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ESSAYS IN HONOR OF PAUL B. HARVEY, JR.

*Edited by
John D. Muccigrosso & Celia E. Schultz*

E S T R A T T O




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VALENTINIAN III'S NOVEL 23: PILFERING PRIESTS, RELIGIOUS SENSIBILITIES, AND POWER DYNAMICS IN MID-FIFTH CENTURY ROME

Students of Paul Harvey, Jr., will have experienced his ability to gain historical and cultural insight from unusual texts and inscriptions.¹ I offer the present reading of a singular edict from fifth-century Rome in tribute to that tradition of his scholarship. Valentinian III's Novel 23, issued in 447 at Rome to the Praetorian Prefect Albinus, concerns the protection of tombs, and it is thus comparable in genre to other examples of late Roman mortuary legislation.² However, the edict is strikingly distinctive in several respects. To begin, Novel 23 appears to survive *in toto*. This is unlike the numerous mortuary laws found in the Theodosian and Justinianic Codes that survive only in the shortened versions abridged for inclusion in the respective compendia.³ Such abridged laws generally do not describe the circumstances or specific motivations of their composition. Novel 23, however, contains a prologue rich with descriptions of the crimes it aims to prevent, idiosyncratic justifications that hearken back to Roman traditions and Christian beliefs, distinctive theological speculation on the fate of the soul after death, and syncretistic assertions regarding the pleasure the deceased derive from their tombs. In short, there is nothing quite like it among surviving Roman mortuary legislation.

The peculiarity of the law's legal and religious views raises questions concerning its circumstances and objectives, particularly given the political and ecclesiastical situation at Rome in the age of Valentinian, Aetius, and Leo I. Anna Maria Musumeci's 1977 study of ecclesiastical politics in fifth-century Rome briefly observed that the law was suggestive of conflict between Leo and Valentinian, about which I will say more below.⁴ The only sustained treatment of the law that I am aware of is Karl Noethlichs' from 1982, which highlighted the theological

¹ E.g. P.B. Harvey Jr., *Jerome: Life of Paul, the First Hermit*, in V.L. Wimbush (ed.), *Ascetic behavior in Greco-Roman Antiquity*, Minneapolis 2010, pp. 357-69; P.B. Harvey Jr., *Blight and Bugs: the Semantics of Latin Plant Diseases and the Perils of Latin Translations of the OT Book of Psalms*, in B.R. Page - A. Rubin (eds.), *Studies in Classical Linguistics in honor of Philip Baldi*, Leiden 2010, pp. 31-41.

² E. Rebillard, 2009. *The Care of the Dead in Late Antiquity*, E. Trapnell Rawlings - J. Routier-Pucci (tr.), Ithaca 2009, pp. 57-75.

³ Mortuary legislation in the Theodosian Code appears primarily in section 9.17; in the Justinianic Code at 1.2.3; 3.44 passim; 9.19.5

⁴ A. Musumeci, *La politica ecclesiastica di Valentino III*, «Siculorum Gymnasium» 30 (1977), pp. 445-8.

idiosyncrasies of the edict but left its historical context largely unexamined.⁵ The political context of the law would seem to be the key to understanding its intent, and potentially its theology. Recent research by Mark Humphries, Michele Salzman, Andrew Gillett, and Meaghan McEvoy, among others, has enhanced and altered our understanding of the city and its political actors in the period.⁶ Their work, along with Eric Rebillard's studies of burial practices in late antiquity and recent studies of the creation and implementation of laws in late antiquity helps to provide a clearer picture of the historical context of Novel 23.⁷ More specifically, and as I will argue below, an examination of the contents of the law in the context of what we know about Rome in the mid-fifth century suggests that while the law might seem to be an imperial attack on Christian relic veneration and by extension Pope Leo, it more likely represents the alliance of interests between ecclesiastical and imperial power. Novel 23 reveals Valentinian demonstrating his authority over matters of religion in the city and territories of Rome, one of the few arenas left open to the emperor during the era of Aetius. The law's peculiar theology and blend of religious phraseology thus suggests that Valentinian was attempting to appeal to multiple religious sensibilities in order to curb the potentially destabilizing effects of relic hunting in Rome and to unite the Pope and Senate behind his emergent leadership.

Fifth-Century Rome and Valentinian III

Research in the last twenty years has offered a critical re-assessment of Rome in the mid-fifth century and a reexamination of Valentinian himself, which, while not resulting in a wholesale reevaluation of the emperor, has provided a better understanding of the political system he was operating within. To begin with the city of Rome, Richard Krautheimer's statement sums up a traditional view of the post-Constantinian city, «Constantine's departure left Rome a power vacuum: she was no longer an active capital. The administrative capital was the emperor's head-

⁵ K. Noethlichs, *Spätantike Jenseitsvorstellungen im Spiegel des Staatlichen Gräberschutzes: Zur Novelle 23 Kaiser Valentinians III*, «Jenseitsvorstellungen in Antike und Christentum» 9 (1982), pp. 50-54.

⁶ M. Humphries, *From Emperor to Pope? Ceremonial, Space, and Authority at Rome from Constantine to Gregory the Great*, in K. Cooper - J. Hillner (eds.), *Religion, Dynasty, and Patronage in Early Christian Rome, 300-900*, Cambridge UK 2007, pp. 21-58; *ibid.*, *Valentinian III and the City of Rome*, in L. Grig - G. Kelley (ed.), *Two Romes: Rome and Constantinople in Late Antiquity*, Oxford 2012, pp. 161-182; M. Salzman, *Leo's Liturgical Topography*, «Journal of Roman Studies» 103 (2013), pp. 208-232.; *ibid.*, *Christianization of Sacred Time and Sacred Space*, in W. Harris (ed.), *The Transformation of Urbs Roma in Late Antiquity*, «Journal of Roman Archaeology Supplementary Series» 33 (1999), pp. 123-134; A. Gillett, *Rome, Ravenna, and the Last Western Emperors*, «Papers at the British School at Rome» 69 (2001), pp. 131-167; McEvoy, M.A., *Child Emperor Rule in the Late Roman West: AD 367-455*, Oxford 2013.

