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# Byzantine Legislation on Economic Activity Relative to Social Class

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The sixth and seventh centuries are generally seen as the period in which Byzantine law per se begins to take shape, in the form primarily of the elaboration of the texts that Justinian had codified by the *antecessores* and the *scholastikoi*. Byzantine law was thus a set of rules that grew beneath the weight of classical and postclassical Roman law as it had crystallized in the Justinianic codification. Byzantine society always defined itself as a continuation of Rome: as a result, it adopted, initially at any rate, the Roman division into social classes to each of which the practicing of certain types of work was fitting.<sup>1</sup> This distribution of occupational and, more generally, economic activity by social class can be seen in the pre-Justinianic provisions codified in the sixth century and Hellenized and recodified in the middle period. For those reasons, the citation of passages from the *Basilics* in which earlier law is enshrined can convey quite a vivid picture of Byzantine beliefs about the predetermined social roles of the various classes and also about the exercise of economic activity, as inherited from the Roman order of law.

Let no merchant or banker or publican or other persons of lowly standing aspire to office; and if he so becomes, let him be returned to his own guild.<sup>2</sup>

We prohibit those of high birth and those lambent with the light of honors, and those substantially more wealthy, from things connected with the base trade of

This chapter was translated by John Solman.

<sup>1</sup> A basic bibliography is not provided here because, at least as far as I am aware, the main theme has not been dealt with separately. The conclusions arrived at in this chapter are based on a joint reading of various apparently unconnected texts and on their interpretation. For bibliographical information, see the notes below, which concern the individual sources and the information to be derived from them. Cf. also G. Dagron, "The Urban Economy, Seventh–Twelfth Centuries," *EHB* 414ff and *passim*.

<sup>2</sup> Μηδεὶς ἔμπορος ἢ μονητάριος ἢ τελώνης ἢ ἀπὸ εὐτελοῦς ὀφφικίου ἐπιχειρεῖτω γίνεσθαι ἀξιωματικός: εἰ δὲ καὶ γένηται πάλιν ἀποδιδόσθω τῷ ἰδίῳ σωματείῳ: *CI* 12.1.6 = *Bas.* 6.1.23 (from 357–360).

the city so as to facilitate the transactions of buying and selling between citizens and merchants.<sup>3</sup>

Let no person be admitted to the public guilds indiscriminately, unless as is required he is of an appropriate family and age and a craftsman, an instrument to this effect being drawn by the *archon* of the province and the guild deposing that he is a craftsman; and let these things be reported to us, so that we again can ratify them through our divine syllables which will serve as proof. If anyone shall infringe these things . . . he shall be tortured and exiled in perpetuity from the province, and any accomplice shall be subject to the same punishments, particularly if he is the *praipositos*.<sup>4</sup>

The connection between the first provision and our topic is a somewhat indirect one, since it does not refer to the occupational and more generally economic activities in which the members of the various social classes were permitted to engage, but tells us which persons were excluded from undertaking state positions because of the work they did and thus, by extension, of their social position. However, the second passage refers directly to a prohibition, by social criterion, from engaging in occupational activities: it can be seen from this that trade was not a fitting occupation for persons of noble descent and affluence, presumably because it was seen as a baser, and perhaps even contemptible, form of activity.

Even so, the continuation of this passage allows us to speculate that the legislator's intent was not only to keep the upper classes free from the "pollution" of involvement in humble activities, but also to protect ordinary citizens from merchants of such social influence and prosperity that they would have an adverse effect on the way in which business was done. There may have been a fear that if persons of great wealth were to engage in trade, they might take advantage of their ability to mobilize large sums of capital to create monopoly conditions; furthermore, since such persons were less in awe of authority than ordinary people, they might be able to impose a principle of "might makes right" in their relations with the public and could become a menace for the less fortunate when they had to purchase the goods they needed from such persons.

The last phrase of the first passage refers to the organization of manufacturing activities around the *somateia* or corporations. Although it cannot be dated with precision,

<sup>3</sup> Τοὺς ἐπισήμους τῇ γεννήσει καὶ τῷ τῶν τιμῶν φωτὶ προλάμποντας καὶ ἐν οὐσίᾳ πλουσιωτέρους τῆς ὀλεθρίας τῶν ἐν ταῖς πόλεσιν ἐμπορίας καλύομεν, ἵνα μεταξὺ τοῦ ιδιώτου καὶ τοῦ πραγματευτοῦ εὐχερῆς εἶη τὸ τοῦ πιπράσκειν καὶ ἀγοράζειν συνάλλαγμα: *CI* 4.63.3 = *Bas.* 56.1.19 (the year 408 or 409).

