

ANDREAS GKOUTZIOUKOSTAS

Seals of Byzantine officials connected with the administration of justice*

Abstract: The present study examines the evidence of seals for officials connected with the administration of justice, such as the θεσμοφύλαξ, the κένσωρ, the ἐξάκτωρ, the πρωτομυστικός, the ἐπὶ τῶν κρίσεων, the κριτής τοῦ βήλου and the κριτής ἐπὶ τοῦ ἵπποδρόμου.

Byzantine seals comprise one of the most important primary sources for the reconstruction of the administrative machine of the Byzantine Empire. This paper attempts to analyse the evidence of seals for known and less known officials connected with the administration of justice, but whose real duties have not always been correctly interpreted or remain problematic.

There are offices whose function is revealed by sigillary material but not by the primary narrative or legal sources, as in the case of the rarely mentioned office of θεσμοφύλαξ. According to N. Oikonomidès and other scholars, the θεσμοφύλαξ was one of the lesser judicial officers¹, a member of the hippodrome court and a subordinate of the δρουγγάριος τῆς βίγλης, who presided over this tribunal. This opinion is based on the testimony of the Peira (61.6), according to which Eustathios Romaios, who was δρουγγάριος τῆς βίγλης at that time, was informed in his kellion about a quarrel outside the covered hippodrome, which ended in violence, between Leon, πρωτοσπαθάριος καὶ πρωτονοτάριος τοῦ γενικοῦ, and a κανδιδάτος. The δρουγγάριος sent the θεσμοφύλαξ to take eyewitness statements².

The θεσμοφύλαξ was the guardian of the law during antiquity³, but the Byzantine office that appeared in the 10th century (Escorial Taktikon)⁴ had, of course, a different role and activity. The

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¹ A. CHRISTOPHILOPOULOS, Ζητήματα τινὰ ἐκ τοῦ Ἐπαρχικοῦ Βιβλίου. *Hell* 11 (1939) 125–136, here 134, n. 3 (= IDEM, Δίκαιον καὶ Ἱστορία. Μικρὰ Μελετήματα. Athens 1973, 127–128, n. 30); N. ΟΙΚΟΝΟΜΙΔΗΣ, Les listes de préséance byzantines des IXe et Xe siècles. Paris 1972, 326; IDEM, L'évolution de l'organisation administrative de l'empire byzantin au XIe siècle (1025–1118). *TM* 6 (1976) 125–152, here 134, n. 54 (= IDEM, Byzantium from the Ninth Century to the Fourth Crusade. Studies, Texts, Monuments. Aldershot 1992, X); IDEM, The “Peira” of Eustathios Romaios: an Abortive Attempt to Innovate in Byzantine Law. *FM* 7 (1986) 162–192, here 187 (= IDEM, Byzantium XII); V. LAURENT, Le corpus des sceaux de l'empire byzantin, II: L'administration centrale. Paris 1981, 485; P. MAGDALINO, Justice and Finance in the Byzantine State, ninth to twelfth Centuries, in: Law and Society in Byzantium: Ninth–Twelfth Centuries, ed. Angeliki E. Laiou – D. Simon. Washington, D.C. 1994, 93–115, here 104.

² Peira of Eustathios Romaios 61.6 (ed. C. E. ZACHARIAE v. LINGENTHAL = J. ZEPOS et P. ZEPOS, *Jus Graeco-Romanum*, IV. Athens 1931, 233): Ὅτι ἐν τῷ ἵπποδρομίῳ ἰστάμενός τις κανδιδάτης λόγους ὑβριστικούς ... ἐρρίπτει κατὰ τοῦ πρωτοσπαθαρίου λέοντος καὶ πρωτονοταρίου τοῦ γενικοῦ. ὁ δὲ ὑβρῖσε τὸν κανδιδάτην ... ὁ δὲ ἀνθυπέφερε ... καὶ ὠργίσθη ὁ πρωτοσπαθάριος καὶ ἔτυψε τὸν κανδιδάτην καὶ ἐμάδισεν. ὁ δὲ ἀσκεπῆς εἰσηλθεν εἰς τὸ κελλίον τοῦ μαγίστρου, ἐπιβώμενος τὴν βοήθειαν καὶ διηγούμενος τὸ συμβάν. ὁ δὲ δρουγγάριος προσέταξε τῷ θεσμοφύλακι ἐξελεθῆν καὶ ἐρωτήσαι μάρτυρας τοὺς ἀκούσαντας τῶν ὑβρεων καὶ ἰδόντας τὸν δαρμόν, καὶ ὁ θεσμοφύλαξ ἤκε λέγων ὡς πολλοὶ μαρτυροῦσιν ὅτι πρῶτος ὁ κανδιδάτος ὑβρῖζε τὸν πρωτοσπαθάριον, εἶτα ὁ πρωτοσπαθάριος ἀνθύβρῖσε τραχέως, καὶ ἀνθυβρῖσθεῖς. G. WEISS, Hohe Richter in Konstantinopel. *JÖB* 22 (1973) 117–143, here 119, considers the thesmophylax a policeman.

³ A. CHRISTOPHILOPOULOS, Νομοφύλακες καὶ Θεσμοφύλακες. *Platon* 20 (1968) 134–143 (= IDEM, Δίκαιον καὶ Ἱστορία 33–43).

⁴ ΟΙΚΟΝΟΜΙΔΗΣ, Listes 271, 29.

θεσμοφύλαξ is also mentioned on seals from the 10th to the 12th century⁵. On these the office is attached to judicial dignitaries such as the κριτής ἐπὶ τοῦ ἵπποδρόμου and the κριτής θέματος⁶ as well as to the office of τριβούνος⁷, that is, a subordinate of the δομέστικος τῶν νομῆρων and δομέστικος τῶν τειχέων⁸. These testimonies provide no clear information concerning his task, but certain others do shed light on his function. There are two parallel seals of Γεώργιος, πατρικίος, κριτής τοῦ βήλου, θεσμοφύλαξ τῶν κρίσεων καὶ σύμπος, published and dated to the 11th century by V. Laurent⁹, and an almost identical specimen edited by G. Zacos, who proposes a more precise date in the middle of the 11th century¹⁰. The phrase θεσμοφύλαξ τῶν κρίσεων (that is, the guardian¹¹ of the judgments) in combination with the testimony of the *Peira* denotes, in my opinion, that he could have been in charge of keeping an archive of the judgments of the δρουγγάριος τῆς βίγλης or even an archive of the cases tried in the hippodrome, since his seat was, it seems, near the covered hippodrome where the courts were situated. He was probably an official similar to that of *instrumentarius* mentioned by Ioannes Lydos in the early Byzantine period, who was also responsible for an archive of judicial decisions, in this case of the court of *praefectus praetorio per Orientem* or even of other high courts. The archives were housed on the south side of the open Hippodrome from the Kathisma to the Sphendone¹².

But, the evidence of seals does not always lead researchers to solid conclusions. Cases in point are those of the κένσωρ and the ἐξάκτωρ, which are often attached on seals to κριτές (e.g. κριτές ἐπὶ τοῦ ἵπποδρόμου, κριτές τοῦ βήλου) and considered, taking other primary sources into account as well, as respectively a lower judicial officer and a member of the imperial court of justice¹³, although the

⁵ See Prosopography of the Byzantine World (= PBW): <http://www.pbw.kcl.ac.uk/pbw/apps/> (2011) (thesmophylax). To the four seals of θεσμογράφου mentioned in the database we should add that of Ἰωάννης Ἐξακοντίτης, πρωτοσπαθάριος, θεσμοφύλαξ, ἀσηκρήτης καὶ κριτής (3rd quarter of the 11th c.), see Münz-Zentrum Köln, Sale 101 (15–18 December 1999) 574. Cf. *SBS* 8 (2003) 245.

⁶ J. NESBITT – N. ΟΙΚΟΝΟΜΙΔΗΣ, Catalogue of Byzantine Seals at Dumbarton Oaks and in the Fogg Museum of Art, III. Washington, D.C. 1996, no. 2.29: Anonymous, βασιλικὸς πρωτοσπαθάριος, θεσμοφύλαξ καὶ κριτής Θρακῆσιων (10th/11th c.). See also J.-Cl. CHEYNET, Les sceaux byzantins du musée de Selçuk. *Revue Numismatique* 155 (1999) 317–352, no. 24 (11th c.). Cf. *SBS* 8 (2003) 165; E. McGEER – J. NESBITT – N. ΟΙΚΟΝΟΜΙΔΗΣ, Catalogue of Byzantine Seals at Dumbarton Oaks and in the Fogg Museum of Art, IV. Washington, D.C. 2001, no. 1.16: Anonymous, βασιλικὸς πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, θεσμοφύλαξ, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ τῶν Βουκελλαρίων (first half of the 11th c.). See also Münz-Zentrum Köln, Sale 101 (15–18 December 1999) 574. Cf. *SBS* 8 (2003) 245: Ἰωάννης Ἐξακοντίτης, πρωτοσπαθάριος, θεσμοφύλαξ, ἀσηκρήτης καὶ κριτής (3rd quarter of the 11th c.).

