

THE *LIBELLUS* PROCEDURE AND THE SEVERAN PAPYRI

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When Saint Chrysostom's Prayer asks that the petitions of the Lord's servants be fulfilled as may be most expedient for them, it expresses what, in traditional autocracies, was expected of every 'good king' by his subjects. St. Louis, the model of a medieval king, would go regularly with his courtiers to the Bois de Vincennes, there to hear his subjects' petitions, seated under an oak.¹ Dr. Millar has pointed out that Roman emperors were expected to be accessible to their subjects, especially those of humble station, in much the same way.² The evidence shows that much of the emperors' time was taken up with answering petitions (in the form of *libelli*) from private individuals or from groups of humbler people, and that it was only 'bad', lazy emperors who neglected this task.³ Not only was there a secretarial department for handling petitions, as distinct from epistles, but its head, the *a libellis*, was, according to Seneca,⁴ deluged with work. Literary sources, however, tell us little or nothing of value about the actual methods of accepting and handling petitions. For information on such topics we have to turn to the surviving texts of the 'subscripts' (*subscriptiones*), the imperial replies to petitions (very few actual petitions survive). By far the largest number of these from the period of the Principate is to be found in the Code of Justinian, and they are mainly the work of the Severan and later third century emperors. In the process of transmission many of these texts have been abbreviated,⁵ and the formal elements have been omitted or garbled as a result,⁶ and it is from these formal elements that most can be learned about the procedures for handling petitions. One is therefore thrown back on the epigraphic and papyrus texts, in which these formal elements are often preserved.⁷

Any investigation of these procedures which relies mainly on the epigraphic and papyrus texts must take as its starting-point Wilcken's classic paper of 1920,⁸ and can do no more than modify or add to Wilcken's conclusions in the light of new evidence: such evidence is provided by the 13 *apokrimata* of Septimius Severus to be discussed below. In that paper Wilcken sought to establish what formal differences there were between the two types of imperial *rescripta*, viz. *epistulae* and *subscriptiones*. In doing so he relied primarily on four epigraphic texts of the second and third centuries, which contained replies from Antoninus Pius to one Sextilius Acutianus of Smyrna,⁹ from Commodus to Lurius Lucullus,

¹ Jean de Joinville, *Vie de St. Louis* (Michaud and Poujoulet, *Mémoires pour servir à l'histoire de France*, Vol. i (Paris, 1836), 184). Other examples of rulers of different periods who made themselves accessible to their subjects will be found in A. J. Toynbee, *Experiences* (London, 1969), 361-2: a Muslim of the Samanid dynasty, an eighteenth-century Christian king of Georgia and a Turkish provincial governor in 1948.

² F. Millar, *JRS* lvii (1967), 9, citing an anecdote in Dio lxxix, 6, 3. But it is told also of Philip II (Plot., *Demetr.* 42, 7; *Mor.* 179 C) and Antipater (Stob., *Flor.* 13, 28).

³ e.g., Commodus (SHA, *Vita Comm.* 13,7) and Carinus (*id. Vita Cari* 16,8); see Millar, art. cit. 13.

⁴ Seneca, *Ad Polyb.* 6,5: 'audienda sunt tot hominum milia, tot disponendi libelli.'

⁵ An example of such an excerpt is to be found in *Cod. Iust.* x, 61, 1: 'pars edicti imperatoris Antonini A.' The excerpt may now be compared with the full text of a Greek version preserved (in part) in *P. Giessen* 40, ii, ll. 1-15 (revised text in F. Heichelheim, *JEA* xxvi (1940), 10 ff.).

⁶ On this topic see C. E. Van Sickle, 'The headings of the rescripts of the Severi in the Justinian Code', *CPh* xxiii (1928), 270-77.

⁷ The point is made by Premerstein in *RE* s.v. 'libellus', col. 35; see also the general remarks of Kunkel, *Roman Legal and Constitutional History* (Oxford, 1966), 199.

⁸ U. Wilcken, 'Zu den Kaiserreskripten', *Hermes* lv (1920), 1-42 (this article will be referred to in subsequent footnotes as *Reskripten*). Wilcken answered the objections raised by Dessau, *Hermes* lxxii (1927), 205-224, in a second paper, 'Zur propositio libellorum', *APF* ix, 15-23. His discussion superseded earlier ones, such as those of B. Faass, *Archiv für Urkundenforschung* i (1908), 185-272, and of F. Preisigke, *Die Inschrift von Skaptoparene* (Strassburg, 1917). His conclusions were widely accepted, e.g. by Premerstein in *RE*, art. cit., coll. 37-43.

⁹ *CIL* iii, 411 = *ILS* 338 = *IGRR* iv, 1397 = *FIRA* i², 82. It is misleading to describe this as a 'rescriptum ad Smyrnaeos', as Riccobono does. The Latin text is clearly that of a subscript addressed to Acutianus as an individual, and not as an emissary of Smyrna, and the last lines of the Greek text which preceded the Latin on the stone end with an appeal typical of a petition from an individual, δι' ἃ, φιλόθεε καὶ φιλόανθρωπε Καίσαρ, κελύσαι δόθηναί μοι τὰ ἀντιγράφα (ll. 6-7). The fragmentary lines of Greek which preceded these must have contained the main body of the petition which led up to δι' ἃ; they cannot have been part of a decree of the city of Smyrna, as Boeckh proposed (a proposal taken over by *CIL*, *IGRR*, etc.), because a city would have addressed an epistle directly to the emperor and had it conveyed by a group of ambassadors or forwarded by the proconsul.

the representative of a group of *coloni* from the *saltus Burunitanus* in Africa,¹⁰ from Severus and from Caracalla to a college of *paeanistae* at Rome,¹¹ and from Gordian III to the villagers of Skaptopara in Thrace.¹² These four texts preserved diplomatic details missing from other texts. There is in fact one other third-century inscription which preserves what is certainly a subscript, from Philip to the headman of the Aragueni of Phrygia,¹³ and two others contain what were probably subscripts of Severus and Caracalla¹⁴ and of Valerian and Gallienus.¹⁵

The first difference which Wilcken detected between the two forms of rescript was that at the head of an epistle the name of the recipient was followed by a word of greeting, while there was no such greeting at the head of a subscript, simply the recipient's name in the dative. Secondly, the texts of epistles were authenticated by the addition of a formula of farewell in the emperor's own hand, but those of subscripts by the addition of 'scripsi' or 'rescripsi' in the emperor's hand, followed by 'recognovi', presumably in that of the *a libellis*.¹⁶ Thirdly, epistles were sent to the recipients named at the head of the text, while subscripts were added at the foot of the original *libellus* and posted up outside the imperial residence. There is no evidence that imperial epistles were ever published by being displayed at imperial headquarters in this way (publication by the recipients does not of course count); in the light of the very large number of epigraphic copies of epistles, often with all the formal elements recorded, this absence of evidence seems conclusive proof of Wilcken's hypothesis.¹⁷ Emperors addressed epistles to those who had written epistles to them (that is, texts in which formulae of greeting were used at the beginning and at the end); private

¹⁰ *CIL* viii, 10570 + 14464 = *ILS* 6870 = *AJ* 111 = *FIRA* 1², 103. This is addressed to Lurius Lucullus 'et nomine aliorum', and the preceding petition uses the first person plural. Another, very fragmentary, copy of this subscript is to be found in *CIL* viii, 14451, and the remains of a similar petition from another group of African *coloni* and of a subscript of Commodus in *CIL* viii, 14428.

¹¹ *CIL* vi, 3770 = 31330 = *IG* xiv, 1059 = *IGRR* i, 145 = Moretti, *IGUrbRom.* i, 53. In each case the Greek text of a petition was followed by a short Latin subscript. The attribution of the second one to Caracalla appears to be pure conjecture; it should have been issued in a joint reign, since the preceding petition is addressed to emperors in the plural.

¹² *CIL* iii, 12336 = *IGRR* i, 674 = *Syll.*³ 888 = *AJ* 139 = *FIRA* 1², 106 (no text of the petition) = *IGBulg.* iv, 2236. The subscript is addressed to 'vikanis per Pyrrum mil. compossorem' (l. 166).

¹³ *CIL* iii, 14191 = *OGIS* 519 = *IGRR* iv, 598 = *AJ* 141 = *FIRA* 1², 107 (no text of the petition). The imperial rescript is addressed to 'M. Auf[r. Eglecto] pe(τ) Didymum mili. generum' (ll. 2-3; for the reading, see note 87 below). Wilcken believed that the Latin text was that of an imperial epistle because it ended with the greeting 'vale' and because it preceded the Greek text of the petition on the stone, instead of following it (*Reskripten* 10, with n. 1). However, 'vale' is only a restoration based on two letters, the first of which was very uncertain (possibly XA or AA), and it can be rejected as a conjecture based on the false assumption that this must be an imperial epistle; and the order of the documents on the stone may well be the work of the mason, who could have reversed those on the text he was copying in order to put the more weighty first. The probable absence of a greetings formula in the address, the use of an intermediary to deliver the petition, the brevity of the imperial reply, and, above all, the fact that it is a reply in Latin to a Greek text which is described as a petition, not an epistle, all suggest that this must have been a subscript.

