority (the secular officials who presided) and the holy council that I am now speaking not to defend myself over taking anything, but to persuade you that he has calumniated me. For I myself did not present a petition to the most pious emperor to make Berytus a *metropolis* — it is customary for emperors to create *metropoleis* — and it was not I who took away the cities, but the holy synod. As now, when a few assembled at Constantinople, and the letter of the most sacred Archbishop Leo was sent to the metropolitans everywhere and signed, so then also the decisions of the most sacred bishops present were brought and signed'.

Making a city a *metropolis*, he thus claims, was an Imperial matter. But the consequential division of the power of consecration to episcopal sees in the province had been a separate question, decided by a synod.

(b) The synod in question had been what was called a *synodos endemousa*, a meeting called by the bishop or patriarch of Constantinople summoning any bishops who were currently in the capital to decide ecclesiastical questions.<sup>44</sup> This synod had not only laid down a division of the sees of Phoenicia Prima, but had threatened Photius himself with deposition.

(c) Eustathius had gained the power of election over the sees of a number of other cities in the province, listed later (18) as: Botrys, Tripolis, Orthosias, Arca and Antaradus. A glance at any map of the area will show that the effect had been, as it was subsequently to be put in Canon 12 of Chalcedon (see below), 'to divide the province in two' — and this in a strictly literal sense, in that the bishop of Berytus now (briefly) claimed authority over all the northern cities, from Berytus itself to Antaradus; while Tyre, though this is not explicitly stated anywhere, will have been left with a smaller group of southern cities: from north to south, Sidon, Tyre itself, Caesarea Paneas, Ptolemais and Porphyreon.

(d) Eustathius had also deposed two bishops, and reduced them to the rank of presbyter.

A whole series of interlinked questions of Imperial and canon law thus arose, of which the most important was the meaning and consequence of the rank of *metropolis*.

Photius' petition to the Emperors (pp. 78-79) had on the face of it requested a purely secular procedure for the restoration of the ecclesiastical *status quo*. That is, the Emperor had been asked to send a *sanctio pragmatica* (τύπος πραγματικός) to a series of high officials: the two Praetorian Prefects; the Magister Utriusque Militiae of Oriens, namely the ex-consul and *patricius*, Zeno; and the Magister Sacrorum Officiorum. Only as an

<sup>44</sup> I am grateful to the reviewer for *SCI* for a reference to the invaluable work of J. Hajjar, *Le synode permanent (ΣΥΝΟΔΟΣ ΕΝΔΗΜΟΥΣΑ) dans l'église byzantine des origines au XI<sup>e</sup> siècle (Orientalia Christiana Analecta 164)*, Rome, 1962, where however this episode is not discussed.



apparent afterthought had Eustathius suggested that the issue should be brought to the attention of the Council currently meeting at Chalcedon.

No specific instruction or letter from Marcian to the Council, empowering it to decide the questions at issue, is actually quoted; but both Photius himself (3) and the Imperial officials who presided (6) referred to such an order. More important, following the reading of Photius's petition (above), the three Imperial officials laid down in the name of the Emperor a very significant point of principle (11):

Οἱ ἐνδοξότατοι ἄρχοντες εἶπον· τῷ θειοτάτῳ δεσπότη τῆς οἰκουμένης ἤρεσεν μὴ κατὰ θεῖα γράμματα ἢ πραγματικούς τύπους τὰ τῶν ὀσιωτάτων ἐπισκόπων προβαίνειν, ἀλλὰ κατὰ τοὺς κανόνας τοὺς παρὰ τῶν ἁγίων πατέρων νομοθετηθέντας. πάσης τοίνυν ἀργούσης ἐκ θείων πραγματικῶν διατυπώσεως οἱ περὶ τούτου τοῦ κεφαλαίου κείμενοι κανόνες ἀναγιγνωσκέσθωσαν.

The most glorious officials said: 'It has pleased the most divine master of the world that the affairs of the most sacred bishops should proceed, not according to divine (Imperial) rescripts or pragmatic sanctions, but according to the canons enacted by the holy fathers. Therefore, with every decision arising from divine mandates being treated as void, let the canons in force on this matter be read'.

In a sense, of course, by enunciating this principle the Emperor had given the Council complete freedom. It was a unilateral decision by himself, and if he had decided otherwise the assembled bishops would, in the short term, have had no choice but to conform. But we should not underestimate the significance of the concession made — that *ad hoc* grants made by the Emperor (or in this case the current Emperor's predecessor) could be invalidated if they conflicted with the established provisions of canon law. In the longer term, we find that the Emperors of this period, notably Theodosius II and Marcian himself, repeatedly stressed the unity and integrity of the Church as their prime duty. So respect for the priority of canon law, while it could not literally be imposed on them, was a principle which they had strong reasons to observe.