⁷ LAURENT, Corpus II, no. 915: Ἰωάννης πρωτοσπαθάριος, θεσμοφύλαξ καὶ τριβούνος (second third of the 11th c.) (two parallels).

⁸ ΟΙΚΟΝΟΜΙΔΗΣ, Listes 336.

⁹ LAURENT, Corpus II, no. 1079 (Bruxelles. Coll. Kimps, no. 103 and DO.58.106, no. 3225 [B]).

¹⁰ G. ZACOS, Byzantine Lead Seals, II. Compiled and edited by J. W. NESBITT (*Tetradia Archaeologias kai Technes* 3). Berne 1984, no. 978.

¹¹ See also Theodoros Prodromus, Rhodanthe et Dosicles 4 (ed. M. MARCOVICH. Stuttgart – Lipsiae 1992, 57, 47–48): Ἐγὼ μὲν οὕτω τὸν πόθον φρουρεῖν θέλω καὶ θεσμοφύλαξ εἰμί σοι τῆς ἀγάπης is mentioned by Theodoros Prodromos which shows that the word θεσμοφύλαξ mean a person who guards something. See also Eustathii archiepiscopi Thessalonicensis commentarii ad Homeri Iliadem pertinentes (ed. M. VAN DER VALK, I. Leiden 1971, 145, 35–146, 3): Δίκη δὲ καὶ θέμις ταυτὸν ἐστὶ. διὸ καὶ ὁ ποιητὴς ἐφερημενέων φησὶ ‘δικασπῶλοι, οἱ θέμιστας πρὸς Διὸς φυλάσσοισι’. θεσμοφύλακες οὖν οἱ δικασπῶλοι. ἄμφω δὲ ταῦτα ἦσαν οἱ βασιλεῖς, οἷς καὶ τὸ σκῆπτρον σύμβολον ἦν δίκης, ὥσπερ ἀνδρίας τὸ δόρυ. In this testimony the θεσμοφύλαξ is used with its original meaning of ‘guardian of laws’.

¹² Ioannes Lydos III.19 (ed. M. DUBUISSON – J. SCHAMP, Jean Le Lydien, Des Magistratures de l’État Romain, I–II. Paris 2006, II 66–67): Καὶ συνήπτο σχεδὸν τῷ σκρινίῳ τῶν κομμένων ὁ καλούμενος ἰνστρουμεντάριος, ἀντὶ τοῦ χαρτοφύλαξ τῶν ἀρχείων τοῦ δικαστηρίου, εἰς τὸ ὑπογράφειν καὶ πληροῦν τὰς ψήφους καὶ χώρος μὲν αὐτῷ ἐν τῷ ἵπποδρομίῳ ὑπὸ τῷ τῆς βασιλείας βήματι ἐπὶ τὸν νότον ἄχρι τῆς καλουμένης Σφενδόνας ἐξ ἀρχαίου παρακεχώρηται, πάντα δὲ τὰ ἀπὸ τῆς βασιλείας Οὐάλλεντος ἐν τοῖς τότε μεγίστοις δικαστηρίοις πεπραγμένα αὐτόθι σφάζεται καὶ τοῖς ἐπιζητοῦσιν οὕτως ἐστὶν ἔτοιμα, ὡς εἰ χθὲς τυχὸν πεπραγμένα. Cf. A. GKOUTZIOUKOSTAS, Η ἀπονομή δικαιοσύνης στο Βυζάντιο (9ος–12ος αι.). Τα κοσμικὰ δικαιοδοτικὰ ὄργανα καὶ τὰ δικαστήρια τῆς πρωτεύουσας (*Byzantina keimena kai meletai* 37). Thessaloniki 2004, 122–123 with bibliography.

¹³ ΟΙΚΟΝΟΜΙΔΗΣ, Listes 323–326; IDEM, Évolution 134, n. 54; IDEM, Peira 187; MAGDALINO, Justice and Finance 104.

information supplied by the seals implies an additional functional role for these dignitaries, who had probably fiscal duties as well.

The Roman *censor* was one of the archons of the State and among his tasks was to record the Roman citizens and their fortunes on the tax registers¹⁴. During the Byzantine era the κένσωρες are mentioned for the first time in the *Escorial Taktikon* (971–973)¹⁵ and on seals from, mainly, the 11th century¹⁶. On most of the seals the office is attached to judicial offices¹⁷, and the Peira records a case

¹⁴ J. W. KUBITSCHKEK, *Censor*. *RE* III/2, 1902–1908. See also CHR. GIZIEWSKI, *Census*. Brill's Encyclopaedia of the Ancient World, New Pauly, vol. 3, ed. Christina Salazar. Leiden – Boston 2003, 110–111.

¹⁵ ΟΙΚΟΝΟΜΙΔΕΣ, *Listes* 271, 9. The reference of κένσωρες in the *Taktikon Uspenskij* (842–843) is probably a mistake of the copyist. See *ibidem* 62, n. 48.

¹⁶ See PBW (kensor). To the 23 persons mentioned in this database we should add five more: (1) Νικόλαος Χρυσοβέργης, κένσωρ καὶ ἐκ προσώπου Ἀντιοχείας (first half of the 11th c.) who later became πρωτοκένσωρ (see below) (J.-Cl. CHEYNET – D. THEODORIDIS, *Sceaux byzantins de la collection D. Theodoridis. Le sceaux patronymiques [Monographies 33]*. Paris 2010, no. 55), (2) Γεώργιος Πηγονίτης (?): Ὁμωνωμούντι σὴν χάριν, μάρτυς, νέμοις ἰλλουστρίω τε κένσωρι τῷ Πηγονίτη (3rd quarter of the 11th c.) (see the review of Claudia SODE, *Byzantinische Bleisiegel* in Berlin, II [*Poikila Byzantina* 14]. Bonn 1997, by W. SEIBT in *JÖB* 48 [1998] 316–317; Alexandra-Kyriake WASSILIOU-SEIBT, *Der Familienname Pegonites auf byzantinischen Siegeln und in anderen schriftlichen Quellen*, in: *Realia Byzantina*, ed. Sofia Kotzabassi – G. Mavromatis [*Byzantinisches Archiv* 22]. Berlin – New York 2009, 303–319, Appendix no. 1), (3) Εὐστάθιος, ἰλλουστρίος, κένσωρ καὶ δικασπός (A.-K. WASSILIOU-SEIBT, *Corpus der byzantinischen Siegel mit metrischen Legenden, Teil 1: Einleitung, Siegellegenden von Alpha bis inklusive My [WBS XXVIII/1]*. Wien 2011, no. 818), (4) an Anonymous κένσωρ (late 11th c.) (WASSILIOU-SEIBT, *Corpus* no. 1099) and (5) Νικόλαος Ματζούκης, κένσωρ, κριτὴς τοῦ βήλου καὶ μέγας οἰκονόμος τῶν εὐαγῶν οἴκων (1060–1080) (see G. SCHLUMBERGER, *Sigillographie de l'empire byzantin*. Paris 1884 [reprint Torino 1963], 395 no. 2 and 460 no. 2). For another parallel presented in Gorny, *Sale* 71 (3 May 1995) no. 961, see *SBS* 6 (1999) 120. A Matzoukes, who was περίβλεπτος πατρίκιος καὶ μέγας οἰκονόμος τῶν εὐαγῶν οἴκων, is mentioned in document (1073) (see Era BRANOUSE, *Βυζαντινὰ ἔγγραφα τῆς μονῆς Πάτμου, I: Αὐτοκρατορικά*. Athens 1980, nos. 50, 68–69 and p. 25, n. 2). He was probably the same person with the previous one according to W. SEIBT – Marie-Luise ZARNITZ, *Das byzantinische Bleisiegel als Kunstwerk. Katalog zur Ausstellung*. Vienna 1997, no. 2.2.9, p. 89. For Νικόλαος Ματζούκης, ἐξάκτωρ and βασιλικὸς νοτάριος τῶν εὐαγῶν οἴκων with whom the κένσωρ Νικόλαος Ματζούκης is probably identified see below n. 44. SCHLUMBERGER, *Sigillographie* 460 no. 1, published a seal of Επιφανήου κήνσορος (*sic*) (8th c.), but the reading is not correct, since according to a parallel specimen published by G. ZACOS – A. VEGLERY, *Byzantine Lead Seals, I/1–3*. Basel 1972, no. 3017 (650–750), it should be read Επιφανήου κηναρήου. Cf. W. SEIBT, *Über das Verhältnis von κηναρῖος bzw. δομέστικος τῆς τραπέζης zu den anderen Funktionären der βασιλικὴ τράπεζα in mittelbyzantinischer Zeit*. *BZ* 72 (1979) 34–38, here 35. Besides, the office of κένσωρ is first attested in the 10th century. SCHLUMBERGER, *Sigillographie* 460 no. 3, mentioned also that M. MORDTMANN had in his possession a seal of a χαρτουλάριος τοῦ κήνσου. A seal of χαρτουλαρίων τοῦ κήνσου was published by ZACOS – VEGLERY, *Seals* no. 2868 (7th–early 8th c.).