⁷ E.g.: Rebillard, *Care of the Dead* cit.

quarters...no emperor ever returned to take up residence there [i.e., Rome]». ⁸ Krautheimer's narrative is compelling, but also incorrect, as Valentinian spent most of his later years at Rome, residing in the capital, along with Pope Leo and the Roman Senate. ⁹ The emperor himself has long been dismissed as weak and ineffectual, perhaps most famously by Edward Gibbon, who eloquently stated: «Valentinian, drawing his sword, the first he had ever drawn, plunged it into the breast of a general [Aetius] who had saved his empire», and thus set in motion the events that led to Valentinian's own undoing. ¹⁰ Indeed, scholars have traditionally seen Valentinian's weak rule as providing the power vacuum that allowed Leo I to expand the bishop of Rome's authority in western ecclesiastical and secular matters. ¹¹ More recently, however, Susan Wessel has reassessed Valentinian, his residence at Rome, and his relationship with Pope Leo I and the Roman senate, ¹² and Mark Humphries has illustrated how Leo's ecclesiastical power depended upon the support of Valentinian. ¹³ Nor has Leo escaped reassessment. Recent studies of ecclesiastical politics in fifth-century Rome have highlighted the challenges that popes of the period faced when asserting authority over churches and priests in the city and the degree to which the emperor deliberately enhanced papal authority. ¹⁴ The fifth-century Roman senate has also been subject to renewed analyses that have emphasized the continuing power of individual senators and the shared aristocratic values of Christian and non-Christian senators in maintaining the city's built environment. ¹⁵ Our enhanced understanding of the era in which Novel 23 was composed thus provides an opportunity to reexamine this peculiar law and to reassess what it reveals concerning the emperor, political actors at Rome, and beliefs concerning death and burial. To illustrate the distinctive content of Novel 23, I provide a new translation. ¹⁶

⁸ R. Krautheimer, *Rome: Profile of a City*, Princeton 1982., p. 33; Humphries, *Emperor to Pope* cit., pp. 21-23, 39-45.

⁹ Gillett, *Rome, Ravenna* cit., pp. 131-167; Humphries, *Valentinian III* cit.; McEvoy, *Child Emperor* cit., p. 289.

¹⁰ E. Gibbon, *The Decline and Fall of the Roman Empire*, London 1901, p. 477. Apparently so inconsequential as to be ignored by P. Heather in his summary of the period: *The Western Empire, 425-76*, in A. Cameron - B. Ward-Perkins - M. Whitby (ed.), *The Cambridge Ancient History* 14, Cambridge UK 2001, pp. 1-18.

¹¹ E. g. B. Neil, *Leo the Great*, London 2009, p. 10.

¹² S. Wessel, *Leo the Great and the Spiritual Rebuilding of Rome*, Leiden 2008, pp. 10-16.

¹³ Humphries, *Valentinian III* cit., p. 170; see also Musumeci, *La politica ecclesiastica* cit., pp. 451-460. Similarly, Galla Placidia is closely associated with Leo in the dedicatory inscription at Saint Paul's Outside the Walls at Rome, *ICLV* 1, 1761b: 342.

¹⁴ P. Brown, *Through the Eye of the Needle*, Princeton 2012, pp. 455-458; Salzman, *Leo's Liturgical Topography* cit.

¹⁵ Salzman, *Christianization* cit., pp. 132-4.

¹⁶ The most widely used English translation of the entirety of the Theodosian Code and novels is C. Pharr, *Theodosian Code and Novels*, Princeton 1952.. I have provided the full Latin text in an appendix.

Translation of Novel 23¹⁷

Emperors Theodosius and Valentinian to Albinus, twice praetorian prefect and patrician.

Preamble: With certain diligence, the founders of ancient laws looked out for men suffering even after death by seeking death for those who had violated tombs. Nevertheless, because delinquent minds are forever compelled to crime by blind foolishness, and they judge that they are not subject to the punishments established previously, it is necessary to renew their severity, which we see being disregarded with impunity until now. For who does not know that the peaceful manes are being disturbed by unclean enterprises and that dreadful violence is being inflicted upon the ashes of the dead? Tombs are being shattered in broad daylight, and whatever religion forbids, impious presumption has brought into a custom of shamelessness. At present, an end of sufferings is not granted to the dead, whose punishments include that their pitiable dwellings are being torn apart. For we know, and our faith is not baseless, that souls freed from their bodies have perception, and that the celestial spirit returns to its origin. This is shown by the books of ancient wisdom and by the mystic rites of the religion which we venerate and observe. Furthermore, although the divine mind does not undergo death, nevertheless souls adore the place of their bodily remains, and for some type of mystical reason they take pleasure in the honor of the tomb—so a great concern for which endures in every age, that we see for these purposes the transporting of the resources of mountains at extreme cost and the assembling of massive works to the detriment of family wealth. The intelligence of a wise man would object to such a practice, if he believed that there was nothing after death. It is an extremely barbaric and savage cruelty to begrudge the last services due to those separated from the light, and having destroyed their tombs, to bring the remains of buried bodies into the open through an unatonable crime.

1. Among the others accused of this vile crime, the loudest complaint is against the clergy, whom an unhappy day has witnessed lingering about such monstrosities. Equipped with iron tools, they disturb the tombs and, forgetful of the deity who rules the sky and stars, they bring their hands polluted with the contagion of the dead to the sacred altars. They are so submerged in infernal blindness by the dullness of their conscience that they dare take part in the sacred mysteries, and after the desecration of cadavers they believe that they are able to please God, whom the criminals supplicate in vain, and whom a more moral life persuades.

2. We condemn the foulness of such crimes by means of this edictal law so that our age may no longer be defiled. Therefore, whoever disturbs tombs, whoever extracts

¹⁷ Translation based on text in T. Mommsen – P.M. Meyer – J. Sirmond (eds.), *Theodosiani libri XVI cum Constitutionibus Sirmondianis et Leges novellae ad Theodosianum pertinentes*, Berlin 1905.

any sort of marble or removes the stones from the tombs, will immediately be subject to punishment as a violator of the profound peace and as an enemy of life itself.

3. It will be fitting that slaves and coloni detected in this misdeed be brought immediately to torture. If they should concede that so great a thing occurred through their own heedlessness, they shall pay for the crimes with their blood. If, in the midst of punishment, they should involve their masters without being questioned, they shall be punished in like manner.

4. Freeborn persons too, whom a similar recklessness has made criminals, if by chance they are plebeians and without means, they shall pay the penalty with death; however, more distinguished persons and those recognized by their offices, shall be fined half of their property and shall be marked with everlasting dishonor.

5. Certainly, the clerics who are perpetrators of such a dreadful act, we believe to be worthy of more serious punishment. Indeed, he should be more ardently faulted whose sin surprises you; the reputation of a person makes his every crime more serious. It must not be permitted to wear the name and title of sanctity and at the same time to abound in crimes. Therefore, if any one from this group appears to be a violator of tombs, then and there he shall lose the name of cleric, and sentenced by writ of proscription he shall be condemned to permanent exile. We judge that it is so necessary that this be observed that we decree that neither the ministers nor the bishops of the sacred religion should be spared in such an affair. Let complaints come to an end: we injure the innocence of no one, and our law prosecutes only the guilty.