However, the record of the proceedings shows that the assembled bishops, not content merely with the *ad hoc* concession made by their pious Emperor, concluded by asserting the general principle that (Imperial) *pragmatika* procured by individuals which were contrary to canon law should always be invalid (59): ἀργῆσαι ἀναντιρρήτως τὰ ἐπὶ βλάβῃ τῶν κανόνων πραγματικὰ πραχθέντα τισὶν ἐν πάσῃ ἐπαρχίᾳ. They followed this with ritual acclamations (61): Ἡ ἁγία σύνοδος ἐβόησεν· πάντες τὰ αὐτὰ λέγομεν. ὅλα τὰ πραγματικὰ ἀργήσῃ. οἱ κανόνες κρατεῖτωσαν καὶ τοῦτο παρ' ὑμῶν (the Imperial officials) γένηται ('We all say the same. All the mandates should be null and void. May the canons prevail, and may this be brought about by you').

The principle that there should be one metropolitan bishop with the right of election throughout the province was thus reaffirmed, in accordance with Canon 4 of Nicaea — 'the 318 holy fathers' (38). Photius duly had this right restored to him, while Eustathius of Berytus was to claim no more rights on the basis of the Imperial grant (ἀπὸ τοῦ θείου πραγματικοῦ τύπου) than the other bishops (40-43). That, however, evidently did not mean that in the secular sphere, the original conferment of the title of *metropolis* on Berytus was cancelled. A century later Justinian was to lay down that legal teaching was forbidden outside the 'royal cities' (Rome and Constantinople) 'et Berytensium

metropolim'.<sup>45</sup> As far as the Church was concerned, what the Council of Chalcedon could and did do was to establish in its Canon 12 that no bishop was to engage in petitioning for the rank of *metropolis*, and that any such *metropolis* would (in the ecclesiastical sphere) be purely titular:<sup>46</sup>

Ἦλθεν εἰς ἡμᾶς ὡς τινὲς παρὰ τοὺς ἐκκλησιαστικοὺς θεσμοὺς προσδραμόντες δυναστείαις διὰ πραγματικῶν τὴν μίαν ἐπαρχίαν εἰς δύο κατέτεμον, ὡς ἐκ τούτου δύο μητροπολίτας εἶναι ἐν τῇ αὐτῇ ἐπαρχίᾳ. ὤρισε τοίνυν ἡ ἀγία σύνοδος τοῦ λοιποῦ μηδὲν τοιοῦτο τολμᾶσθαι παρὰ ἐπισκόπου, ἐπεὶ τὸν τοῦτο ἐπιχειροῦντα ἐκπίπτειν τοῦ οἰκείου βαθμοῦ. ὅσαι δὲ ἤδη πόλεις διὰ γραμμάτων βασιλικῶν τῷ τῆς μητροπόλεως ἐτιμήθησαν ὀνόματι, μόνῃς ἀπολαύετωσαν τῆς τιμῆς καὶ ὁ τὴν ἐκκλησίαν αὐτῆς διοικῶν ἐπίσκοπος, δηλονότι σφωζομένων τῇ κατὰ ἀλήθειαν μητροπόλει τῶν οἰκείων δικαίων.

It has come to our knowledge that certain persons contrary to church law have by recourse to secular authority used mandates to divide one province into two, with the result that there are two metropolitans in one province. The holy council has therefore decreed that in future nothing of this sort is to be perpetrated by a bishop, and that he who attempts it is to be deprived of his own rank. Whatever cities have already been honoured with the name of *metropolis* by imperial rescript, and the bishop who administers its church, are to enjoy the honour alone, while the proper rights are preserved for the true *metropolis*.

Nothing could more clearly indicate the delicate balance of dependence on, and independence from, the operations of secular government which characterised the workings of canon law.

### 5. Related Issues of Canon Law

The other questions which arose within the sphere of canon law may be briefly indicated here, but will not be explored fully. Firstly, could valid decisions be made by an informal *synodos endemousa*, summoned by the bishop of Constantinople, and attended by any bishops who happened to be present in the city? It was accepted by the session at Chalcedon that this was an established procedure — though serious embarrassment was caused to Maximus of Antioch, who was forced to admit that, though he had been in Constantinople at the time, he had not been present at the relevant session, and had given his subscription only when the decree deposing Photius was brought to him afterwards (19-22). But could such a *synodos endemousa* properly depose a bishop in his absence? Here the Council united in asserting an over-riding principle, on which Eunomius of Nicomedia quoted Acts 25:16; that condemnation in absence was not valid (30-33). No prolonged debate was required. Considerable time was devoted, on the other hand, to the

<sup>45</sup> Justinian, *C. Omnem* 7 (though note that in para. 9 Berytus is just an *oppidum*, and in *C. Tanta* 9 is a *civitas*).