¹⁴ *CIL* iii, 14203, 8-9 = *IG* xii, v, 132 = *Syll.*³ 881 = *AJ* 132. The inscription came from Paros and contained both Greek and Latin texts of the imperial

rescript. The heading 'sacrae litterae' was probably added because the imperial titles and the address are omitted, and has no official standing as a technical description of the document. It was probably a subscript for the following reasons: (a) the reply must have been in Latin in the original, although it was addressed to an individual whose native tongue was presumably Greek, since he lived in Paros; (b) the place of issue is recorded in the locative (Greek dative) and not in the ablative (Greek genitive) which was standard for epistles (see n. 64 below); (c) the curt 'videris ignorare' echoes phrases used in several Severan subscripts in the Code (*Cod. Iust.* iv, 14, 1; v, 69, 1; vi, 50, 1, all 'scire debes', and iii, 28, 7, 'ignorare non debes').

¹⁵ *CIL* iii, 184 = *ILS* 540 = *IGRR* iii, 1020 = *AJ* 147 = *IGLS* vii, 4028. The emperors confirm the ancient privileges of a Syrian shrine; there are no formulae of greeting or of farewell, and the subscript is addressed not to a corporate body but to a group of individuals, 'Aurelio Marea et aliis' (l. 9), for which cf. the subscript of Commodus to the *coloni* quoted in n. 10.

¹⁶ Either or both of the words appear in the documents referred to in notes 9-12. That 'recognovi' was used by the *a libellis* to show that he had checked a fair copy written by a subordinate, before it was submitted to the emperor, who would add 'rescripsi', is a deduction from the presence of four different hands and from the spacing of the formulae in the original papyrus text of an epistle of Subatianus Aquila, Prefect of Egypt (*SB* 4639 = David and Van Groningen, *Papyrological Primer*, no. 7): see Wilcken, *Reskripten* 6 with n. 3, and L. Wenger, *Die Quellen des römischen Rechts* 417, n. 125.

¹⁷ The main evidence for the system of posting imperial subscripts is the heading of the Skaptopara inscription (see n. 12): 'descriptum et recognitum ex libro libellorum rescriptorum a domino n. . . et propositorum Romae in portico thermarum Traianarum' (ll. 2-5). There are similar cases of the publication of governors' subscripts in the papyri: for these and for the taking of copies by the petitioners, see nn. 52, 107-109 below.

individuals of high social standing wrote epistles to and received epistles from emperors, as well as officials and cities.¹⁸ Individuals of humbler standing and groups such as peasants on imperial estates and in villages addressed the emperor through *libelli*, which differed from epistles in that they contained no expressions of greeting and were usually headed with some such formula as 'to the emperor X a request from Y'.¹⁹

Besides the four epigraphic texts listed above, Wilcken identified as imperial subscripts a group of documents found in the papyri, although the formal elements were by no means so fully preserved in their case.²⁰ True, the papyrus texts lacked any word of greeting after the names of the addressees or of farewell at the end, but the absence of such formulae in papyri was not conclusive, because they were also omitted from texts which could be shown to be those of epistles.²¹ It was the method of publication by display in a public place which showed that they must be subscripts. Eight of the texts known to Wilcken ended with a formula recording that they had been posted up at Alexandria at various dates in Severus' eighth regnal year (199/200),²² and it was a reasonable assumption that similar texts of the same emperor, which bore the same date but lacked the publication formula, had in fact been published in the same way but that the full formula had been omitted by copyists.²³ In his original paper Wilcken suggested that these subscripts were posted at Alexandria after being forwarded from Rome,²⁴ but, after he had accepted Hasebroek's new dating of Severus' Egyptian visit to the very winter of 199–200,²⁵ he recognized that they had been posted up at Alexandria because that was the emperor's residence at the time of issue.²⁶

It is this group of subscripts of Severus published during his Egyptian visit which has been increased from 13 to 25 by the publication of *P.Columbia* 123. It is clear that the *apokrimata* of this papyrus are subscripts for three reasons: they were posted up and not delivered to the addressee;²⁷ no word of greeting is found in the texts; and the replies are very curt and brief, a characteristic of imperial subscripts rather than of epistles. The aim of this paper is to use this additional evidence, as well as a fresh study of the epigraphic texts, to investigate imperial methods of handling petitions and petitioners. The papyrus texts add to our knowledge because they illustrate what happened when subscripts were issued at places other than Rome. Furthermore, since the Columbia papyrus probably contains all the subscripts which were posted on three successive days, we have for the first time something in the way of a random sample of imperial pronouncements of this type, so that questions about the amount of imperial business and the speed with which it was despatched can reasonably be asked.

¹⁸ Not only Pliny in the private letters of Book 10, but also Aurelius Horion of Alexandria in 200 (*P.Oxy.* iv, 705 = Wilcken, *Chrestomathie* 153 and 407). For a list of imperial epistles to private individuals, see note 63 below.

¹⁹ See *IGBulg.* iv, 2236, ll. 8–11, and *CIL* iii, 14191, ll. 5–9 (see nn. 12–13). *Coloni* addressed the emperor in the documents cited in note 10, and villagers in those just cited.

²⁰ *Reskripten* 21–27.

²¹ e.g., Severus' own epistles to Aurelius Horion (cited in n. 18); see *Reskripten* 24.

²² The formula is *προετέθη ἐν Ἀλεξανδρείᾳ ἡ' (ἔτους)*, and is to be found in *P.Amherst* 63, ll. 6 and 11–12, *BGU* 267, ll. 13–14 = *P.Strassburg* 22, l. 9, *P.Flor.* 382, l. 4, and *P.Oxy.* 1405, ll. 12–13, and, without the regnal year, in *P.Flor.* 382, ll. 15–16 and *P.Oxy.* 1020, ll. 6 and 8.

²³ viz., *BGU* 473, *P.Oxy.* 899, verso, ll. 18–21, *P.Flor.* 382, 17–23 and 24–26. At the end of the text in *P.Flor.* 382, 11–12, neither date nor declaration of publication is to be found, but, since it is preserved with a series of five subscripts, it is reasonable to assume that it is also a subscript, and, in view of traces of Severus' name in l. 10, that it was issued at the same date and place as the others.

²⁴ *Reskripten* 22.

²⁵ J. Hasebroek, *Untersuchungen zur Geschichte des Kaisers Septimius Severus* (Heidelberg, 1921), 118–124.

²⁶ In *ZRG* xlii (1921), 138, n. 2; *APF* vii, 84–5, and ix, 21–2. In *APF* vii, 84, n. 2, Wilcken suggested that the subscript preserved in *BGU* 473 might have been issued at a *conventus* held in the Thebaid and that in l. 10 of this text the emperor was referring to his being 'on the frontier' of the Empire (τοιγαροῦν ἐπιτέρμου (ἐν ἐπιτερίῳ Wilcken) χώρα καθιστο[—]). However, the subscript in *P.Oxy.* 1405 was published at Alexandria in the same month, Pharmouthi (l. 13), as *BGU* 473 (l. 12), and it seems unlikely that the imperial court would have got from Alexandria to the Thebaid in a period of at most some three weeks. The date of the subscript in *P.Strass.* 22, l. 9, would show that Severus was still at Alexandria on 24 Pharmouthi, but a much earlier date for the same text is found in *BGU* 267 (see below).

²⁷ *P.Col.* 123, ll. 1–3: ἐν Ἀλεξανδρείᾳ ἀντίγραφα ἀποκριμάτων (προ) τεθέντων ἐν τῇ στοᾷ τοῦ γυμνασίου ἡ' (ἔτους) Φαιμενώ 1η'. The word 'apokrima' itself is a general term for a decision, not a precise translation of 'scriptio': see Schiller, *Apokrimata* 42–45.

It may be as well at this point to list the papyri concerned and briefly to describe their contents.²⁸

- (1) *P. Columbia* 123²⁹ contains thirteen subscripts on a variety of subjects: five were posted on Phamenoth 18, four on Phamenoth 19 and four on Phamenoth 20 (March 14–16, 200). No. 2 (ll. 8–10) is a better preserved text of the same subscript as that in *P. Amherst* 63, ll. 4–6.
- (2) *P. Amherst* ii, 63 (= Bruns, *Fontes Iuris* 7 88 = Mitteis, *Chrestomathie* 376) contains two subscripts, the texts of which are so damaged that the contents cannot be restored. The first, published on Phamenoth 18, is the same as *apokrima* 2; the second was posted on Phamenoth 24 (March 20).
- (3) *P. Flor.* iii, 382, a republication of *P. Flor.* i, 57, contains five subscripts on the immunity from liturgies enjoyed by men over seventy, as well as a subscript of Caracalla on the same subject published at Alexandria in January 216 (ll. 5–9). The first subscript was posted on Mecheir 27 (February 22, 200), the fourth and fifth on Hadrianos 21 (December 18, 199).
- (4) *P. Oxy.* vi, 899, *verso*, ll. 18–21. This papyrus contains a series of documents concerned with the immunity of women from the obligation to lease domain land: this was probably the subject of the subscript, the text of which is almost entirely lost. It was posted on Pharmouthi 18 (April 13, 200).³⁰
- (5) *P. Oxy.* vii, 1020 (= Meyer, *Juristische Papyri* 17) contains two subscripts on the right of minors to have suits in which they were involved while under age heard again (*restitutio in integrum*); the dates are not preserved.
- (6) *P. Oxy.* xii, 1405, ll. 1–13 (= Abbott and Johnson, *Municipal Administration* no. 185) contains a single subscript on the right to surrender one's property to the nominator to escape a liturgy (*cessio bonorum*); it was posted during Pharmouthi (March–April).
- (7) *BGU* ii, 473 (= Bruns, *Fontes Iuris* 7 91 = Mitteis, *Chrestomathie* 375)³¹ contains another subscript on *cessio bonorum*, also posted in Pharmouthi.
- (8) *BGU* i, 267 (= Bruns, *Fontes Iuris* 7 87 = Hunt and Edgar, *Select Papyri* ii, 214 = *FIRA* i², 84a) and *P. Strassburg* 22, ll. 1–9 (= Bruns, *Fontes Iuris* 7 192 = Mitteis, *Chrestomathie* 374 = Meyer, *Juristische Papyri* 54 = *FIRA* i², 84b) both contain texts of the same subscript on the immunity from suit acquired through the unchallenged occupation of land or of moveables for specified periods of time (*longi temporis praescriptio*). Besides minor differences in wording,³² there is a major discrepancy between