<sup>4</sup> Μηδεὶς ὡς ἔτυχε τοῖς δημοσίοις σωματείοις ἐγγραφέσθω, εἰ μὴ κατὰ τὸ ἀναγκαῖον καὶ ἐκ γένους ὦν τοιοῦτου καὶ ἡλικίας καὶ τέχνης ἐστὶν ἐπιτήδειος, πράξεως γινομένης ἐπὶ τούτῳ παρὰ τῷ ἄρχοντι τῆς ἐπαρχίας καὶ κατατιθεμένου τοῦ σωματείου, ὅτι ἐπιτήδειος ἔστι: καὶ τὰ πραττόμενα εἰς ἡμᾶς ἀναφερέσθω, ὥστε ἡμᾶς πάλιν ἐπικυρώσαι διὰ τῶν θεῶν συλλαβῶν τάξιν προβατορίας λαμβανουσῶν. Εἰ δὲ παραβαίη ταῦτα τις (. . .) βασανισθεὶς ἐξορισθήσεται διηλεκτῶς τῆς ἐπαρχίας, καὶ πᾶς δὲ συνεργήσας τοῖς αὐτοῖς ἐπιτιμίαις ὑποκείμεται καὶ μάλιστα ὁ πραιπόσιτος: *CI* 11.8.16 = *Bas.* 54.16.16. This passage in Greek, contained without a heading or a date in the edition of the Code of Justinian, was included in the most recent edition of the *Basilics* on the basis of the work of Jacques Cujas, who possessed a manuscript now lost. As a result, it is impossible to arrive at any secure conclusions as to its origins.

the third passage is particularly useful for a study of this question during the early centuries of Byzantium: according to it, the *somateia* were under state control, were headed by their chiefs, and received as members those who practiced the various *technai* or crafts. Membership was not open to all: candidates had to belong to a family that had a connection with the *somateion* (most probably with the specific corporation), had to be of lawful age (though what this was we do not know), and had to be versed in the craft practiced. Even if these conditions were fulfilled, the candidate's membership had to be approved by the state. There can be no doubt that we are dealing here with a form of guild organization of the artisans, one that we know to have existed in the early Byzantine period.<sup>5</sup> It would seem, then, that even at an early date the question of how the "humble" occupations were to be organized and practiced was of interest to the legislator.

The inclusion of these provisions in the *Basilics* is an incontrovertible indication that they were not completely alien to the social and economic conditions of the time. That, however, is not to say that their content is a faithful reflection of the situation in the period covered by the present volume. In other words, the failure to eject them from the Byzantine order of law is simply indicative of an insistence that the state should continue to control the market, connected with adherence to the organization of the market around the guilds. However, the extent to which the Roman concept of the compartmentalization of the social classes insofar as their economic activities were concerned—which, as an idea, survived for centuries—actually applied rigidly in practice can only be deduced from a study of new legislation.

Those who wish to gain as clear a picture as possible of at least one section of the Byzantine market need look no further than the *Book of the Eparch* of Leo VI, published in 911/912 and constituting a detailed, if not complete, code of market regulations.<sup>6</sup> The *Book of the Eparch* refers to twenty-one occupations or groups of allied occupations that were organized as guilds and acted under the supervision of the eparch of the city. It describes in detail the internal organization of the guilds, the frameworks within which each of them conducted its productive activities, and their obligations toward the state, the public, and other artisans. This makes it an extremely interesting source for the organization of economic life (of Constantinople only, unfortunately) compiled at the heart of the period that interests us, and for that reason it deserves examination as to the extent to which it contains regulations connected with the social origins of the various artisans.

To begin with the "noble" guild of the *taboullarioi*, or notaries, one immediately notices that a knowledge of the law, good handwriting, and *boni mores* are the only qualifi-

<sup>5</sup> See F. Dölger, "Die frühbyzantinische und byzantinische beeinflusste Stadt (V.–VIII. Jahrhundert)," in ΠΑΡΑΣΠΟΡΑ: *Dreißig Aufsätze zur Geschichte, Kultur und Sprache des byzantinischen Reiches* (Ettal, 1961), 131–35.