6. But since for the most part the effect of beneficial decrees is nullified by the dishonesty of corrupt judges, we order by means of the present edict that the governor of the province, supported with the aid of the citizens, shall enforce the severity of our law. And although no guilty person is able to defy the rods and axes, if nevertheless one appeared who was so arrogant, so insolent, so disobedient that punishment could not be brought against him, then the governor should provide the most honorable powers¹⁸ with a straightforward report, so that legitimate severity not be delayed.

7. Accordingly, if the governor should neglect to punish the tomb violators over whom he has power according to the outline of this decree, or if he should delay giving a report to his superiors, he shall be stripped of his property and office.

8. Anyone who wishes may have the liberty to come forward as a witness against a governor, either while he is in office or when he is a private individual, because of the neglected punishment of a tomb violator. Neither should he fear the hatred that goes against informers, since he is more deserving of reward who shows that he unflinchingly hates the wicked, most esteemed and beloved father, Albinus.

9. Your illustrious and exalted magnificence shall order that this law, which we conceived in piety and love of religion, be made known quickly in the provinces and to

¹⁸ *amplissimas potestates* = praetorian prefects, according to: Pharr, *Theodosian Code* cit., p. 536, n. 9.

the governors of the provinces by published edicts, so that punishment may be given to criminals, delight to those living blamelessly, and peace to the interred.

Given on the third day before the ides of March, at Rome. Received on the sixth day before the kalends of April, at Rome. In the consulship of Calepio, vir clarissimus [447 CE].¹⁹ Posted in the forum of Trajan, eight days before the ides of April. Added to the edict of Albinus, vir illustis, praetorian prefect for the second time and patrician.

This law does not require interpretation.

Origin and Composition of Novel 23

Tony Honoré suggested that Novel 23 and other laws passed during Valentinian's final years at Rome might reveal something of the voice of the emperor himself, reasoning that «no quaestor could have painted him as he appears in these laws without his consent».²⁰ Some of the peculiarities of the law examined below do seem to suggest distinctive views, although the edict likely reveals the voice of the imperial quaestor as well, as such officials played an important role in shaping the language of legislation in the period.²¹ Honoré elsewhere observed that the quaestor who composed this edict, and probably six others issued between 21 October 446 and 3 June 447, appears to have been a lawyer, based on his free use of legal vocabulary.²²

Other members of the Roman senate and imperial consistory would likely have contributed to the content of Novel 23 as well, particularly when the Emperor was resident at Rome, as he appears to have been when the edict was composed and published.²³ Indeed, one of Theodosius II's Novels of 446 states that senatorial consultation was required of new legislation at Constantinople,²⁴ and although laws published by one emperor were not automatically binding in the other's domain, the views expressed at Constantinople would seem indicative of senatorial expectations of consultation in the west as well.²⁵ Thus, the law seems to be a product of the adult

¹⁹ Date: Pharr, *Theodosian Code* cit., p. 536.

²⁰ T. Honoré, *Law in the Crisis of Empire 379-455: The Theodosian Dynasty and Its Quaestors*, Oxford 1998; see also McEvoy, *Child Emperor* cit., pp. 288-9.

²¹ Quaestor in late Roman legal compositions: J.F. Matthews, *Laying Down the Law: A Study of the Theodosian Code*, New Haven 2000; on the centrality of the quaestor to the process: J. Harries, *The Roman Imperial Quaestor from Constantine to Theodosius II*, «Journal of Roman Studies» 78 (1988), pp. 148-150.

²² Honoré, *Law in the Crisis of Empire* cit., pp. 270-271, suggests that the lawyer-quaestor could be Firminus 2, *PLRE* II, praetorian prefect in 449.

²³ Harries, *Roman Imperial Quaestor* cit., p. 149; Wessel, *Leo the Great* cit., p. 15.

²⁴ Harries, *Roman Imperial Quaestor* cit., p. 165, discussing law issued at Constantinople, which states that senate is required to be involved in making laws: *Codex Iustinianus* 1.14.8, issued 17 October 446.

²⁵ Novels take effect only in legislator's half of empire: see *Nov. Theod.* 1.6ff; Harries, *Roman Imperial Quaestor* cit., p. 165.

Valentinian expressing his own views in concert with the imperial quaestor, members of the imperial consistory and senate, and probably Pope Leo, as I suggest below.

There is no evidence of the specific incident or incidents that prompted Valentinian to issue the novel. However, an event described by Gregory I over a century later may give some indication of the kind of incident that would lead Valentinian to issue such an edict. In a letter to Constantina Augusta, Gregory relates:

Nam quidam monachi Graeci huc ante biennium venientes nocturno silentio iuxta ecclesiam sancti Pauli, corpora mortuorum in campo iacentia effodiebant, atque eorum ossa recondebant, servantes sibi, dum recederent. Qui cum tenti et cur hoc facerent diligenter fuissent discussi, confessi sunt quod illa ossa ad Graeciam essent tanquam sanctorum reliquias portaturi. (PL Vol. 77. Col. 702B-703A)

...certain Greek monks who came here more than two years ago dug up in the silence of night near the church of Saint Paul, bodies of dead men lying in the open field, and laid up their bones to be kept in their own possession till their departure. And, when they were taken and diligently examined as to why they did this, they confessed that they were going to carry those bones to Greece to pass for relics of saints.²⁶

This later incident illustrates the high value of human remains taken from graves near the tombs of the saints in Rome, the willingness of some clerics to dig for such relics, and the continued efforts of Roman authorities to prevent the unauthorized movement of bones by clerics searching for holy remains. It seems possible that similar activity might have been the cause of Valentinian's edict.

It is also not clear whether someone requested the legislation or the emperor acted on his own initiative.²⁷ The only individual named in the edict is the praetorian prefect Albinus, who was charged with enforcing the law. It is possible that he petitioned for the edict, but even if he did not, the praetorian Prefect typically played a prominent role in shaping imperial edicts within the Consistory. We know something about the Albinus in question, and the spirit of the legislation seems consistent with other aspects of his career. He was a member of the great Roman aristocratic clan of the Caeionii-Decii.²⁸ The many branches of this family include the pagan praetorian prefect Volusianus (428-429), whose epistolary debates with Augustine early in his career are eclipsed only by the fame of his deathbed conversion urged on by his niece

²⁶ Ep. 4.30. Trans. J. Barmby, *NPNF* 212. On Gregory's relic policy, see J. McCulloh, *The Cult of Relics in the Letters and 'Dialogues' of Pope Gregory the Great: a Lexicographical Study*, «Traditio» 32 (1976), pp. 145-184; *ibid.*, *From Antiquity to the Middle Ages: Papal Relic Policy from the 6th to the 8th Century*, in E. Dassman - K. Suso Frank, (ed.), *Pietas: Festschrift for Bernhardt Kötting*, Münster 1980, pp. 313-324.