¹⁷ Κωνσταντῖνος πρωτοσπαθάριος, κένσωρ, κριτὴς ἐπὶ τοῦ ἵπποδρόμου, Χαλδίας καὶ Κολωνείας (10th/11th c.) (McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* IV, no. 48.2). Νικηφόρος, κένσωρ καὶ κριτὴς τοῦ βήλου (early 11th–1204) (ZACOS, *Seals* II, no. 633). Μιχαήλ, κένσωρ, κριτὴς ἐπὶ τοῦ ἵπποδρόμου καὶ τῆς Κεφαλληνίας (early 10th–second half of the 11th c.) (ZACOS, *Seals* II, no. 580). Συμεὼν Οὐρανός, βεσάρχη, κένσωρ καὶ κριτὴς Καππαδοκίας (1060–1070) (McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* IV, no. 43.4 [11th c.]; A.-K. WASSILIOU, *Προσωπογραφία καὶ Σφραγιστική: Κριταὶ Καππαδοκίας* (10th–11th c.). *Σκέψεις σχετικά με την επιστημονικὴ προσέγγιση του σφραγιστικοῦ υλικού*, in: *Praktika tou ektou synedriou gia ton Ellenismo tes Mikras Asias*. Thessaloniki 2002, 41–54, no. 12 [1060–1070]. Cf. *SBS* 10 [2010] 151). Μιχαήλ Ἐξαμιλίτης, κένσωρ καὶ κριτὴς Παφλαγονίας (two parallel specimens) (middle 11th century) (McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* IV, no. 11.13; A.-K. WASSILIOU, *Die Familie Hexamilites. Ein Beitrag zur byzantinischen Prosopographie*. *Hell* 52 [2002] 243–261, no. 11). Βασίλειος Σκριβας, κένσωρ, κριτὴς καὶ σκριβας (3rd quarter of the 11th c.) (Ch. STAVRAKOS, *Die byzantinischen Bleisiegel mit Familiennamen aus der Sammlung des Numismatischen Museums Athen [Mainzer Veröffentlichungen zur Byzantinistik 4]*. Wiesbaden 2000, no. 239; WASSILIOU-SEIBT, *Corpus* no. 1098, who mentions eight parallel specimens). Εὐστράτιος (?) Πανάρετος, κένσωρ καὶ κριτὴς τῶν Ἀρμενικῶν θεμάτων (3rd quarter of the 11th c.) (three specimens: Hermitage M–6850, DO 58.106.5582, Bibliothèque nationale de France Zacos 1103, the last two from the same boulloterion. See McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* IV, no. 56.9; W. SEIBT, *Ἀρμενικὰ θέματα als terminus technicus der byzantinischen Verwaltungsgeschichte des 11. Jahrhunderts*. *BSI* 54/1 [1993] 134–141, no. 15; J.-Cl. CHEYNET, *Sceaux de la collection Zacos [Bibliothèque nationale de France] se rapportant aux provinces orientales de l'empire byzantin*. Paris 2001, no. 19; Valentina S. ŠANDROVSKAJA, *Pečati s izobraženiem armjanskikh mučenikov*. *Istorikophilologičeskij žurnal* 2 [157] [Erevan 2001] 44–49, no. 2. Cf. *SBS* 8 [2003] 194; Victoria BULGAKOVA, *Byzantinische Bleisiegel in Osteuropa. Die Funde auf dem Territorium Altrußlands [Mainzer Veröffentlichungen zur Byzantinistik 6]*. Wiesbaden 2004, 61, n. 50). Κωνσταντῖνος (...) πρωτοσπαθάριος, κριτὴς ἐπὶ τοῦ ἵπποδρόμου, τοῦ βήλου καὶ κένσωρ (second half of the 11th–12th c.) (J.-Cl. CHEYNET,

as having been tried by a κένσωρ¹⁸. This, however, does not prove that the κένσωρ was a judicial officer, as has been argued, since the office also accompanies other financial dignities such as the μέγας οικονόμος τῶν εὐαγῶν οἰκῶν¹⁹, the οικονόμος τῶν δυτικῶν ἐπισκέψεων, the πρωτονοτάριος τῆς σακέλλης²⁰, the πρωτονοτάριος τῶν Ἀρμενιῶν²¹, the ἀναγραφεὺς τῶν Θρακησίων²², the μέγας κουράτωρ τῶν Ἐλευθερίου²³, and the office of παραθαλασσίτης, who combined financial and judicial duties²⁴. Besides, the terms κήνσος is used even during the Byzantine era to denote the record of land holdings and land tax or the tax registers²⁵.

The testimony of two seals probably excludes the possibility that the κένσωρ was a judicial officer. J. Nesbitt and N. Oikonomidès published a seal that belonged to Νικόλαος Χρυσοβέργης,

Sceaux byzantins des Musées d'Antioche et de Tarse. *TM* 12 [1994] 391–478, no. 41). Μιχαήλ, πρωτοσπαθάριος ἐπὶ τοῦ Χρυσορικλίνου, κριτῆς τοῦ βήλου καὶ κένσωρ (11th) (J.-Cl. CHEYNET, Sceaux de plomb du musée d'Hatay [Antioche]. *REB* 54 [1996] 249–270, no. 18. Cf. *SBS* 6 [1999] 81). Νικόλαος Ἀκάπνης, κένσωρ, κριτῆς Ταρσοῦ καὶ Κίλικίας (ca. third quarter of the 11th c.) (CHEYNET – THEODORIDIS, Collection no. 1 [middle of the 11th century]. Cf. V. S. ŠANDROVSKAJA – W. SEIBT, unter Mitarbeit von Natascha SEIBT, Byzantinische Bleisiegel der Staatlichen Eremitage mit Familiennamen, 1. Teil: Sammlung Lichačev–Namen von A bis I [*Österreichische Akademie der Wissenschaften, phil.-hist. Kl., Denkschriften* 331]. Vienna 2005, 30, n. 56, who remark that he had been μυστολέκτης and κριτῆς Ἑλλάδος in the third quarter of the 11th century, before he had been κένσωρ).

¹⁸ Peira 63.5 (236–237 ZACHARIAE V. LINGENTHAL).

¹⁹ See n. 16 (no. 5).

²⁰ See LAURENT, Corpus II, no. 808 and A.-K. WASSILIOU – W. SEIBT, Die byzantinischen Bleisiegel in Österreich, 2. Teil: Zentral- und Provinzialverwaltung (*Veröffentlichungen der Kommission für Byzantinistik* II/2). Vienna 2004, no. 73: Ἰωάννης Χαλκούτζης, κένσωρ καὶ πρωτονοτάριος τῆς σακέλλης (last 3rd of the 11th c.).

²¹ McGEER – NESBITT – OIKONOMIDES, Catalogue IV, no. 22.32: Ἐπιφάνιος Ἀρτάβασδος, κένσωρ, βασιλικὸς νοτάριος καὶ πρωτονοτάριος τῶν Ἀρμενιῶν (11th c.).

²² K. KONSTANTOPOULOS, Βυζαντινὰ Μολυβδόβουλλα τοῦ ἐν Ἀθήναις Ἐθνικοῦ Νομισματικοῦ Μουσείου. Athens 1917, no. 130; SODE, Bleisiegel no. 368; SEIBT – ZARNITZ, Bleisiegel no. 2.2.10: Ἰωάννης, πρωτοσπαθάριος, κένσωρ καὶ ἀναγραφεὺς τῶν Θρακησίων (three parallel specimens) (between 1030 and 1055).

²³ Βλ. ZACOS, Seals II, no. 1019 (turn of the 11th c.): Νικόλαος, κένσωρ καὶ μέγας κουράτωρ τῶν Ἐλευθερίου (second half of the 11th c. according to WASSILIOU – SEIBT, Bleisiegel 64, n. 248).

