

# JUSTINIAN, MALALAS, AND THE END OF ATHENIAN PHILOSOPHICAL TEACHING IN A.D. 529\*

By EDWARD WATTS

To historians of the ancient world, the closing of the Athenian Neoplatonic school by the emperor Justinian stands as one of the best known, and most debated, events of the later Roman Empire.<sup>1</sup> To some, it is an event of little consequence with only an ephemeral impact upon subsequent developments. To others, it represents nothing less than the death of classical philosophy. Nevertheless, this modern scholarly interest belies ancient attitudes. The only direct statement about the end of Athenian philosophical teaching comes from the *Chronicle* of John Malalas, and all other ancient sources, including those that rely upon Malalas, are silent about the incident.<sup>2</sup> This silence hints at a fact that this study will make clear. To contemporaries, the closing of the Athenian school was an unremarkable occurrence that represented neither a tyrannical use of imperial power nor an attack upon the valued cultural tradition of philosophical teaching. Like all else in the later Roman world, it occurred within the confines of a political system that, when working properly, matched imperial initiative to the specific needs of a province or city. As a result, the causes and significance of the closing of the Athenian school are best appreciated by understanding how the event developed out of its local political setting.

## I. ATHENIAN NEOPLATONISM IN ITS HISTORICAL CONTEXT

The nature of Malalas' account complicates any attempt to contextualize Justinian's actions against Athenian philosophers. Because he was composing a chronicle, Malalas gives little historical background and even less detail about the events leading up to the prohibition of teaching in Athens. Consequently, to understand his notice, it is necessary to first establish the local conditions in which the Athenian Neoplatonic school functioned in A.D. 529.

\* I would like to thank John Matthews, Peter Brown, Ann Hanson, and the Editorial Committee for their comments and suggestions.

<sup>1</sup> Numerous articles have been written arguing about the identity of the institution, the course of its closure, and the extent of activities prohibited. The school has been called the Platonic Academy by Alan Cameron, 'The last days of the Academy at Athens', *Proceedings Cambridge Philological Society* 195 (1969), 7–29, an identification echoed by P. Chuvin, *A Chronicle of the Last Pagans* (trans. B. A. Archer) (1990), 135–9. This notion has been called into question by J. P. Lynch, *Aristotle's School* (1972), 184–8; J. Glucker, *Antiochus and the Late Academy* (1978), 322f.; and H. J. Blumenthal, '529 and its sequel: What happened to the Academy', *Byzantion* 48 (1978), 369–85. Reasons for the closure also vary. For a description of the divergent scholarly attitudes see, G. Hällström, 'The closing of the Neoplatonic School in AD 529: an additional aspect', in P. Castrén (ed.), *Post-Herulian Athens* (1994), 141–60. As for implications, G. Fernández, 'Justiniano y la clausura de la escuela de Atenas', *Erytheia* II.2 (1983), 24–30, sees none, while A. Gerostergios, *Justinian the Great, the Emperor and Saint* (1982), 72–3, connects the closing with the bankruptcy of the institution. Against

all evidence, T. Whittaker, *The Neoplatonists* (1918), 182, takes the extreme position that this action prohibited the teaching of all philosophy in the Empire.

<sup>2</sup> John Malalas, *Chronicle* 18.47 (all references to Malalas follow the textual divisions of the edition of I. Thurn, *Ioannis Malalae Chronographia* (2000)). The Malalas passage will be discussed in more detail below. The *Chronicon Paschale* and the *Chronicle of John of Nikiu* both derive much of their sixth-century material from Malalas. Later Byzantine authors such as Theophanes, Zonaras, Cedrenus, and Constantine Porphyrogenitus also relied heavily upon Malalas. None of these sources mentions the closing, but their silence does not reflect a lack of interest in philosophy. All of the texts copy Malalas 16.16, an account of the Athenian philosopher Proclus and his efforts to protect the emperor Anastasius from a usurper. Proclus had died nearly twenty years before the purported event, but his representation as a saviour of Constantinople indicates Malalas' generally favourable attitude towards philosophers. Equally positive paraphrases of this erroneous account are found in *Chronicon Paschale* 611.5, John of Nikiu 89.78–84, Zonaras 138.1, Theophanes 164.6, Cedrenus 1.636.5, and Constantine Porphyrogenitus, *de insidiis* 169.32.

The school had been organized as a community devoted to the regular teaching of philosophy in the late fourth century A.D. by an Athenian named Plutarch.<sup>3</sup> Secured by Plutarch's high-profile local political involvement, the institution thrived under his supervision.<sup>4</sup> By the end of the first decade of the fifth century A.D., the Athenian school had become one of the most respected centres of pagan philosophical study and, as a result, it began to attract large numbers of students from all over the eastern Mediterranean.<sup>5</sup> This trend continued under the strong leadership of Plutarch's successors Syrianus and Proclus. To maintain their independence in a local environment where Christians were becoming politically important, these scholars used their ties to prominent pagan aristocrats to protect the interests of the school.<sup>6</sup> By A.D. 500, however, a series of weak scholastic heads and a number of succession struggles ushered in a steep decline in the fortunes of the institution.<sup>7</sup> The pagan benefactors who had supported it politically and financially began to slip away.<sup>8</sup> Hegias, a confrontational head of the school and an outspoken pagan, compounded these problems by leading the public performance of pagan religious rites. These actions attracted the attention of provincial authorities and brought an uncomfortable degree of scrutiny to bear upon Hegias and the institution he headed.<sup>9</sup> The Neoplatonic school had once been a centre to which students travelled, but, under Hegias, it lost most of its political and intellectual influence.

When Damascius, its last head, assumed control around A.D. 515, the school was politically weak and philosophically undistinguished.<sup>10</sup> Recognizing the problems facing

<sup>3</sup> This was distinct from the apparently informal activities of Iamblichus, the grandson of Sopater and Nestorius. For this Iamblichus, see Alan Cameron, 'Iamblichus at Athens', *Athenaeum* 45 (1967), 143–53. On Nestorius, see E. Watts, *City and School in Late Antique Athens and Alexandria*, unpub. thesis Yale University (2002), 137–41.

<sup>4</sup> Three surviving inscriptions (*SEG* 31.246 and *IG* II/III<sup>2</sup> 3818 and 4224) commemorate Plutarch's financial support for Athenian religious and civic causes. The most notable of these (*IG* II/III<sup>2</sup> 4224) marks his donation of a statue of the praetorian prefect Herculius. For objections to a link between the philosopher and the Plutarch mentioned in *IG* II/III<sup>2</sup> 3818 and 4224 see E. Sironen, 'Life and administration of late Roman Attica in light of public inscriptions', in P. Castrén (ed.), *Post-Herulian Athens* (1994), 46–51, and L. Robert, *Épigrammes du bas empire (Hellenica IV)* (1948), 91–4. Against them see Watts, op. cit. (n. 3), 153–7; G. Fowden, 'The Athenian Agora and the progress of Christianity', *JRA* 3 (1990), 499 and 'The pagan holy man in late antique society', *JHS* 102 (1982), 51, n. 147; A. Frantz, *The Athenian Agora in Late Antiquity* (1988), 64–5; and Blumenthal, op. cit. (n. 1), 373.

<sup>5</sup> Students are attested from Lycia and Syria, but the largest concentration seems to have come from Egypt. For this see E. Watts, 'Student travel to intellectual centers: What was the attraction?' in L. Ellis and F. Kidner (eds), *Travel, Communication and Geography in Late Antiquity* (2004), 11–21.

<sup>6</sup> For the rise of the Athenian Christian community in the fifth century A.D. see A. Karivieri, 'The "Library of Hadrian" and the Tetraconch Church', in P. Castrén (ed.), *Post-Herulian Athens* (1994), 89–115; and Fowden, op. cit. (n. 4), 497–9. In addition see, L. K. Skontzou, 'Ἡ παλαιοχριστιανική βασιλική του Ἰλισσοῦ', *Αρχαιολογία* 29 (1988), 50, for a basilica beside the Ilissus river that may date from this period. For a survey of Christian tombstones from the period, see E. Sironen, *The Late Roman and Early Byzantine Inscriptions of Athens and Attica* (1997), 119–271. The Athenian school counteracted this rising Christian influence by using local aristocrats like Archiades (*Vit. Proc.* 14), Rufinus (*Vit. Proc.* 23), and Theagenes (*Vit. Proc.* 29; *Phil. Hist.* fr.

100A) for political support. As Fowden, op. cit. (n. 4), 497, has noted, Athens was not alone among cities where pagan aristocrats supported thriving civic institutions well into Late Antiquity. See, for example, C. Roueché, *Aphrodisias in Late Antiquity: the Late Roman and Byzantine Inscriptions* (1989) on Aphrodisias; C. Lepelley, *Les cités de l'Afrique romaine au Bas-Empire* (1979–81), 1.357–69; and J. H. W. G. Liebeschuetz, *Decline and Fall of the Late Roman City* (2001), 263–7.

<sup>7</sup> Hinted at by Aeneas of Gaza, *Theophrastus* (ed. Colonna), 4–8, and Damascius, *Phil. Hist.* fr. 151E. See also, Watts, op. cit. (n. 3), 199–218; P. Athanassiadi, *The Philosophical History* (1999), 43–5, and Cameron, op. cit. (n. 1), 27.

