

“The recognition of the Patriarchs by the State” in the Senior Patriarchates of the East

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The study of the Jerusalem issue of 2005 as viewed by canon history and canon law, led us to the careful approach of the relative bibliography, and of the practice in similar issues in the past*. In this way we were led also today, to the timely and well prepared study, of Metropolitan Christophoros of Leontopolis, entitled “*The Recognition of the Patriarchs by the State*”. It was published in the periodical printed by the Patriarchate of Alexandria in 1937, and circulated as a reprint in 1937, p. 1-26, by the same printing-press. We have in mind the reprint.

What drove Christophoros of Leontopolis to author this? Because during his time, in the decade of the 30’s, he stood and dealt with the issue of recognition of the Patriarchs of the Senior Patriarchates (Constantinople, Alexandria, Antioch, Jerusalem) by their local States, in different forms, and especially like this same one of 2005 for Jerusalem, which we study today.

The problem of the recognition of Patriarchs of the East during the decades of the 20’s and the thirties exists in a similar fashion today in the Greek Orthodox Patriarchate of Jerusalem. The intense attempt to side-line Irineos, mainly by the Greek side, partially formed the base of what was done concerning the election and enthronement to Patriarch, of Archbishop Theofilos of Thavor, who happened to be the only one who was elected, and ordained to the Episcopal rank during the tenure of Patriarch Irineos, by his own recommendation, in early 2005.

This final act of Irineos is of great importance, because if Theofilos was not a bishop, it would be almost impossible for him to have his eye on the patriarchal Throne. All of the Metropolitans, Archbishops and Bishops of the climate of Jerusalem should have considered themselves unsuitable, so that they would not have preferred anyone from amongst the hierarchs, but rather from amongst the senior-archimandrites of the second level of priesthood. Let us leave off to the side, the other ethical issue of ingratitude, or gratitude towards benefactors.

According to our humble educated opinion and position, the election of Theofilos heavily lacks proper order from a view according to canon law, and local legal law. The election may have served, in appearance the administration in Athens and at the Fanar, but not in essence by my belief politically and ecclesiastically, in order to move beyond the crisis, however an apparent web of non-canonical acts, and illegal procedures, and relative speculation do exist.

Because Irineos refuses to resign, Israel continues to recognize him, while it directly refuses the recognition of Theofilos, for the reasons which it states in the form of sentences

* See articles published by the Press and gathered together by our colleague Thomas Papastergios under the title “Thomas Ast. Papastergios, File of the Problem in Jerusalem 2005. Articles written by Athanasios An. Angelopoulos”, Thessalonica 2005, pages 1-60.

submitted by both Israel and Irineos, to the High Court of Israel. It is worth noting that Theofilos himself first turned to it, protesting about the refusal of the recognition of his election by the government of Israel without him waiting as he should have, the returning of the list of election candidates. The fact that the return of the list was not waited for, gives way for the possibility of his subsequent non-recognition with the Berati, which is the final and necessary act, before the assuming of his official patriarchal duties, after the religious act of an enthronement.

The procedure in the fall of Irineos, and the election and enthronement of Theofilos was unorthodox and took place with specific unacceptable acts, pertaining to its legality and canonicity.

First unlawful act: The *Locum Tenens*, appointed the way he is appointed, (that is another issue from a canonical standpoint), duly seeks his own recognition from Israel. The government refuses but he illegally –moves ahead in an out of the ordinary gathering of an illegal court (and a very doubtful one especially from a canonical standpoint) in order for Irineos to fall from the throne. He, who was also a contender for the Patriarchal Throne with Irineos in 2001 and failed to attain it, because Irineos was elected, now presides (illegally as far as the government of Israel is concerned since it didn’t recognize him as *Locum Tenens*) over a Court against Irineos and demotes him to a “monk”. He acted “surely” with a very sacred-canonical sense of justness and responsibility, having first of all “impartialness”. However, he should have, due to his personal bitterness and great competition with Irineos, excused himself in order for there to happen, if it should happen, a correct canonical trial, because legally and by a legal standpoint it was not, since the regional Government, of which he officially requested recognition as a *Locum Tenens*, denied it to him. The court took place in Jerusalem at the Patriarchate, which is under the jurisdiction of Israel and therefore Israeli legal order is in force, irrelevant that internationally the area may be considered under Israeli occupation. The regime “of occupation” doesn’t entail a situation of anarchy and illegality or lawlessness. In this case legality is expected most, with he who occupies having the responsibility internationally.