²⁸ Two papyrus texts are omitted from this list, because it is not certain that they contain subscripts. The first, *P. Berol.* 7346 (published by H. Frisk, *Aegyptus* ix (1928), 281–4 = *SB* 7366), was issued at Alexandria on 4 March, 200, and the fragmentary text resembles a subscript in several respects, but it is described as an ἀπόφασις τῶν κυρίων (ll. 19–20), a term which is used elsewhere to describe an imperial *decretum* issued at the end of a court case (e.g., *P. Tebtunis* 286 = *FIRA* iii, 100, ll. 11, 17 and 24). The second papyrus is *P. Corn. inv.* i, 76, published by N. Lewis, *BASP* vi, 17–19. It contains the text of a petition to which was prefixed the texts of two pronouncements of Severus and Caracalla; in the light of the use of subscripts as precedents by other petitioners in the papyri to be discussed below it is probable that these were in fact subscripts issued in 199–200. However, since the addresses and final formulae of both decisions are lost, one cannot be certain that they may not have been edicts, epistles or *decreta*, nor that they were issued at Alexandria during the emperors' visit.

²⁹ First published by W. L. Westermann, with legal commentary by A. A. Schiller, in *Apokrimata: Decisions of Septimius Severus on legal matters* (New York, 1954), a text which was reproduced as *Sammelbuch* 9526. Important revisions were made to the text by H. C. Youtie, with revised commentary by Schiller, in 'Second Thoughts on the Columbia *Apokrimata*', *CE* xxx (1955), 327–345 (this article will be referred to hereafter as *Second Thoughts*); this revised text was reproduced by E. Schönbauer,

AAWW 1957, 167–8. The dates are the result of new readings by Youtie: 19' at the beginning of l. 21 and κ' at the beginning of l. 40; for the first date see the lines quoted in note 27.

³⁰ See *P. Oxy.* vi, pp. 225–6. The editors do not publish a continuous text of the *verso* because it is so damaged, but only quote the legible lines. The lines preceding the imperial titlature contain a petition from one Herakleia of A.D. 201, claiming immunity from γεωργία (the *recto* (= Wilcken, *Chrest.* 361) is much better preserved and contains a similar petition of 200 from a woman named Apollonarian). L. 18 of the *verso* reads Αὐτοκράτωρ Καίσαρ Λούκ. Σεπτίμ. Σεουήρος Εὐσεβ. and line 21: γυναιξίν δικαίως παραιτήσεως, followed by the date: η' Φαρμοῦθ. ιη'.

³¹ Revisions of Wilcken's original text were proposed by Mitteis both in Bruns⁷ and in *Chrestomathie*. Further restorations were proposed by Wilcken himself in *APF* vi, 421, and these are reported by Riccobono, *FIRA* i², 396. Above all Wilcken withdrew his restoration of a final greeting, ἔρωσο, after the date in l. 12, when he recognized that the text was not an epistle but a subscript: *Reskripten* 22. This restoration stands in all the texts listed above and is translated in A. C. Johnson and others, *Ancient Roman Statutes* (Austin, 1961) no. 271.

³² The only one of significance is that between βεβαιούται in l. 12 of *BGU* 267 and βοηθούται in l. 7 of *P. Strass.* 22: the latter makes no grammatical sense and the former must be the correct text.

the dates of posting recorded by the papyri: the Berlin text has Tybi 3 (December 30, 199), the Strassburg text Pharmouthi 24, over three months later (April 19, 200).³³

This paper will attempt to modify or extend Wilcken's conclusions in four areas: (1) the origins of the papyrus copies and the extent to which the subscripts they preserve may be treated as a random sample of this type of imperial constitution; (2) the delivery of petitions from provincials to the emperor; (3) the system of publication by posting outside the imperial residence and the making of copies by the petitioners; (4) the language of composition of the petitions.

(1) *The origins of the papyrus copies of the subscripts*

The fact that two of the subscripts issued at Alexandria by Severus survive in two different copies shows that they circulated widely in Egypt.³⁴ They also remained in circulation for a considerable period: the Florence papyrus dates from 222/3³⁵ and *P.Oxy.* 1405 probably belongs to the second quarter of the third century.³⁶ Other papyri contain references to imperial decisions which certainly included some of these subscripts. For example, the 'divine instructions' to which a man making a *cessio bonorum* in 250 appealed presumably included the subscripts of *P.Oxy.* 1405 and *BGU* 473.³⁷ 'Divine instructions' were also referred to during a hearing before a *strategos* in 232,³⁸ and the subscript on *longi temporis praescriptio* probably counted as one of these.

These last two documents reveal the motives for the production of all but two of the texts listed above: the subscripts were quoted as precedents for a legal principle by persons who were submitting petitions to the authorities or engaged in lawsuits. The Florence papyrus contains a petition from one Aurelius Heron to the Prefect Aedinius Iulianus, c. 222/3, claiming immunity from liturgies because he was over 70: he prefaced his petition with six imperial subscripts and in the petition itself he repeatedly refers to these 'divine instructions'.³⁹ In *P.Oxy.* 1405 the text of the subscript is placed at the head of a petition from one Aemilius Stephanus to the *strategos* of the Oxyrhynchite nome: he had learnt that he had been nominated collector of money-taxes in a village and he announced that he was ceding his property to the nominator 'in accordance with the prefixed divine order.'⁴⁰ The other subscript on the cession of property is likewise prefixed to a petition to a *strategos* in *BGU* 473, and in the fragmentary text of the petition the words 'of the divine instructions' occur.⁴¹ The subscript found in ll. 18-21 of the *verso* of *P.Oxy.* 899 was clearly one of the precedents marshalled by the petitioner Herakleia in support of her claim of immunity from the obligation to cultivate royal land.⁴²

In the case of three other papyri the evidence is not so clear but it is likely that they were intended for use in petitions or lawsuits. The two subscripts of *P.Oxy.* 1020 are preceded by two damaged lines from the end of another document. Meyer suggested that the second of these lines was a note added by a *strategos* to the text of a petition, which referred the matter to an *epistrategos*,⁴³ and this suggestion is a plausible one in view of the similar documents described above. If it is correct, then the subscripts were quoted by the petitioner in support of his claim. *P.Strassburg* 22 contains, in addition to the imperial subscript, two excerpts from hearings before Prefects in 90 and 207 in which similar topics were at issue.⁴⁴ Once again the parallel documents make it probable that this collection of

³³ A possible explanation of the discrepancy will be suggested in section 4.

³⁴ viz., *P.Amh.* 63, 5d6 = *P.Col.* 123, 8-10, and *BGU* 267 = *P.Strass.* 22, 1-9.

³⁵ The petitioner did not reach the age of 70 until 20 June, 222 (l. 78), and the Prefect addressed by him, Aedinius Iulianus, is not recorded after 223 (Reinmuth, *BASP* iv (1967), 113).

³⁶ The petition it contains is addressed to a *strategos* mentioned in another papyrus which Grenfell and Hunt dated to between 220 and 256 (*P.Oxy.*, vol. xii, p. 1).

³⁷ *CPR* 20 = Wilcken, *Chrest.* 402, col. i, l. 15: ὑπάρχει ἐκ τῶν νόμων καὶ τῶν θεῶν διατάξεων.

³⁸ *P.Par.* 69 = Wilcken, *Chrest.* 41, col. iii, ll. 20-21.

³⁹ *P.Flor.* 382, ll. 29-30, 34-5, 43-4, and 55.

⁴⁰ *P.Oxy.* 1405, l. 25: κατὰ τὴν προκειμένην θέσιν [διόταξις].

⁴¹ *BGU* 473, ll. 13-14 and 15. The text is probably that of a petition to a *strategos* rather than that of a letter from the *epistrategos* to the *strategos* (as Wilcken originally suggested, *BGU*, vol. ii, p. 129), because of the parallel cases already discussed, and especially *P.Oxy.* 1405.

⁴² See note 30, and compare the report of a lawsuit of 154/5 quoted by Apollonarian in her petition (*P.Oxy.* 899, *recto*, ll. 20-32); she presumably did not have the imperial subscript available because she was writing in 200.

⁴³ *Juristische Papyri*, no. 17. L. 2 reads -- -- τῷ ἐπιστρατήγῳ ἔντι[χει].