<sup>8</sup> By the later part of his life, Proclus had attracted a number of pagan *honorati* as supporters of the school. These came both from Athens (e.g. Theagenes) and other cities like Aphrodisias (e.g. Asclepiodotus, the man to whom his *Commentary on the Parmenides* is dedicated). This was a significant move that reflected contemporary political conditions (for which, see Liebeschuetz, op. cit. (n. 6), 104–24) and helped widen the school's supporters beyond the circle of Athenian councillors. Nevertheless, a series of succession contests at the end of Proclus' life and following the death of Marinus, his successor, likely drove many of these *honorati* away (on these struggles see Watts, op. cit. (n. 3), 186–208). Consequently, while *honorati* figure prominently in discussions of the late fifth-century A.D. Athenian school, such supporters are largely absent from sixth-century sources.

<sup>9</sup> 'From these actions scandal arose in the city and he attracted angry hatred and was plotted against both by those who longed for the abundant possessions, of which he was the master, and by some of the men who established the laws' (*Phil. Hist.* fr. 145B). Damascius' extreme bias against Hegias is worth noting here, but there can be little doubt that Hegias' activities were troublesome to many. The men who establish the laws are probably provincial authorities.

<sup>10</sup> Athanassiadi, op. cit. (n. 7), 43; following J. Combès, *Damascius, traité des premiers principes I* (1986), xix, xxxvi.

the institution, Damascius initiated a thorough re-evaluation of its doctrines. He disavowed Hegias' controversial teachings and even called into question the previously sacrosanct interpretations of Proclus.<sup>11</sup> In place of these ideas, Damascius established a comprehensive new system of philosophical teaching inspired by the writings of Iamblichus. His ideas were laid out in a series of works, nearly all of which have since been lost, that expounded Aristotle,<sup>12</sup> Plato,<sup>13</sup> and the Chaldean Oracles.<sup>14</sup> Alongside his critical capacities, Damascius also had a predilection for accounts of the paranormal.<sup>15</sup> While probably not reflected in the formal curriculum, these interests coloured the school's intellectual environment in the same way that his doctrines shaped the curriculum.

Damascius' radical re-appraisal of Neoplatonic philosophy proved popular with his immediate peers. In the works of Olympiodorus, a much younger Alexandrian contemporary, the teachings of Damascius figure prominently.<sup>16</sup> The Christian John Philoponus also knew them (although he accorded Damascius much less respect than Olympiodorus did).<sup>17</sup> While Damascius' teachings helped to rehabilitate the reputation of the school, they had another important effect. After nearly three decades in which few students are known to have journeyed to the school for philosophical study, under Damascius it again began to attract student travellers. Eight such students are known. Two of them came from Syria and five journeyed from Asia Minor.<sup>18</sup> Another student, Simplicius, came to Damascius' school from Asia after spending the late A.D. 510s studying in Alexandria.

By the A.D. 520s, Damascius' school was again a thriving centre of pagan philosophical study, but it was based in a province, Achaëa, where political culture was becoming dominated by Christians.<sup>19</sup> Complicating matters further, a sixth-century administrative change had created a system of local government that emphasized the concerns of Christian landholders and Christian clergy over those of the civic

<sup>11</sup> This becomes clear in Damascius' commentary on Plato's *Parmenides* and his monograph on the argument from opposites found in the *Phaedo*. The *Parmenides* commentary forms the second part of the manuscript that contains *On First Principles*. The monograph is found within the commentary on the *Phaedo* (I.207–52 in the edition of L. G. Westerink, *Commentaries on Plato's Phaedo, Vol. II* (1977)). Damascius was especially diligent about examining Proclus' flawed interpretations of Iamblichus. For more detail on this issue see P. Athanassiadi, 'The oecumenism of Iamblichus: latent knowledge and its awakening', *JRS* 85 (1995), 247, and H. D. Saffrey, 'Neoplatonic spirituality II: from Iamblichus to Proclus and Damascius', in A. H. Armstrong (ed.), *Classical Mediterranean Spirituality: Egyptian, Greek, Roman* (1986), 264.

<sup>12</sup> A commentary on Aristotle's *Meteorology* certainly existed and others on *On Categories* and *On the Heavens* may have been published.

<sup>13</sup> Commentaries on the *Parmenides*, *Phaedo*, and *Philebus* are extant. Others on the *Republic*, *Phaedrus*, *Sophist*, *Timaeus*, and *Laws* are mentioned elsewhere in Damascius' writings. For these see Combès, op. cit. (n. 10), xxxiv.

<sup>14</sup> Damascius, *In Parmenidem* (ed. C. A. Ruelle, 1889) 9.21–2, 11.11–5, 13.9–10.

<sup>15</sup> In two of his works, the *Philosophical History* and the *Paradoxa*, Damascius' interest in divination and other paranormal subjects is explored. In addition to

its descriptions of the character of various intellectuals, the *Philosophical History* contains vivid accounts of pagan religious sites, miraculous events, and strange divination practices. The *Paradoxa* (known only from Photius, *Bibliothèque*, cod. 130) described extraordinary actions, marvels relating to the gods, the appearances of the souls of the dead, and miscellaneous unnatural phenomena. Though the text itself is completely lost, the religious implications of these stories are clear from Photius' review: 'In all of this work there are only impossible, unbelievable, ill-conceived marvels and folly as are truly worthy of the godlessness and impiety of Damascius who slept beneath deep shadows as the light of piety filled the world' (*Bib.* 130.97a).

<sup>16</sup> L. G. Westerink (ed.), *Prolégomènes à la philosophie de Platon* (1990), xv.

<sup>17</sup> Philoponus, *Commentary on the Meteorologia* (ed. M. Hayduck, *CAG* XIV.1, 1901) 44.21–36; 97.10–1; 116.36–117.31. See also Combès, op. cit. (n. 10), xxxix–xl.

<sup>18</sup> The Syrians are Theodora (to whom the *Philosophical History* is dedicated) and her sister. The others are the philosophers that Agathias (2.29–31) mentions as having journeyed to Persia with Damascius in A.D. 531.

<sup>19</sup> R. Rothaus' recent discussion of religious change in Corinth (*Corinth: The First City of Greece* (2000), 93–104) demonstrates the influence of the Achaean Christian community in the sixth century A.D.

aristocracy.<sup>20</sup> The school had traditionally relied upon local Athenian authorities and non-Athenian grandees for political support. With the formal power of the Athenian councillors diminished and the school's relationships with prominent supporters less secure than it had been in the fifth century, the institution was left without effective patrons. In previous years, Christians in Achaëa had shown an alarming tendency to attack prominent pagan philosophers when they saw signs of political weakness. In the fifth century A.D., Proclus had been exiled, probably for speaking out in favour of pagan practice.<sup>21</sup> In the early sixth century, Hegias had been strongly reprimanded for displaying his paganism too openly.<sup>22</sup> In this setting, political circumstances and historical precedent suggest that the final closing of the school in A.D. 529 culminated nearly a century of sporadic attempts by Athenian and Achaean Christians to attack the pagan intellectuals in their midst.

## II. JOHN MALALAS

On first glance, John Malalas seems to imply that something different had occurred in Athens. His brief notice reads as follows:<sup>23</sup>

During the consulship of Decius, the emperor issued a decree and sent it to Athens ordering that no one should teach philosophy nor interpret astronomy nor in any city should there be lots cast using dice;<sup>24</sup> for some who cast dice had been discovered in Byzantium indulging themselves in dreadful blasphemies. Their hands were cut off and they were paraded around on camels.

Before analysing the passage in its entirety, it is worth noting one important textual problem. In Dindorf's edition of the *Chronicle*,<sup>25</sup> ἀστρονομίαν (translated above as 'astronomy') reads νόμιμα.<sup>26</sup> Although its problematic nature is not often noted, Dindorf's text is far from a critical edition.<sup>27</sup> It was based upon a seventeenth-century transcription of a single manuscript and, when additional manuscripts were examined, the variant reading of ἀστρονομίαν was found.<sup>28</sup> In this context, the new reading is

<sup>20</sup> This was due to Anastasius' abolition of city councils in the first decade of the sixth century A.D. In place of councils, provincial assemblies were given control of local affairs. A. H. M. Jones, *Later Roman Empire* (1964), 751–2, discusses the problematic evidence for this change. The law marking this transition has been lost, but an Anastasian law of A.D. 505, *CJ* 1.55.11, preserves one element of this new system. C. Roueché, 'The functions of the governor in late antiquity', *Antiquité Tardive* 6 (1998), 35–6, provides a comprehensive discussion of this law and its implications for civic governance. It is similarly difficult to date the change. John Lydus' memories of the *curiales* who walked around cities in his youth (*Mag.* 1.28) and Evagrius' note that this change occurred under Anastasius (*HE* 3.42) are the closest one can come. As Liebeschuetz, *op. cit.* (n. 6), 106–9, has recently demonstrated, the councils continued to bear certain heavy financial burdens in the cities long after they had lost governing responsibility.

<sup>21</sup> *Vit. Proc.* 15.

<sup>22</sup> Hegias' troubles are described above.