²⁷ On the issuance of edicts in response to official promptings versus the emperor's initiative, see J. Harries, *Law and Empire in Late Antiquity*, Cambridge 1999, pp. 47-53.

²⁸ See Albinus 10, *PLRE* II. On the identity of Albinus and the Caeionii-Decii clan: R.J. Weber, *Albinus: The Living Memory of a Fifth Century Personality*, «Historia: Zeitschrift für Alte Geschichte» 38 (1989), pp. 472-497.

the younger Melania.²⁹ Albinus is known from other contexts to have been an advocate for the landed aristocracy of Italy.³⁰ The edict's statements regarding the sanctity of the tomb and its disdain for bone-hunting clerics and their protectors would appear to reflect the attitudes of both pagan and Christian aristocrats, whose interests Albinus appears to have served throughout his time in office.

Soul, Body, and Tomb

As with mortuary laws contained in the Theodosian and Justinianic Codes, Novel 23's ostensible target is tomb violation.³¹ However, Novel 23's concerns extend to human remains and the ritual pollution of the clergy. Although the edict does not specifically mention relics or the remains of the martyrs, the law's focus on the deceased's remains, its targeting of clerics, and its anticipation that authorities might obstruct the law's enforcement, suggests that bones and not just the building materials of the tomb, had become valuable and could be targeted by tomb robbers.³² As Jill Harries has observed, the demand for human remains in the period was likely fueled by the perceived potency of the remains of the holy dead and an emergent trade in relics.³³ Indeed, the relatively recent emergence of human remains as the objective of gravediggers is potentially the reason for the edict's appeals to universal customs and tradition concerning the treatment of the dead.³⁴ As it states, «the founders of ancient laws looked out for men suffering even after death by seeking death for those who had violated tombs». ³⁵ The edict goes on to ask, «who does not know that the peaceful *manes* are being disturbed by unclean enterprises and that dreadful violence is being inflicted upon the ashes of the dead (*defunctorum cineribus*)?»³⁶ The edict's reference to the «peaceful *manes*» evokes the traditional Roman ideal of relaxing *otium* for the spirits of the departed, as well as early Christian conceptions of *refrigerium* for the soul awaiting the body's resurrection.³⁷ Thus, the authors seem to be appealing to an

²⁹ Augustine, *Ep.* 136; Gerontius, *Vita S. Melaniae*, 53-55; Weber, *Albinus* cit., pp. 478-479.

³⁰ On Albinus and aristocratic interests, see Wessel, *Leo the Great* cit., p. 38, discussing the dispute between Albinus and Aetius in 440, referring to in Prosper of Aquitaine, *Epit. Chron.* a.440, 1341; 5th century aristocrats at Rome: Brown, *Eye of the Needle* cit., pp. 455-459.

³¹ Theodosian Code: primarily in section 9.17; in the Justinianic Code: 1.2.3; 3.44 passim; 9.19.5

³² On the emergence of cadaver violation as a specific crime in the 3rd c., see Rebillard, *Care of the Dead* cit., pp. 61-63.

³³ J. Harries, *Death and the Dead in the Late Roman West*, in S. Basset (ed.), *Death in Towns: Urban Responses to the Dying and the Dead*, London - New York 1992, pp. 62-65.

³⁴ On Novel 23's concerns for corpse violation and pollution, see Rebillard, *Care of the Dead* cit., pp. 66-68.

³⁵ *N. Val.* 23. I. Trans. mine unless otherwise stated.

³⁶ *N. Val.* 23. I. Latin text of Theodosian Code and Novels from Mommsen, et. al, *Theodosiani* cit.

³⁷ J. Toynbee, *Death and Burial in the Roman World*, Ithaca 1971, pp. 37-39, 61-64; M. Carroll, *Spirits of the Dead: Roman Funerary Commemoration in Western Europe*, Oxford 2006, p. 4; P. Brown, *The Ransom of the Soul: Afterlife and Wealth in Late Antiquity*, Cambridge, MA 2015 pp. 8-14.

assumption common to most non-Christians and Christians, namely that the *manes* can and should have a peaceful repose when the body dies and that the despoliation of tombs and corpses can rob them of it.³⁸ As the law states, «at present, an end of sufferings is not granted to the dead, whose punishments include that their pitiable dwellings are being torn apart».³⁹

The evidence for earlier Roman beliefs that the state of the tomb had a direct impact on the status of the deceased is abundant, but even Christians who rejected such a causal relationship were sensitive to its appeal.⁴⁰ For example, Augustine, while rejecting the idea that burial next to a martyr was of direct benefit to the deceased, understood why family members would desire such a burial.⁴¹ Indeed, historian Thomas Laqueur has persuasively argued that no culture has ever completely disregarded the remains of the dead, no matter how little effect they believed the treatment of the corpse would have on the afterlife of the deceased.⁴² Thus, the edict can be understood as making a cross-religious appeal to leave the bodies of the dead in peace, based on shared cultural assumptions that the treatment of the cadaver matters and can affect the state of deceased. Of course, the difference is in *how* treatment of dead bodies matters. For traditional Romans, whom this edict appears to represent, bodies mattered because their treatment directly affected the deceased spirit. For others, including presumably the grave-digging clerics, bodies mattered because of their power to link those living on earth with the heavenly abode of the saints.⁴³

The edict's statement that the *manes* might fare better or worse based on the condition of their tomb does raise the question of what exactly the edict considered the state of the deceased's spirit to be. The authors, as if perceiving the question themselves, provide an answer: «For we know, and our faith is not baseless, that souls (*animae*) freed from their bodies have perception, and that the celestial spirit (*spiritus caelestis*) returns to its origin (*originem*)».⁴⁴ This bold statement uses two additional terms in place of *manes*, «soul» and the «celestial spirit». Sense indicates that *manes*, *anima*, and *spiritus caelestis* all refer to the same entity. Other Christian authors use *spiritus caelestis* to refer to the third person of the Trinity, but here it seems to refer to a

³⁸ See, for example the late fourth century Pope Damasus' concerns regarding the disturbance of the remains of the saints, expressed in his Elogium 16.11-12, inscribed at the Cemetery of San Callisto. Trans. and commentary in D. Trout, *Damasus of Rome: The Epigraphic Poetry*, Oxford 2015, pp. 113-115.