⁴⁴ In fact an advocate speaking before Subatianus Aquila in 207 probably refers to the imperial subscript, l. 18: διατάξεις εἰσὶν τῶν κυρίων.

precedents on a point of law had been made for an immediate practical purpose, and not simply as a memorandum.⁴⁵ In the case of *BGU* 267, which is another copy of the same subscript, the imperial titulature in l. 1 is preceded by only 3 surviving letters, so that the context of the copy cannot be recovered; it is, however, reasonable to assume that it too was produced to provide testimony for a legal principle to which the copyist hoped to appeal.

The subscripts preserved in the papyri just discussed do not represent a random sample of Severus' replies to petitioners. They were preserved only because they contained authoritative precedents which could be used by interested parties to illustrate rules of private or administrative law. Imperial constitutions would of course be especially prized as supremely authoritative, provided that examples could be found which were applicable in the peculiar conditions of Egypt. By the Severan period the emperors had come to offer what has been called 'a scheme of free legal aid'⁴⁶ for their humbler subjects by means of their replies to petitions, so that it was in imperial subscripts that useful rulings on questions of private or administrative law were most likely to be found. It will be argued in the next section that very few such subscripts were normally available for inspection by residents in the provinces. Severus' activity at Alexandria provided a rare source of such precedents which applied to Egyptian conditions, and this explains why so many subscripts from one short period have been preserved in the papyri. Suitable precedents have therefore been 'winnowed' from the total body of subscripts issued by Severus, so that this group of imperial decisions has been subjected to the same process of selection as those preserved in the Code.

The process of transmission between the publication of the subscripts in 199–200 and their incorporation in petitions of 222–3 and later is entirely obscure. It will be shown in section 3 that we cannot even be certain that copies of the subscripts remained in the Prefect's archives after the court's departure from Alexandria. If texts were available in those archives, the particular subscripts cited could have been discovered and copied shortly before the petitions were presented or the lawsuits started. It seems likely that this would have been done, not by the petitioners and litigants themselves, who would be inexperienced in such matters, but by the scribes who made a profession of copying official documents for the public in Egypt.⁴⁷ If texts of the subscripts were not available in Egypt after Severus' departure, then the copies made for petitioners or litigants must have derived from copies taken by private persons while the subscripts were on display at Alexandria. One can envisage the professional copyists taking advantage of the rare opportunity offered by the emperor's visit to make collections of useful precedents on the sorts of topics which recur in papyrus petitions, such as immunities from liturgies. The existence of such collections would explain how the elderly petitioner of the Florence papyrus was able to marshal such an array of imperial rulings.

The preservation and circulation in Egypt of copies of imperial subscripts in this second way would also help to explain why the two remaining papyri were produced. Neither of them can have been prepared for the use of a petitioner or litigant, because they contain decisions on disparate topics, but they might well be copies made in 199–200 while the subscripts were on display in order to provide a record of decisions which might turn out to be useful precedents but would not be available in the Prefect's archives later. The Amherst papyrus remains a puzzling text, containing as it does only two subscripts posted six days apart, the first of which is simply an order from the emperor to comply with decisions already arrived at. The second decision was a longer and presumably more substantial one, because there seems no good reason why anyone should copy two orders to comply with earlier decisions.⁴⁸ There is nothing to show why these two subscripts should have been copied together.

⁴⁵ As suggested by Riccobono, *FIRA* i², p. 439, and by Schiller, *Apokrimata* 99, n. 137.

⁴⁶ By A. M. Honoré, *SDHI* xxviii (1962), 164.

⁴⁷ The best evidence for the existence of such professional copyists and hunters out of precedents is an account of c. 150 from Oxyrhynchus (*P.Oxy.* 1654). It gives details of payments to νομογράφοι for carrying out a search in the υπομνηματισμ(ού)ς β' τοῦ ἀρχιδικαστοῦ (l. 9) and for copying documents

(l. 3). Most striking of all is a payment to a 'researcher in the Prefect's archive', ἀρέτης ἡγεμονικῆς βιβλιοθηκ. (ll. 5–7), who has no parallel. However, the debate over whether the νομογράφοι were notaries in private practice or state officials is unresolved: see *RE Suppl.* vii, cols. 575–7.

⁴⁸ The first subscript is the same as *apokrima* no. 2, but the text of the papyrus is too damaged to allow a reconstruction of the contents of the second.

On the other hand, the hypothesis of a copy made, not for an immediate and precise purpose, but as a record of decisions which would not be permanently available for a professional collector of precedents, would provide a plausible explanation for the Columbia papyrus, now that it has been established that it contains subscripts posted on three successive days.⁴⁹ The first editors, believing that all thirteen subscripts had been published on the same day, supposed that they were a selection from a larger number posted on that day, and considered various principles according to which the scribe might be supposed to have made his selection. All were rejected by Schiller, who suggested that the scribe had copied all the texts published on a single day to get examples of the language used by the imperial chancery.⁵⁰ After the publication of the revised text, Schiller repeated this view and D'Ors also held that this was a copy of the contents of the 'liber libellorum rescriptorum' over the three days.⁵¹ This view would mean that the papyrus contains all the subscripts published during the three days. Since no obvious principle of selection can be discerned, this is the most probable explanation, even though it cannot be established beyond all possibility of doubt. Schiller rejected Westermann's suggestion that the papyrus was produced as a memorandum of possible precedents, for three reasons: four of the decisions would be useless as precedents, others would be difficult to understand without the texts of the original petitions, and the very large number of subscripts which must have been posted during Severus' visit made it difficult to believe that anyone would have got a copy made of just three days' output. However, this copy *was* made and has to be explained. The words of the heading itself, ἀντίγραφα ἀποκριμάτων (προ)τεθέντων ἐν τῇ στοᾷ τοῦ γυμνασίου, imply that the text was a copy taken from the subscripts on actual display and not from an archive.⁵² One can imagine a collector of precedents who got a scribe to take copies for him of each day's output as it was posted, from which he might later cull any useful decisions; this might have been done only for a short period during which the collector was not able to select the valuable ones for himself. This is of course pure conjecture, but the existence of the Columbia papyrus must be connected in some way with the practice of collecting precedents which was so common in Egypt.

If this papyrus did contain all the subscripts posted on three successive days, then it provides unique evidence for an emperor's daily work-load. On the basis of the three totals (5, 4, 4) one can suggest that the daily average of petitions dealt with was four or just over, which would yield an annual total of nearly 1,500 subscripts. Granted that questions of private law were dealt with in only a fraction of the total number of subscripts, and remembering that not all the constitutions included in the Code were subscripts, this total would easily accommodate the numbers of dated constitutions of each year of the Severan period as worked out by Honoré.⁵³ It would, for example, accommodate the 10 of 200 itself, and even the highest totals, 71 in 213 and 100 in 223. Yet this level of daily work could be handled by an emperor in person, without his turning over the actual decisions, as against the drafting of a written text, to his *a libellis*, even though dealing with petitions was only part of the emperor's regular business, along with hearing cases on his tribunal and answering letters from officials and cities.⁵⁴

Something of the character of the business transacted as a result of receiving *libelli* can also be established from the pattern over these three days. It has been widely stressed that the juristic sources give a wholly misleading impression of the proportion of time devoted by the emperor to matters of private law as opposed to administrative matters. While 71 per cent of rescripts in Honoré's random sample from the Code were 'undeniably addressed to private persons about their private affairs', as many as 5 out of the 13 *apokrimata* may be classified as being concerned with questions of administration rather than of private law.⁵⁵ These are numbers 1, which concerns an imperial remission of penalties, 6, decisions arising from official inspections, 9, exemption from liturgies, 10, the payment of

⁴⁹ See notes 27 and 29 above.

⁵⁰ *Apokrimata* 99-101.

⁵¹ Schiller, *Second Thoughts* 345; A. D'Ors, *Symbolae Taubenschlag* (= *Eos* xlviii (1956)), vol. iii, 85-6.

⁵² cf., 'descriptum . . . ex libello proposito cum aliis', *PSI* 1026 = *CIL* xvi, 13 = *CPapLat.* 117 = Smallwood, *Documents of Nerva*, etc. 330, l. 1.

⁵³ 'The Severan Lawyers: a preliminary survey', *SDHI* xxviii (1962), 162-232, and especially 168-70.

⁵⁴ See F. Millar, *JRS* lviii (1967), 17.

⁵⁵ Honoré, *art. cit.*, 174. The point was made by Schiller, *Apokrimata* 48-9, and by F. Pringsheim, *Symbolae Taubenschlag* vol. i, 237.

taxes in kind, and 11, complaints about the misconduct of an official and a tax-farmer. Two of the others are simply orders to comply with decisions already handed down (nos. 2 and 3). Six decisions belong to the field of private law: numbers 4, the sale of mortgaged property, 5, borrowing by women, 7, the inheritance of a priesthood, 8, the dispossession of *heredes scripti* under an allegedly forged will, 12, the fulfilment of a contract of sale, and 13, a problem arising from the guardianship of orphans.

It is noteworthy that the balance would be tipped more to the administrative side if the other papyrus subscripts were taken into account. There are 12 of these, 8 of which come under the heading of administration; indeed all are concerned in one way or another with liturgies (the five from the Florence papyrus, and the individual ones from *P.Oxy.* 899 and 1405 and from *BGU* 473). The text of the second decision in the Amherst papyrus is damaged and it cannot be classified. Only 3 decisions involve rules of private law, two the right of minors to *restitutio in integrum* (*P.Oxy.* 1020) and one the principle of *longi temporis praescriptio* (*BGU* 267 = *P. Strass.* 22). One may conclude that a more reliable estimate of the proportion of the emperor's attention devoted to petitions of either kind can be got from the Columbia papyrus than would be possible if we had to rely either on the Code or on the other papyri. It is a reasonable assumption that the preponderance in this latter source of administrative decisions about immunity from the performance of liturgies reflects one of the main anxieties of the population of Egypt during the decades after Severus' visit (although the total is swelled by the survival of one petition preceded by six such decisions).