<sup>23</sup> Ἐπὶ δὲ τῆς ὑπατείας τοῦ αὐτοῦ Δεκίου ὁ αὐτὸς βασιλεὺς θεσπίσας πρόσταξιν ἐπέμψεν ἐν Ἀθήναις, κελεύσας μηδὲνα διδάσκειν φιλοσοφίαν μήτε ἀστρονομίαν ἐξηγεῖσθαι μήτε κῶττον ἐν μιᾷ τῶν πόλεων γίνεσθαι, ἐπειδὴ ἐν Βυζαντίῳ εὐρεθέντες τινὲς τῶν κοττιστῶν καὶ βλασφημίας δειναῖς ἑαυτοῦς περιβαλόντες χειροκοπηθέντες περιεβωμβήθησαν ἐν καμήλοις (Malalas, *Chronicle* 18.47; this text is based upon the emendation explained below).

<sup>24</sup> The Greek is κῶττος, with the LSJ definition of

'dice'. While 'dice' is certainly one meaning of κῶττος, the word is rare and its meaning is not entirely clear. In Malalas and the *Codex Justinianus* the word clearly has 'dice' as its primary meaning. Hesychius, another sixth-century A.D. source, seems to connect the word with birds in a way reminiscent of augury. He preserves an otherwise unattested term κοττοβολεῖν that he defines as 'to observe carefully or religiously (κατὰ τῆρῆν) a certain bird'. For reasons that will be discussed below, in this passage of Malalas, it seems that one should understand κῶττος as both dice and an instrument of augury. Perhaps an acceptable translation is 'dice being used to cast lots'.

<sup>25</sup> L. Dindorf, *Ioannis Malalae Chronographia. Accedunt Chilmeadi Hodiique Annotationes et Ric. Bentleyi Epistola ad Io. Millium* (1831).

<sup>26</sup> νόμιμα as opposed to ἀστρονομίαν.

<sup>27</sup> After the fine work of the Australian Malalas scholars, the problematic nature of the text has become clearer. See, for example, B. Croke, 'The development of a critical text', in E. Jeffreys *et al.*, *Studies in John Malalas* (1990), 311–38.

<sup>28</sup> This is in a Vatican manuscript of the text. Apparently independent of historical concerns, the reading of ἀστρονομίαν has been accepted by I. Thurn in his new critical edition of Malalas (*op. cit.* (n. 2)). R. Scott, 'Malalas and Justinian's codification', E. Jeffreys *et al.* (eds), *Byzantine Papers* (1981), 21–2, knew of the Vatican manuscript and still preferred the Oxford reading based upon his assumption that an Athenian law school existed. As Scott confesses, there is little evidence to support such an idea.

preferable. Astronomy was a field studied in ancient philosophical schools and was almost certainly a part of the Athenian curriculum in the early sixth century A.D.<sup>29</sup> By contrast, there is no good evidence to suggest that a school of law had ever existed in Athens.<sup>30</sup> Nevertheless, the corrupt reading of 'laws' has come to form an important part of scholarly interpretation of the events of A.D. 529.<sup>31</sup> This is a crucial mistake that is unsupported by the text of Malalas.

Leaving aside this textual point, one is still faced with the daunting prospect of making sense out of Malalas' account. The present state of his text makes this even more difficult. The preserved version of Malalas' text is an extremely abbreviated epitome of what he originally wrote. Malalas' epitomator was economical even in his description of major events like the Nika Riot.<sup>32</sup> For something like the closing of Damascius' school, which was considered insignificant by Malalas' later imitators, he may have been more brief.

Despite its brevity, the deliberate structure of Malalas' account establishes a clear sequence of events. It indicates that, in A.D. 529, Justinian sent a specific edict to Athens declaring that no one was to teach philosophy nor explain astronomy nor cast lots using dice, and a more general edict to all cities that restricted the casting of lots. Then there is an explanation of what provoked this — some blasphemies were uttered by men using dice in Constantinople — followed by a description of the punishment they suffered. Initially, one may be tempted to separate the passage that concerns the teaching of philosophy and astronomy in Athens from that which concerns dice.<sup>33</sup> Malalas, however, makes it clear that this ought not to be done. He uses a μηδένα . . . μήτε . . . μήτε construction to link the teaching edict with that which concerns dice. It is clear that Malalas, or at least his epitomator, understood each of these events to be connected to the edict that Justinian sent to Athens.<sup>34</sup>

Previous scholars have, with some justification, called the reliability of Malalas' narrative into question. It is true that, in his descriptions of the remote past, Malalas can be spectacularly unreliable, but, in his accounts of Justinianic legislation, the chronicler generally preserves the content and structure of the original laws.<sup>35</sup> In all, Malalas preserves eleven references to laws issued by Justinian and, in the cases where his notice can be linked to a known law, he follows the structure and, at times, the

<sup>29</sup> The position of astronomy in Athenian philosophical teaching under Proclus is well described by O. Neugebauer, *A History of Mathematical Astronomy*, Vol. 2 (1975), 1031–7. The writings of Marinus, which date from the later A.D. 480s, show that this interest continued under Proclus' successors. Extant sixth-century A.D. astronomical publications derive mainly from Alexandria (Neugebauer, 1037–51), but Damascius himself was trained in the discipline (Photius, *Bibliothēke* 181.127a8). While he questions the utility of conventional astronomy, Damascius does accept the art when it is practised in an immaterial way (*In Phileb.* 225.20). It also seems that Damascius passed some of this training on to his students. Simplicius' astronomical explanations for the beginnings of the year (*In Phys.* 875.19–22) show an interest in the field among Damascius' followers.

<sup>30</sup> Contrary to Scott, op. cit. (n. 28), 21–2, Malalas' notice that the *Digest* was sent to Athens and Beirut upon completion (18.38) should not be thought to indicate the presence of an Athenian law school. Beyond this ambiguous notice, there is no other evidence to suggest that a school of Roman law ever functioned in Athens. This silence is significant because, relatively speaking, Athenian intellectual life in the period from c. A.D. 100 until c. A.D. 520 is well documented. The absence of any mention of Athenian

legal teaching strongly suggests that such teaching did not occur.

<sup>31</sup> For example, Hällström, op. cit. (n. 1), 157–60.

<sup>32</sup> See J. B. Bury, 'The Nika riot', *JHS* 17 (1897), 92–119, esp. 95–106. Despite its age, Bury's work is remarkable for the clarity with which it demonstrates the various ways Malalas' original text has been abbreviated and the manner in which one can begin to reconstruct the original.

<sup>33</sup> Among those doing so are Croke, op. cit. (n. 27), 202 n. 19 and Hällström, op. cit. (n. 1), 144–5.

<sup>34</sup> The significance of this syntactical unity becomes even clearer when one compares it to Malalas 18.20, a passage in which a series of different laws are described. These laws are introduced as νόμους and further distinguished from one another by a δὲ . . . καὶ construction that precedes each new mention. A similar, though less clear, division is seen in 18.67. The μηδένα . . . μήτε construction is paralleled in two other passages of Malalas (12.36; 16.14), each of which unifies different elements of one piece of legislation.

<sup>35</sup> The structural similarities between the legal notices in Malalas were first noticed by Scott, op. cit. (n. 28), 12–31, and elaborated upon in R. Scott, 'Malalas, the secret history and Justinian's propaganda', *DOP* 39 (1985), 99–110.

vocabulary of the original.<sup>36</sup> There is no reason to suspect that the passage describing the prohibition of philosophical teaching in Athens is an exception to that rule.

One must then explain how the teaching of philosophy and astronomy in Athens could be prohibited by a law that more generally forbade the use of dice. The common thread linking all of these activities seems to be the act of divining the future. Divination was a skill that greatly interested Damascius and his associates, especially when it could be done in a novel way.<sup>37</sup> Astronomy, through its derivative astrology, was also useful in foretelling the future and, as it was taught in the Athenian Neoplatonic school, its astrological element was neither separated nor downplayed.<sup>38</sup> Although one would not immediately think it, dice too could be used for divination. The use of dice to divine the future is well attested in antiquity.<sup>39</sup> It worked in a number of different ways but, on its most basic level, the practice relied upon a conversion chart that joined a set of numbers to a corresponding fortune.

Particularly relevant to Malalas' notice is the detailed process of divination by dice laid out in a Latin manuscript of the sixth or seventh century A.D.<sup>40</sup> This manuscript suggests a process that worked much like its ancient antecedents. The fortune-teller would have his questioner roll a twelve-sided die or a set of two dice. Then, checking the number that came up against a chart containing common questions and a list of answers, the interpreter would provide his questioner with the answer matching the number that he rolled. Much better known (although often less well-understood) is the *Sortes Sanctorum*, a divinatory text that was commonly used in Late Antiquity.<sup>41</sup> It was apparently based upon a pagan original and, like its pagan antecedent, the *Sortes Sanctorum* relied upon dice combinations to divine responses to questions.<sup>42</sup> A much later variation of this game is especially interesting in the light of Malalas' text. At the court of Charles V, a game called roughly 'The Dodecahedron of Fortune' was played using, surprisingly enough, a twelve-sided die. Each face of the die represented one of the twelve houses of the heavens. After a series of rolls, the die would provide its roller with a horoscope<sup>43</sup> and, as such, the game joined astrology and dice for divinatory purposes.