³⁹ *N. Val.* 23.1.

⁴⁰ The classical ideal most famously at Verg. *Aen.* 6.125-240, echoing the similar command for burial in Hom. *Od.* 11.50-80. Succinctly, at Toynbee, *Death and Burial* cit., p. 43; I. Morris, *Death Ritual and Social Structure*, Cambridge UK 1992, pp. 31-69.

⁴¹ Augustine, *de cura pro mortuis* 1-4 et passim.

⁴² T. Laqueur, *The Work of the Dead: A Cultural History of Mortal Remains*, Princeton 2015, pp. 35-54.

⁴³ P. Brown, *The Cult of the Saints: Its Rise and Function in Latin Christianity*, Chicago 1981, pp. 1-22.

⁴⁴ *N. Val.* 23. I

human's *spiritus*, with *caelestis* perhaps denoting the aetherial quality of the soul.⁴⁵ While such variation in terms for an individual's incorporeal self may obscure the edict's theological point, the combination of a typical Roman term like *manes* with the potentially Christian *anima* and the more unusual *spiritus caelestis* suggests a fluidity of language used to describe human *post mortem* existence in a period of religious transition in the western empire. For example, a significant number of Christian epitaphs refer to the *manes*, typically invoked as *d(is) m(anibus)*, until the mid-fifth century at Rome and longer in the provinces suggesting the continued reference to the *manes* among western Christians. Thus, the edict is likely using popular religious vocabulary to express its prohibitions, concerns, and ideas about the afterlife in language that both Christian and non-Christian Romans would understand.⁴⁶

The edict's assertion that the soul returns to its «origin» is more ambiguous. Context suggests that «origin» could refer to the body itself. However, the assertion that the soul originates with the body would be unusual in Roman or Christian thought, aside from Epicurean conceptions of material soul.⁴⁷ It seems, then, that the edict is suggesting the celestial spirit's eventual return to its heavenly origin even while much of the edict describes the soul's perception of what happens to the body and its tomb.⁴⁸ It is possible that some readers of the edict might have understood the return of the «celestial spirit» and subsequent discussion of the soul's perception of the state of the body to refer to traditional Roman ideas of the *manes* lingering near their remains or returning to the grave at certain times of year. However, Christian readers may have understood this assertion differently.⁴⁹ From a Christian perspective, such a statement could refer to the return of the soul to the body at the time of resurrection, a reunification that Gregory of Nyssa, Augustine, and other Christian theologians had discussed in their treatments of bodily resurrection combined with the belief in a separate, immortal soul.⁵⁰ The assertion «our faith is not baseless», repurposed from 1 Corinthians 15's discussion of faith in Christ's resurrection, would

⁴⁵ *Spiritus caelestis* referring to the third person of the trinity, e.g. Cyprian of Carthage, *ad donatum* 14.297; Rufinus, trans. of Eus. *H.E.* 1.3.17; Irenaeus *A.H.* 3.a11.8. The similar, pre-Christian term *anima caelestis* appears in Velleius Paterculus 2.60.2 and 2.123.2 in reference to Augustus.

⁴⁶ See discussion and bibliography at A. Cooley, *The Cambridge Manual of Latin Epigraphy*, Cambridge UK 2012, pp. 232-234.

⁴⁷ E.g. Lucretius, *De Rer. Nat.* 2.999,

⁴⁸ Christian opposition to Epicurean ideas of the soul, see e.g. Lactantius, *Inst. Div.* 7.12. A similar idea of the soul returning to its celestial home may be expressed on the early-fourth century epitaph of Manlia Daedalia from Milan, *CE* 1434= *CIL* 5.6240.

⁴⁹ Shades near graves: Carroll, *Spirits of the Dead* cit., pp. 4-6.

⁵⁰ On the return and rejoining of soul and body: Gregory of Nyssa, *de opificio* 27; necessity of reunification: Augustine, *de genesi ad literam* 12.35 (68). Further: C. Walker Bynum, *The Resurrection of the Body in Western Christianity*, 200-1336., New York 1995, pp. 94-108; J. McWilliam Dewart, *Death and Resurrection*, Wilmington 1986, pp. 164-189; on the variety of speculation concerning the state of the soul at death prior to resurrection, Brown, *Ransom of the Soul* cit., pp. 36-56, 70-79.

seem to have encouraged Christians to understand this as a reference to the resurrection. Understood thus, the edict's discussion of a celestial spirit and its return to an «origin» appears to be a singular combination of the belief in the celestial origin of souls, late ancient resurrection theology, and traditional Roman beliefs concerning the *manes* at the grave and the necessity of maintaining the integrity of tombs – because the *animae* can sense (and care) if the tomb is violated.

The edict's statements on soul and afterlife diverge in other ways from what one might expect from a Christian emperor. Particularly striking is the absence of any reference to Christ's resurrection in its discussions of bodies and souls.⁵¹ This is in spite of the apparent rephrasing of 1 Corinthians 15's «our faith is not baseless» as one justification for a belief in the sensory abilities of souls. Because a Christian emperor authorized the edict, «our faith» would have been understood as Christianity. There is, however, little support among Christian theologians of the era for the assertion of a sentient soul caring for the treatment of its grave or mortal remains — an idea that had long formed a part of Roman funerary traditions, wherein spirits of the departed were believed to linger near the grave and perceive the state of their monument and its remains.⁵²

The edict's use of religiously ambiguous terms and apparently combined ideas about tombs and the dead could have allowed it to address religiously diverse audiences with the common goal of avoiding tomb and corpse desecration. Yet the overlay of Christian conceptions of resurrection with Roman ideas of the *manes* at the tomb presents theological challenges – however much such beliefs may have been part of Roman Christianity. The edict's difficulty in squaring these two concepts appears in the following statement apparently intended to clarify its position: «...although the divine mind (*mens divina*) does not undergo death, nevertheless, souls (*animae*) adore the place of their bodily remains, and for some type of mystical reason (*rationis occultae*), they take pleasure in the honor of the tomb».⁵³ The authors here introduce yet one more term for the spirit of the departed, *mens divina*. Faced with why the *mens divina* needs its tomb to be honored, the authors acknowledge that it is unknown – the reason is mystical, hidden. Although the nature of the soul's sensory abilities and the cause of its rejoicing in the honor of the tomb remain hidden from the law's authors, that does not stop them from citing authority for the edict's statements. In the midst of the discussion, and in addition to the appeal to faith, the edict states that its view on the soul and its sensibilities is «shown by the ancient books of wisdom and by the mystic rites of the religion which we venerate and we observe».⁵⁴ Here again, the law

⁵¹ Noted by Noethlichs, *Spätantike* cit., p. 52.