<sup>6</sup> For a bibliography and commentary on the *Book of the Eparch*, see the most recent edition by J. Koder, ed., *Das Eparchenbuch Leons des Weisen* (Vienna, 1991), 13–41. Cf. Dagron, "Urban Economy," 407.

cations stated for admission.<sup>7</sup> Further evidence of “meritocratic” criteria by which the *taboullarioi* were selected is that they were “not appointed to this post by reason of favor or request or kinship or friendship but by reason of virtue and knowledge and prudence and being competent in all respects.”<sup>8</sup> It can be concluded with certainty from this passage that the office of notary was not hereditary. However, it seems unlikely that individuals without some financial competence would have been able to practice this occupation, since the *Book of the Eparch* itself tells us that registration had to be accompanied by the payment of a fee of 32 nomismata, a large sum for the time.<sup>9</sup>

According to the information contained in our source, fees (*synetheiai*) were not paid for admission to all the guilds, and it seems very likely that decisions as to such fees were taken by the state on the basis of the current economic policy, of the number of possible candidates for membership in each guild, and the profits involved in the exercise of each occupation.<sup>10</sup> However, in no case do the *synetheiai* amount to anything like the fees required of *taboullarioi*. It is surprising to find that no mention is made of the payment of fees for admission to the guild of bankers, which, of course, played a much more important part than that of the notaries in the economic life of the capital, in its narrow sense. It seems to have been sufficient that prospective members of the bankers’ guild could produce assurances from respectable witnesses to the effect that they would discharge their duties conscientiously and, most importantly, that they would not counterfeit the coinage.<sup>11</sup> It may be, then, that precisely because of the sensitivity of the area of the economy in which bankers were involved, the state attempted to ensure that the persons selected were noted for their honesty, without setting financial obligations with which such persons might have been unable to comply. In general, it could be said that the qualifications of *boni mores* and professional competence were the only requirements specifically determined by the *Book of the Eparch* for admission to the guilds, regardless of the social prestige that some of these guilds may have enjoyed.<sup>12</sup> The fact that requirements are not stated for each occupation can probably be attributed to the source’s nature as a compilation—and one that we know not to be complete in providing answers to all the questions that may arise in the mind of the modern reader. The lack of any reference to such requirements, taken in conjunction with the provisions concerning *taboullarioi*, confirms, to my mind, the prevailing view that after the early Byzantine period admission to the guilds of artisans was not dependent on the candidate’s descent from a family of fellow craftsmen.<sup>13</sup>

<sup>7</sup> See *Book of the Eparch*, ed. Koder, 1.1, and Dagron, “Urban Economy,” 408–10.

<sup>8</sup> τοῦ μὴ διὰ τινα χάριν ἢ παράκλησιν ἢ συγγένειαν ἢ φιλίαν τοῦτον τῷ βαθμῷ ἐντάττεσθαι, ἀλλὰ δι’ ἀρετὴν καὶ γνῶσιν καὶ σύνεσιν καὶ τὸ ἰκανὸν εἶναι ἐν πᾶσι . . . : Koder, *Book of the Eparch*, 1.3, and Dagron, “Urban Economy,” 408–9.

<sup>9</sup> See *Book of the Eparch*, ed. Koder, 1.14, and S. Troianos, “Ἡ θέση τοῦ νομικοῦ/δικαστῆ στή βυζαντινὴ κοινωνία (Athens, 1993), 23. There were 24 *taboullarioi*, a *numerus clausus*.

<sup>10</sup> See A. Christophilopoulos, Τὸ Ἐπαρχικὸν Βιβλίον Λέοντος τοῦ Σοφοῦ καὶ αἱ συντεχνίαι ἐν Βυζαντίῳ (Athens, 1935), 53–54.

<sup>11</sup> See *Book of the Eparch*, ed. Koder, 3.1.

<sup>12</sup> See *ibid.*, 4.5, 16.1, and Christophilopoulos, Ἐπαρχικὸν Βιβλίον, 50 n. 4.