Divination could well be the common thread stringing together philosophy, astronomy, and dice-throwing in the first part of Malalas' statement. It is still necessary to explain how the punishment of dice-throwers in Constantinople relates to a law

<sup>36</sup> The eleven references are *Chronicle* 17.18; 18.11, 18, 20 (a summary of four laws), 38, 42, 47, 64, 67, 78, 142. Among the summaries of known laws are Malalas 18.11 (a summary of *CJ* 1.3.41) and 18.67 (an apparent summary of a larger law from which *CJ* 3.2.4–5 are excerpts). The best example of this phenomenon is Malalas 18.78. The epitomized text preserves the heading of the law, and the instructions for its public posting. The *Chronicon Paschale*, quoting from a more complete version of Malalas than our manuscript tradition preserves, records these details and provides a complete text of the law (*CP* 630–3). This leaves open the possibility that each of Malalas' Justinianic legal notices originally included the full text of the legislation. These may then have been abbreviated by subsequent epitomators.

<sup>37</sup> The *Philosophical History* celebrates a woman who arrived at a method of divining the future and interpreting dreams from cloud patterns (*Phil. Hist.* fr. 52). Despite Damascius' denial of the connection of divination to philosophy (*Phil. Hist.* fr. 88A), it certainly remained a topic that was discussed in detail at his school.

<sup>38</sup> As evidenced by the horoscope of Proclus that closes his biography (*Vit. Proc.* 35). For a discussion of this horoscope see L. Siorvanes, *Proclus: Neoplatonic Philosophy and Science* (1996), 26–7, and O. Neugebauer and H. B. van Hoesen, *Greek Horoscopes* (1959), 135–6. Proclan ideas on astrology are found in his *Commentary on the Republic* (ed. W. Kroll, 1899–1901), ii.318; 344.22–3.

<sup>39</sup> For the use of dice oracles in antiquity see W. Hansen, 'Fortune telling', in W. Hansen (ed.), *An Anthology of Ancient Greek Popular Literature* (1998), 285–91; R. Lane Fox, *Pagans and Christians* (1986), 209–10; and the more extensive treatment of C. Naour, *Tyriaion en Cabalide* (1980), 22–37. Additional epigraphic evidence for the practice has been found in Pamphylia, Pisidia, and Lycia. Pausanias 7.25.6 describes the mechanics of such oracles.

<sup>40</sup> The manuscript was edited by A. Dold, 'Die Orakelsprüche im St. Galler Palimpsestcodex 908', *Österreichische Akademie der Wissenschaften* 225.4 (1948). I thank Peter Brown for this reference. This text may also contain fragments of a Roman prototype. For examples of divination by dice in the later medieval West see E. Kraemer, 'Le jeu d'amour: jeu d'aventure du moyen âge', *Commentationes Humanarum Litterarum* 54 (1975), 1–66.

<sup>41</sup> On the *Sortes Sanctorum*, see the exciting contribution of W. Klingshirn, 'Defining the *Sortes Sanctorum*: Gibbon, Du Cange, and early Christian lot divination', *Journal of Early Christian Studies* 10 (2002), 77–130.

<sup>42</sup> On these similarities, see Klingshirn, *op. cit.* (n. 41), 94–8. For an eastern version of Christianized numerological oracles, see G. M. Browne, *Sortes Astrampsychi, vol. 1, ecdosis prior* (1983).

<sup>43</sup> For more on this see Kraemer, *op. cit.* (n. 40), 5–7. The game could also be used to explain dreams. Its existence is attested as far back as the fifteenth century.

restricting divination practices, and not one that specifically targets the use of dice. Again, Malalas provides a basic explanation. Malalas recalls that the action in Constantinople was precipitated by a report that some people who were throwing dice were engaged in 'dreadful blasphemies'. This phrase could certainly refer to the act of using dice to divine the future, especially if this could be thought somehow to involve pagan deities.<sup>44</sup> But it does not seem an appropriate way to characterize a standard game of dice. The punishment described by Malalas also makes one suspect that his dicers were doing more than gambling. Justinian issued a law in A.D. 529 that prescribed a simple monetary penalty for people who were found to gamble with dice.<sup>45</sup> Malalas, by contrast, says that the Constantinopolitan dice-throwers were mutilated and paraded around the city on camels. This penalty was clearly not assessed for violating the Justinianic gambling law. It is, however, nearly identical to a punishment that Procopius says Justinian inflicted upon astrologers.<sup>46</sup> These dice-players appear to have violated the same law as those astrologers (if they were not, in fact, the same people). Malalas' account then seems to describe a series of events that were all connected to a Justinianic law against divination.

It remains to be considered whether Malalas' description preserves a course of events that was consistent with the procedures of the later Roman legal system. To explore this, it is useful first to consider how Roman law moved from conception to implementation. The formulation of a late Roman constitution (which the law described by Malalas seems to have been)<sup>47</sup> began with a *suggestio*, a report or statement of a condition needing redress.<sup>48</sup> Imperial officials serving in the consistory would then meet, frame a response, and, if this response was acceptable to the ministers (and, after A.D. 446, the Senate), they would eventually submit the text to the emperor for approval.<sup>49</sup>

Once a text was framed, the law itself would be distributed to praetorian prefects. This process led to the dissemination of the law, but it also produced variations in the text designed to address the specific competencies and regional requirements of each official.<sup>50</sup> While often these variances were stylistic, sometimes they reflected matters of substance as well.<sup>51</sup> Clear evidence of such differences is found in the sixth *Sirmondian Constitution* and textually similar laws in the *Theodosian Code*.<sup>52</sup> These texts represent variations of a law that defines clerical rights and restricts the activities of unorthodox religious groups. The Sirmondian version, which was addressed to the prefect of Gaul, places a variety of restrictions upon heretics, pagans, and Jews. Included among them is

<sup>44</sup> I thank an anonymous reader for this suggestion.

<sup>45</sup> Justinian's gambling law of A.D. 529 is *CJ* 3.43.1. This Latin law (part of which is repeated in Greek as *CJ* 1.4.25) placed restrictions upon the types of dice games that could be played in Constantinople and limited the amounts that could be bet. While blasphemy is mentioned as a consequence of the excessive bets placed in these games, it is clearly not the problem that this law is trying to solve. On this point, see, however, J. Beaucamp, 'Le philosophe et le joueur. La date de la fermeture de l'école d'Athènes', *Mélanges Gilbert Dagron, Travaux et Mémoires* 14 (2002), 21–35.

<sup>46</sup> Procopius, *Secret History* 11.37. They are μετεωρολόγοι who are σοφοί τὰ περὶ τοὺς ἀστέρας. Procopius does, however, differ from Malalas in saying that the astrologers were flogged before being placed upon the camels. Parading religious deviants was not an uncommon practice in the late Roman world (cf. Socrates Scholasticus 3.3 on George the Cappadocian), but, judging by Procopius' tone, it appears to have been a relatively rare event in Constantinople.

<sup>47</sup> In the *Chronicle*, the term πρόσταξις is used to describe the legislation. While his legal vocabulary varies, Malalas seems only to use πρόσταξις (at 7.12, 12.33, 18.18, 18.78) to refer to an imperial (or, in the case of 7.12, an anachronistically described royal) constitution. In addition, with the exception of 12.33, each of these constitutions had general applicability.

<sup>48</sup> Most often, the statement would come from a praetorian prefect, but its source could also be provincial governors, bishops, or even a simple report of an event. On this see J. Harries, 'The background to the code', in J. Harries and I. Wood (eds), *The Theodosian Code* (1993), 8–12; T. Honoré, *Law in the Crisis of Empire* (1998), 133–5.

<sup>49</sup> This process is mandated by *CJ* 1.14.8. For modern discussions, see Harries, *op. cit.* (n. 48), 9; T. Honoré, 'Some quaestors of the reign of Theodosius II', in J. Harries and I. Wood (eds), *The Theodosian Code* (1993), 74, and *op. cit.* (n. 48), 133–5.

<sup>50</sup> A feature noted by Honoré, *op. cit.* (n. 48), 135 and J. Harries, 'The Roman imperial quaestor from Constantine to Theodosius II', *JRS* 78 (1988), 163.

<sup>51</sup> Harries, *op. cit.* (n. 50), 163, perceptively notes the distinction between such regional variations and illegal tampering with the divine words of the emperor ('they were allowed to tamper with the text in minor ways, the most significant of which was the inclusion of extra provisions addressed to selected recipients'). For the limit on this see J. Matthews, 'The making of the text', in J. Harries and I. Wood (eds), *The Theodosian Code* (1993), 28 and Honoré, *op. cit.* (n. 48), 135.

<sup>52</sup> *Sirm.* 6, *CTh* 16.2.47, 16.5.62, and 16.5.64 are all taken from different regional variations of the same law.

a provision that 'Manicheans and all other heretics whether schismatics or astrologers . . . shall be banished from the sight of the various cities', as well as another excluding Jews and pagans from the imperial service.

*CTh* 16.5.62 is a version of this law addressed to the urban prefect of Rome that replicates the section of *Sirm.* 6 described above. Despite the fact that both derive from the same original law, there are significant differences between their texts. In *CTh* 16.5.62, the reference to 'various cities' is replaced by a reference to 'the city of Rome'. The reference to Jews and pagans in the imperial service is also replaced with a statement concerning the penalties to be inflicted upon individuals who withdraw from communion with the bishop of Rome. These differences demonstrate that the Sirmondian text was written to respond to Gallic concerns while the Theodosian version addresses particular Roman problems arising out of a recent usurpation.