(2) *The delivery of petitions to the emperor*

In 1920 Wilcken took the subscripts of Severus published at Alexandria in 199–200 as evidence of the existence of a procedure whereby provincials who wished to submit petitions to the emperor could have them forwarded to Rome as a matter of course; the petitions with the imperial subscripts attached were returned to the governors for publication at their capitals (in Egypt at Alexandria), just as petitions handed in to the emperor directly were published outside the imperial residence.⁵⁶ Wilcken implied that the governors were required to forward such petitions, and that to do so was not an especial act of grace on their part. He took the concentration of so many replies published in a short period at Alexandria as evidence of a continual stream of documents being sent from the Prefect to the emperor and back again. The returning petitions with subscripts must have been accompanied by covering epistles from the emperor, and, after the period when the former were on public display, both epistles and *libelli* would be attached to large composite rolls and stored in the Prefect's archives. Wilcken detected a record of such a composite roll in *P.Hamburg* 18, ii, 1.6 (of 220/1): συνκολ(λῆσιμον) αὐθ(εντικῶν) ἐπιστολ(ῶν) καὶ βιβλ(ιδίων) ὑποκεκολ(λημένων). The term 'original' applied to the texts of both the epistles and the petitions, and the two kinds of document must go closely together because they were included in the same roll; furthermore the epistles were presumably from the emperor, because the *original* texts of epistles sent out by the Prefect himself would hardly be kept in the Prefect's archives.⁵⁷

The main evidence for the existence of the system envisaged by Wilcken was removed when it turned out that the group of Severan subscripts was the product of Severus' own residence at Alexandria, as Wilcken conceded. He still maintained, however, that there had been a system under which governors acted as 'post-boxes' for provincial petitioners.⁵⁸ Because his general account of the *libellus* procedure has rightly been accepted, the existence of such a system has also come to be taken for granted.⁵⁹ The aim of this section is to show that there is no good evidence for its existence, and that what evidence there is suggests that

⁵⁶ See the passages cited in nn. 24 and 26.

⁵⁷ *Reskripten* 24–6. Even so, such epistles could be those addressed to the Prefect by people other than the emperor, and it would make good sense if both epistles from persons of higher status and petitions from humbler provincials were filed together. Other scholars held that the epistles were the Prefect's own (see the references in *RE*, s.v. 'libellus', col. 43).

⁵⁸ See nn. 25–26.

⁵⁹ See, for example, *RE* s.v. 'libellus', col. 38; Honoré, art. cit., 164 and 177; A. N. Sherwin-White, *The Letters of Pliny* 716–7 (but see his remarks in *Roman Civilization*, ed. J. P. V. D. Balsdon, 91, 'the only redress available to the ordinary man . . . lay in the submission of a written petition to the Emperor himself. This too involved difficulty and expense in dispatching the petition to Rome, unless a friendly official allowed them the use of the imperial postal service').

petitions had to be delivered to the emperor *in person*, by the petitioner or an agent,⁶⁰ in the case of a single individual, or by a delegate, in the case of groups or communities.⁶¹ The other evidence adduced by Wilcken, apart from the Severan subscripts, will be discussed first, and then the general arguments which make it unlikely that there ever was such a system.

Wilcken based his continued belief in his hypothesis on one piece of evidence, *P.Oxy.* 1405, ll. 1–8. This is a papyrus of the late third century which contained texts of at least four imperial constitutions. Since only the far right ends survive of lines which were of great length, the contents of these documents cannot be recovered. It was with the last three lines of this first text that Wilcken was concerned:

6]γτο ταῦτα καὶ ἡμεῖς σοὶ ἐπικουροῦ-
7 [ΜΕΝ]Νουμμίω Τούσκω καὶ Μουμμίω
8 [Βάσσω ὑπάτοις — ἀπὸ Νέ]ας πόλεως ζ' (ἔτους) Φαῶφι ιζ'.

Grenfell and Hunt interpreted these lines in the following way: the words ἡμεῖς σοί in l. 6 show that this was a rescript issued to an individual during a joint reign, and the document is dated in l. 8 by the names of the ordinary consuls of 258, so that this must have been a rescript of Valerian and Gallienus. In that case the Egyptian date in a seventh regnal year in l. 8 is 14 October, 259, and they suggested that this was the date of the rescript's publication at Alexandria, at least 9½ months after its original composition.⁶² Wilcken accepted this interpretation and used it to confirm his own hypothesis. He held that this was the text of a subscript issued by the emperors at Naples some time in 258 in response to a petition forwarded to them by the Prefect, and returned to him for publication at Alexandria, which did not occur until October 259.

This damaged text is, for several reasons, a flimsy basis on which to base such a hypothesis. (1) The consular date in ll. 7–8 is not necessarily being used to date the whole text: since the lines of the papyrus were of great length, and it was thus separated from the end of l. 8 by several words, it may have been used to date an event referred to in the last sentence of the rescript. (2) According to Wilcken's interpretation, a reader was expected to perceive from the text both that the consular date and the place name, although separated by several words, were to be taken closely together, and that the Egyptian date immediately next to the place name was to be taken as the date of publication *at a different place* (presumably the reader was expected to supply προετέθη ἐν Ἀλεξανδρείᾳ between the place name and the second date out of his own head). (3) The restoration of the place name is highly conjectural, with only one secure letter, sigma, before πόλεως. Nor was Naples the only Neapolis in the empire, as Grenfell and Hunt observed, and there was of course a Neapolis near Alexandria itself. (4) The text is not necessarily that of an imperial subscript in response to a petition, but could equally well be that of an epistle in reply to an epistle, even if it was addressed to a private individual who had made some request, as the words ἡμεῖς σοὶ ἐπικουροῦ[μεν] suggest: private individuals of sufficiently high social status did receive epistles from the emperors.⁶³ The fact that the place-name was in the genitive makes it likely that this was an epistle, because imperial epistles in Greek often end with ἀπὸ and a place-name in the genitive;⁶⁴ in subscripts, on the other hand, the place of publication was given in the locative in Latin and this was rendered by ἐν and the dative in Greek.⁶⁵ The

⁶⁰ e.g., *P.Col.* 123, l. 13: Κλ.[...]δῖς τῷ καὶ Μίδω δια Φιλοκράτους υἱοῦ; l. 18: ...[.]θαλυγῆ Ἀμβρόηλου δια Ἀβρομάνχου υἱοῦ; l. 52: [Ισι]δῶρω τῷ καὶ Ἡρακλ[εῖδ]η [δῖα Ἀ]πολλων(Ι)ου; *P.Oxy.* 1020, l. 7: Προκόνδῃ Ἐρμαίου δι' Ἐπαγάθ[ο]ν ἀπελευθέρου; *BGU* 267, l. 6: Ἰουλιανῆ Σω[σθ]εμῖανου διὰ Σωσθένου ἀνδρός.

⁶¹ e.g., *FIRA* i², 103, iv, ll. 3–4, 'Lurio Lucullo et nomine aliorum', and *FIRA* i², 106, iv, ll. 1–2, 'vikanis per Pyrrum mil. conpossessorem'; for no. 107, see n. 87 below.

⁶² They cited as a parallel the edict of Caracalla from *P.Giess.* 40, ii, ll. 1–15 (see note 5 above), which was published at Alexandria seven months after its publication at Rome.

⁶³ Severus received epistles from Aurelius Horion of Alexandria (*P.Oxy.* 705; see n. 18), and Wilcken

himself showed that these were epistles, *Reskripten* 24. Other examples of imperial epistles to private individuals in the provinces are Nero's to Menophilus of Aizanoi (*OGIS* 475), Trajan's to Claudianus of Pessinus (W. H. Buckler, *RPh* 63 (1937), 105–111), Caracalla's to Aurelius Iulianus (*Syll.*³ 883) and Gordian III's to Aurelius Epaphras of Aphrodisias (Erim and Reynolds, *JRS* lix (1969), 56).

⁶⁴ e.g., E. M. Smallwood, *Documents of Nerva, Trajan and Hadrian*, no 61, l. 16; no. 73, l. 15; no. 453, ll. 19–20; *IGRR* i, 146, l. 14; 149, l. 11; iv, 575, l. 12.

⁶⁵ e.g., *FIRA* i² 82, l. 9, 'Romae'; 106, col. i, 'Romae'; the Greek form is found in several of the Severan subscripts, see n. 22 above.

only direct piece of evidence for the system envisaged by Wilcken cannot therefore be accepted as adequate proof of the system's existence. Since there is no direct evidence, one is thrown back on general arguments from probability and such arguments make it very improbable that there was such a system.

First, there is the *argumentum ex silentio*: if governors in the second and third centuries had regularly been forwarding large numbers of petitions from provincial subjects to the emperors, one would expect *some* reliable direct evidence of this traffic to have survived.⁶⁶ In view of the paucity of information about the *libellus* procedure, this is perhaps not a very strong argument, except that there is one source where the absence of such evidence is striking, Pliny's correspondence with Trajan.