<sup>13</sup> See G. Weiss, “Antike und Byzanz: Die Kontinuität der Gesellschaftsstruktur,” *HZ* 224 (1977): 541, and B. Malich, “Wer Handwerker ist, soll nicht Kaufmann sein: Ein Grundsatz des byzantin-

This picture of the development (in Constantinople in the 10th century) of economic activities without any particularly prohibitive social or economic constraints is obfuscated by chapter 7 of the *Book of the Eparch*, “concerning *katartarioi*.” The passages at 7.2, 3, and 5 have created in the minds of some scholars the impression that slaves<sup>14</sup> or poor persons were not eligible for membership in the guild of the *katartarioi*. Dieter Simon conducted a systematic investigation of the problem of the *katartarioi* some twenty years ago,<sup>15</sup> and to the best of my knowledge his findings have not been refuted. According to Simon,<sup>16</sup> the *katartarioi* were manual workers—men and women—who dealt with the intermediate stage in the processing of silk, making it suitable for weaving and then selling it. It seems likely that they originated in the classes that were financially poor and socially of low standing. The conditions set by the *Book of the Eparch*, that they should not be slaves “or completely destitute or open to reproach” (ἢ παντελῶς ἄποροι καὶ διαβεβλημένοι), applied, in Simon’s view, only to *katartarioi* who wished to collaborate with the *metaxopratai*, the main silk merchants of Constantinople, in the procurement of raw silk. The restriction was obviously intended to prevent the direct involvement of persons of low social background in the process by which the capital obtained its precious silk.

On the basis of this, then, one is justified in contending that the *Book of the Eparch* shows that, theoretically, even the humbler members of society were entitled to develop occupational activities almost without restriction, as long as they possessed the requisite skills. However, some passages in the source—once again, referring to trade in the various forms of silk—have provided scholars with an opening to approach the problem from another aspect. Was it perhaps the case, they have asked, that the *Book of the Eparch* actually prohibited the involvement of the *dynatoi* in this kind of economic activity, in advance of all the rest of the relevant legislation introduced by the Macedonian emperors?

Here again the views of Simon<sup>17</sup> differ from those of earlier scholars. As he correctly observes, it is, to begin with, impossible to assume that these provisions were intended to protect “poor” merchants against the competition of the *dynatoi* because such a policy is not apparent, even indirectly, in any passage in the source. What the *Book of the Eparch* forbids to the *dynatoi*—or *archontes*, as it often calls them—is their involvement in parallel commerce and the exploitation of their economic power for the purposes of private production. The frequent and specific references to the economically and socially privileged in the provisions connected with the prevention of parallel commerce must be primarily the result of their greater interest than ordinary people in acquiring silk. Unlikely though it may appear—and despite the lack of direct refer-

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ischen Wirtschaftslebens im 8./9. Jahrhundert,” in *Studien zum 8. und 9. Jahrhundert in Byzanz*, ed. H. Köpstein and F. Winkelmann (Berlin, 1983), 55.

<sup>14</sup> From a study of the remaining provisions of the *Book of the Eparch*, it emerges that slaves were entitled to become members of the guilds of Constantinople. See Christophilopoulos, Ἐπαρχικὸν Βιβλίον, 51–52; for the slaves, cf. Dagron, “Urban Economy,” 418–22.

<sup>15</sup> See D. Simon, “Die byzantinischen Seidenzünfte,” *BZ* 68 (1975): 23–46.

<sup>16</sup> *Ibid.*, 24–25, 44–46.

<sup>17</sup> *Ibid.*, 40–44; for the *archons*, cf. Dagron, “Urban Economy,” 422–23.

ences in the sources—during the tenth century it was theoretically possible for an *archon* to deal in silk (or in any other product, for that matter) as long as he obeyed the rules that applied to the artisans organized into guilds.

One of these rules was, of course, the avoidance of competitive practices, which took the form principally of the exercising of strictly predetermined occupational activities. However, none of the provisions of the specific source permits us to conclude that artisans with a smaller turnover were in any way protected against those whose turnover was greater. There are, of course, provisions in which a tendency to protect the economically weaker artisans can be detected: specifically, the *Book of the Eparch* provides for penal sanctions against those who, wishing to acquire the tenancy of a shop (*ergasterion*), offered its owner a larger rent so as to bring about the eviction of the sitting tenant.<sup>18</sup> This arrangement cannot, however, be linked to the protection of one social group against another;<sup>19</sup> it is simply one more instance of the efforts of those who compiled the book to maintain “order” in the market.