Additional variations of this law also exist. *CTh* 16.5.64, a law addressed to the *comes rei privatae*, preserves another version of the last section of *Sirm.* 6. In it, the reference to astrologers has dropped out, as have both the clauses excluding Jews and pagans from the *militia* and those referring to the bishop of Rome. The *militia* clause may well reflect the fact that the *comes* had different competencies than the prefect of Gaul, but, again, the other two differences seem to reveal content specifically tailored to suit regional needs.<sup>53</sup>

There was a further level of administration that added additional complexity to a legal text. When the law left the praetorian prefect, it was sent down to provincial governors with additional commentary. From them, the text made its way to individual cities, again with comments about the way in which the law was to be implemented.<sup>54</sup> It was at this point, when the law was posted in the individual cities of a province, that the general principles of the law could become translated into specific action.<sup>55</sup> The most famous example of this step in the legislative process comes from Eusebius' description of actions undertaken by Maximinus in connection with the suspension of Christian persecution in A.D. 312. Eusebius documents how, in his initial suspension of the persecution, Maximinus made each governor responsible for both communicating specific legal instructions and explaining their implementation to local officials in his province.<sup>56</sup> Significantly, these explanations were written by the governor's office, in its own words, and were seen not as tampering with the imperial edict but as an essential part of translating imperial will into government action.<sup>57</sup>

Turning back to Malalas, one finds his description of the Justinianic law of A.D. 529 and its implementation to be consistent with late Roman legal procedure. Although the notice comes last in his description, Malalas appears even to describe the *suggestio* which caused Justinian to take action — a report detailing the dreadful blasphemies uttered by

<sup>53</sup> A detailed description of these regional differences is found in J. Matthews, *Laying Down the Law* (2000), 155–60. See also, Harries, *op. cit.* (n. 50), 163. For the Sirmondians in general see M. Vessey, 'The origins of the *Collectio Sirmondiana*: a new look at the evidence', in J. Harries and I. Wood (eds), *The Theodosian Code* (1993), 187–99.

<sup>54</sup> While rare, some communications from provincial governors to civic administrators do appear in the *Theodosian Code* (e.g. *CTh* 7.13.11). On this process, see Matthews, *op. cit.* (n. 51), 27.

<sup>55</sup> This process of final dissemination and local action was, of course, often problematic. For this see S. Mitchell, 'Maximinus and the Christians', *JRS* 78 (1988), 113 (for local enforcement of Christian persecution), 116 (regarding local officials' lack of enthusiasm for such enforcement).

<sup>56</sup> *HE* 9.1.2–7. Letters sent to governors assigned them 'the task of writing to *logistai*, *strategoi*, and those who had the charge of the *pagi* of each city to . . . implement the policy' (9.1.6). These letters were then sent and actions taken in accordance with their terms because it was thought that the emperor really intended such things to be done (τοῦτο γὰρ ἐπ' ἀληθείας βασιλεῖ δοκεῖν ὑπειλήφασιν, *HE* 9.1.7).

<sup>57</sup> Admittedly, some of Maximinus' actions in A.D. 312 were exceptional and the product of political concerns specific to him (cf. Mitchell, *op. cit.* (n. 55), 116), but these particular orders followed the standard path along which imperial pronouncements were communicated to local government officials.



those who cast dice in Constantinople.<sup>58</sup> The emperor's response was the general piece of legislation said by Malalas to restrict divination by dice in 'any city'.

Although the general purpose of the law was to restrict divination throughout the Empire, probably by repeating previous imperial pronouncements to this effect,<sup>59</sup> Malalas indicates that the version of the law sent to Athens had a specific clause restricting the teaching of astronomy and philosophy that was not repeated on copies sent elsewhere.<sup>60</sup> There are two ways to explain this statement, but neither need conflict with the well-established Roman legal practices described above. The first explanation is simply that the law sent to the prefect of Illyricum contained some specific language restating the prohibition of divinatory teachings.<sup>61</sup> This notice was not repeated in versions of the text sent to other prefects and was tailored in such a way as to respond to the existence of such a school in Athens. This provision, which was not unlike the statement excluding pagans from imperial service in the sixth *Sirmondian Constitution*, would have been a specific response to a local situation that was nevertheless communicated through the text of a more general law. Once the law was delivered to the prefect, it would then have been sent down to the governor of the province of Achaia with an explanation indicating that this provision prohibited the teaching of astronomy and philosophy as done in the Athenian schools. Alternatively, the governor himself may have added that explanation to an Athenian copy of the general law restricting divination when it reached him from the praetorian prefect.<sup>62</sup> Either way, the words restricting teaching in Athens would have been written on the copy of the law that was sent to Athens,<sup>63</sup> but, to contemporaries, they would not have represented a substantial alteration of the law itself.<sup>64</sup> Consequently, while these words were added by a lower official, the edict to which they were attached was issued in Justinian's name, and the emperor bore ultimate responsibility for the actions taken under its terms.<sup>65</sup> Nevertheless, as suggested by the century of strained relations between teachers and Christians, the clauses relating to Athens would have been precipitated not by events in the capital but by the specific complaints of individuals in Achaia.

The prohibition of teaching that this law put in place was perfectly designed to drain the life out of the institution that Damascius had just begun to rejuvenate. While the cessation of formal instruction had little immediate impact upon the intellectual life

<sup>58</sup> Malalas 18.47. The causal relationship between this event and the legislation is clear from the ἐπειδὴ preceding the discussion of these blasphemies. In this case, as was common in cases of disorder in Constantinople, the *suggestio* was probably forwarded by the urban prefect. Earlier parallels of such legislation are *CTh* 16.2.37 and 16.4.4–6 (legislation issued in response to urban rioting following the deposition of John Chrysostom; on this see, Harries, op. cit. (n. 48), 11). It is worth noting that general laws about religious concerns were usually issued at the suggestion of clergy (Honoré, op. cit. (n. 48), 133). In this case, however, the fact that Malalas locates the offending act in Constantinople seems to indicate that this was a different type of concern. Law produced in this way often had implications for only Constantinople (e.g. *CTh* 16.4.4), but it could also be phrased so as to have a wider applicability (e.g. *CTh* 16.4.6).

<sup>59</sup> A set of fourth-century laws about these subjects remained valid in A.D. 529; they were quite comprehensive in their prohibitions, including a prohibition on teaching astrology and divination. A law of Constantius had forbidden the consultation of astrologers, diviners, and soothsayers. Another law, issued by Valentinian and Valens, had established penalties for those who taught such skills. These two laws are *CTh* 9.16.4 and 8. Both were affirmed by Justinian, the first as *CJ* 9.18.5 and the second as *CJ* 9.18.8.

<sup>60</sup> As Malalas himself seems to indicate when he explains that a law containing both the general prohibition of dicing and the restriction of teaching was

sent specifically 'to Athens'. Croke, op. cit. (n. 27), 201–2, advances the notion that Malalas' recollection of these laws was based upon copies on file at the office of the *Comes Orientis*. This is probable for some of the laws Malalas mentions (e.g. 18.67, which describes a law on *sportulae* that was posted in Antioch), but it seems that Malalas had an Athenian source for legal texts as well. On two occasions (18.38 and 18.47), Malalas mentions a legal text framed by Justinian for general distribution, and then indicates that a related (yet distinct) version of this material was sent to Athens. In 18.38, the material was sent to Beirut as well. This strongly suggests that Malalas had access to at least some specifically Athenian versions of Justinianic legal materials.

<sup>61</sup> These earlier prohibitions would be *CTh* 9.16.4 and 8.

<sup>62</sup> For examples of such communication found in the texts of existing laws, see above.

<sup>63</sup> Because Athens was not a provincial capital, it is unlikely that any law would reach the city without first passing through the governor's court in Corinth.

<sup>64</sup> It is worth noting that the regional variations produced by such texts would usually have been obscured by the emphasis upon *generalitas* in the creation of the *CTh* and *CJ*. The concept of *generalitas* is defined in *CJ* 1.14.3 and described by Matthews, op. cit. (n. 53), 16–8, 65–70, and op. cit. (n. 51), 25–6; as well as Honoré, op. cit. (n. 48), 128–32.

<sup>65</sup> Harries, op. cit. (n. 48), 15.

of Damascius' philosophical circle, it would have strangled the school eventually.<sup>66</sup> Since the time of its foundation, the school had managed to be philosophically relevant only when its head was able to do three things. First, he needed to attract a large group of students to study in his introductory classes.<sup>67</sup> Next, he needed to draw from these students enough highly capable youths to form a bright and active inner circle. Finally, he needed to find a suitable successor from within the ranks of his current or former inner circle students.<sup>68</sup> Ultimately, even at its highest levels, the long-term health of the school was dependent upon the size of the group of students that the school could introduce to philosophy. The larger and more intelligent the group of low-level students it attracted, the more likely it was that a capable head would be found to continue the tradition of Platonic interpretation. If the flow of new students was cut off entirely, however, Platonic thought in Athens would not survive the death or departure of the last member of the school's inner circle.