⁵² For example, the idea is explicitly rejected by Augustine, *de cura pro mortuis* 3; cf. *de Genesi ad litteram* 3.17.

⁵³ *N. Val.* 23. I.

⁵⁴ *N. Val.* 23. I.

is vague about which religion the authors venerate and to which books of wisdom they refer. Noethlichs suggested that the books may have been of the magical sort that sources hostile to the emperor reported to have been used in the upbringing of Valentinian.⁵⁵ Our knowledge of the composition of late Roman laws suggests, however, that Valentinian may not have had much to do with the wording of the edict. It seems likely that «ancient books of wisdom» was deployed as a general phrase that allows the reader to infer whichever books seem likely to be described as such, in particular those assumed to protect Roman and Mediterranean-wide traditions that prescribe the protection of graves, the reverence due to cadavers, and the separation of the living from the dead. The law thus conservatively asserts the validity of older Roman funerary laws and traditions while maintaining that such practices are consistent with the religion of the emperor, which the law's audience would know to be Christianity.

Priests, Pollution, and the Eucharist

Appeals to tradition, «books of wisdom», and religion lay the foundation for the main point of the edict's preamble: tomb destruction and disturbance of the corpse is a crime, it results in pollution, and the worst perpetrators are Christian clerics. As the authors state, «It is an extremely barbaric and savage cruelty to begrudge the last services due to those separated from the light, and having destroyed their tombs, to bring the remains of buried bodies into the open through an unatonable crime (*per inexpiabile crimen*)».⁵⁶ Fear of tomb violation and repugnance at the thought of exposed cadavers are hallmarks of ancient Mediterranean funerary beliefs, and here they form the foundation of the specific condemnations that will follow in the edict.⁵⁷ The edict's appeals to tradition, religion, and faith culminate as it singles out the offenses of the Christian clergy. The language used to condemn such grave-digging priests evokes a powerful image of religious deviance, evoking pick- and spade-wielding clerics in this way: «Equipped with iron tools (*ferro adincti*), they disturb the tombs and, forgetful of the deity who rules the sky and stars, they bring their hands polluted with the contagion of the dead to the sacred altars (*cinerum contagione pollutas sacris altaribus manus inferunt*)».⁵⁸ The edict's references to «polluted» hands and «con-

⁵⁵ Noethlichs, *Spätantike* cit., p. 50, referring to a report in Procopius, *Bell. Vand.* 1.3.10-13. More positive assessment of Valentinian III: Humphries, *Valentinian III* cit., pp. 161-182.

⁵⁶ *N. Val.* 23. I.

⁵⁷ In general: Carroll, *Spirits of the Dead* cit., pp. 79-85; Rebillard, *Care of the Dead* cit., pp. 57-75; J. Lennon, *Pollution and Religion in Ancient Rome*, Cambridge UK 2014, pp. 136-164. Classical traditions: Twelve Tables' prohibition at Rome in Cicero, *De Legibus*, 2. 23. 58; Athenian laws Demosthenes, *Mac.* 43.57-62; *Cic. de leg.* 2.25.63, *ad familiares* 4.12; Plutarch *Solon* 12, 21. Late empire: *Codex Iustinianus* 3.44.12, citing a decree of Diocletian. Jewish practices: Numbers 19:13-21; M. Balberg, *Purity, Body, and Self in Early Rabbinic Literature*, Berkeley 2014, pp. 96-121; S. Fine, *Death, Burial, and the Afterlife*, in C. Hezser, (ed.), *Oxford Handbook of Jewish Daily Life in Roman Palestine*, Oxford 2010, pp. 440-462.

⁵⁸ *N. Val.* 23.1. Translation mine.

tagion» reveal the continuing miasmatic potential of cadavers, even as some Christian authorities encouraged the faithful to embrace and venerate human remains.

Indeed, the late fourth-century *Apostolic Constitutions* and the third-century *Didascalia Apostolorum* upon which it expands both flatly deny the possibility of death pollution and interpret fears of such pollution and any consequent purifications as following Jewish practice.⁵⁹ Similarly, John Chrysostom asserted that the dead cannot pollute when he abused the emperor Julian for having moved the bones of St. Babylas from Daphne, where their presence had reportedly defiled the shrine to Apollo.⁶⁰ Christian sources further argue that the bodies of Christians are among the living, only asleep, and therefore cannot pollute, a point that Jerome also makes regarding the bodies of the saints in his *Contra Vigilantium* around the year 404.⁶¹ Period epitaphs that refer to the dead as «sleeping» and even the use of the term *coemeterium*, the «place of sleep», indicate that the belief in the «sleeping» dead was widespread among Christians.⁶² Literary sources like those discussed reveal that the sleeping, non-dead status of Christian cadavers meant that for some Christians the dead could not pollute. However, Novel 23's assertion of the reality of pollution and that tainted hands could displease the Christian God indicates that the matter was not viewed uniformly among the wider Christian population.

Certainly, the social reality of contagion from tombs and cadavers continued to exist among the non-Christian population. For example, in the mid-fifth century Theodoret of Cyrus rhetorically asks of his pagan opponent, «why do you think that anyone who approaches the tomb of a martyr incurs some sort of taint?»⁶³ Although some scholars have understood Theodoret's description to refer to the desire for separate Christian and pagan burial grounds, it seems clear that Theodoret is giving voice to the conflict between traditional Mediterranean views on death pollution and his own advocacy of relic veneration and the cult of the saints.⁶⁴ Indeed, the rejection of the cult of the martyrs and relics by Theodoret's «pagan» surely reflects the reaction of many non-Christians to the increasing prominence of Christian veneration of holy

⁵⁹ *Const. Apost.* 6.30; cf. the 3rd c. *Didascalia Apostolorum* (6.23), upon which the 4th c. *Const. Apost.* expands.

⁶⁰ *de s. babyla contra Julianum* 2-3.

⁶¹ Jerome, *Contra Vig.* § 23, appealing to John 9:11 ff., 1 Thessalonians 4:13. Discussion and English translation: S. Jerome-Rebenich, *Jerome*, S. Rebenich (tr.), New York 2002., pp. 105-118; Harries, *Death and the Dead* cit., pp. 59-63.

⁶² Christian use of *koimeterion* and sleep-related language: A. Rush, *Death and Burial in Christian Antiquity*, Washington, D.C. 1941, pp. 1-21; Christian epitaphs with sleeping language: M. Handley, *Death, Society, and Culture: Inscriptions and Epitaphs in Gaul and Spain, AD 300-750*, Oxford 2003, pp. 8-11; cf. Carroll, *Spirits of the Dead* cit., pp. 266-275.