The *Book of the Eparch*, then, does not belong either to those legislative texts whose purpose was to distribute economic activity on the criterion of social origins, or to those that strove to protect the poor against the *dynatoi*. Examples of this are to be found in the later legislation of the Macedonian emperors, much of which, as we know, revolved around this question. The novel issued by Basil II in 996,<sup>20</sup> which is the chronologically last attempt to restrain the power of the *dynatoi*, contains, in its closing chapter,<sup>21</sup> provisions that concern the exercise of economic activities in accordance with social class. Among the most interesting features of this novel is the fact that it refers to the exercising of a kind of commerce that differs somewhat from that described in the *Book of the Eparch*. Basil’s law deals with the fairs (*panegyreis*, *phoroi*) that took place at regular intervals both in the cities and in country areas. In view of the general contents of this novel, it seems highly likely that the legislator wished to concentrate in particular on the fairs held in the countryside, although this is not to say that the relevant rules could not have been applied, *mutatis mutandis*, to those taking place in the urban centers.<sup>22</sup>

The novel deals with fairs held on ground controlled by private, though not necessarily natural, persons. In other words, I believe that these fairs should be distinguished from those to which the *Book of the Eparch* refers, which must have been closer to what we think of today as “street markets” and which were held very frequently in the various districts of Constantinople.<sup>23</sup> Nothing can be said with certainty about the

<sup>18</sup> See *Book of the Eparch*, ed. Koder, 4.9, 9.4, 10.3, 11.7, 13.6, 18.5, 19.2.

<sup>19</sup> This is the view held by Malich (“Handwerker,” 50–52), but I do not believe it reflects the true situation.

<sup>20</sup> N. Svoronos, *Les Nouvelles des empereurs macédoniens concernant la terre et les stratiotes*, ed. P. Gounaridis (Athens, 1994), 190–217; F. Dölger, *Regesten der Kaiserurkunden des oströmischen Reiches* (Munich–Berlin, 1924), no. 783; cf. A. E. Laiou, “Exchange and Trade, Seventh–Twelfth Centuries,” *EHB* 714.

<sup>21</sup> Svoronos, *Nouvelles*, 216–17.

<sup>22</sup> See also A. E. Laiou, “Händler und Kaufleute auf dem Jahrmarkt,” in *Fest und Alltag in Byzanz*, ed. G. Prinzing and D. Simon (Munich, 1990), 56.

<sup>23</sup> See Christophilopoulos, Ἐπαρχικόν Βιβλίον, 71–72.

frequency of the fairs dealt with in the novel of Basil II. Given that they may correspond to the fairs still held throughout Greece, the point in time at which they took place may have depended on the event that gave rise to them, such as the celebration of the memory of a saint or a local custom. In order for a fair to take place, a suitable site was of course needed—belonging, according to the wording of the novel, to the lord of the fair (*despotes tes panegyreos*)—together with the “merchants who make up the fair,” also referred to in the text as *panegyristai*. The *despotes* might be a local landowner, but he might also be an ecclesiastical foundation. As can be deduced from the source under examination, he might also be a community of peasants.<sup>24</sup> The *panegyristai* were merchants or other professionals, and they might be locals or travel to the fair from other places, sometimes far away. It would seem that the nucleus, at least, of the *panegyristai* who made up a fair consisted of the same people each time, and that they had some form of internal organization that allowed them to make joint decisions.<sup>25</sup> Given the range of activities in which they engaged, one cannot speak of a guild in any way resembling that of the *Book of the Eparch*; it seems more likely that what existed was a relationship of association (*koinonia*),<sup>26</sup> which, however, in Roman as in Byzantine law is very hard to distinguish from the contract of *hetaireia* (partnership), with which it tends to be confused in the terminology. Unfortunately, the surviving evidence is not sufficient to indicate whether there was a substantial relationship of *hetaireia* among the *panegyristai*. We can be sure, at all events, that participation in the fair brought profit to them, and it was also of economic interest for the *despotes* because it yielded revenue that usually took the form of a levy of some kind.<sup>27</sup>

In regulating the question of the conditions on which a fair could change venue, the novel of 996 is bound up with the economic activities both of the *panegyristai* and of the lord of the fair, and, as one would expect, it approaches the question with the intention of favoring the economically weaker. Given that the purpose of the legislator was to protect the smallholders of country areas, they, and not the members of the group of *panegyristai*, were the persons favored. Indeed, the law makes not the slightest reference to the economic situation or social position of the *panegyristai*, although it allows to them, in principle, the right to change the venue of the fair if they decided to do so unanimously and without pressure. In the event of disagreement, “the tradition of former times” must be maintained. However, this was only applicable in the following three instances: if the present and the prospective *despotes* were both *dynatoi*, if neither of them was a *dynatos*, or if the fair was to be moved from the land of a *dynatos* to that of a person who was not a *dynatos*. If the question had arisen of moving the venue from the land of a *despotes* who was not a *dynatos* to one who was, then stricter conditions had to be complied with. It was essential in this case that the decision of the *panegyristai* be unanimous and free, but this was not sufficient; it had to be supplemented by “the law of former times.” This specific passage in the novel tells us what

<sup>24</sup> See Laiou, “Händler,” 62–63.