Second unlawful act: The electoral body gathers, presided over by the otherwise unlawful *Locum Tenens* for the election of a Patriarch. A list of those who claim to be candidates for the Patriarchal Throne is sent to the Government of Israel and, without waiting, or patience, and requests and petitions (through proper ways) for the catalogue’s return with the approval of the administration for its lawfulness, the electoral body is invited to elect a Patriarch. Despite all these objections where at least two electors (one of which is Damaskinos of Jaffa) felt that previously the list of candidates should have been returned by the Government of Israel, and then for the process of election to proceed, the election of Theofilos “took place”. May it be noted here that certain electors were closed out from the electoral body (two bishops, one of which has a pastoral flock and consequently unmovable by law and canonicity, and two archimandrites) with the anti-canonical and illegal justification that that they are sympathetic and devoted to Irineos. They themselves were excluded from the court against Irineos with the same justification. Only those opposing Irineos were allowed to participate in these as anyone can see for themselves.

Third unlawful act: The act of enthronement takes place, while beforehand (1) Theofilos had taken recourse to the Supreme Court “in protest” that Israel had not confirmed his election, towards the Government to which he had addressed in writing without receiving a response. (2) The Government of Israel, by two letters through Ministries, advised him not

to proceed with the religious act of enthronement with the justification that, since he took recourse to the Court, the government would do the same, who appointed towards this a Ministerial Committee, and whoever else is interested and who stand to have a legal interest (for ex., Irineos), so that the court will have the final say. And then there will take place the legal procedures as to the recognition, which leads up to the enthronement.

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The Supreme, therefore, Court of Jerusalem, in Israel, is asked to give the solution, especially towards the matter of the recognition or not of Theofilos in connection with the yet recognized under Israel, Patriarch of Jerusalem, Irineos. May it be said here that the recognition is part of an entire procedure of the Patriarchal election. The recognition is a right and an unalienable right of the State, in this case that of Israel. It makes up a condition *sine qua non* for the taking up of the patriarchal duties. Without the country's state recognition, all the previous canonical and legal procedure is nonexistent and ineffectual.

Patriarch Irineos rends his garments, besides, denying the accusations of a financial nature made against him (illegal sales or long-term leases of Patriarchal property and using the proceeds personally), and for this does not resign. He refuses to resign much more so since he has not by the canonical and legal road, been issued an official charge-sheet, in order to defend the patriarchal authority and through this, himself as a person. If this is a self explanatory human right for every citizen, then especially how much more is a leader of a state or Church deserving, in righteous states in particular. The Pan-Orthodox Synod at the Fanar hesitated to be transformed into a Court, because it did not have proof and facts and in this it punished him without even having the majority vote of the whole, but only of those present. From the whole, that is 14 votes, the suggestion for voluntary or sacrificial resignation gathered just the number of 7, including the vote of the President of the Synod. He himself offered specific facts, which indicate or prove the opposite. That is, namely, that during the days of organizing the patriarchal essence and the salvaging of that which in some cases was almost lost due to the unexamined and wasteful management during the Patriarchal reign of his predecessor Diodoros. Some (with the "Locum Tenens" leading) hierarchs benefited, and today act as the honored-judges, either in the administration or not of the Patriarchate through the Patriarchal Synod and through the other instruments, offices and services. During the time of Diodoros they were all low class, bowing servants. There was no such opposition. Now Irineos is called by them to become the appeasement victim, the scapegoat, the one who takes away their sins, for them to feel fit "to not become unclean in order to eat the Paschal dinner".

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In any event, we find ourselves today in Jerusalem before a new multi-composed situation. We have a new Patriarch of Jerusalem, Theofilos, under prolonged illegal and anti-canonical assumptions. We have the Patriarch of Jerusalem, Irineos, who will not resign, who remains in his cell in the courtyard within the central Monastery, using his own sanctuary of Saint Thekla, where there is an Israeli guard to maintain order after his being deprived of his two Greek armed guards from the Greek side, with all that followed (a new passport that refers to him as Patriarch Formerly of Jerusalem). The Greek Government then sent one guard for his protection but Irineos in response refused this since he was unarmed, and therefore not really useful. We have the Government of Israel, which did not give its recognition to Theofilos for the reasons exposed, while it confirmed that its recognition of Irineos is valid,

and this is why it gives him the title of Patriarch of Jerusalem and considers him the official representative of the Patriarchate before the Government, with all that, which administratively and legally pertains to this regarding the Brotherhood of the Holy Sepulchre. This explains why he was invited by the President of the Republic of Israel to a formal event honoring the leaders of the religious communities with the opportunity of the new year of 2006 and why he continues to be invited on Presidential and Governmental levels.

Theofilos is invited, but as the Archbishop of Thavor. Seven Fathers of the Brotherhood of the Holy Sepulchre devoted to Irineos accompanied him to the President’s Mansion on the occasion of the 2006 New Year, while Theofilos, with bile, forbade under penalty of defrocking all the other Fathers of the Brotherhood of the Holy Sepulchre who had invitations to the event, coming in such a manner in direct opposition with the Israeli protocol of the Presidency and the will of the State.