Pliny on several occasions forwarded documents described as *libelli* to the emperor, but, with one exception, these did not contain requests or petitions addressed to Trajan by individuals.⁶⁷ The Roman colonists of Apamea set out their objections to having their accounts inspected by Pliny in a *libellus* at Pliny's request, and Pliny enclosed this submission for Trajan's information when he wrote to ask for guidance.⁶⁸ In the case of Flavius Archippus, charged with being a runaway convict, Pliny wrote one letter to Trajan to ask for advice. This evidently became known to Archippus, because Pliny forwarded with a second letter, at Archippus' request, the *libellus* which Archippus had already submitted to Pliny setting out his side of the case; Pliny had felt bound to inform the accuser and so had a *libellus* of hers to forward as well.⁶⁹ In a dispute involving Dio of Prusa Pliny again directed both parties to submit *libelli* summing up their cases, after he had decided to consult Trajan: 'dixi utrique parti ut postulationum suarum libellos darent'.⁷⁰ In these three cases the *libelli* are not petitions but written submissions or memoranda. In another case Pliny did forward at the request of Nicaea a *libellus* which contained the 'preces' of that city.⁷¹ Cities normally addressed the emperor in *epistulae* not *libelli*, so that this is a very unusual use of the word and Pliny may not have been using it technically: in that case Nicaea may have sent an epistle. It is noticeable that Pliny did not regard the use of the *cursus publicus* for this purpose, even at the request of one of the great cities of his province, as a matter of course: he thought it was not right to refuse because the Nicaeans had asked in the name of what he held most sacred, 'id est per aeternitatem tuam salutemque'. It did become standard practice for governors to forward the epistles of cities in subsequent reigns.⁷²

The exception mentioned above is a petition from a centurion, P. Accius Aquila, asking for a grant of Roman citizenship for his daughter.⁷³ That Pliny should have forwarded a petition addressed by a centurion to an emperor notorious for his concern for the welfare of his soldiers can scarcely be taken as evidence that he would do so for ordinary provincials, much less that there was a regular system for forwarding petitions. A similar case to that of Aquila is to be found in the newly-published 'Tabula Banasitana'. Successive procurators of Mauretania forwarded to Marcus Aurelius the *libelli* of a native chieftain, Iulianus of the Zegrenses, asking for the citizenship for himself and his wife and children, and of Iulianus' son, Aurelius Iulianus, on behalf of *his* wife and children. The Iuliani were not ordinary provincials but native leaders whose services deserved repayment and whose loyalty no doubt needed to be secured.⁷⁴

The second argument is that those petitions and subscripts which have survived point to the conclusion that as a rule petitions had to be delivered to the emperor in person. Sextilius Acutianus came from Smyrna to Rome, Lurius Lucullus travelled from Africa on behalf of his fellow-tenants of an imperial estate, and the villagers of Skaptopara were fortunate in having a fellow-villager who was serving in the Praetorians and could act as their agent at Rome. The *paeanistae* who petitioned Severus were themselves resident at

⁶⁶ It was shown above (p. 93 and n. 57) that *P.Hamburg* 18, ii, l. 6, which was interpreted by Wilcken as a record of his system in operation, can very well be interpreted quite differently.

⁶⁷ As was recognized by Wilcken, *Reskripten* 20, with n. 1. On the other hand, Premerstein cited Plin., *Epp.* x, 48, 59 and 81 (the last with reservations) in addition to 106 as cases of petitions delivered to the governor for forwarding to the emperor (*RE* s.v. 'libellus', col. 38).

⁶⁸ Plin., *Epp.* x, 47.

⁶⁹ *ibid.* 58-59.

⁷⁰ *ibid.* 81, 5.

⁷¹ *ibid.* 83.

⁷² See Williams, *Historia* xvi (1967), 475 ff.

⁷³ Plin., *Epp.* x, 106; presumably the girl's mother was a peregrine (see Sherwin-White, *The Letters of Pliny* 715).

⁷⁴ Published by W. Seston and M. Euzennat, *CRAI* 1971, 468-90; see ll. 6-9, and 17-19, and Sherwin-White, *JRS* lxiii (1973), p. 86. ff.

Rome.⁷⁵ Likewise the large number of subscripts which survived from the period of Severus' visit to Egypt suggests that the provincials must have been taking advantage of an opportunity not usually open to them: if there was a regular system of forwarding petitions to Rome, they would not have needed to do so.

Thirdly, if the theory that petitions normally had to be delivered in person is correct, it follows that the great majority of petitioners must have come from areas with easy access to the emperors' usual residence, Rome, and that therefore most petitioners were Latin-speaking. This provides an explanation of two facts: first, that the mass of subscripts preserved in the Code are in Latin, unlike the imperial epistles preserved in the Digest, some of which are quoted by the jurists in the original Greek;⁷⁶ second, that it was not felt necessary to divide the office of the *a libellis* into two departments, Latin and Greek, as was done with that of the *ab epistulis*.⁷⁷ As a rule Greek petitions can have formed only a small fraction of the total presented to the emperor so that such a division must have appeared unnecessary, and subscripts to petitions in Greek as well as in Latin were issued in Latin at Rome,⁷⁸ although translations may have been provided of those published at Alexandria, as will be seen in section 4. The position of Greek-speaking petitioners was very different from that of the Greek cities with which the office of the *ab epistulis* was concerned: correspondence with the latter was a form of diplomacy with what had once been sovereign states, whereas the humble status of the latter meant that the imperial government had no reason to consult their convenience and go out of its way to use their language.

Fourthly, if Wilcken's theory were correct, one would have expected the tenants of the *Saltus Burunitanus* to have attempted to send a petition to Commodus through the proconsul or the procurator before sending Lurium Lucullus to Rome, and it would have been this *libellus* which brought down upon them the reprisals described in their petition, arrest, man-handling and flogging: 'scilic[et] eo solo merito nostro qu[od] euntes] in tam gravi pro modulo me[diocritat]is nostrae tamq[ue] manifesta [iniuria im]ploratum maiestatem tu[am] immodesta] epistula usi fuissetus'.⁷⁹ But it was in fact an epistle, not a *libellus*, which provoked these reprisals. To get an epistle sent to Rome through the *cursus publicus* they had to approach the provincial authorities, and thus their epistle came to the notice of the procurators, who were able to use as a pretext for reprisals the alleged lèse-majesté of men of their station in addressing an epistle to the emperor.

Finally, there are more general considerations of probability. It appears unlikely that the emperors would create a system which would add to the burden of the *cursus publicus*, the cost of which successive emperors had sought to curtail.⁸⁰ It is also improbable that they would restrict the governors' freedom to choose which cases to consult them about, when in their replies to the cities they so often referred the decisions back to the men on the spot.⁸¹ In imperial subscripts, for example, petitioners were frequently told to go and put their problems before their provincial governor. For Antoninus Pius the sentence 'eum qui provinciae praest adire potes' was a formula in regular use in replies to petitioners.⁸² The unfortunate villagers of Skaptopara and of Aragua, after going to the trouble of getting their petitions carried to Rome for them, received replies of this kind.⁸³ In the Code there are numerous examples, from the Severan period, of petitioners being referred back to the

⁷⁵ See notes 9–12 for references for these documents.

⁷⁶ e.g., those of Pius to the Thracian *koinon* quoted by Ulpian (*Dig.* xlix, 1, 1, 1–2) and of Alexander to the Bithynian *koinon* quoted by Paulus (*Dig.* xlix, 1, 25). These jurists were writing in Latin, so that they must have quoted the epistles in Greek because that was the language of the originals. Pius' epistle to the Asian *koinon*, quoted by Modestinus (*Dig.* xxvii, 1, 6, 2, 7 and 8), must also have been written in Greek: Modestinus' treatise was itself written in Greek but he quoted Latin texts in the original, as passages from Paulus and Ulpian in the same excerpt show.

⁷⁷ The division probably became permanently established under Marcus; see G. B. Townend, *Historia* x (1961), 373–381.

⁷⁸ For Latin subscripts to Greek petitions see the documents cited in nn. 9 and 11–13 above.

⁷⁹ *FIRA* i², 103, col. ii, ll. 15–20.

⁸⁰ e.g. Claudius (*ILS* 214), Vespasian and Domitian (*IGLS* v, 1998 = *SEG* xvii, 755, revised by N. Lewis, *RIDA* xv (1968), 135–142), and Trajan (Plin., *Epp.* x, 45–6, 64, 120–1).

⁸¹ e.g., Vespasian (*FIRA* i², 74, ll. 12–13), Hadrian (*Syll.*³ 833, ll. 10–13) and Marcus Aurelius (Heberdey, *Forsch. Ephesos* ii, 23, ll. 5–8).

⁸² *Dig.* i, 18, 8.