<sup>25</sup> *Ibid.*, 56–57.

<sup>26</sup> *Ibid.*, 70.

<sup>27</sup> *Ibid.*, 62–63.

this meant, and I believe the same definition applies to the other instances in which the same consideration was important: the new venue had to be not a new one, but one with an “old privilege,” that is, one where it had been the custom to hold the fair in the past. In effect, we are dealing with the return of the fair to its natural venue, from which it had at some point in the past departed. It cannot be deduced from the novel whether the furnishing of written evidence (such as an imperial permit) was necessary to prove the antiquity of the new venue and the lawfulness of holding the fair there. It is equally unclear whether a statute of limitations on rights played any part in securing the “law of former times,” or whether this question was regulated solely by customary law.

Bearing in mind the main purpose of Basil’s law, it is my impression that the legislator left quite a number of matters vague so as to allow them to be used for the benefit of the weak. It is therefore interesting to see how the novel was implemented fifty years after it had been issued, at a time when the struggle between the central authorities and the *dynatoi* had died down. The *Peira* provides us with information in this respect. Presumably because of its nature as a work of case law, the relevant chapter<sup>28</sup> lacks the detailed wording of the novel, but perhaps its laconic presentation of the problem constitutes evidence of the way in which the law was implemented in practice. The thinking of Eustathios Rhomaïos, who himself must have sat in judgment on such cases, is comparatively pragmatic in connection with the resolution of disputes between the *dynatoi* over fairs. The *panegyristai* were entitled, alone, to decide on the place where the fair ought to be held; at the end of the day, they were the people who actually created the fair by attending it and engaging in their occupational activities there, and there was thus no reason to give heed to the “rights” of the *despotes*. As for the *dynatoi*, it was well known that they attracted *panegyristai* “by means of gifts and treats” (δῶροις καὶ κεράσμασι). Let them continue to compete with one another, then, and let the most generous win the right to hold the fair.

Matters became more complicated when the dispute arose between a *dynatos* and a “poor” person. In such cases, the court would require that the *dynatos* should prove *pistin dikaiomaton* and *chronou boetheian*: the first of these terms probably meant the presentation of written evidence that the right existed, while it is not impossible that the second is a reference to the lawful time limits within which rights arose and were extinguished, given that this wording is quite common in Byzantine legal sources in connection with such time limits. It may be that the introduction of these legal time limits favored the *dynatoi*, who would need to prove only that the fair had been taking place on their ground for a given period of time, and would not necessarily need to give evidence of a right existing in former times.<sup>29</sup> Another requirement of a *dynatos* claiming that he drew the right to hold a fair from long-standing practice was that he should prove that he had not forcibly caused the *panegyristai* to assemble on his land.

Of greater interest for the economic aspect of the question is the reference to the

<sup>28</sup> *Peira*, 57.1 (Zepos, *Jus*, 4:228).

<sup>29</sup> On this subject, see also Laiou, “Händler,” 55–56.

obligation on those claiming the right to hold such fairs on their land—regardless of their social origins, I believe—to prove that ἐξ οἰκείων συνεστήσαντο τὰς πανηγύρεις. I believe that this wording reveals that the economic participation of the *despotes* in organizing the fair was not confined only to providing the space and, possibly, making other grants: it also involved his securing, by his own means, the conditions necessary for the fair to take place, by making sure that the ground was cleared, providing accommodation for the *panegyristai*, and so on. Of course, I imagine that only the *dynatoi* would have been able to exert the kind of pressure over at least the artisans of their own area needed to attract them to fairs on their ground without providing even the most rudimentary facilities, but however the case may have been, the *despotes*, whether he was a *dynatos* or a poor person, functioned in these cases both as a lessor of land and as an “investor.”