²⁴ Μιχαήλ Ἀκροπολίτης, κένσωρ καὶ παραθαλασσίτης (11th/12th c.) (LAURENT, Corpus II, no. 1133; ŠANDROVSKAJA – SEIBT, Eremitage 33, n. 62. The κένσωρ is also attached to both judicial and financial offices. See for example N.(?) Ἀργυρός, πρωτοσπαθάριος, μέγας χαρτολάριος, κριτῆς ἐπὶ τοῦ ἱπποδρόμου, κένσωρ καὶ οικονόμος τῆς Δύσεως (2nd third of the 11th century) (J.-Cl. CHEYNET – Cécile MORRISON – W. SEIBT, Les sceaux byzantins de la collection Henri Seyrig. Paris 1991, no. 81); ŠANDROVSKAJA – SEIBT, Eremitage 50, n. 172 (middle of the 11th c). Νικόλαος Σερβλίας, κένσωρ, κριτῆς καὶ μέγας κουράτωρ Ταρσοῦ καὶ Σελευκείας (1060–1070) (two parallel specimens): CHEYNET, Zacos collection no. 44; CHEYNET – THEODORIDIS, Sceaux no. 187. One κένσωρ held the office of ἐπὶ τοῦ κοιτῶνος. See G. FICKER, Erlässe des Patriarchen von Konstantinopel Alexios Studites (Festschrift der Universität Kiel zur Feier des Geburtstages des Kaisers Wilhelm II). Kiel 1911, 20, 29: Ῥωμανός, πρωτοσπαθάριος, ἐπὶ τοῦ κοιτῶνος καὶ κένσωρ.

²⁵ See for example a Novel of Konstantinos VII Porphyrogenetos (947?) (ed. N. SVORONOS. Les nouvelles des empereurs Macédoniens concernant la terre et les stratiotes. Édition posthume et index établis par P. GOUNARIDIS. Athens 1994, 123, 104–105): Εἰ δὲ καὶ οὗτοι οὐκ εἶεν, ἀνάγκη καὶ τοὺς πολιτικοὺς συντελεστὰς εἰσακούεσθαι πρὸς τὸ μὴ διαπίπτειν τὸν ἐκ τοῦ κήνσου φόρον; Basilicorum Libri LX, Series B, Volumen IX: Scholia in Librum LX, 17–69, LX.21.37 = D XLVII.10.37 (ed. H. J. SCHELTEMA – D. HOLWERDA – N. VAN DER WAL. Groningen 1985, 3576, 25–26): Ἐν δημοσίοις κήνσοις ἦτοι ἀπογραφαίς, οἷον τοῖς τοῦ λογοθέτου ἢ τοῦ εἰδικοῦ ἢ ἄλλου σεκρέτου; Demetrii Chomateni Ponemata Diaphora 41 (ed. G. PRINZING [*CFHB* 38]. Berlin – New York 2002, 150, 20–24): κατὰ βασιλικὴν πρόσταξιν ἐν πάσῃ τῇ νήσῳ ἀπογραφῆς καὶ ἐξισώσεως τῶν τοῦ δημοσίου λειτουργιῶν, εἴτουν συντελειῶν, πρόσεισι τῷ ἐξισωτῇ καὶ εἰς οἰκεῖον ὄνομα τὰ μητρώα τούτων ἐν τῷ κήνσῳ ὑπομνηματίζει ἀκίνητα. Cf. N. OIKONOMIDÈS, Fiscalité et exemption fiscale à Byzance (IXe–XIe s.). Athens 1996, 120; F. DÖLGER, Beiträge zur Geschichte der byzantinischen Finanzverwaltung, besonders des 10. und 11. Jahrhunderts (*Byzantinisches Archiv* 9). Leipzig – Berlin 1927 (reprint Hildesheim 1960) 143, observes that the κήνσος is often identified with the ἀναγραφή. The κήνσος is also connected with the κηνήτωρ (see Hesychii Alexandrini Lexicon 2518 [ed. K. LATTE, II. Copenhagen 1966, 472]: κηνήτωρ ὁ τὴν γῆν μετρῶν) and the κηνουάλιος (Novellae Justiniani 17.8 [a. 535] and 128.13 [a. 545]). See also Die Gedichte des Christophoros Mitylenaios 72, ed. E. KURTZ, Leipzig 1903, 45, who wrote a poem Εἰς τὸν κηνουάλιον Κώνσταντα καὶ νοτάριον.

πρωτοκένσωρ καὶ μέγας οἰκονόμος τῶν δυσικῶν ἐπισκέψεων²⁶. The term πρωτοκένσωρ denotes that there was a group of κένσωρες headed by a πρῶτος, as J.-Cl. Cheynet has observed, who also considers the κένσωρ a jurist²⁷. It is true that the existence of a πρῶτος, not unusual in cases of other groups of dignitaries, such as the νοτάριοι and the πρωτονοτάριος, the *a secretis* (ἀσηκρήτις) and the πρωτοασηκρήτις, the κουράτωρες and the πρωτοκουράτωρ, the καγκελλάριοι and the πρωτοκαγκελλάριος, presupposes the existence of a group of κένσωρες, which indeed is confirmed by a seal of the Sale Catalogue of Spink on which a τάγμα of κένσωρες is mentioned: Σφραγὶς τυποῦσα τὰς γραφὰς Ἰωάννου | τοῦ Πενταίλα τάγματος τῶν κενσῶρων²⁸. Moreover, the term κένσωρ is not synonymous with that of κριτής and no court of justice of a πρωτοκένσωρ is mentioned in the sources. The possibility that the κένσωρ was simply an honorary title should also be rejected, taking into consideration the information of the seals and the career of certain persons who were κένσωρες, such as Nikolaos Chrysoberges, as presented by J.-Cl. Cheynet (a. πρωτονοτάριος, μυστολόκτης καὶ πρωτονοτάριος τῶν οἰκειακῶν, b. κένσωρ καὶ ἐκ προσώπου Ἀντιοχείας, c. πρωτοκένσωρ καὶ μέγας οἰκονόμος τῶν δυσικῶν ἐπισκέψεων)²⁹.

Consequently, according to our point of view, the meaning of the word κήνος, the evidence of a πρωτοκένσωρ and of a group of κένσωρες, and the financial offices that many of the κένσωρες assumed suggest that the office may have been connected with the general tax registers in Constantinople, although we have no other indication that he was member of the γενικὸν λογοθέσιον.

As regards the ἐξάκτωρ, during the early Byzantine period he was in charge of collecting taxes³⁰. The term ceased to exist from the 7th to the 11th century, when the ἐξάκτωρ is mentioned again (in the Peira and on seals³¹), but the duties of the office have yet to be clearly defined³². The term is also used by Ioannes Tzetzes, who was proud of his grandfather's having been a famous ἐξάκτωρ who acted as a πράκτωρ in many θέματα³³. Although, as N. Oikonomidēs pointed out, the use of the term could

²⁶ J. NESBITT – N. ΟΙΚΟΝΟΜΙΔΗΣ, Catalogue of Byzantine Seals at Dumbarton Oaks and in the Fogg Museum of Art, I. Washington, D.C. 1991, no. 1.30 (two specimens from the same boulloterion) (second half of the 11th c.).

²⁷ CHEYNET – THEODORIDIS, Sceaux no. 55, p. 68 and 194.

²⁸ Spink Auction 135, 6 October 1999 (Zacos III) no. 257; PBW (Boulloterion 3920). He may be the same person as the πρωτοσπαθάριος καὶ ὑπατος Ἰωάννης Πενταίλας (middle 11th c.). See I. JORDANOV, Corpus of Byzantine Seals from Bulgaria, III/1. Sofia 2009, no. 612.

²⁹ CHEYNET – THEODORIDIS, Sceaux no. 55 and p. 68.

³⁰ Novellae Justiniani 128.5 (a. 545). Cf. O. SEECK, Exaktor. *RE* VI/2, 1542–1547; DÖLGER, Finanzverwaltung 68.

³¹ To the 36 persons included in PBW (exaktor) we should add three more persons mentioned on seals: (1) Βασίλειος πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου Πελοποννήσου καὶ Ἑλλάδος (11th–early 12th c.) (see N.P. LICHACHEV, Molidvovuly grečeskogo Vostoka, ed. V.S. ŠANDROVSKAJA [*Naučnoe nasledstvo* 19]. Moscow 1991, LXX 16. Cf. Elena STEPANOVA, The Image of St. Nicholas on Byzantine Seals. *SBS* 9 [2006] 185–195, here 189), (2) Βλάσιος, ἐξάκτωρ (ca. last quarter of the 11th c.) (WASSILIOU-SEIBT, Corpus no. 203), (3) Στέφανος Σιδεριώτης, πρωτοσπαθάριος, ἐπὶ τοῦ Χρυσοτρικλίνου, ἐξάκτωρ καὶ βασιλικὸς νοτάριος (middle of the 11th c.) (CHEYNET – THEODORIDIS, Sceaux no. 188). According to CHEYNET – THEODORIDIS, Sceaux 13, Ioannes Helladikos was βέστης, ἐξάκτωρ, κριτής Σελευκείας καὶ κουράτωρ Ταρσοῦ, but he was βέστης, κριτής τοῦ βήλου, Σελευκείας καὶ κουράτωρ Ταρσοῦ. See E. McGEER – J. NESBITT – N. ΟΙΚΟΝΟΜΙΔΗΣ†, Catalogue of Byzantine Seals at Dumbarton Oaks and in the Fogg Museum of Art, V. Washington, D.C. 2005, no. 5.3.

³² CHEYNET – THEODORIDIS, Sceaux 195.