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From here on begins the problem called “recognition”. This is excellently treated in the work, in the well prepared study of Christoforos of Leontopolis, from the ecclesiastical jurisdiction of Alexandria, entitled “*The Recognition of Patriarchs by the State*”. During his days we had a similar problem of recognition by the local States in Constantinople, in Alexandria and in Jerusalem. This study is written as if it foresees the current, 2005-6, issue in Jerusalem, and the illegal situation in all the Senior Patriarchates of the East, of Constantinople, Alexandria, Antioch, and Jerusalem, and especially Constantinople.

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What, therefore, are his arguments within his study? He states word for word, “...its Bishops always (that is, of the Eastern Orthodox Church), and especially the Primate among them, immediately after their election by the Church, were obliged to be recognized also by the State as such, so that their election might be confirmed in an official manner. Only after this confirmation of their election by the State were they justified in taking up the administration of the Church” (page 3 of the reprint).

He likewise clarifies, “...This recognition was necessary and canonically indispensable not only when the State was Christian or Orthodox, but even when it was another religion, even Muslim. Thus in the lands occupied by the Arabs or the Mameluks for several centuries, such as Palestine, Syria, Egypt, and in Constantinople itself after the conquest, the elected Archbishops of the Churches took up the governing of the Church only after their recognition by the State”. (o.p).

Which events took place in the 30’s, which would necessitate the writing of the said, and now very timely, study? The author highlights them as follows: “...Right after the election of Meletios Metaxakis as Ecumenical Patriarch, the Turkish Government ceased recognizing the Patriarchs of Constantinople, but, in Alexandria, Meletios was the first once again to take up the administration of the Throne without recognition, being recognized after one and a half years, just like Nicholas, the current Patriarch of Alexandria, who, as is known, was just recently recognized by the Egyptian Government. Timothy, who was elected Patriarch in Jerusalem in the summer of 1935, has not yet been recognized, and, on account of this, he has not taken up the administration of the Throne even up until the present day, with

the *Locum Tenens*, as is known, remaining as such and still governing the Throne of Jerusalem”. It means in 1937.

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In order to make timely and to bring together the same situation, we confirm that today in Jerusalem, the elected to the Patriarchal Throne from August 2005, Archbishop of Thavor, Theofilos, is not recognized by Israel for the above stated three reasons. Now, therefore, the timeliness of the work “*The Recognition Of Patriarchs By The State*”. Why? We will better understand in the familiar references below.

The author explains, “This recognition or confirmation of the election of the Patriarch by the State was an inalienable right of the State, recognized as such also by the Church as indisputable and indispensable, so much so, that, as we will see further on, if the State did not regard as Patriarch he who was not recognized by it as such, the Church also did not regard him as Patriarch, nor as having the right of exercise even the slightest portion of patriarchal authority, until his recognition by the State” (page 7).

He commemorates the following situations of Patriarchs-elect who did not reign because they were not recognized by the State. He says, “Those elected Patriarchs who did not exercise their patriarchal authority, because they were not recognized, are Samuel Kapasoulis of Alexandria (later recognized and exercised patriarchal authority), Neophytos (of Constantinople), Artemios (of Alexandria), Photios (of Jerusalem), and Cyril from Kyreneia (of Cyprus). The Church did not recognize the last two of these, even though they did not abdicate willingly, as having the right to exercise their episcopal duties, and selected others in their place with the consent and order of the Government”.

Specifically noted by (the metropolitan of) Leontopolis is Cyril, who was not recognized by the English Chief Secretary of the Cypriot Government, elected in Constantinople in 1909 as the Archbishop of Cyprus, “did not dare say that he has no need of recognition, nor did the Patriarch dispute the right of the Government, although the same Cyril was recognized in the meantime as Archbishop by the Churches of Greece and of Serbia...”. This is happening today also. Theofilos has been recognized by the regional Orthodox Churches and nothing is meant by this, without the recognition of his election by the relevant regional government of Israel beforehand. This is why the petition of the Ecumenical Patriarch, in our days (December 2005), via the television networks, towards Israel for the recognition of Theofilos is correct. Israel however turned a deaf ear towards this petition, because a little prior (at the end of September 2005, in Athens) His All Holiness congratulated and praised the Greek Government publicly (as, at least, it seemed by His statements reported by the Press), for taking the correct action regarding the matter in Jerusalem. Israel, however, recognizes that it was the Greek Government that publicly and diplomatically supported all of the illegal actions against the nation of Israel on behalf of the Brotherhood of the Holy Sepulchre (occupation of the Patriarchate’s offices, an illegal *Locum Tenens*, an illegal and anti-canonical election process with regard to the list of candidates and the composing of the electoral body, an illegal enthronement and all of the crimes against the State of Israel, while Patriarch Irineos existed, was formally recognized as the canonical and legally elected and established by Israel, and had not resigned).