### III. OTHER SOURCES

There is one additional difficulty with the reconstruction described above. No text of a Justinianic law against divination, astrology, or the teaching of philosophy exists.<sup>69</sup> Nevertheless, as Malalas and Procopius have demonstrated, divination and astrology were imperial concerns.<sup>70</sup> This allows for the possibility that a law on this subject was issued and not included in the code.<sup>71</sup> This would not be surprising, especially if Justinian's law simply restated the substantial prohibitions of divination laid out in existing legislation and reaffirmed their validity in this situation. Emperors often thought it expedient to be seen as taking action against paganism, even if this action consisted simply in periodically affirming the applicability of old legislation.<sup>72</sup> Justinian, of course, was not immune to such pressures, but, unlike his predecessors, he was explicit about his desire to see such laws excluded from the compilation of law that was

<sup>66</sup> The activities of the inner circle would have been largely hidden from others in the city. *Vit. Proc.* 11 captures this attitude most vividly. Indications of the nature of the inner circle are found throughout the *Life of Proclus* and the *Philosophical History*. For the special studies of inner circle students see *Vit. Proc.* 20, 27. Their unique style of dress is described in *Phil. Hist.* fr. 59 B. *Phil. Hist.* fr. 59 F contains a humorous account of a student acting up during an inner circle meeting.

<sup>67</sup> The necessity of active student recruitment appears to have been recognized quite early in the history of the institution. Resentment of Plutarch's recruitment efforts seems to lie beneath Synesius' famous remark about the 'pair of Plutarchan sophists who draw the young to their lecture room not by the repute of their learning but by jars (of honey) from Hymettus' (*Ep.* 136). The identification of these teachers with the Athenian Neoplatonic school has

been made by Fowden, *op. cit.* (n. 4), 500, as well as by Alan Cameron and J. Long, *Barbarians and Politics at the Court of Arcadius* (1993), 409–11. Recruitment to Athenian rhetorical schools was even more aggressive (e.g. Libanius, *Or.* 1.15–7; Eunapius, *VS* 485–7).

<sup>68</sup> The need to find a successor from within the inner circle of students is revealed in the succession struggles of the A.D. 480s. On these, see *Phil. Hist.* fr. 98 A–F.

<sup>69</sup> The *CJ* contains eleven laws on this subject, nine of which come from the *Theodosian Code*. None of these date from after A.D. 409.

<sup>70</sup> See above for Malalas and Procopius as sources for Justinian's feelings about divination and astrology.

<sup>71</sup> Croke, *op. cit.* (n. 27), 202, catalogues a number of Justinianic laws described by Malalas but not included in the *CJ*.

<sup>72</sup> On this see Honoré, *op. cit.* (n. 48), 134 and *CTh* 11.30.60.

to become the *Justinianic Code*.<sup>73</sup> This attitude probably helps to explain the apparent disappearance of this Justinianic law on divination.<sup>74</sup>

While no text of a Justinianic law against divination is preserved in any legal source, an existing Justinianic law (*Codex Justinianus* 1.11.10) seems, on first glance, to be related to the events in Athens. The law exhorts pagans to be baptized, prohibits them from teaching and receiving a municipal salary,<sup>75</sup> mandates the confiscation of property and exile of recalcitrant pagans, ordains that children of pagans shall be forcibly instructed in Christian teaching, specifies penalties for those who accept baptism disingenuously and extends similar penalties to Manichees. This law, and especially its prohibition of pagan teaching, is certainly interesting given the events in Athens. Nevertheless, there are some significant problems with linking this law to the Athenian situation.

Despite its similarity to the law described by Malalas, the content of *C*ŷ 1.11.10 does not support making such a link. Instead of being specifically concerned with philosophical education, this law is an omnibus anti-pagan law.<sup>76</sup> It contains a specific definition of who is to be classified as a pagan — they are people who have not been baptized or who have submitted to baptism, but seem not to be upholding the tenets of a Christian life — but it makes no mention of what constitutes the teaching of philosophy. In addition, it makes no mention of Athens, the situation surrounding the schools there, or the specific teaching of philosophy. There is also a crucial difference between the situation Malalas describes and that prescribed by the law. Malalas states that all Athenians, not just pagans, were forbidden from teaching philosophy and astronomy. This meant that, in principle, no one, pagan or Christian, was permitted to teach these subjects. At the same time, any pagan who wished could still teach rhetoric or grammar. By contrast, *C*ŷ 1.11.10 emphasizes that pagans are to be restricted from teaching while making no specific statement about the sort of subject matter. According to the law, pagans simply could not teach, regardless of the subject matter. Christians, however, were still allowed to teach whatever they wished wherever they wished — including philosophy in Athens.

The terms of *C*ŷ 1.11.10 then are designed not to limit a specific type of teaching but to penalize pagans in general. While this may appear to be a slight difference, this emphasis changes the practical enforcement of the law. The effect of this can be seen in the case of another Neoplatonic school (this time based in Alexandria). The Alexandrian school survived this legislation despite the paganism of its head (a philosopher named Olympiodorus) and the close ties the institution had to Athens.<sup>77</sup> The Alexandrian institution had moderated its presentation of pagan religious subjects in the late A.D. 480s and, consequently, its continued activity would likely have been permitted under

<sup>73</sup> *C. Haec* 2 (13 February A.D. 528). See also, Honoré, *op. cit.* (n. 48), 131.

<sup>74</sup> Another factor that possibly contributed to its disappearance was a tendency on the part of fifth- and sixth-century emperors to leave decisions about what constituted acceptable and unacceptable divination subject to ecclesiastical and not imperial regulation (on which, see M. T. Fögen, 'Balsamon on magic', in H. Maguire (ed.), *Byzantine Magic* (1995), 103–5). The repeated conciliar prohibitions of the use of the *Sortes Sanctorum* show continued ecclesiastical concern for the restriction of dice divination in the West throughout the late antique and early medieval periods (on this, see Klingshirn, *op. cit.* (n. 41), 84–90). In the East, the survival of numerological oracles that invoke saints shows the continued popularity of basic divination among Christians (cf. Browne, *op. cit.* (n. 42)). Further, the *Life of Severus* (57–65, 70–4) suggests that divination activities were concerns of ecclesiastical and not governmental bodies by the later fifth century A.D. Later, the regulation of divination is the subject of canon 61 of the Council in Trullo. In the high Byzantine period, Balsamon's

commentary on this canon shows the continued appeal of such activities. In both West and East, their regulation remains an ecclesiastical and not secular concern. This means that Justinian's law may have simply reiterated the terms of this existing legislation in order to provide a legal basis for the punishment of those who had clearly violated its terms. Such a decree would have punished some clear offenders, while leaving the more ambiguous cases subject to ecclesiastical review. It also may not have merited inclusion in the *Codex Justinianus*.

<sup>75</sup> This is the probable meaning of δημοσιος σιτήσις.

<sup>76</sup> A point first made by Cameron, *op. cit.* (n. 1), 8.

<sup>77</sup> Olympiodorus was a student of Proclus' student Ammonius Hermioui. On the personal ties between the Alexandrian and Athenian schools see M. Vinzent, 'Oxbridge in der ausgehenden Spätantike: oder ein Vergleich der Schulen von Athen und Alexandrien', *Zeitschrift für Antikes Christentum* 4 (2000), 49–82. The doctrinal similarities between the schools have been explored by, among others, Westerink, *op. cit.* (n. 16), vii–lix.

the terms of the law described by Malalas.<sup>78</sup> Nevertheless, Olympiodorus was a pagan and, although the Alexandrian political climate was less hostile to him than the Athenian one had been to Damascius, Olympiodorus did face local opposition to his teaching that, in combination with *Cy* 1.11.10, should have forced him to step down.<sup>79</sup> Despite this, Olympiodorus continued teaching philosophy publicly into the A.D. 560s.<sup>80</sup> This suggests that the teaching restriction was simply one among many elements of *Cy* 1.11.10 and was not a primary focus of its enforcement efforts. Indeed, the proper enforcement of laws relating to teaching had often been a challenge for Roman authorities,<sup>81</sup> and Olympiodorus' survival seems to highlight the difficulty that imperial officials had in applying a law against pagan teaching that did not explicitly define the activity it was restricting. The general focus of *Cy* 1.11.10 then distinguishes it in a real way from the law described by Malalas.

The probable date of *Cy* 1.11.10 also argues against its link with the closing of Damascius' school. The law itself is undated, but, from the slight indications that are available to us, it seems unlikely that this law was, in fact, issued in A.D. 529.<sup>82</sup> The final chapter of *Cy* 1.11.10 equates Manichees with Borboritai and alludes to a previous decree that already established this fact.<sup>83</sup> That previous decree, *Cy* 1.5.18, slaps restrictions upon a range of unorthodox religious groups and seems to date from either A.D. 528 or, more likely, A.D. 529.<sup>84</sup> *Cy* 1.11.10 then cannot date before mid-529. Its relationship with *Cy* 1.5.18, however, suggests that an even later date is possible. Both *Cy* 1.11.9 (a law that prevented pagans and their institutions from receiving bequests) and *Cy* 1.11.10 single pagans out for specific, and more stringent, restrictions than those which were imposed upon the panoply of religious groups by *Cy* 1.5.18. As such, they represent a second phase of this legislative programme that was, perhaps, targeted against the groups that were best able to survive the restrictions of the first law.<sup>85</sup> The *Code* was published in two versions. One was released in April A.D. 529 while the second, the version we now possess, emerged in November A.D. 534. By all indications, this second set of anti-pagan laws was added in the compilation of the second edition. Any date between late A.D. 529 and 534 is then a possibility.