³³ Ioannis Tzetzae *Historiae* V.17 (ed. P.A.M. LEONE, Naples 1968, 191, 609–611): Ἐφ' ἧ γαμβρὸν ἐξάκτορα Γεώργιον ἐσχίκει, πολλὰς ἀρχὰς ἀνύσαντα πρακτορικὰς θεμάτων, οὐ καὶ θανόντος ὄνομα βοᾶται νῦν ὡς ζῶντος. Cf. P. GAUTIER, La curieuse ascendance de Jean Tzetzés. *REB* 28 (1970) 211 and 218–219; ΟΙΚΟΝΟΜΙΔΗΣ, Listes 325, according to whom, since the ἐξάκτωρ is mentioned in the sense of tax collector only in the above text of Tzetzes, the use of the term is probably anachronistic (“emploi archaïque?”). Cf. IDEM, *Évolution* 134, n. 54: “l'emploi du mot exaktôr dans Tzetzés ... je crois qu'il désigne un juriste avec attributions fiscales”; MAGDALINO, Justice and Finance 104: “The institution of the exaktor is particularly interesting because (as John Tzetzes later recognised) the word implies some duty of fiscal competence”; Aikaterine CHRISTOPOULOU, Το πολίτευμα καὶ οἱ θεσμοὶ τῆς Βυζαντινῆς Αυτοκρατορίας. Athens 2004, 252 and n. 29. Cf. G. WEISS, Oströmische Beamte im Spiegel der Schriften des Michael Psellos (*MBM* 16). Munich 1973, 54, 57, according to whom ἐξάκτωρ was a tax collector, but the term could also designate the κριτής θέματος who was also responsible for the taxation.

be anachronistic, the word implies some duty of fiscal competence, as was observed by P. Magdalino, whose view that the ἐξάκτωρ was a fiscal judge³⁴ takes into account the narrative in the Peira (36.18), which records that the “powerful” πατρίκιος Triakontaphyllos annexed, without payment, a neighbouring piece of land which belonged to a “poor” man. The man appealed to the emperor, who referred the case to the ἐξάκτωρ. “When the case was investigated, there arose a fiscal charge (δημοσιακή ἐνοχή) against the estate of the πατρίκιος, and the property to which the poor man’s holding had been annexed became fiscal land. And the ἐξάκτωρ reported thus: ‘We were forbidden to judge concerning ownership, for it was not in order for the fisc to give judgement. But we allowed the poor man to bring an action against the estate of the πατρίκιος, in order that he might, if at all possible, obtain substance’”³⁵. Consequently, the fisc could not try private cases, as the ἐξάκτωρ declared, speaking as a representative and member of the fisc.

We know from the Peira, however, that the ἐξάκτωρ did not try only cases connected with the public treasury, but also cases of guardianship³⁶. He therefore acted as a judge, and his office was often combined with judicial officers on seals, but he was not a member of the imperial court as Oikonomidès and other scholars have claimed³⁷. The imperial court did not have a stable composition and was identified with the emperor, who could refer a case to an officer³⁸. Nor is this the only example of a non-judicial officer hearing a case, since according to the Peira various high non-judicial officers, such as the λογοθέτης τοῦ δρόμου and the ἐπὶ τοῦ κανικλείου, who belonged to the central administration, took part in the hearing of certain cases³⁹. The fact that Eustathios Romaios and Ioannes Xiphilinos (κριτής ἐπὶ τοῦ ἵπποδρόμου and later νομοφύλαξ)⁴⁰, were appointed ἐξάκτωρες does not prove that the ἐξάκτωρ was a member of the imperial court or a judicial officer⁴¹. Eustathios, for example, had a long career including extensive judicial activity, but his positions were not always judicial, for he also served as μυστικός and λογοθέτης τοῦ δρόμου⁴², offices that were neither judicial nor at the head of a court of justice.

Besides, the office of ἐξάκτωρ is attached on seals not only to judicial offices⁴³, but also to financial dignities⁴⁴. Worth mentioning here is an interesting seal of Πόθος, πρωτοσπαθάριος ἐπὶ τοῦ

³⁴ See also BULGAKOVA, *Bleisiegel* 1.2.6 (p. 58), who believes that the ἐξάκτωρ was a fiscal judge. According to Catherine HOLMES, *Basil II and the Governance of Empire (976–1025)*. Oxford 2005, 386–387: “Much like the office of krites, the office of exaktor was concerned with both the provision of justice and the exercise of fiscal responsibility”.

³⁵ Translation of the passage by MAGDALINO, *Justice and Finance* 104.

³⁶ Peira 16.11, 25.8 (58, 94–95 ZACHARIAE V. LINGENTHAL). According to W. FISCHER, *Studien zur byzantinischen Geschichte des XI. Jahrhunderts*. Plauen 1883, 8, n. 6, the ἐξάκτωρ was in charge of guardianship cases, as it can be concluded by the testimonies of Peira. Cf. LAURENT, *Corpus* II 480: “Chargé, ce semble, plus spécialement des affaires de tutelle”.

³⁷ ΟΙΚΟΝΟΜΙΔΕΣ, *Listes* 325–326; STAVROULA CHONDRIDOU, *Ο Κωνσταντίνος Θ΄ Μονομάχος και η εποχή του (ενδέκατος αιώνας μ.Χ.)*. Athens 2002, 218; LAURENT, *Corpus* II 480; A. KAZHDAN, *Exaktor*. *ODB* II, 766; SEIBT – ZARNITZ, *Bleisiegel* 2.2.1

³⁸ For the imperial court of justice see GKOUTZIOUKOSTAS, *Απονομή δικαιοσύνης* 259–266.

³⁹ See GKOUTZIOUKOSTAS, *Απονομή Δικαιοσύνης* 186–187.

⁴⁰ See GKOUTZIOUKOSTAS, *Απονομή Δικαιοσύνης* 273.

⁴¹ See ΟΙΚΟΝΟΜΙΔΕΣ, *Listes* 325–326.

⁴² ΟΙΚΟΝΟΜΙΔΕΣ, *Peira* 172–174.

⁴³ See for example: Anonymus, πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ ἐξάκτωρ (10th–11th c.) (JORDANOV, *Corpus* III/1 no. 945). Ἐπιφάνιος, πρωτοσπαθάριος, κένσωρ καὶ κριτής τοῦ Ὀψικίου (10th/11th c.) (NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* III, no. 39.12). Φίλιππος, πρωτοσπαθάριος, ἐξάκτωρ καὶ κριτής Κεφαλληνίας (10th c.–1204) (ZACOS, *Seals* II, no. 674). Εὐστράτιος, κριτής, ἐξάκτωρ καὶ σύμπονος (first half of the 11th century) (LAURENT, *Corpus* II no. 1077 (two parallels). Anonymus, πρωτοσπαθάριος, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου, (καὶ) τοῦ θεοφυλάκτου Ὀψικίου (11th c.) (NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* III, no. 39.20. See also the review of SEIBT in *BZ* 92 (1999), 538–541, here 540, according to whom instead of τοῦ θεοφυλάκτου we should read τοῦ βήλου κ. τοῦ Λέων ἀνθύπατος πατρίκιος, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ τοῦ Ἀρμενιοῦ (11th c.) (McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, *Catalogue* IV no. 22.16). Μιχαήλ, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ σύμπονος (11th c.) (LAURENT, *Corpus* II, no. 1078; ZACOS, *Seals* no. 586. Μιχαήλ Βαρῦς, πρωτοσπαθάριος, ἐξάκτωρ καὶ κριτής τοῦ Αἰγαίου πελάγους (middle of the 11th c.) (CHEYNET – THEODORIDIS, *Sceaux* no. 27). Cf. A.-K. WASSILIOU, *Prosopographische Konsequenzen aus der möglichst genauen Datierung byzantinischer Bleisiegel*, in:

Χρυσοτρικλίνου, κριτής, ἀναγραφεὺς καὶ ἐξάκτωρ Κώου, Λέρου καὶ Κυκλάδων νήσων (11th c.)⁴⁵, which shows that the ἐξάκτωρ could also act outside Constantinople, overseeing a provincial financial and judicial unit such as the above, and consequently that he was not a permanent member of the imperial court of justice. The ἐξάκτωρ Pothos was probably a tax collector in the above islands, since he was also κριτής and ἀναγραφεὺς of the same territorial unit.