⁸³ *FIRA* i², 106 = *IGBulg.* iv, 2236, ll. 167–9: 'id genus querellae praecibus intentum ante . . . iustitia praesidis potius super his quae adlegabantur instructa discinge quam rescripto principali certam formam reportare debeas;' *FIRA* i², 107, ll. 3–4: 'proconsule v.c. perspecta fide eorum quae [allegas, ne] quid iniuriose geratur, ad sollicitudinem suam revocabit.'

governor or some other appropriate officer.⁸⁴ If the emperors turned away a considerable number of the petitions submitted to them in this way, it seems very improbable that they would have created a system whereby petitioners in the provinces could, in effect, post their appeals to Rome free of charge. Such a system would have had the effect of making the provincial governor 'an unnecessary wheel in the machine' so far as this area of government activity went: subjects would naturally have sent their requests direct to the supreme authority, if this cost them no more than submission to the governor did.⁸⁵

The requirement that petitions should be delivered to the emperor without any official assistance (except on rare occasions) can be explained as a necessary act of economy, if the emperor was not to be overwhelmed with business from the provinces, much of which could only be investigated by the official on the spot. In a society without a public postal service, the refusal of official assistance (i.e., of access to the *cursus publicus*) meant that petitioners had either to travel to the imperial court themselves or get someone to deliver a petition for them. There is some evidence to suggest that, when a petition was not delivered in person, only an agent with a close personal tie was acceptable to the imperial authorities as a messenger (or someone with a genuine personal involvement, in the case of a single representative of a group of petitioners). A number of the papyrus subscripts are addressed to a petitioner through another person, and in every case but one the relationship of the agent is recorded: they were husbands, sons or freedmen.⁸⁶ Likewise Didymus, the messenger of the Aragueni, is described in the subscript as the son-in-law of Eglectus, the man in whose name the petition was submitted.⁸⁷ The interest of Aurelius Pyrrus in the plea of the Skaptopareni, i.e. his status as 'compossessor' and 'convicanus', was recorded not only in the address of the subscript but also in a Latin formula inserted at the head of the text of the petition, presumably by the staff of the *a libellis*.⁸⁸ There seems to be no reason why the status of messengers should be recorded except to show that they had been screened by members of the imperial secretariat. The requirements of a personal relationship or a personal involvement with a group could have been used to deter people from arranging the bulk delivery of a large number of petitions by a hired messenger; it would also make it possible for the person present at the imperial court to be questioned further about the request.

Such strictness, even meanness, about receiving petitions may appear out of keeping with the tradition of monarchical accessibility, described at the beginning of this paper. The tradition, however, required the ruler to listen to personal appeals made face to face, but hardly to ones delivered by post or by hired messenger. In a vast empire an insistence on face-to-face appeal could be used to limit the flow of requests to manageable proportions; most provincials would have had to be content with face-to-face contact with their local governor. Of course this gave to the inhabitants of Rome and its neighbourhood what may appear to modern eyes an unfair advantage, but it was only one of many, including bread

⁸⁴ *Cod.Iust.* v, 36, 1, 1; vii, 53, 3 (references to governors); iv, 56, 1 (to the Praefectus Urbi); ii, 12, 3, 1 (to the praetor); ii, 1, 7; iv, 55, 3; vi, 3, 1; vii, 73, 4 (to imperial procurators); and v, 32, 1 (to city magistrates).

⁸⁵ The phrase is that of Jones, speaking of the fate of the vicar's court in the later Empire: it came to be by-passed, because appeals could be made directly from a governor's decision to the Praetorian Prefect, whose decisions were inappellable, whereas appeals could be made from a vicar's to the emperor (*Later Roman Empire*, Vol. 1, 374).

⁸⁶ All are quoted in n. 60; the exception is *P.Col.* l. 52, and in this case δῖς is a restoration so that the name in the genitive might be that of the petitioner's father and not of an agent.

⁸⁷ Of the texts cited in n. 13, *CIL* and *FIRA* read 'per Didymum mili[t]e[m] f[ir]m[en]tarium', a conjecture of Hülsen. The stone probably had MILIGENERUM (see *CIL* iii, 14191), and 'per mili[tem] generum' is a perfectly satisfactory reading: the Skaptopara inscription (quoted in n. 12) and the Code (e.g., v, 16, 2; vi, 21, 1-3; iv, 61, 3) show that the status of a soldier was recorded in the addresses of imperial subscripts, and the evidence

of the papyri (see last note) that the relationships of agents to petitioners were recorded as well.

⁸⁸ The address of the subscript is quoted in n. 12; the formula at the head of the petition reads, 'dat. per Aur. Purrum mil. coh. X . . . convicanum et compossessorem' (*IGBulg.* iv, 2236, ll. 6-7). Wilcken was right to hold that this must have been added at the top of the original text of the petition by the staff of the *a libellis* (*Reskripten* 39); had it been inserted by Pyrrus to emphasize his own services, as Faass suggested (art. cit. (n. 1), 237), one would have expected it to be in Greek, which was presumably his native language as it was that of his fellow-villagers. Wilcken's suggestion, 'dat(us)', in agreement with *libellus* understood, is also superior to the usual 'dat(um)'. However, Wilcken's hypothesis that the formula had been intended to record the date of the delivery of the petition to the emperor, and that therefore an actual date at the end of the formula must have been carelessly omitted from the copy or the inscription, is superfluous, if the formula simply recorded the fact the status of the person delivering the petition has been checked, as has been proposed here.

and circuses, which the presence of the imperial court conferred. It has recently been pointed out that a similar situation existed with regard to access to the imperial tribunal as well.⁸⁹

In conclusion, it must be noted that one's judgement of the effectiveness of the imperial government under the Principate will be affected by the view one takes of this problem. If it were true that even the humblest provincials could send the emperors complaints about the provincial administration without the governors being allowed to check and intercept them, then Rome did try to provide really effective protection for the underdog. However, it has been shown that there is very little reason to believe that this was true.

(3) *The publication of the subscript*

Wilcken's theory that the imperial subscript was added at the foot of the *libellus* handed in by the petitioner and that this document was then 'published' by being posted up in some public place near the imperial residence has already been outlined. He followed Mommsen in holding that this system had not existed since the origins of the Principate, but that it was an innovation made at some date between Trajan's answer to Pliny about the petition of Aquila and the earliest evidence for *propositio*, Pius' subscript to Acutianus of Smyrna of 139; to attribute this innovation to the great 'administrative reformer', Hadrian, was very tempting. Before the innovation was made, petitions with the imperial subscripts had been returned to the petitioners, and presumably only copies were entered in the imperial archives.⁹⁰ The letter of Trajan just mentioned is the only *direct* evidence Wilcken produced for the existence of this earlier system. In it Trajan wrote 'libellum rescripti (rescriptum, Kipp) quem illi redderes misi tibi'.⁹¹ Wilcken accepted Kipp's emendation 'rescriptum' in place of the 'rescripti' of the Avantian text. In his view this 'libellum rescriptum' was the text of the centurion's petition together with the imperial subscript granting his daughter Roman citizenship, which Trajan was sending to Pliny for delivery to the petitioner. The term 'libellum rescriptum' is attested in the Skaptopara inscription.⁹² Nevertheless, a single document, and that with an unreliable text, is a weak basis for the hypothesis that before Hadrian all petitions were returned to the petitioners. The *Tabula Banasitana* may be relevant to Trajan's epistle: besides two imperial epistles it contains an excerpt from the 'commentarius civitate Romana donatorum divi Aug. et Ti. Caesaris Aug., etc. etc.', which had presumably been sent to the petitioner Aurelius Iulianus.⁹³ Since the centurion Aquila had, like Iulianus, asked for a grant of Roman citizenship, he should have received a similar document as evidence of the grant. One may make the tentative suggestion that it was to such an excerpt, which incorporated a sentence in the emperor's own words making the grant, that Trajan was referring with the words 'libellum rescripti' (or whatever the original text may have said).⁹⁴ It is thus entirely possible that the system of *propositio* went back to the time of Augustus, even though the earliest direct evidence for it derives from 139.

At Rome the petitions with their attached subscripts were posted in the portico of Trajan's baths.⁹⁵ Similarly at Alexandria they were put up in the stoa or the gatehouse of the gymnasium.⁹⁶ No doubt this was because these were places where as large a section of the public as possible could have access to them. The Columbia papyrus, and probably the Amherst papyrus as well, shows that it was not only petitioners who had copies made of the subscripts.

⁸⁹ P. Garnsey, *Social Status and Legal Privilege in the Roman Empire* 65-6: 'it was plainly more difficult and expensive for a provincial than for an Italian or a Roman, and for a poor provincial than for a rich one, to bring his grievance in person to the Emperor'. But a passage on p. 67 implies that things were easier for petitioners than for litigants: 'the ordinary provincial with a grievance . . . would send off a *libellus*'.

⁹⁰ *Reskripten* 19-20.

⁹¹ Plin., *Epp.* x, 107.

⁹² See the passage quoted in n. 17.

⁹³ *CRAI* 1971, 470-2, ll. 22-40; the text is reproduced by Oliver, *AJP* xciii (1972), 336-8, and by Sherwin-White, *JRS* lxiii (1973), 86-7.

⁹⁴ The document actually forwarded through Pliny must have been headed 'descriptum et recognitum ex commentario', as that in the *Tabula Banasitana* was (l. 22). I therefore suggest (very tentatively) that some phrase which included 'descriptum' or 'descripti' probably lay behind the 'rescripti' of the first printed texts. See also Sherwin-White, art. cit. 89.

⁹⁵ See n. 17.

⁹⁶ See *P.Col.* 123, ll. 1-3 (quoted in n. 27) and *P.Flor.* 382, ll. 15-16, ἐν Ἀλ[ε]ξ[α]νδρ[εί]α π[ρ]ὸς τῷ ἡγουμένῳ π[υ]λῶνι τοῦ [γ]υμνασίου. For the places where subscripts of the legate of Palestine and of the Prefect of Egypt were published, see the documents listed in nn. 52, 107-8.