<sup>78</sup> An agreement to eliminate some of the more controversial elements of Alexandrian Neoplatonic teaching was reached following a riot and judicial inquiry in A.D. 487 or 488. On these events, see Watts, op. cit. (n. 3), 386–407. The actual terms of the agreement are somewhat mysterious. For discussion of the agreement see R. Sorabji, 'The ancient commentators on Aristotle', in R. Sorabji (ed.), *Aristotle Transformed* (1990), 12; and R. Sorabji, 'Divine names and sordid deals in Ammonius' Alexandria' (forthcoming).

<sup>79</sup> The opposition to Olympiodorus evidently came from a group of Christians called the *philoponoi*. Their appeal appears not to have been actively supported, partially because, in the late A.D. 520s and early 530s, the Alexandrian Christian Church was preoccupied with the intellectual conflict between Severus of Antioch and Julian of Halicarnassus. For more on each of these issues, see Watts, op. cit. (n. 3), 410–50.

<sup>80</sup> Olympiodorus gave a set of public lectures on the *Isagoge* of Paulus of Alexandria from May to August of A.D. 564 and another on Aristotle's *Meteorology* in Alexandria in March/April A.D. 565. The later date is based upon the reference to a comet that was visible in Alexandria during those two months (Neugebauer, op. cit. (n. 29), 1043–5).

<sup>81</sup> Even the emperor Julian's education law (which presumably tried to be explicit in its aims) required some detailed explanation about how it was to be enforced. Libanius (*Or.* 16.47), for example, suggests that Julian's law may have been understood by some as legislation designed to prevent Christians from learning as well as teaching. Julian's *Ep.* 42 seems to have been an attempt to explain his intentions better. For this see, Matthews, op. cit. (n. 53), 274–7 and

T. Banchich, 'Julian's school laws: *Cod. Theod.* 13.3.5 and *Ep.* 42', *The Ancient World* 24 (1993), 5–14, esp. 12–13. Earlier difficulties had concerned professorial eligibility for liturgical immunities (e.g. V. Nutton, 'Two notes on immunities: *Digest* 27,1,6,10 and 11', *JRS* 61 (1971), 52–63).

<sup>82</sup> The contention of F. Trombley, *Hellenic Religion and Christianization* (1993–94), 81–2, that these laws were issued by Zeno following the revolt of Illus is unconvincing.

<sup>83</sup> *Cy* 1.11.10.7.

<sup>84</sup> *Cy* 1.5.18 also lacks a date, but it is the fifth undated law following a law of A.D. 527. It immediately precedes a law of A.D. 529 addressed to the praetorian prefect Demosthenes. Because Demosthenes assumed office in October, a date of early to mid-A.D. 529 for the earlier law is probable. In an entry describing events of A.D. 529, Malalas (18.42) records legislation passed against pagans and heretics that bears strong similarities to some of the terms of this law.

<sup>85</sup> It would make sense that pagans would be so targeted. Fortified by familial wealth, many pagans remained entrenched in important local positions. These laws may represent an attempt to disperse this local influence through the elimination of positions that pagans could hold and the restriction of their ability to pass on personal property. As events in Asia Minor in the A.D. 540s, Baalbec in the 570s, and Harran in the 580s would show, prominent people remained pagan long after these restrictions of the A.D. 520s. For the anti-pagan activities directed against prominent people in these cities and elsewhere, see Liebeschuetz, op. cit. (n. 6), 262, and Trombley, op. cit. (n. 82), 170–9.

Whereas the effects of *CJ* 1.5.18 can be seen in the text of Malalas, sources are largely silent about subsequent anti-pagan actions. None are mentioned as occurring between A.D. 529 and 534 and, while it is admittedly difficult to date anti-pagan actions taken against individuals, few apparent effects of such persecutions are evident in the period.<sup>86</sup> Despite this silence, there is reason to suppose that *CJ* 1.11.9 and 10, the second part of Justinian's anti-pagan legislative campaign, date to A.D. 531.<sup>87</sup> This new dating is tied to events in Athens. While *CJ* 1.11.9 and 10 do not have any connection to the closing of Damascius' school, they are not completely disconnected from his story. In fact, their implementation in Athens may well have been the cause of Damascius' voyage to Persia, the romantic sequel to the closing of his school. Two years after the teaching of philosophy was prohibited, Damascius and six members of his inner circle decided to leave Athens and travel to Persia. Their journey is known from an account by the historian Agathias.<sup>88</sup> Agathias speaks of them as the best philosophers of his age and indicates that they chose to emigrate because their religion made it 'impossible for them to live without fear of the laws' in the Roman Empire.<sup>89</sup> To protect their freedom to live as they pleased, Damascius and his associates travelled to the Persian court of Chosroes.

Chosroes did not assume control of Persia until 13 September A.D. 531, approximately two years after philosophical teaching was prohibited in Athens.<sup>90</sup> While this has led some to question the accuracy of Agathias' text, their scepticism seems misplaced.<sup>91</sup> Agathias leaves no doubt that Damascius and his friends travelled because they desired to live under a king who respected philosophy. Furthermore, the historical record confirms the importance that Persian court propaganda placed upon Chosroes' supposed philosophical disposition.<sup>92</sup> At the same time, while the court of Chosroes was an attraction, it is also clear that the philosophers fled because of a conviction that pagans could no longer live without legal peril in the Roman world. In A.D. 531, this belief apparently reflected Damascius' realization that a new political and religious reality existed in which legal restrictions on pagans extended far beyond the forced cessation of teaching and the prohibition of pagan office-holding that had been mandated in A.D. 529.

While it is possible that Damascius' flight may have been a delayed response to *CJ* 1.11.9 and 10, it is worth noting the real possibility that the laws were issued only shortly before Damascius went into exile in A.D. 531. The well-known Justinianic anti-pagan actions of both A.D. 529 and 545/6 began suddenly, proceeded swiftly, and allowed for

<sup>86</sup> The next large persecution mentioned by sources does not occur until A.D. 545/6 and was supposedly instigated by John of Ephesus. On this see Liebeschuetz, *op. cit.* (n. 6), 242.

<sup>87</sup> This is against Jones, *op. cit.* (n. 20), 285, where they are dated to A.D. 529. Chuvin, *op. cit.* (n. 1), 136 n. 14, posits an unspecified date that is later than A.D. 529. Liebeschuetz, *op. cit.* (n. 6), 242, simply gives the laws an early Justinianic date.

<sup>88</sup> Cameron, *op. cit.* (n. 1), 18. E. Zeller, *Philosophie der Griechen in ihrer geschichtlichen Entwicklung dargestellt* (1876–89), vol. iii.2, 916 n. 3, sees Damascius as a possible author of the account used as a source by Agathias. Averil Cameron, *Agathias* (1970), 101–2, thinks it more likely that Simplicius is Agathias' source.

<sup>89</sup> Agathias 2.30.3–4.

<sup>90</sup> A point first made by Cameron, *op. cit.* (n. 1), 13.

<sup>91</sup> I. Hadot, *Simplicius: commentaire sur le manuel d'Épictète* (1996), 12, argues that Agathias makes no attempt to attribute the trip to a desire to see Chosroes. This ignores both Agathias' explicit state-

ment to the contrary and the function of the account within his text. Agathias includes this account to show the inability of Chosroes to differentiate between true philosophers like Damascius and charlatans like Uranius. For this idea see Cameron, *op. cit.* (n. 88), 101–2. On Uranius, see J. Walker, 'The limits of late antiquity: philosophy between Rome and Iran', *The Ancient World* 33 (2002), 45–69.