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What should have happened not only with regard to the election but also for its preliminaries, so that all would roll along legally and canonically? Legally, especially, towards recognition by the state? We are reminded by Christoforos of Leontopolis, the later Patriarch of Alexandria (1939-1967). He specifically states: “However, in order for the Church to be entitled to claim from the State, to recognize the Patriarch elected by it, through recognition, and, as a consequence of this, to expect from the State many and various things, as we will see yet again further on, both benefits and privileges on behalf of the Patriarch and of the Church itself, it was necessary not only for the election of the Patriarch, but also for the preliminaries of the election, to not be done by the Church in ignorance of the State. Thus the Church was obliged firstly and indeed immediately to inform the Government that the Throne had become vacant by death or by another reason, and the Government to accept the abdication or the compulsory departure from the Throne of the Patriarch and to give order for the election of a new Patriarch. After this, it was necessary for the election of the *Locum Tenens* to ensue, who himself was to be recognized by the Government as such” (pages 8-9).

In order to make it timely and to apply the situation here, we ascertain that with respect to the current problem in Jerusalem nothing of those things noted by the researcher-author happened correctly. This is why from the beginning we took the position that all happened backwards. The state, in this case the State of Israel, did not present its position in the deposing and the non-resignation of Patriarch Irineos. And this was necessary.

The author clearly states: “Nicodemos of Jerusalem, after the failed murder attempt against him, submitted his resignation from the Throne to the Government, ‘which however was not accepted’” (page 8). And another example: “Gregory the Sixth, Ecumenical Patriarch, resigned, and his resignation was accepted by the Sultan and by the Ministerial Council, and, after this, an order (“vougiourtli”) was issued ‘through which the permission for election of a *Locum Tenens* was granted’” (pages 8-9).

And we come to the institution and the problem of the *Locum Tenens*. The writer states regarding the situation of the *Locum Tenens*, “After this (that is, the resignation or the deposing from the Throne, according to all that is canonical and legal with regard to the State), it was necessary for the election of the *Locum Tenens* to ensue, who himself was to be recognized by the Government as such (page 9). Something similar, as we have said many times before, did not happen, even though the Metropolitan of Petras, as “*Locum Tenens*”, while the Patriarch exists and has not resigned, requested his recognition as *Locum Tenens* by the State of Israel, but this was denied to him. And with this, he continued to work and act as one, that, against the law and the legal order of Jerusalem, to produce a work that is illegal, disorderly and anti-canonical, beyond his responsibilities as *Locum Tenens*, where his primary duty is such so as to assure that canonical and legal election procedure is followed in order to acquire a Patriarch, and nothing more.

According to Article 43 in the Interior Constitution of the Patriarchate: “In the case of the widowing of the Patriarchal Throne, the *Locum Tenens* once elected, under the Sacred Synod according to the divinely-set Emperor’s decree, is not entitled to introduce any change in the Patriarchal administration, but rather he is obligated to hand over this to the new Patriarch as was when he received each thing, unchanged in terms of the people, and in terms of the things. The receiving into the Brotherhood, or throwing out, ordinations or promotions, dismissals or replacements are completely forbidden. The contracting of loans are allowed only in the case when absolutely the need is evident and proven, and then only following the decision of the Synod”

The extremely sensitive issue of the presentation to the government of the list of election candidates for the relative approval as well as the confrontation of possible objections regarding the entire electoral procedure, which contains current speculation and timeliness, due to its resemblance to the current situation, do not in any case, escape the notice of the author.

He highlights: “Before the election is accomplished, it was moreover necessary for the list of candidates to be submitted to the Government for approval, and, after the election was completed, the result to be announced to the Government and recognition of the person elected by the Church to be sought from it. If there are objections to the manner of the election by some of those who have an interest, these are referred to the Government as well, which, before it permits either the advance, or the completion of the election, and especially, before it progresses toward the recognition of the already elected Patriarch, is obliged to examine the objections submitted to it and to correct every transgression attempted, at the expense of those who object or of the electing body” (pages 9-10).

At this point we observe that with regard to the election of Theofilos the exact opposite occurs, just as we characteristically note that the totally backward occurred. This is due to the catalogue being sent for approval to the government of Israel, but the necessary patience and systematic return of the list did not exist, much more so since the list of candidates was the result of a body, where in which the presiding officer as *Locum Tenens*, did not have recognition. Without the return of this list, the election was decided upon, with the suggestion of legal counsellors, from Athens sent by the Ministry of the Exterior and attended the Synod and who insisted upon the completion of the electoral procedure, since the list was approved and returned by the other two governments, the Jordanian and the Palestinian, again under the pressures known to everybody by the Greek side with the help of Constantinople.

Consequently, according to them, the return of the list from Jordan and Palestinian Authority was enough and it was superfluous for the same from the Government of Israel. I do not quite know how to evaluate their thought process. The position that the approval of the list of candidates by the side of Israel is clearly a formal act, not necessary in bringing a change of results, is dangerously naive. Concerning this however there will be a particular word said, in another light, at the end of the present work.