⁶³ Theodoret of Cyrillus, *Graec. affect. curatio* 8.29, trans.: Theodoret of Cyrillus – T. Halton, *Theodoret of Cyrus: A Cure for Pagan Maladies*, T. Halton (tr.), New York 2013., pp. 177. Greek text: Theodoret of Cyrillus – P. Canivet (ed.) *Théodoret de Cyr: Thérapeutique des maladies helléniques I-II* (Sources chrétiennes 57), Paris 1958.

⁶⁴ Rebillard, *The Care of the Dead* cit., p. 29.

bones and cadavers in the fifth century – the sort of reaction that may have motivated the composition of Novel 23 in the conservative circles of the western empire. The potential conflict between long-standing beliefs concerning the dangers of death pollution and the desire of some Christians to be close to the remains of the dead brings us to another distinctive aspect of Novel 23: its anticipation of obstruction.

Conclusion: The Context of Novel 23

Uniquely among mortuary laws of the period, Novel 23 anticipates that government officials and others would interfere with its enforcement. The edict relates the authors' fears that the law would be effectively «nullified by the dishonesty of corrupt judges», and the law stipulates that the governor (*moderator*) should rely on citizens to enforce its terms — adding that any obstruction should be reported directly to the «Most August Powers», — i.e., the Praetorian Prefect, in this case the aforementioned Albinus of the Caeionii-Decii clan.⁶⁵ The edict adds that if the «governor should neglect to punish the tomb violators over whom he has power» or «if he should delay giving a report to his superiors, he shall be stripped of his property and office».⁶⁶ References to corrupt and negligent officials occur elsewhere in late Roman legislation, such as in Majorian's law concerning the obligations of decurions from 459.⁶⁷ However, Novel 23's assumption that desire to access tombs and disturb human remains could lead to official corruption is unprecedented, and the assumption that officials might collude with or be unable to prosecute grave-digging clerics points to the increasing spiritual and monetary value of potentially holy cadavers in the fifth century.

Given the law's anticipation that excavated relics would result in official corruption or powerlessness, it is worth considering who would benefit from such excavations, and in whose interest it was to try to stop them. The edict was issued at Rome in 447, at a time when Valentinian III was increasingly present in the city and when Pope Leo I was devising ways to expand his own authority.⁶⁸ As Mark Humphries has argued, one consequence of Rome's return to prominence in the 440s is that the Roman Senate once again became a major player in imperial politics due to its proximity to power.⁶⁹ In that decade, the aristocratic houses that made up the Senate, such as the Prefect Albinus' Caeionii-Decii, negotiated with both imperial and ecclesiastical power as they maintained their traditional prerogatives in the city and their

⁶⁵ *N. Val.* 23.6

⁶⁶ *N. Val.* 23.7

⁶⁷ *N. Maj.* 7.1.; see also *C. Th.* 2.29.

⁶⁸ Valentinian at Rome: Gillet, *Rome, Ravenna* cit., pp. 143-148.

⁶⁹ Humphries, *Valentinian III* cit., p. 179.

own networks of authority.⁷⁰ The edict directs Albinus to enforce its contents, and it may be that the law came in response to his request. Valentinian clearly approved of the law, even if it seems unlikely that he composed the edict itself.

Although Leo's name is nowhere on the decree, it is difficult to imagine that an imperial decree issued at Rome that concerned the actions of clergy and the potential invention of relics was not influenced by a pope whose interactions with imperial politics are well documented elsewhere.⁷¹ Anna Musumeci, in her study of Valentinian III's ecclesiastical politics, suggested that Novel 23 is particularly severe in its opposition to the church and thus reflects a conflict between ecclesiastical and secular officials.⁷² Indeed, a conflict between imperial and church officials may have partly inspired the law. However, it seems possible that the edict may have served Leo's interests as well, particularly as he consolidated his authority at Rome. Considering that in the age of Pope Leo I relics from Rome already carried considerable authority, their liberal excavation could pose numerous problems for the pontiff.⁷³ The possibility of Roman and foreign clerics freely excavating and producing such potent objects, exporting them, or housing them in local or household churches would pose a significant challenge for Leo's authority at Rome.⁷⁴ Michele Salzman has recently demonstrated the particular challenge that aristocratic control of Rome's titular churches and the independence of their priests posed for Leo, and how the pontiff used liturgical means to consolidate pontifical authority.⁷⁵ In light of ecclesiastical power struggles and the potential for new relics to enhance spiritual power, the law could thus be seen as Leo's attempt to prevent the unauthorized disturbance of tombs by the clergy and the search for Roman relics by clerics and church authorities beyond his authority.

Leo I's use of imperial power to expand his authority is well known from other circumstances, most famously when Leo clarified papal primacy in Gaul by an imperial edict issued by Valentinian III just three years prior to Novel 23, in 444.⁷⁶ It is possible, then, that Novel 23 is one further example of Leo's consolidation of power and his alliance with imperial authority to serve his interests. Valentinian III would also benefit from the reduction of claims to spiritual authority that the invention of new relics could confer. Unlike earlier legislation included in the Theodosian Code, Novel 23 nowhere specifically mentions martyrs or their remains.⁷⁷ This suggests

⁷⁰ Brown, *Eye of the Needle* cit., pp. 454-468.

⁷¹ Wessel, *Leo the Great* cit., pp. 36-51; Neil, *Leo the Great* cit., pp. 31-32, 42.

⁷² Musumeci, *La politica ecclesiastica* cit., pp. 445-448.

⁷³ On Rome in particular: R. Bartlett, *Why Can the Dead Do Such Great Things?*, Princeton 2013, pp. 7-10.

⁷⁴ Significance of burials at Rome: M. Costambeys, *Burial Topography and the Power of the Church in Fifth- and Sixth-Century Rome*, « Papers of the British School at Rome » 69 (2001), pp. 169-189.

⁷⁵ Salzman, *Leo's Liturgical* cit., pp. 224-5.

⁷⁶ Novel 17; see esp. Humphries, *Valentinian III* cit., pp. 169-170; Musumeci, *La politica ecclesiastica* cit., p. 451.