<sup>92</sup> Within his own kingdom, Chosroes sponsored a translation programme through which Greek philosophical texts were translated into Persian (see D. Gutas, *Greek Thought, Arabic Culture* (1998), 25–7). As Agathias notes (2.31.3), Romans too were aware of Chosroes' philosophical pretensions. They were not seen as wholly ridiculous, however. Priscian, one of Damascius' disciples, thought enough of his encounters with the king to record them (or, at least, a plausible facsimile of them). This text, *Solutiones eorum de quibus dubitavit Chosroes Persarum rex*, has been preserved in a Latin translation (ed. F. Dübner in *Plotini Enneades* (1885), 545–79).

few successful appeals or administrative delays.<sup>93</sup> One would have to imagine that, after the events of A.D. 529, Damascius would have been one of the first targets of any subsequent anti-pagan actions and, if targeted, it is unlikely that Damascius would have waited long to flee the city. In his mind, co-operation with such an investigation or an appeal against its findings would be inconsistent with the philosophical ideal he aimed to uphold.<sup>94</sup> His writings praise pagan thinkers who remained philosophical (i.e. unco-operative) even in the face of violent persecution.<sup>95</sup> Indeed, at an earlier point in his life, Damascius himself chose voluntary exile over the possibility of interrogation and forced religious compromise.<sup>96</sup> This choice was made because he deemed the latter course to be akin to philosophical and religious apostasy.<sup>97</sup> This leaves one with little doubt that Damascius' flight to Persia would have followed soon after it became apparent that he would be subject to these laws.<sup>98</sup>

Damascius apparently chose to leave the Roman Empire because the provisions of *Cy* 1.11.9 and 10 changed the legal status of pagans in a way that particularly threatened the lifestyle of himself and his followers. Although the prohibition of teaching had made it impossible to collect student tuition, the school could still receive financial bequests from supporters.<sup>99</sup> *Cy* 1.11.9 eliminated this possibility and forced Damascius to consider running his philosophical circle without any financial support.<sup>100</sup> Even more severe were the terms of *Cy* 1.11.10. According to it, the houses in which the philosophers lived and the property upon which they were supporting themselves were now subject to seizure.<sup>101</sup> From their earlier experiences, Damascius and his colleagues must have known that both the Athenian Christian community and the provincial assembly had sufficient influence to convince the governor of Achaëa to enforce laws like this. In fact, the remains of a group of houses next to the Areopagus show that the provisions of these laws probably were enforced in Athens. Excavation has shown that, at some point in the A.D. 530s, the largest house on the Areopagus underwent a major renovation in which statues of the gods were desecrated and a pagan image in a floor mosaic was replaced by a cross.<sup>102</sup> Indicating that this house was not voluntarily given to Christians, a well outside the house contained a further seven statues, all in a good state of preservation, that had apparently been hidden before the previous owner fled the property.

Given the timing of the abandonment of the house, it is reasonable to assume that its fate is linked to Justinian's anti-pagan measures. Those laws provided the Bishop of

<sup>93</sup> The anti-pagan legislation of A.D. 529 resulted almost immediately in a purge of pagans from the Court and Constantinopolitan society (Malalas 18.42). The only man known to have appealed successfully was Phocas, a future praetorian prefect, who is called 'pious' and 'charitable' by John Lydus (*De Mag.* 3.73–6). It is likely then that his appeal consisted simply of providing evidence of his Christian piety (a tactic that was, of course, not possible for Damascius). The actions in A.D. 545/6 were much more far-reaching, but still relatively fast in coming to a conclusion (on this see Liebeschuetz, *op. cit.* (n. 6), 242–3). It is worth noting that Phocas was implicated in this persecution as well.

<sup>94</sup> In the *Philosophical History*, he wrote: 'Nothing human is worth as much as a clear conscience. A man should . . . never give great importance to anything other than Truth — not the danger of an impending struggle nor a difficult task from which one turns away in fear' (*Phil. Hist.* 146B, following the evocative translation of Athanassiadi).

<sup>95</sup> Among the many he praises are Hierocles (*Phil. Hist.* 45B), Horapollon and Heraiscus (*Phil. Hist.* 117C), and Julian (*Phil. Hist.* 119J).

<sup>96</sup> In this earlier persecution, Damascius and others were initially willing to wait for circumstances to change (*Phil. Hist.* 126B). It quickly became apparent that this would not happen (*Phil. Hist.* 126C–E) and then Damascius chose exile over any form of co-

operation. For details on these circumstances, see Watts, *op. cit.* (n. 3), 390–410; C. Haas, *Alexandria in Late Antiquity* (1997), 323–30; and P. Athanassiadi, 'Persecution and response in late paganism', *JHS* 113 (1993), 1–29, as well as *op. cit.* (n. 7), 24–33.

<sup>97</sup> Damascius saw those who came to terms with the leaders of that persecution as 'shamefully greedy and looking at everything in terms of profit' (*Phil. Hist.* 118B).

<sup>98</sup> The comments of Simplicius about the philosopher's duty to flee from a corrupt state (*In Epict.* 65.29–35) further suggest that exile was not a last resort of the desperately oppressed, but among the preferred responses to restrictions such as those put in place by *Cy* 1.11.9 and 10. It may well have been decided upon quite quickly and undertaken without much delay.

<sup>99</sup> Olympiodorus implies (*In Alc.* 140–1) that Athenian teachers were never particularly diligent in collecting fees. By contrast, the school did benefit greatly from bequests (*Phil. Hist.* fr. 102).

<sup>100</sup> *Cy* 1.11.9.1.

<sup>101</sup> *Cy* 1.11.10.3.

<sup>102</sup> See Frantz, *op. cit.* (n. 4), 88–9, for the house and the date of its abandonment. For a more detailed discussion of the site see, T. L. Shear, 'The Athenian Agora: excavations of 1971', *Hesperia* 42 (1973), 156–64.

Athens, to whom the redecorated house may be linked,<sup>103</sup> with an opportunity and a legal justification to seize the property. Even if recent speculation that these houses were connected with Damascius' school is not accepted,<sup>104</sup> their fate and that of the property belonging to Damascius would have been similar.<sup>105</sup> The renovation of this house then strongly suggests that the most valuable of the property belonging to the philosophers would have been confiscated, whether or not they remained in Athens.

#### IV. CONCLUSION

The eventual fate of Damascius and his circle of associates after their return from Persia has become a subject of intense but unresolved debate.<sup>106</sup> It is now clear, however, that the closing of their school and their Persian exile resulted from two different causes. The prohibition of philosophical teaching in Athens represented a regional response to a complaint about a specific objectionable activity of the Athenian Neoplatonic school. This was the final event in a struggle between Athenian Platonists and Athenian Christians that had endured for over a century. In A.D. 529, Damascius and his school lay unprotected and vulnerable to the attack of local authorities. When Justinian's edict about divination was disseminated to the provinces, it was a natural step for it to be turned into an edict prohibiting teaching at Damascius' school.

While the closing of the Athenian school was indeed an event with local implications that was caused by local concerns, the flight of Damascius and his colleagues to Persia resulted from central governmental policies. The prohibition of teaching was an institutional death blow, but one that would not be felt fully for many years. Indeed, it seems that the philosophers responded to this initial set of restrictions by keeping a low profile and waiting for circumstances to change.<sup>107</sup> The severe personal and property restrictions issued in A.D. 531 were a different matter. By depriving the school of its meeting space and the philosophers of their personal property, C $\mathfrak{J}$  1.11.9 and 10 posed an immediate threat to their continued pursuit of the philosophical life. As the Athenian archaeological evidence suggests, these laws would not have permitted the philosophers to survive simply by keeping a low profile. Perhaps sensing the inevitability of this fate, they left Athens for Persia. And this was, for all practical purposes, the end of Athenian philosophy.

*Department of History, Indiana University*

[ejwatts@indiana.edu](mailto:ejwatts@indiana.edu)

<sup>103</sup> Frantz, op. cit. (n. 4), 88, sees the redecoration as 'a transition (of the house) to Christian use of an official character' because the nymphaeum had been converted into a baptistery.

<sup>104</sup> The link was initially proposed by A. Frantz ('Pagan philosophers in Christian Athens', *Proceedings American Philosophical Society* 119 (1975), 36f. and, later, op. cit. (n. 4), 44–7). Recently Athanassiadi, op. cit. (n. 7), 343–7, has suggested the link of House C, the largest of the Areopagus houses, with Damascius. As she admits, this is a 'necessarily speculative theory'.

<sup>105</sup> Writing in the A.D. 560s, Olympiodorus (*In Alc.* 140–1) seems to indicate that the school's property was touched by Justinianic confiscations (see also Blumenthal, op. cit. (n. 1), 370; Glucker, op. cit. (n. 1), 323–5; and Cameron, op. cit. (n. 1), 9–11). As J. Harries, *Law and Empire* (1998), 95–6, notes, bishops were often the enforcers when laws like C $\mathfrak{J}$  1.11.10 were implemented.

<sup>106</sup> Athens has been suggested as their eventual destination by Cameron, op. cit. (n. 1), 22–3. The Syrian city of Harran is the choice of M. Tardieu,

'Sabiens Coraniques et "Sabiens" de Harran', *Journal Asiatique* 274 (1986), 1–44 and *Les paysages reliques. Routes et haltes syriennes d'Isidore à Simplicius*, Bibliothèque de l'École des Hautes Études, Sciences Religieuses, 94 (1990). Against Tardieu, see C. Luna, review of R. Thiel, *Simplikios und das Ende der neuplatonischen Schule in Athen in Mnemosyne* 54 (2001), 482–504; J. Lameer, 'From Alexandria to Baghdad: reflections on the genesis of a problematic tradition', in G. Endress and R. Kruk (eds), *The Ancient Tradition in Christian and Islamic Hellenism* (1997), 181–91; and, on an aspect of his argument, D. Gutas, 'Plato's Symposium in the Arabic tradition', *Oriens* 31 (1988), 44, n. 34. The earlier idea of an Alexandrian stay is no longer given any weight.

<sup>107</sup> If Alan Cameron, op. cit. (n. 1), 16–17, is right to place the composition of Simplicius' *Commentary on the Encheiridion* in the years A.D. 529–31, Simplicius' statements (*In Ench. Epict.* 65.37–66.36) about the proper activities of philosophers living in a corrupt state may indicate the state of mind of the community at this time. Against Cameron, see Hadot, op. cit. (n. 91), 8–20.