The *Book of the Eparch* of Leo VI and the chapter of the novel of 996 dealing with fairs (together with the manner in which it was implemented by the supreme court of Constantinople) provide indirect but persuasive evidence of the fact that the Byzantine legislators and judges of the middle period placed obstacles in the way of the economic activities of certain social groups—not in order to maintain the social status quo in the field of employment, but probably in order to protect the interests of the state and of the citizens. Another text of a legislative nature dating from the late eleventh or early twelfth century shows still more clearly that Byzantine society was evolving away from the Roman precepts enshrined in the various collections of laws. This is a legislative act of Alexios I Komnenos,<sup>30</sup> issued to settle a specific problem but, as the text itself determines, of a wider application. It describes the following facts.

During the course of litigation between one Anna Paidianite and her uncles, it became necessary to extract an oath from the latter. They petitioned to be allowed to take the oath in their homes because they were members of the senate.<sup>31</sup> Anna, however, insisted that they should take the oath in public, arguing that her opponents were actually merchants. The dispute ultimately came before the emperor, who decreed as follows: “It is necessary to administer the oath at home to those members of the senate who are not registered as members of guilds subject to the eparch but who protect the majesty of their office; those who are members of guilds and wish to engage in trade shall not enjoy this privilege. But since they have derived profit from trade and chosen to be members of guilds, they shall take the oath in public as do those who do not have an office. And it is our wish that this law not be temporary but be regarded as an order by all judges henceforth.”<sup>32</sup>

<sup>30</sup> Zepos, *Jus*, 1:645–46; F. Dölger and P. Wirth, *Regesten der Kaiserurkunden des oströmischen Reiches* (Munich, 1995), no. 1162a, year 1091 or 1106.

<sup>31</sup> For the various privileges of the members of the senate, see A. Christophilopoulou, “Ἡ Σύγκλητος εἰς τὸ Βυζαντινὸν Κράτος,” *Ἐπετηρίς τοῦ Ἀρχείου τῆς Ἱστορίας τοῦ Ἑλληνικοῦ Δικαίου* 2 (1949).

<sup>32</sup> ἐκείνους τοὺς συγκλητικούς χρεῶν εἶναι οἴκοι ὀμνύειν, τοὺς μὴ εἰς σύστημα ὅλας καταγεγραμμένους, ὑποκείμενον τῷ ἐπάρχῳ, ἀλλὰ τὸ τοῦ ἀξιώματος φυλάττοντας μέγεθος τοὺς δὲ συστηματικούς καὶ πραγματεύεσθαι βουλομένους, μὴ τοῦ προνομίου τούτου ἀπολάβειν. Ἄλλ' ἐπειδὴ τὸ τῆς πραγματείας ἠρετίσαντο κέρδος καὶ τὸ συστηματικοὶ εἶναι μᾶλλον ἠγάπησαν, δημοσίᾳ τούτους ὀμνύειν καθάπερ τοὺς μηδενὸς

It emerges from this that during the time of the Komnenoi members of the senate were among those who engaged in commerce, and indeed did so as members of guilds. This phenomenon should not come as any particular surprise, since as far back as the time of Constantine IX Monomachos (1042–55) persons from a wider range of social strata, including merchants and manufacturers, began to be accepted as members of the senate, and this policy was continued by the Monomachos' successors, especially by Constantine X Doukas (1059–67).<sup>33</sup> Regardless of whether or not one can find grounds for accepting the hypothesis of H.-G. Beck—that these merchants were attempting, little by little, to detach themselves from the “middle class” and become fully integrated into the “aristocracy”<sup>34</sup>—it seems certain that the systematic involvement of members of the senate in commerce was a real phenomenon in the economic life of the capital during and after the eleventh century. Against that background, it is more or less self-evident that although Alexios I does not seem to have believed that to engage in commerce was a fitting activity for the members of the senatorial aristocracy, he does not claim that it is forbidden, nor does he forbid it for the future. To oblige the “noble” merchants to submit themselves in public to the taking of an oath as a means of proof was not a particularly burdensome measure, but should be seen as a natural consequence of their occupation. The administration of oaths in the home was reserved for the holders of various offices so as to protect their dignity and credibility—to “protect the institutions,” as we might say nowadays. However, when such individuals also practiced trade and their occupation brought them into everyday contact with a wide range of people, when they were active in the market, and when they engaged in commercial agreements and transactions, they had already lost much of their social prestige and there were no grounds for asserting that they should not take the oath in public.