This analysis is reinforced by the testimony of Michael Psellos concerning the career of his son-in-law Ἐλπίδιος Κεγχρής. Psellos recounts that he helped Elpidios first to become κριτής τοῦ βήλου, and then to be promoted to other completely different offices, which he lists, including those of θεσμογράφος, μυστογράφος and ἐξάκτωρ⁴⁶. If all these positions were judicial offices, as many

Beiträge zum Symposion vierzig Jahre Institut für Byzantinistik und Neogräzistik der Universität Wien im Gedenken an Herbert Hunger (Wien, 4.–7. Dezember 2002), ed. W. Hörandner – J. Koder – Maria Stassinopoulou (*BNV* 24). Vienna 2004, 482–486, here 484 (second half of the 11th c.). Φιλάρετος, ἰλλούστριος, κριτής Ἐώας, ἐξάκτωρ (11th c.) (NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, Catalogue III, no. 86.34. Cf. HOLMES, Basil II 386, who argues that Philaretos was judge not only in the theme of Anatolikon, as the editors of the seal suggested, but had a broader jurisdiction, since “military and civil offices in the easternmost regions of the Empire customarily exercised authority over very large regions. As both a κριτής and ἐξάκτωρ, the owner of this seal clearly exercised a host of judicial and financial competences over a wide geographical area, a formula typical of administration in eastern frontier”. But, in our opinion Philaretos was simply κριτής τοῦ θέματος Ἀνατολικῶν, since we have no other testimony for judges with such an extensive jurisdiction. Nor does the seal indicate that he performed his duties as ἐξάκτωρ generally in the region of the East, as HOLMES believes. See also WASSILIOU-SEIBT, Corpus II, no. 1151 and no. 192, where she republishes a metrical seal: Βασιλείου σφράγισμα τοῦ πατρικίου | Ἐρωτικοῦ κρίνοντος Ἀσίας δίκας, and remarks that Βασίλειος was probably κριτής τῶν Θρακησίων). Βασίλειος Χαλκούτζης, πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, κριτής τοῦ βήλου καὶ ἐξάκτωρ (middle of the 11th c.) (J.-Cl. CHEYNET, Les sceaux byzantins du musée de *Manisa*. *REB* 56 [1998] 261–267, no. 2. Cf. *SBS* 8 [2003] 163; WASSILIOU – SEIBT, *Bleisiegel* 97, n. 458). Ἰωάννης, πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, ἀσηκρήτης, ἐξάκτωρ, βασιλικὸς νοτάριος καὶ κριτής ἐπὶ τοῦ ἵπποδρόμου (middle of the 11th c.) (LAURENT, Corpus II, no. 880). Θεοφύλακτος Ῥωμαῖος, πρωτοσπαθάριος, ἐξάκτωρ, κριτής τοῦ βήλου καὶ τοῦ Ὀψικίου (middle of the 11th c.) (G. STAVRAKOS, *Bleisiegel* 339; WASSILIOU – SEIBT, *Bleisiegel* 32, n. 19). Ἰμέριος Σολομών, πατρίκιος, ἐξάκτωρ καὶ κριτής ἐπὶ τοῦ ἵπποδρόμου (3rd quarter of the 11th c.) (SODE, Berlin no. 365; WASSILIOU – SEIBT, *Bleisiegel* 258, n. 119). Κωνσταντίνος Χρυσοβαλαντίτης, πρωτοσπαθάριος, κριτής ἐπὶ τοῦ ἵπποδρόμου, βασιλικὸς πρωτονοτάριος καὶ ἐξάκτωρ (five specimens) (2nd third of the 11th c.) (STAVRAKOS, *Bleisiegel* no. 283).

⁴⁴ See for example Ἰωάννης, πρωτοσπαθάριος ἐπὶ τοῦ Χρυσοτρικλίνου, ἐξάκτωρ καὶ πρωτονοτάριος τοῦ ἰδικοῦ λόγου (11th c.) (LAURENT, Corpus II, no. 624, fig. 914). Πόθος, βέστης (?), ἐξάκτωρ, οἰκιστικὸς τῆς σακέλλης καὶ κομμερκιάριος Χαλδίας (11th c.) (McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, Catalogue IV, no. 32. 26). Θεόδωρος, πρωτοσπαθάριος, ἐξάκτωρ, χαρτουλάριος τοῦ γενικοῦ λογοθέτου καὶ κομμερκιάριος Δεβελτοῦ (11th c.) (NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, Catalogue I, no. 76.1). Γεώργιος, ἐξάκτωρ, κριτής τοῦ βήλου καὶ ἀναγραφεὺς ἀνατολικοῦ δρόμου τῶν Μελανίων (11th c.) (LAURENT, Corpus II, no. 466). Νικόλαος Ματζούκης, ἐξάκτωρ, βασιλικὸς νοτάριος τοῦ οἰκονομῶν τῶν εὐαγῶν οἰκῶν (10th c.–1204) (ZACOS, Seals II, no. 620. Cf. the corrections of N. ΟΙΚΟΝΟΜΙΔΕΣ, A propos d’une nouvelle publication de sceaux byzantins. *REB* 44 [1986] 263–267, 266; *SBS* 5 [1998] 201; SEIBT – ZARNITZ, *Bleisiegel* no. 2.2.9, who believe that it is the same person with the κένσωρ Nikolaos Matzoukes mentioned above). See also N. WILSON – W. DARROUZÈS, Xérochoraphion, Restes du cartulaire de Hiera-Xérochoraphion. *REB* 26 (1968) 5–47, here 18, 17–18: Ἰω(άννης) (πρωτο)σπ(α)θάρ(ιος) τοῦ (χρυσο)(τρι)κλ(ίνου) μέγας χ(αρ)του(λά)ρ(ιος) τοῦ γεν(ικοῦ) λογοθ(έ)τ(ου) καὶ (ἐξ)άκτωρ οἰ(κεία) χειρὶ ὑπ(έ)γραψα. On some seals the ἐξάκτωρ is combined with judicial as well as with financial offices: Κωνσταντίνος, πρωτοσπαθάριος, ἐξάκτωρ, κριτής τοῦ βήλου καὶ μέγας χαρτουλάριος τοῦ ὄρφανοτροφείου (second half of the 11th c. – 1204) (ZACOS, Seals II, no. 432). Εὐθύμιος Καραβιτζιώτης, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ Σελευκείας, κουράτωρ καὶ ἀναγραφεὺς Ταρσοῦ (1060 – ca. 1080) (SEIBT – ZARNITZ, *Bleisiegel* no. 2.2.1; WASSILIOU, *Κριταὶ Καππαδοκίας* no. 11, where another seal of Εὐθύμιος, ἐξάκτωρ, κριτής ἐπὶ τοῦ ἵπποδρόμου καὶ Καππαδοκίας [Eremitage M–6078], a little after 1060 until 1070). From the same boulloterion comes a seal from Dumbarton Oaks Collection 55.1.3077, according to WASSILIOU-SEIBT, who corrects the wrong reading of McGEER – NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, Catalogue IV, no. 43.6. Cf. *SBS* 10 (2010) 151. Λέων, πρωτοσπαθάριος, κριτής τοῦ βήλου, ἐξάκτωρ καὶ μέγας κουράτωρ τῶν Ὀξέων (two specimens) (beginnings of the 11th c.) (SCHLUMBERGER, *Sigillographie* 483; KONSTANTOPOULOS, *Μολυβδόβουλλα* no. 444; LAURENT, Corpus II, no. 485). Νικήτας, ἐξάκτωρ, (κριτής) ἐπὶ τοῦ ἵπποδρόμου καὶ χαρτουλάριος τοῦ γενικοῦ (11th/12th c.) (LAURENT, Corpus II, no. 382).

⁴⁵ NESBITT – ΟΙΚΟΝΟΜΙΔΕΣ, Catalogue II no. 42.1: Θ(εο)τ(ο)κε βο[ήθ(ει)] Πόθω β(ασιλικῶ) (πρωτο)σπ[α]θ(αρίω) ἐπὶ τοῦ Χρ(υσοτρι)-κ[λ(ίνου), κριτῆ, ἀναγρ[αφ(εῖ)] (καὶ) ἐ[ξά]κτ(ωρι) [Κ]ώο[υ], Λέρ(ου) (καὶ) Κ[υ]κλάδ(ων) νήσω(ν).

⁴⁶ Michael Psellos, *Orationes forenses et acta* (Actum I) (ed. G. T. DENNIS. Stuttgart 1994, 147, 107–112): τοῖς τε γὰρ πρωτοσπαθαρίοις τοῦτον ἐγκαταλέγει, καὶ τοῖς ἐς τὸ τοῦ Ἀντιφωνητοῦ σέκρετον μικροῖς βασιλικοῖς νοταρίοις ἐγκατατάττει, ἔτι γε μὴν καὶ τοῖς ἐς τὸν ἵπποδρόμον ἐγκρίνει κριταῖς ... καὶ πρῶτον μὲν αἰτήσας τὸν αὐτοκράτορα κριτὴν τοῦ βήλου ποιεῖ, ἔπειτα θεσμογράφον τιμᾶ, καὶ μετὰ ταῦτα μυστογράφον, καὶ οὕτως ἀνάγει εἰς τοὺς ἐξάκτωρας. καὶ τὰ μὲν ἀξιώματα τούτω

scholars believe, then Psellos would not remark on their variety. It may also be inferred from this evidence (οὕτως ἀνάγει [Ἐλπίδιον] εἰς τοὺς ἐξάκτωρας) that the position of ἐξάκτωρ could perhaps be held by more than one person.