⁷⁷ On this point: Rebillard, *Care of the Dead* cit., pp. 67-68.

that the edict is not primarily aimed at the translation of known martyrs' bones from established shrines. The emperor is thus not concerned with all relics *per se*, but with the threat to tradition and social stability that would come from widespread tomb desecration, and the threat to political and ecclesiastical order than could come from the widespread promotion of new relics. It is possible that Albinus, as a member of a prominent aristocratic house, some of whose members held traditionalist sympathies, is the major force behind the ostensible concern of the edict: fear of corpse and tomb desecration.⁷⁸ The inclination of Rome's senatorial elites towards traditional Roman religion are documented into the fifth century, and the edict's call to leave the *manes* in peace would presumably appeal to their sensibilities.⁷⁹ Thus, while Novel 23 might seem at first to represent a conflict between ecclesiastical and secular authority, or between Roman traditions of burial and the Christian desire for sacred remains, it likely represents the alliance of imperial, ecclesiastical, and aristocratic authorities to maintain the status quo, consolidate existing power, and use universal appeals to religion and tradition to suppress the free search for, and promotion of, new relics that could challenge existing systems of authority at Rome.

⁷⁸ Weber, *Albinus* cit., pp. 472-497

⁷⁹ Brown, *Eye of the Needle* cit., pp. 457-8.

APPENDIX
Latin text of Novel 23

Nov. XXIII - DE SEPULCRI VIOLATORIBUS - 447 MART. 13

Text after T. Mommsen and P. Meyer, eds. *Theodosiani Libri XVI cum Constitutionibus Sirmondianis et Leges novellae ad Theodosianum pertinentes*, Vol. 2 - Berlin 1905, pp. 114-117

dd. vv. imp. theod(osivs) et valent(inianvs) aa. alrino ii p(raepecto) p(raetori)o et patricio. Diligenter quidem legum veterum conditores prospexerunt miseris et post fata mortalibus, eorum qui sepulcra violassent capita persequendo. Sed quoniam noxae mentes caeco semper in facinus furore rapiuntur et se ad poenas dudum statutas existimant non teneri, necesse est severitatem novare, quam videmus hactenus inpune contemptam. Quis enim nescit quietos sollicitari funestis ausibus manes et horribilem violentiam defunctorum cineribus inferri? Luce palam sepulcra caeduntur et quidquid religio vetat in usum licentiae traxit sacrilega praesumptio. Finis malorum iam nec mortuis datur, in quorum supplicia constructio miserandae sedis eripitur. Scimus enim — nec vana fides est — solutas membris animas habere sensum et in originem suam spiritum redire caelestem. Hoc libris veteris sapientiae, hoc religionis, quam veneramur et colimus, declaratur arcanis. Et licet occasus necessitatem mens divina non sentiat, amant tamen animae sedem corporum relictorum et nescio qua sorte rationis occultae sepulcri honore laetantur, cuius tanta permanet cunctis cura temporibus, ut videamus in hos usus sumptu nimio pretiosa montium metalla transferri operosasque moles censu laborante componi. Quod prudentium certe intellegentia recusaret, si nihil crederet esse post mortem. Nimis barbara est et vesana crudelitas munus extremum luce carentibus invidere et dirupi per inexpiabile crimen sepulcris monstrare caelo corporum reliquias humatorum.

1 Huius nefandi sceleris inter ceteros reos vehementior clericos querella persequitur, quos portentis talibus inmorantes frequenter aspexit dies tristior. Ferro adincti vegan sepultos et obliti numinis caelo ac sideribus praesidentis cinerum contagione polputa sacris altaribus manus inferunt, tanto in profundam caliginem conscientiae suae stupore demersi, ut reverendis audeant interesse mysteriis et post excidia funerum credant deum posse placari, quem nocentes precantur incassum, quem vita melior exorat. **2** Commissorum talium foeditatem, ne diutius tempora nostra maculentur, hac edictali lege damnamus. Quisquis igitur sepulcra profundae violator quietis et lucis ipsius hostis effoderit, quisquis ex his quaelibet marmora vel saxa sustulerit, poenae mox habeatur obnoxius. **3** Servos colonosque in hoc facinore deprehensos duci protinus ad tormenta conveniet. Si de sua tantum fuerint temeritate confessi, luant commissa sanguine suo; si dominos inter supplicia nullo interrogante nexuerint, pariter puniantur. **4** Ingenui quoque, quos similis praesumptio reos fecerit, si fortasse plebei et nullarum fuerint facultatum, poenas morte persolvant; splendidiore autem vel dignitatibus noti bonorum suorum medietate multati perpetua notentur infamia. **5** Clericos vero, quos tam diri operis constiterit auctores, dignos credimus maiore supplicio: vehementius enim coercendus est quem peccasse mireris, scelus omne gravius facit claritudo personae. Intolerandum, nimis execrabile, non ferendum induere nomen et titulum sanctitatis et abundare criminibus. Quisquis igitur ex hoc numero sepulcrorum violator extiterit, ilico clerici nomen amittat et stilo

proscriptionis addictus perpetua deportatione plectatur. Quod ita servari oportere censemus, ut nec ministris nec antistitibus sacrae religionis in tali causa statuamus esse parcendum. Facessant querellae: nullius innocentiam sauciamus, nocentes tantum lex nostra persequitur. **6** Sed quoniam plerumque statutis salubribus dissimulatione venalium iudicum negatur effectus, praesenti iubemus edicto, ut provinciae moderator adminiculo municipum fultus censuram nostrae legis exerceat. Et licet nemo reus possit fascibus ac securibus reluctari, si quis tamen extiterit sic superbus, sic inpotens, sic rebellis, in cuius nequeat ire supplicium, amplissimas potestates directa relatione mox instruat, ne severitas iusta lentetur. **7** Quod si violatores sepulcri quos potuerit secundum formam sanctionis huius punire neglexerit vel de superioribus referre distulerit, facultatibus et honore privetur. **8** Cuius quisquis, sive adhuc in potestate positi sive privati, propter omissam poenam violatoris sepulcri voluerit accusator emergere, habeat liberam facultatem. Nec delatoris formidet invidiam, cum praemio magis dignus sit, qui se constanter improbos so odisse monstraverit, Albine p(arens) k(arissime) a(tque) a(mantissime). **9** Inlustris et praecelsa magnificentia tua legem, quam pietatis et religionis amore concepimus, provinciis provinciarumque rectoribus celeriter innotescere propositis iubebit edictis, ut criminosis poena reddatur, innocenter viventibus gratulatio, pax sepultis.

DAT III ID. MART. ROM(ae). ACC(EPTA) VI KAL. APRIL. ROM(AE) CALEPIO V. C.
 CONS. PROP(OSITA) IN FORO TRAIANI VIII ID. APRIL. ANTELATA EDICTO ALBINI
 V(IRI) INL(VSTRIS) II P(RAEFECTI) P(RAETORI)O ET PATRICII.
 Haec lex interpretatione non eget.