<sup>46</sup> *ACO* II.1.2, para. 12 (p. 160 [356]); trans. Price and Gaddis (n. 1) III, 98. See also Tanner (n. 24), 93. It is striking that, in spite of the fullness of the record of Chalcedon, we cannot for the most part identify the sessions at which the (eventually) twenty-eight canons of Chalcedon were debated and voted on. See Price and Gaddis (n. 1) III, 91-4. Even in this instance, the process of proposing and approving Canon 12 is not recorded.

linked questions of whether two bishops could legally have been deposed, and of whether, if deposed, they could properly have been reduced to the rank of presbyter (45-58). It was agreed that this step had been uncanonical: either they should face specific charges, and, if found guilty, should lose clerical status altogether or they should remain as bishops. A (properly) deposed bishop could not retain the rank of presbyter. The principle was summoned up by the representatives of the see of Rome, speaking in Latin, with their intervention being translated into Greek by an Imperial official (49):

Πασκασίνος καὶ Λουκίνσιος οἱ εὐλαβέστατοι ἐπίσκοποι καὶ Βουιφάτιος πρεσβύτερος τοποτηρηταὶ τῆς ἀποστολικῆς καθέδρας Ῥώμης εἶπον· Ἐπίσκοπον εἰς πρεσβυτέρου βαθμὸν φέρειν ἱεροσυλία ἐστίν. εἰ δὲ αἰτία τις δικαία ἐκείνους ἀπὸ τῆς πράξεως τῆς ἐπισκοπῆς ἀποκινεῖ οὐδὲ πρεσβυτέρου τόπον κατέχειν ὀφείλουσιν· εἰ δὲ ἐκτός τινος ἐγκλήματος ἀπεκινήθησαν τοῦ ἀξιώματος, πρὸς τὴν ἐπισκοπικὴν ἀξίαν ἐπαναστρέψουσιν.

Paschasinus and Lucentius, the most devout bishops, and Boniface the presbyter, representatives of the apostolic see of Rome, said: ‘To reduce a bishop to the rank of presbyter is a sacrilege. If some just cause deprives them of the exercise of episcopacy, they ought not to hold even the post of presbyter. But if they were deprived of their status without reference to any charge, they are to be restored to episcopal dignity’.

In all respects, therefore, both as regards his demand for the previous *status quo* to be restored, and in the unanimity expressed by the 58 bishops (or their representatives) assembled for this session as to the basic principles which should prevail, Photius was successful.

## 6. Conclusion

Our entire evidence for the Ancient World presents few other examples of verbatim records of proceedings as extensive as those from Chalcedon, and few if any examples of records of sessions of any kind where fundamental legal and constitutional issues were set out as explicitly as they were on this occasion. Some of these issues arose primarily from the status of the Church as an Empire-wide organisation bound by canons, a status which it had acquired, in essence, at the moment of the first Oecumenical Council, at Nicaea. But Nicaea had been called, as all Oecumenical Councils of the Late Roman or Byzantine era were to be, by the Emperor; and the structure of the Church, to which its canons applied, had partly been borrowed from the secular governmental structure of the Empire. Moreover, within the secular sphere itself, there was a permanent and unresolvable tension between the Imperial wish to impose general rules, on the one hand, and the irrepressible tendency to the award of *ad hoc* privileges, as exceptions, to favoured individuals or communities, on the other. In a way which is only superficially paradoxical, the Emperors made repeated attempts to prevent themselves from granting exceptions to their own laws.<sup>47</sup>

---

<sup>47</sup> Note esp. R.W. Mathisen, ‘*Adnotatio* and *Petitio*: the Emperor’s Favor and Special Exceptions in the Early Byzantine Empire’, in Feissel and Gascou (eds.) (n. 42), 23-32.

Because it too was bound up with the secular world which surrounded it, and because its organisation depended on the provincial structure, and on the status of the cities which made up each province, the Church could not fail to feel the effects of the *ad hoc* grants, or ‘pragmatic sanctions’, issued by Emperors. But the Church was unique in being able to oppose to Imperial grants the principles embodied in its own code of canon law. So, in a complex situation where two legal structures interacted, the Church, while apparently powerless, was able to exercise a significant degree of moral and legal independence. In asserting that it was for the Emperor to make *metropoleis*, Eustathius of Berytus was reflecting both a centuries-old tradition of local rivalry over ranks and titles, and the long-established role of the Emperor in conferring benefits and statuses. But his rival, Photius of Tyre, was none the less able to restrict the effects of Theodosius’ grant to Berytus, and to assert the precedence of canon law.

The Oriental Institute Oxford