The goal however was obvious, despite the objections of the electors, as we have stated before, that it saw that the election went ahead in order for there to exist a result, in order for what happened to become status quo. Why? Because it could have taken a long time for the list to be returned, and under especially unknown conditions, towards the approval, in whole or in part, or the non-approval of it, something which would have been the right of the State to do, in this case Israel, with a convincing explanation for whichever decision it made. The greek side was concerned with the result, irregardless to the fact that as a good, it would not be succeeded in a good way.

And certainly the Government of Israel would have and does have an excellent reason not to approve and return the list, due to serious objections for the election of a Patriarch, due to the existence of a legal one, Irineos, who, denying resignation and struggling in every manner to support his patriarchal rights, which were violently wrangled from him by his faction-minded brothers, with the support of the Athenian and Pan-Orthodox system,

particularly through the Fanar (Constantinople). The Government of Israel, which followed all of the developments closely, though they take place within its jurisdiction or without, but for this, and which are provocatively unknown, came to the decision, that the entire situation was the settling of old and new accounts within the Brotherhood of the Holy Sepulchre. In a letter towards Theofilos it characterizes as “internal struggles” coming from “different factions”, which became a vaulting horse for other intentions having as its centre, the changing of the patriarchs, for which the government didn’t have a reason to get involved.

The question immediately related to the last is: What does ecclesiastical history teach us? If the will of Israel is indicative, particularly after the completion of the trial of the case in the Supreme Court (by the end of January 2006 it will be taken to trial during March 2006), to which all those concerned took recourse (first Patriarch Theofilos, and as defendants, Patriarch Irineos, and the Government) and irrevocably in support of Irineos, and against Theofilos, as we envision will happen, due to the abundance of illegal acts in all the stages of the election of a Patriarch, where is this position to be found in comparison with all the similar situations in ecclesiastical history?

This is what we are informed of by (the metropolitan of) Leontopolis. He states “As a justification for the invalidation of the election of Photios as Patriarch of Jerusalem, the *Sublime Porte* brought forward the fact that the election was illegal, inasmuch as certain articles of the Imperial regulations were violated” (page 9). And likewise “We have two examples in recent years that are worthy of attention of the State’s refusal to recognize the election of Heads of the Church due to the objections on the part of those who have an interest, that of Photios as Patriarch of Jerusalem and that of Cyril from Kyreneia. Examples of the intervention of the Government towards the suspension of an election that has already taken place we have Cyprus for the election of the successor of Sophronios and in Alexandria during the last election. In Jerusalem against the Vali of Damascus during the election of the successor of Gerasimos, for this came to Jerusalem, ordered the progression of the election”. (O.P., p.10)

In one such situation the non-recognition or non-validation and then cancellation of the election of Theofilos makes up an inalienable right of the State, it automatically follows for Irineos to continue to hold the Throne, since he is recognized by the State, and Theofilos returns to the Archbishopric of Thavor as past-Patriarch and President of Thavor. If he insists on ruling the Patriarchal Throne, not resigning, he sustains the consequences of the law, as is shown by similar cases which occur in ecclesiastical history.

This is what we are informed especially by the same (metropolitan of) Leontopolis: “From the beginning, according to the custom prevailing in the Church, which was so continuously maintained, so that the law or canon was rendered inviolable, there is no Archbishop or Patriarch in the Church, who was not recognized by the State after his ecclesiastical election. If someone was elected and not recognized by the State, he hastened to or was compelled to abdicate, in order for someone to be elected in his place. Such great importance was given in the Church to the confirmation of the election of the Patriarchs by the State that the ecclesiastical election ended up being regarded as wholly non-existent if the recognition of the State did not follow, and after this, the enthronement...” (page 16).

The author as proof presents specific examples from history. He states “Thus Neophytos from Herakleia, elected Patriarch of Constantinople in the year 1707, but not being recognized by the Government, did not receive the patriarchal office. Also Artemios from

Kistentelios, elected Patriarch of Alexandria in the year 1845, and not being recognized, abdicated. And Photios, who afterward became the Patriarch of Alexandria, being elected Patriarch of Jerusalem in 1882, and not being recognized, since he did not abdicate, was exiled to Mount Sinai” (page 16).