In other cases, the information of seals seems to confirm that of the primary sources, but this is not always clear, as in the case of certain seals attributed to the ἐπὶ τῶν κρίσεων. The ἐπὶ τῶν κρίσεων was the head of the σέκρετον τῶν δικῶν, a service founded, as it is known, during the reign of Konstantinos Monomachos, in which judicial decisions of the provincial tribunals were filed and controlled, but he was also a judicial officer performing his duties in Constantinople⁴⁷.

There is a seal of Aristenos (last quarter of the 11th c.), identified by scholars as an ἐπὶ τῶν κρίσεων⁴⁸, bearing the following metrical inscription: Τῶν κρίσεων λαχόντα τὰς ψήφους φέρειν | τὸν Ἀριστηνὸν πρᾶξις ἢ νῦν δεικνύει⁴⁹. In the Prosopography of the Byzantine World this inscription is translated as: “That the duty of making determinations in judgements has fallen / to Aristenos, the present act shows”. If we interpret the inscription in this way, then Aristenos could indeed have been an ἐπὶ τῶν κρίσεων, as certain scholars believe, and we may have here a description of the administrative duty of the office, that is, the control of the judgements (κρίσεις) of the provincial judges. But if, as I believe we should, we interpret the phrase Τῶν κρίσεων τὰς ψήφους φέρειν simply as making a judicial decision, since the expressions ψήφους ἐκφέρειν and φέρειν mean sitting in judgment or making a judicial decision⁵⁰, then Aristenos was not necessarily ἐπὶ τῶν κρίσεων, but merely a judge, like the ἔπαρχος πόλεως Aristenos (end 11th–early 12th c.), who according to A.-K. Wassiliou-Seibt and Werner Seibt⁵¹ is probably the same person as the Aristenos of our seal.

At this point we might mention a similar case, namely the seal of Michael Barys, with the following metrical inscription: Σφραγὶς μαγίστρου Μιχαὴλ τοῦ Βαρέως τοῦ τὰς κρίσεις κρίνοντος ἔνθα νῦν κρίνεται⁵², that reinforces the above interpretation. Michael is not recognised as an ἐπὶ τῶν κρίσεων but as a judge. This person is probably the same with Μιχαὴλ Βαρύς, πρωτοσπαθάριος, ἐξάκτωρ, κριτὴς τοῦ Αἰγαίου πελάγους who is mentioned on a similar seal (second half of the 11th c.)⁵³. If this identification is correct⁵⁴, then the phrase κρίνω κρίσεις should be construed as the verb with its cognate object, as in the phrase δικάζω δίκας, “to try trials”.

διηλλαγμένα τε καὶ ἀνόμοια, ἢ γνώμη δὲ ἴση καὶ πρὸς ἑαυτὴν οὐκ ἀπάδουσα. Cf. ΟΙΚΟΝΟΜΙΔΗΣ, Listes 325; A. KARPOZELOS, Συμβολὴ στη μελέτη του βίου και του έργου του Ἰωάννη Μαυρόποδος (*Epistemonike Epeterida Philosophikes Scholes Panepistemiou Ioanninon* 18). Ioannina 1982, 102; GKOUTZIOUKOSTAS, Απονομή δικαιοσύνης 171, 200, n. 901; Mothers and Sons, Fathers and Daughters. The Byzantine Family of Michael Psellos, edited and translated by A. KALDELLIS with contributions by D.T. JENKINS and S. PAPAIOANNOU. Notre Dame, Indiana 2006, 151, where the text of Psellos is translated in the following way: “...In truth he was unequal to these honors and an unsuitable choice, but his attitude remained the same and never fell out of tune with itself”. But the first phrase means that Elpidios had various and different offices. See also R. GUILLAND, Un compte-rendu de proces par Psellos. *BSI* 20 (1959) 205–230, 207 (= IDEM, Recherches sur les institutions byzantines, I–II [*BBA* 35]. Berlin – Amsterdam 1967, I 84–107, here 86): “Les dignités pouvaient changer et être différentes, sa mentalité restait la même et ne restait pas en désaccord avec elle-meme (?)”.

⁴⁷ See GKOUTZIOUKOSTAS, Απονομή δικαιοσύνης 202–207 with the relevant sources.

⁴⁸ WASSILIOU – SEIBT, Bleisiegel 41; LAURENT, Corpus II, no. 901.

⁴⁹ LAURENT, Corpus II, no. 901; CHEYNET – MORRISSON – SEIBT, Seyrig no. 106, where Aristenos is considered a κριτὴς and not an ἐπὶ τῶν κρίσεων. But see WASSILIOU – SEIBT, Bleisiegel no. 13, where Aristenos is designated as ἐπὶ τῶν κρίσεων.

⁵⁰ See for example Les nouvelles de LeonVI le Sage, ed. P. NOAILLES – A. DAIN. Paris 1944, 377: Οἶμαι τῶν κρίνειν λαχόντων οὐδένα ποτὲ πρὸς τοσαύτην ἀποκλίνειν σκαιοτήτα, ὥστε παρὰ τοὺς ἐγκειμένους νόμους δοκιμάσαι καὶ τὰς ψήφους ἐκφέρειν; S. TROIANOS, Οι Νεαρὲς του Λέοντος ζ' του Σοφού. Athens 2007, 321; Basilicorum Libri LX, Series A, Volumen I: Textus Librorum I–VIII, VII.1.16 (ed. H.J. SCHELTEMA – N. VAN DER WAL. Groningen – Djakarta 1955, 303, 3–4): Πᾶς δὲ δικαστὴς εἴτε ἀρχὴν ἔχων εἴτε ἄλλως δικάζων τηρεῖτω τοὺς νόμους καὶ κατὰ τούτους φερέτω τὰς ψήφους.

⁵¹ WASSILIOU – SEIBT, Bleisiegel no. 13.

⁵² CHEYNET – MORRISSON – SEIBT, Seyrig 81, b3; WASSILIOU, Konsequenzen 485 (ca. third quarter of the 11th c.).

⁵³ WASSILIOU – SEIBT, Konsequenzen 484–485.

⁵⁴ Cf. CHEYNET – THEODORIDIS, Sceaux 40.

There are also other seals that imply judicial activity, but they do not belong to ἐπι τῶν κρίσεων as certain scholars have claimed. These are the seals of Euthymios published by K. Konstantopoulos, V. Laurent and A.-K. Wassiliou-Seibt on which is inscribed: Γραφὰς σφραγίζω καὶ κρίσεις Εὐθυμίου (last third of the 11th c.)⁵⁵. I. Jordanov also edited four seals of Euthymios found at the stronghold near the village of Zlati Voyvoda in the Sliven district⁵⁶. To the same person belong also three seals from the Dumbarton Oaks Collection with the following inscription: Δέσποινα, σὺ σφράγιζε τοὺς ἐμοὺς λόγους. Σφραγίς γραφῶν τε κρίσε(ων) Εὐθυμίου (last third of the 11th c.)⁵⁷. Contrary to the common view, we agree with A.-K. Wassiliou that there is nothing to show that Euthymios was an ἐπι τῶν κρίσεων; moreover, we do not know from other sources of any Euthymios who held this office. But, we believe that he was probably a κριτής despite the reservations of A.-K. Wassiliou.

Another interesting case is that of πρωτομυστικός. The term is mentioned in a document (1057) from the archive of the Athonite monastery of Saint Panteleemon. According to the Ὑπόμνημα of Ἰλαρίων, the πρόεδρος καὶ πρωτομυστικός Ἰωάννης Ξηρὸς tried a case in his σέκρετον by order of the emperor⁵⁸. The term caused much discussion among scholars. F. Dölger suggested that the text should be read as πρωτοπρόεδρος καὶ μυστικός, since the curious term πρωτομυστικός is not attested elsewhere⁵⁹, while V. Laurent initially considered it as equivalent to πρωτοασκηρήτις, since according to his proposed identifications Xeros had also been appointed πρωτοασκηρήτις, but seems to have recognised two different offices⁶⁰. The new edition of the documents of Saint Panteleemon and a seal of Κωνσταντῖνος, μάγιστρος and πρωτομυστικός published some years ago by Ioanna Koltsida-Makre⁶¹ and dating, according to A.-K. Wassiliou, from the third quarter of the 11th century, confirm the correct reading of the act and the existence of the term. Πρωτομυστικός is identified with the μυστικός, an office created probably during the reign of Basileios I (867–886). Oikonomidès and other scholars think that the μυστικός headed a σέκρετον that tried cases⁶², but the evidence of the sources does not show that this was a judicial office, although it involved judicial activity. The administration of justice in Byzantium was very flexible, and it seems that anyone with legal knowledge who had prior service as κριτής, whether or not he was a μυστικός, could participate in trials as a judge commissioned by the emperor, as in the case mentioned earlier⁶³.