The other interesting feature of Alexios' law is its testimony to the existence of occupational groups organized as guilds acting under the supervision of the eparch of the city some two hundred years after the publication of the *Book of the Eparch*. An order issued by Manuel I Komnenos after the mid-twelfth century leads to a similar conclusion.<sup>35</sup> It concerns the banking activity in which “reputable [ἀξιόλογα] and Roman persons” ought to engage with the approval of the eparch. It is impossible to say whether by “reputable” the imperial order was referring only to the moral rectitude that the *Book of the Eparch* demands for bankers, or whether some fairly elevated social origin

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τετυχηκότας ἀξιώματος. Καὶ τοῦτον τὸν νόμον μὴ καιρικὸν εἶναι, ἀλλ' εἰς τὸ ἐξῆς παρὰ πᾶσι δικασταῖς κρατεῖν διάταγμα εὐδοκοῦμεν. Zepos, *Jus*, 1:645, line 31–646, line 2.

<sup>33</sup> See S. Vryonis, “Byzantine Δημοκρατία and the Guilds in the Eleventh Century,” *DOP* 17 (1963): 302–14; P. Lemerle, “Byzance au tournant de son destin, 1025–1118,” *Cinq études sur le XIe siècle byzantin* (Paris, 1977), 287–93 (art. 5); E. Christou, “Σύγκλητος-Συγκλητικοί κατά τή μέση βυζαντινή περίοδο,” *Βυζαντικά* 14 (1994): 196–97. Cf. Dagron, “Urban Economy,” 415, and Laiou, “Exchange and Trade,” 753.

<sup>34</sup> See H.-G. Beck, “Senat und Volk von Konstantinopel: Probleme der byzantinischen Verfassungsgeschichte,” *Sitzungsberichte der Bayerischen Akademie der Wissenschaften. Philosophisch-Historische Klasse* (Munich, 1966) (repr. in idem, *Ideen und Realitäten im Byzanz* [London, 1972]), art. 12: 61–62.

<sup>35</sup> Zepos, *Jus*, 1:416–17; Dölger, *Regesten*, no. 1384 (year 1151 or 1161).

or financial good standing was also required. It is certain, however, that foreigners were not permitted to work as bankers in Constantinople during the twelfth century. Yet the specific mention of this in Manuel's order may be no more than the express statement of something that had been self-evident in the past but that now needed to be emphasized in view of the large numbers of aliens who were engaged in commerce in the Byzantine capital during the time of the Komnenoi.

The organization of certain occupations in the form of guilds must have survived into the thirteenth and fourteenth centuries.<sup>36</sup> At that time, the class of merchants and artisans flourished as never before and slowly evolved into a social group with a significant economic and social role. In the late Byzantine period, commerce as an occupation began to attract more and more people of "noble" descent, perhaps because the loss of many of the imperial territories had brought to an end the prosperity of landowners.<sup>37</sup> On the other hand, the increased influence of Venetian and Genoese merchants on the economic life of Constantinople had led to the creation of Byzantine replicas of the forms of partnership that trade took in the West. Among such partnerships were the *societates* (*syntrophiai*) that operated on land and the unilateral and bilateral *commenda* active in maritime trade; aristocrats were commonly involved in many of these partnerships, being fully aware, as members of a society in decline, of the power that money could bestow.<sup>38</sup> It could thus be said that during the last centuries of Byzantium it was not the desire of the merchants to be accepted into what might be termed the "aristocracy"; on the contrary, the aristocrats were very interested in becoming involved in profitable commercial activities.

<sup>36</sup> See N. Oikonomides, *Hommes d'affaires grecs et latins à Constantinople, XIIIe–XVe siècles* (Montreal, 1979), 108–14.

<sup>37</sup> See *ibid.*, 114–23.

<sup>38</sup> See A. E. Laiou-Thomadakis, "The Byzantine Economy in the Mediterranean Trade System, Thirteenth–Fifteenth Centuries," *DOP* 34/35 (1980–81): 198–205, and cf. E. Papagianni, "Εμπορικές επιχειρήσεις Κωνσταντινοπολιτών κατά τά ἔτη 1399–1401: Ὁ ὅρος συντροφία στα Acta Patriarchatus Constantinopolitani," *Ἐνθύμημα Ἀλκή Ἀργυριάδη* (Athens, 1995), 735–45; cf. K.-P. Matschke, "Commerce, Trade, Markets, and Money, Thirteenth–Fifteenth Centuries," *EHB* 803–5.