Especially now, with respect to the elected by the relative people but not recognized Patriarch, he has no right to preside over a Synod or to convene a Synod, to elect bishops and to go on with ordinations, to manage the Patriarchate’s properties etc., before he receives the state’s recognition. (The metropolitan of) Leontopolis analyzes the situation as follows: “For this reason, the elected and not recognized Patriarch, on the one hand, as we are informed from historical examples, did not have the right to live in the Patriarchate, but in a private residence or in his own cell; on the other hand, he did not take up the administration of the Church in general, but rather the *Locum Tenens* presided over the Sacred Synod. In particular, the Patriarch who was not recognized did not have the right either to perform ordinations or ecclesiastical appointments in general, nor to legislate in the Church, nor to judge and to impose penance either upon the clergy or upon laymen, nor to manage the estate of the Church, nor to be commemorated by the clergy during the liturgies and services, nor to praise him in the Temple, nor to appear and to serve as Patriarch, nor to bear the title "Beatitude" or "All-Holiness", and the remaining active Archbishops of the local Orthodox Autocephalous Churches neither recognized him nor included his name in the diptychs. He was named, as long as he was not recognized, “candidate” in ancient times, and in more recent times, “elected.” Only after the recognition by the State did the “enthronement” (otherwise called “transposition” and “promotion”) indispensably follow, and only after the enthronement did he assume the administration of the Throne as genuine sovereign” (page 18).

In order for it to be practically understood we remind all that accordingly the Church of Greece, based on the valid Constitution, neither the one elected as Archbishop nor the one elected as Metropolitan, is enthroned before their validation by the highest Authority, the President of the Democracy, after the issuance of the relative Presidential Command. In the case of Theofilos the opposite took place, that which is backwards, not proceeding on to the recognition or validation of his election by the Government of Israel, by the publishing of the relative Berati, as should have happened.

The like question which is posed is: Is it possible for Patriarch Theofilos to rule, without his recognition by the State of Israel? But simply, and based only, hypothetically, on what has taken place? Does such a previous example exist? Surely it exists. The Ecumenical Patriarchate of Constantinople, elected Ecumenical Patriarch during the Patriarchal reign of Meletios Metaxakis, in the beginning did not find himself in a legal situation and recognized by the Turkish Democracy. After the widowhood of the Throne, the list of candidates, all of whom must be Turkish citizens, was sent to the Prefect of Constantinople, and he returned it approved, having the right to remove names. May it be noted that in the election of Dimitrios, in 1972, a sufficient number of candidates were removed, excellent ones particularly, while in the election of Bartholomew the list was fortunately returned approved without deletions. After the election, Turkey avoids recognition because this entails the existence of the proportionate legal status quo of the Patriarchate with all of the likewise rights and conditions, debts to it and its debts and privileges (proprietaryship, in the civil code, in the schools, in the matter of its ecumenical character etc.) which the Mother Church in Constantinople rightly struggles to obtain today, within the framework of the European aspirations of Turkey as obvious, surely, within the framework of human political and religious rights. The Patriarch (of Constantinople), in a marathon-like trial does not spare toil and pain and missions around

the world to accomplish that which is called “recognition”, that magical word, upon which depends the presence or not on the patriarchal Throne of Jerusalem of Patriarch Irineos or Theofilos.

But let us look to what precisely is told us by the well-prepared work regarding this situation especially: “The circumstance differs, in which the State either shows no interest in the recognition and does not arrange for the protection and interest of the Church, as occurs today in Turkey... Unfortunately while it was possible today for the Church in Turkey to be in good relations, at least as such before the war, with the entirely unprepared, spiteful and foolish tactic of those who undertook the matter of the election of Meletios Metaxakes as Ecumenical Patriarch and his installation on the Throne, and this, without governmental recognition, we have reached the point today where not only does the Turkish Government show indifference towards the Church in Constantinople, but even fights against her sometimes (see the protection of Papaefthym, the prohibition of wearing the clerical dress, the prohibition of having an *Apocrisario* (representative) in Athens, and so many other daily orders humiliating the Patriarchate. However, what makes a greater impression is the fact that, ever since then, none of those who govern the Patriarchate of Constantinople have managed to find, in the end, the way to stop these persecutions. And from these, the Orthodox faithful in Constantinople are clearly in danger of being found gradually without sacred Temples, without Greek education and without Orthodox philanthropic institutions. And the worst part is that the Patriarchate has reached the point of not daring to think that its Head has the duties of an Ecumenical, First Throne in the Church, Patriarch. And from this, it happens that the highest interests of the Orthodox Church are not studied and protected pan-ecclesiastically, with the initiative of the Ecumenical Patriarch, the only person made capable by the canons and the action of the Church for such ecclesiastical actions” (page 24). The same Status Quo of relations between State and Mother Church, worse yet, continues to be in force even today in Constantinople. It is ridiculous and irresponsible and ignorance of the worst kind today in Greece and from Constantinople, for usually dignified and eminent journalists to write that this Status Quo of relationships are ideal in Greece, introducing the separation of Church and State, because the existing system, which we would call ideal, cooperation of really distinguished roles to the essential first of all, refers to “old regime”.