The scholars did not, however, attempt to explain the use of the term πρωτομυστικός. This denotes a person who was at the head of a uniform group with similar duties, as in the case of πρωτοασκηρήτις, πρωτονοτάριος and πρωτοκένσωρ mentioned above. Since, however, we know that the duties of μυστικός were performed by a single person, we must therefore search for a group of dignitaries that could be called μυστικοί. I suggest that these μυστικοί were probably the μυστογράφοι and perhaps also the μυστολέκται. The testimonies of the narrative sources and the inscriptions confirms that

⁵⁵ KONSTANTOPOULOS, Μολυβδόβουλλα no. 959; V. LAURENT, Les bulles métriques dans la sigillographie byzantine. Athens 1932, no. 66; WASSILIOU-SEIBT, Corpus no. 357.

⁵⁶ JORDANOV, Corpus III/1, nos. 941–944.

⁵⁷ JORDANOV, Corpus III/1, 348 (DO 47.2.870 and 47.2.871); WASSILIOU-SEIBT, Corpus no. 619 (DO 47.2.1423).

⁵⁸ Actes de Saint Pantéléémōn 5 (1057) (ed. P. LEMERLE – G. DAGRON – S. ĆIRCOVIĆ [Archives de l'Āthos XII]. Paris 1982, 58, 8–9): ... κελεύει κριθῆναι π(αρά) τοῦ ὑπ(ερ)λάμπρου προέδρου (καὶ) πρωτομυστικοῦ κύ(ρ) Ἰω(άννου) τοῦ Ξηροῦ· ἄφ' οὗ (καὶ) ψήφισμα ἱερὸν (καὶ) σεβασμία κρίσις ἐκ τοῦ εὐσεβοῦς σεκρέτου αὐτοῦ ἡμῆν κ(α)τεπέμθη

⁵⁹ F. DÖLGER, Byzantinische Diplomatie. Aufsätze zum Urkundenwesen der Byzantiner. Ettal 1956, 64, n. 299.

⁶⁰ V. LAURENT, Les sceaux byzantins du Médaillier Vatican (Medagliere della Biblioteca Vaticana 1). Vatican 1962, 113, n. 2–3. But see LAURENT, Corpus II, no. 7. Cf. W. SEIBT, Byzantinische Bleisiegel in Österreich, I. Teil: Kaiserhof (Veröffentlichungen der Kommission für Byzantinistik II/1). Vienna 1978, 291–292. See also J.-Cl. CHEYNET, Les Xéroi, administrateurs de l'Empire. SBS 11 (2011) 1–34, here 14–15.

⁶¹ Ioanna KOLTSIDA-MAKRE, Βυζαντινά Μολυβδόβουλλα. Συλλογὴς Ὀρφανίδη – Νικολαΐδη Νομισματικοῦ Μουσείου Ἀθηνῶν (Tetradia Christianikes Archaialogias kai Technes 4). Athens 1996, no. 105 (11th c.).

⁶² OIKONOMIDÈS, Listes 324.

⁶³ GKOUTZIOUKOSTAS, Απονομή Δικαιοσύνης 187–189.

the μυστογράφος was not a purely judicial officer, as has been argued, but had secretarial duties, as indeed is denoted by his name and can be concluded from the fact that the term is also used to designate persons who performed the duties of another member of the imperial secretariat, the ἀσηκρήτις. Consequently, the μυστογράφος was probably in charge of writing down the proceedings of the emperor's "secret sessions" with his officials, the senate and his advisors, which had previously been the duty of the ἀσηκρήτις. The μυστολέκτης, who is mentioned only on seals, probably performed the duties of a messenger, announcing the secret decisions or orders of the emperor or μυστικός as suggested by his name⁶⁴. The μυστικός, upon which I have written a book recently published⁶⁵, was not in my view the private secretary of the emperor but, rather, in charge of the emperor's secret sessions – called μυστήρια – with his advisors and senior officers. He performed the μυστική τοῦ κράτους ὑπηρεσία, he belonged to the narrow circle of imperial advisors, he supervised the most secret affairs, and he took part in secret councils. This was his primary duty, although the office developed a judicial and financial activity, especially in the Comnenian era⁶⁶.

Finally, I would like to make a comment on the κριτὲς τοῦ βήλου and the κριτὲς ἐπὶ τοῦ ἵπποδρόμου, who belonged to the ranks of the "small" judges according to the *Ecloga Basilicorum* (1142)⁶⁷. These judicial officers tried cases that had been referred to them, and could also function as *assessore*s to the "great" or superior judges of Constantinople, i.e. the δρουγγάριος τῆς βίγλης, the δικαιοδότης, the πρωτοασηκρήτις, the ἔπαρχος πόλεως, the κοιαιστωρ and, finally, the ἐπὶ τῶν κρίσεων, who could delegate the authority to try cases to the "small" or inferior judges⁶⁸. The κριτὲς τοῦ βήλου and the κριτὲς ἐπὶ τοῦ ἵπποδρόμου could also be sent from Constantinople to the themata by the emperor or other officials to examine some cases and return to the capital, and they could also be appointed as κριτὲς τῶν θεμάτων⁶⁹. The seals of persons who were κριτὲς τοῦ βήλου or κριτὲς ἐπὶ τοῦ ἵπποδρόμου as well as κριτὲς τῶν θεμάτων seem to describe their career. No one could act as a member of the courts of Constantinople and at the same time as a provincial judge, since the κριτὲς τοῦ βήλου and the κριτὲς ἐπὶ τοῦ ἵπποδρόμου were classed as "small" judges, but the κριτὲς τῶν θεμάτων, who tried cases in the provinces, ranked as "great" judges. The dignity of the κριτὲς τοῦ βήλου and the κριτὲς ἐπὶ τοῦ ἵπποδρόμου, which was often the starting point of an administrative career, is often cited on seals. This is probably due to the fact that these offices were low in the hierarchy and not at the head of a service and could be held by many persons. The owners of the seals were also declaring their legal training and judicial experience, qualities that they could never lose. In this aspect, their office was lifelong, as N. Oikonomidès observed⁷⁰.

⁶⁴ See A. GKOUTZIOUKOSTAS, Some Remarks on Mystographos and Mystolektes, in: *Epeironde. Proceedings of the 10th International Symposium of Byzantine Sigillography*, Ioannina 1–3 October 2009, ed. Chr. Stavrakos – Barbara Papadopoulou. Wiesbaden – Ioannina 2011, 191–220.

⁶⁵ A. GKOUTZIOUKOSTAS, *Το αξίωμα του μυστικού. Θεσμικά και προσωπογραφικά προβλήματα*. Thessaloniki 2011.

⁶⁶ See P. MAGDALINO, The not-so-secret Functions of the Mystikos. *REB* 42 (1984) 229–240 (= IDEM, *Tradition and Transformation in Medieval Byzantium*. Aldershot 1991, XI).

⁶⁷ *Ecloga Basilicorum* B.7.8.2+4 (ed. L. BURGMANN [*Forschungen zur byzantinischen Rechtsgeschichte* 15]. Frankfurt / M. 1988, 286, 15–18): Ἄλλ' οὐδὲ δικαστήν, ἐν ὅσῳ κρίνει καὶ τὴν ἰδίαν ποιεῖται διάγνωσιν, χρή καλεῖν εἰς δικαστήριον — ὑπόθου δὲ τὸν τοιοῦτον δικαστήν μὴ κατὰ τοὺς προειρημένους ἔπαρχον ἢ πραίτωρα ἢ τοὺς ἄλλους τοὺς τοιοῦτους, ἀλλ' ὑποδεέστερον, οἷός ἐστιν ὁ κριτὴς τοῦ βήλου ἢ τοῦ ἵπποδρόμου. Cf. L. BURGMANN, Zur Organisation der Rechtssprechung in Byzanz (Mittelbyzantinische Epoche), in: *La giustizia nell'alto Medioevo (secoli IX–XI)*, 11–17 aprile 1996 (*Settimane di studio del Centro italiano di studi sull'alto Medioevo* XLIV). Spoleto 1997, 905–930, here 924; See Ruth Juliana MACRIDES, The Competent Court, in: *Law and Society 119–120* (= EADEM, *Kinship and Justice in Byzantium, 11th–15th centuries*. Aldershot 1999, VIII); GKOUTZIOUKOSTAS, Απονομή δικαιοσύνης 152–154.

⁶⁸ *Ecloga Basilicorum* B.2.2.207, B.2.3.70, B.7.2.32.6, B.7.3.1, B.7.3.10, B.7.5.12.1 (68, 1–11; 112, 20–24; 244, 20–25; 250, 24–32; 254, 15–17; 270, 3–21 BURGMANN).

⁶⁹ See A. GKOUTZIOUKOSTAS, "Judges of the Velum" and "Judges of the Hippodrome" in Thessalonike (11th c.). *Byzantina Symmeikta* 20 (2010) 67–84.

⁷⁰ N. OIKONOMIDES, The Usual Lead Seal. *DOP* 37 (1983) 147–157, 156, n. 38; IDEM, Peira 187.