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The last many-sided question, crucial question, to be answered is: Is the cooperation only of the Governments of Jordan and the Palestinian Authority enough for the legality and not the Government of Israel? In other words, the last act having to do with all the procedure of the patriarchal elections, which would be called by the key-term Recognition by the State, refers only to the two Governments or at least only to that of Jordan, because of the law of 1958 and not to that of the state of Israel? Because the Patriarchal jurisdiction, according to the sacred canons and the local legal order, with flock, institutions, property and activities, is served on the lands of today’s three states under different forms of permanent or temporary international Status Quo?

A brief historical summary about the international legal Status Quo in force until today and the functioning of the Greek Orthodox Patriarchate of Jerusalem is necessary in order to extract the only true answer, by our humble opinion, concerning the answer to the above mentioned complicated crisis.

The Ottoman period in Palestine. During the period of the Ottoman rule in Palestine, where the “Roman Patriarchate of Jerusalem” was in force, in article 14, was published in 1875, it was also approved on the basis of the acceptance and validation of the international status quo of the All-Holy Shrines of Palestine in the face of the Greek Orthodox Patriarchate of Jerusalem, with the agreements reached in the Conference of Berlin in the Summer of 1878. For the composition of the law- constitution of its functioning, they had in mind that which was in force then relative to the Roman Patriarchate, the Ecumenical, of Constantinople. A comparison of the texts proves the truth of our word.

The issue therefore, in the instance of the recognition of the elected Patriarch by the local States, in the final article 14, historically very important, today as well, concerning the historic status quo of privileges in force of the Senior Patriarchates of the East, states exactly the following: “Since the person who is Patriarch, besides his written spiritual duties, is the functionary authorized to carry out all that deal with the contents of the issued Berati, which contains the privileges given by the Caliph Omar el-Farouk – the blessing of God be upon him- verifying that by Fatic Sultan Mohammed, announced and carried out by various great Sultans of the past, and repeated by issued Patisach, the person of the elected Patriarch, should, besides combining the abilities mentioned in the previous article, be worthy of the complete trust of His Majesty the Emperor, who will issue the verification of the election, he knows also the Laws and the Rules of the relative Government and enjoys the trust and the esteem of the community”.

Previously in article 8 the word for the list of election candidates says the following: “The person, to be elected Patriarch, is considered by the Church as its spiritual Leader, the list of election candidates, composed according to the order of the previous Article, is sent toward the Moutesariphi, who announces at once to the Sublime Porte by letter or by telegraph concerning the names written down. In case any of the names are removed by the Government, they will be removed by the Sublime Porte and the order with the decision taken concerning the implementing of the election from amongst the remaining persons will be announced to the Locum Tenens and the Synod by the Moutesariphi”.

A little previously, in article 4, the word about the legality and validation of the Locum Tenens is as follows: “In the case of the widowing of the Patriarchal Throne of Jerusalem, the Synod gathers and it elects a person who, has all of the necessary abilities, from amongst the Metropolitans and Bishops of Jerusalem, to be Locum Tenens, and submits a Mazbatan towards the Moutesariphi, which informs him of the vacant throne and the Locum Tenens. The issue then is then submitted by the Moutesariphi in written form or by telegram, according to the need, towards the high office of the Great Veziria and they do what is proper as read to them from the telegraph and Emirnamen, which are sent in answer concerning the validation of the Locum Tenens to his post and the legal election of the Patriarch”.

The British Mandate in Palestine. The successor of the rule of the Ottoman Empire in Palestine, in other words the British Mandate of Palestine (1920-1948), validates the Ottoman Law of 1875 for the Greek Orthodox Patriarchate of Jerusalem, after it had made some changes in the area of the financial management of the Patriarchate, which introduces an issue always, and especially today timely according to the “Report of Sir Anton Bertram – J. W. A. Young”, of the 25th of June, 1928.

The Declaration of the Independence of the State of Israel, May 14, 1948. In continuation, the successor of the British Mandate in Palestine, which is today’s State of Israel, in accordance to its Declaration of Independence, validates likewise completely and

generally the legal Status Quo which existed, in its new local state in the area of Palestine, as long as that isn't specifically modified with the new laws of the new country of Israel. Quoting from the greek translation of the original Hebrew text of the Declaration (See att.1): “2. The Temporary Committee of the State and the Government of Israel declare the following: “3. Since the Temporary Committee of the Government has not legislated additional laws, the previously existing laws relative to that within the area of Israel according to the Declaration of May 4th 1948, continue to be in force until they are added to or modified through future legislation, following the initiative of Israel and its Authorities”. The ottoman Law that is mentioned concerning the Greek Orthodox Patriarchate of Jerusalem has not been particularly offended, therefore it continues to be in force for the Jurisdiction of Israel of 1948 and in continuation during 2005-2006, relative to the status quo of existence and functioning of our Patriarchate in Jerusalem, which constitutes land where Israel is sovereign.

The Jordanian Law of 1958. In addition, the Jordanian Law of the Greek Orthodox Patriarchate of Jerusalem, published on 1-6-1958 in the Newspaper of the Government of the Hashemite Kingdom of Jordan, p. 556-564, articles 35 constitutes a modified repeat of the ottoman Law, which however in its next to last article, number 34, it specifically abolishes: “The ottoman constitution of the Roman Patriarchate in Jerusalem published in 5 Saphar 1292 (or 1975) and all the palestinian modifications which were introduced into the above Law” are nullified. Then, in 1958, the see of our Patriarchate in the historic Old City of Jerusalem was found on Jordanian land and therefore then this law of Jordan was totally in force. In 1967 however, with the Six-Day War, Israel annexed the Old City of Jerusalem, where the see of our Patriarchate is, into its jurisdiction.

From then until today, 2005-6, the see of the Patriarchate no longer belongs to Jordan, but in israeli jurisdiction. Therefore, the legal situation of the State of Israel prevails from 1948 onward until today, in which each non-abolished law, according to what was said above, is in force. In this case, also the ottoman Law of 1875 referring to the Patriarchate of Jerusalem.

In the mean time, because the canonical land of the Patriarchate of Jerusalem is also on today's palestinian land, under the internationally recognized Palestinian Authority, interiorly it is understood that the Patriarchate ought to also receive recognition from this Authority.

The conscience and the practice of the Greek Orthodox Patriarchate of Jerusalem for today's three-sided State recognition for its every elected Patriarch. The conscience of this first spiritual historical institution in christian Jerusalem always but especially today receives and aims for, in the framework of the internationally ratified status quo, which the local jurisdictions ought to respect completely, and which christian Orthodox Greece should guarantee, the recognition by the State, and of its canonical functions. One of these, the highest, is the recognition of every Patriarch through a Berati.

Both during the election of Irineos with absolute order, canonical and legal, so also during the recent “election” of Theofilos, through an abnormal manner, in terms of canonical and legal order, the “recognition” factor is present in the entire patriarchal election procedure. We cite in its original state in a photocopy of the Locum Tenens in Hebrew with the exact translation into greek (see att. 2,3), from July 15, 2001, with the opportunity of the then patriarchal election procedure, out of which Irineos became Patriarch, which shows the sum of our positions, in reference to the issue of the equal three-sided recognition in four phases (Locum Tenens, list of candidates, recognition of the Patriarch through a Berati, enthronement of the

Patriarch with the presence of representatives of State.) With one essential difference. Then, the Locum Tenens Metropolitan Cornelius of Petra had legally his recognition from Israel in order to coordinate the patriarchal election, while now, in 2005, again the same person as “Locum Tenens” functioned during the length of the particular and not uncontrolled, as he did, responsibilities, being found in complete illegality, breach of etiquette, and unlawful towards the same authority, as in 2001 also in 2005, in other words the Government of the State of Israel.

Therefore, according to today’s international permanent or temporary state status quo at hand between Israel, Palestinian Authority, and Jordan, in the jurisdictional borders of the Patriarchate of Jerusalem however, the recognition of the Patriarchate, therefore and every elected, according to that arranged, Patriarch, is divided equally amongst the three authorities, in the three different jurisdictions. As, for example, one stamp in three parts or four parts, in order to work and to provide validation or certification on a document, it is necessary for all the parts to be put together with the help and the cooperation of all the legal holders of each section- part of the stamp. In this way for our situation, the same procedure of recognition of an elected Patriarch of Jerusalem, from each of the equal, in terms of being local, countries that make up the local boundaries of the Patriarchate, compose parts needed for recognition.

The recognition from the one-third or from the two-thirds does not bring a permanent result, without the cooperation of the other one-third. The refusal of the cooperation of the one-third, when indeed the see itself sits in this, the historical and today’s see of the Greek Orthodox Patriarchate of Jerusalem, neutralizes the ethical and legal importance towards the recognition of the other two-thirds, much more since the legal order of the two-thirds (Jordan-Palestinian Authority) was not respected, the same didn’t want to be done for this legal order of the other one-third (State of Israel).

This third part is that which refused the recognition of the “elected” Patriarch Theofilos, for which exists Irineos who five years ago was elected legally and undoubtedly canonically, and is recognized for the reasons displayed above. In this way the whole situation can be explained, with the initiative of Theofilos and next the intervention of the Government of Israel and the objection of Patriarch Irineos, it is found before the High Court of Israel, which is located in Jerusalem, for its final judicial examination. The way things are, each of the three parties involved in the court has an ethical and legal obligation to accept and to apply the decision of the Court.

Finally, in this phase where we are found, everything depends on the decisions of the High Court of Israel and the will of the government of Israel, under the magic word RECOGNITION. The decision of the Court will be – and it should be – obligatory for each of the three parties involved, Irineos, Theofilos, and the Government of Israel, since the three resorted to it.