The evidence of the Columbia papyrus makes it necessary to modify Wilcken's account of the intervals at which the posting of *libelli* with subscripts took place. He rightly argued from the evidence of the papyri that the subscripts both of the emperors and of the Prefects were not posted individually, but fastened together in a sheet. The officials responsible would wait for an appropriate number to accumulate, then fasten them together and post them all at the same date. It would not therefore be usual for a subscript to be posted on the same day as it was issued by the emperor or Prefect, as Mommsen had believed.⁹⁷ From the evidence of *P.Oxy.* 1032, l. 48, Wilcken argued that a gap of 4 days, at the least, or of 13, at the most, could intervene between issue and publication. In this document the Prefect's order to publish was issued on a day in Epeiph which was numbered by a single letter, while the actual publication took place on 14 Epeiph. Thus the issuing of the subscript and its publication were separated by at least 4 and at most 13 days, because the missing letter might represent any number between 1 and 9. However, if the scribe of the Columbia papyrus is to be relied upon,⁹⁸ it is clear that a separate group of subscripts was published on each of three successive days. It is probable that the subscripts issued each day were collected together for posting, but the important point is that this took place at least once a day. This does not rule out the possibility of an interval between issue and publication, but the obvious conclusion from *P.Col.* 123 is that the subscripts published each day were those with which the emperor had dealt that day: the difference between one and two letters in a gap in *P.Oxy.* 1032, l. 48, is not sufficient evidence on which to reject this conclusion.

The papyri may also throw some light on the question of how long the *libelli* with subscripts were left posted up. If one makes the reasonable assumption that all the texts in *P.Col.* 123 were copied down at the same time, this shows that they were left up for three days at least. If the same is true of the Amherst papyrus, then the period was at least six days. The copy of Pius' subscript to Acutianus of Smyrna was made on April 8th, but the witnesses to the authenticity of the copy did not apply their seals until May 5th: if one assumes that Acutianus had a copy made on the earliest day possible and that the witnesses checked the copy against an original still on display on the day they applied their seals, it follows that petitions with the subscripts attached were on view at Rome for at least 28 days. This was the conclusion reached by Wilcken, although he held, wrongly, that April 8th was described as the day on which the imperial subscript was issued.⁹⁹ The parallel evidence for the display of imperial edicts makes a period of about a month a very probable one.¹⁰⁰

It is possible, however, that at Alexandria the petitions and subscripts were left on display for the duration of the emperor's visit. In one case we have two texts of the same subscript which record two dates of publication over three months apart.¹⁰¹ If the Strassburg text was derived from a private copy made while the subscript was still on display, and not from the archives (see section 1), the discrepancy could be explained in this way: the date in the Berlin papyrus is the correct one, and that in the Strassburg papyrus the date on which the original copy was made in the gymnasium at Alexandria, which was at some stage confused with the date of publication of the subscript by a copyist. If this hypothesis were correct, it would mean that a text originally posted in December 199 was still available for copying in April 200, and this would be a reason for suggesting that subscripts were left up for the duration of the imperial visit. But the suggestion is very speculative, and a considerable area of wall would have been needed to accommodate the several hundred *libelli* which would have accumulated during this period. On the other hand, there would be a special reason for leaving them on display as long as possible if private individuals

⁹⁷ *Reskripten* 36 ff.

⁹⁸ See nn. 27 and 29.

⁹⁹ Wilcken, loc. cit. The date at the end of col. 2 of the Smyrna text (see note 9) is preceded by 'ac(tum)'. This word is regularly used to date copies made from official texts, and is placed with the date at the end of such a copy before the names of the witnesses to its accuracy (e.g., *FIRA* i², 47, ll. 25 ff.; *CRAI* 1971, pp. 41-2, ll. 38 ff.; without the lists of witnesses, Smallwood, *Documents of Nerva, etc.*, 330, ll. 24-5; 475, l. 22). Had the date at the end of col. 2 been that of the issue of the original subscript, it would have

been preceded by 'dat.', which Wilcken admitted was the normal term used for this purpose (*Reskripten* 41). Besides the evidence from the Code mentioned by Wilcken, the epigraphic text of a subscript of Severus to a resident of Paros shows that 'dat.' (Greek, ἡδὸθη) was used for subscripts as well as epistles (see n. 14).

¹⁰⁰ See Josephus, *AJ* xix, 291 and *P.Oxy.* 1100, l. 4, both cited by Wilcken, *Reskripten* 35, n. 1.

¹⁰¹ See the description of *BGU* 267 and *P. Strass.* 22 on p. 90 above.

were anxious to make copies and if no official texts were to remain in the Prefect's archives. However, it will be shown in the next section that there may have been two texts of each subscript, one of which could have been left in the Prefect's archives.

It was during the period when the subscripts and petitions were on public view that the petitioners themselves had to take their copies of the subscripts and get them attested. It may appear surprising that petitioners should be required 'to queue up with the interested public and copy down the subscript from the notice board',¹⁰² instead of being provided with the original or a copy made by the imperial secretaries.¹⁰³ The only direct evidence for this procedure in the case of the imperial subscripts is the heading of the Skaptopara inscription, 'descriptum . . . ex libro libellorum rescriptorum, etc.': this might suggest at first sight that the copy which the Skaptopareni possessed was made from the large composite roll in the imperial archives after this petition and subscript had been taken down and attached to it, as Dessau suggested.¹⁰⁴ However, if it is to be regarded as an intolerable inconvenience for a petitioner to queue up and take a copy, would it not have been an even greater inconvenience for him to wait for at least a month for his copy, until the petition and subscript had been entered in the archives, before he could set off home? If one assumes that the imperial secretariat must have consulted the petitioner's convenience, a copy should have been made and supplied before *propositio* and not after the period of *propositio* was over.

In fact the 'liber libellorum' of the Skaptopara text must refer to a roll of petitions and subscripts fastened together before being posted and actually on display in Trajan's Baths when the copy was made, and not to the much larger roll in the archives to which they would eventually be attached.¹⁰⁵ There is plentiful evidence from the papyri to show that petitioners to provincial governors had to make their own copies from a text on public display, and there is no reason to suppose that the emperor's servants treated petitioners any differently from those of governors. A copy of a petition from some veterans of X Fretensis to the legate of Palestine with his subscript is headed, 'descriptum et recognitum ex libello *proposito cum aliis* in portico Iuniae . . .'.¹⁰⁶ Copies of petitions to the Prefects of Egypt are in some cases headed by the petitioner's affidavit that he has himself made a faithful copy from a roll of documents on public display.¹⁰⁷ These papyri also refer to copies made from a 'roll of petitions which had been stuck together and posted', in some particular place, and in two cases they had been posted on the same day as the copy was made.¹⁰⁸ These texts show that Wilcken's interpretation of the 'liber' of the Skaptopara text is the correct one, and this interpretation is confirmed by a recently published Yale papyrus. This reports an order by the Prefect Subatianus Aquila that petitions delivered to him should be publicly displayed 'in order that those who wish to may make copies of that which concerns them', and the order is being publicized 'to those in the villages in order that any man who has handed in petitions may come to the metropolis and *take a copy*'.¹⁰⁹

The reason for leaving it to the petitioners' own initiative to discover that replies to petitions had been posted and to make copies and get them witnessed was surely that

¹⁰² I owe this description of the procedure to Mr. Sherwin-White, whose criticism evoked the restatement of Wilcken's hypotheses which follows.

¹⁰³ The copy of an excerpt from the imperial *commentarii* inscribed on the *Tabula Banasitana* (n. 93) was made by an imperial freedman, Asclepiodotus, as the result of a petition; but this was an exceptional case in which a procurator had forwarded the petition of a provincial to Rome, and the copy was made for despatch to the procurator, not to be handed to a petitioner then in Rome.

¹⁰⁴ *Hermes* lxi (1927), 207-8: he believed that this *liber* was made up of copies of subscripts, the originals of which had been handed over to the petitioners.

¹⁰⁵ *Reskripten* 36-7 and *Propositio* 19-20. The implication of Wilcken's argument is that subscripts were only posted at intervals of several days, but the Columbia papyrus shows that, at times at least, it took place daily (see nn. 27 and 29). However, four or five petitions with subscripts, stuck together side by side, could still be described as a *liber* (the equivalent of a τεύχος συνκαλλησιμων βιβλειδιων referred to in the papyri listed in nn. 107-108).

¹⁰⁶ See n. 52 for references.

¹⁰⁷ e.g. *P.Oxy.* 2131 = Hunt and Edgar, *Select Papyri* 290, ll. 2-5, ἐμαρτύρατο ἑαυτὸν Τοτοῆς . . . διὰ τῶν ὑπογεγραμμένων μαρτύρων ἐξειληθέναι καὶ προσαντιβηληκέναι ἐκ τεύχους συνκαλλησιμων βιβλειδιων ἐπιδοθήντων Σουβατιανῶ 'Ακύλα . . . προτεθέντων ἐν 'Αντινοουπόλ., and *BGU* 970 (+525) = Mitteis, *Chrestomathie* 242, ll. 3-5. For the Latin equivalent of the formula, see ll. 5-6 of the copy of Domitian's edict on the immunity of veterans (*CIL* xvi, 12 = *FIRA* i² 76), 'testatus est se descriptum et recognitum fecisse'.

¹⁰⁸ See the text quoted in the last note and *BGU* 970, ll. 4-5, ἐκ τεύχους βιβλειδιων Τίτου Πακτουμηίου . . . προτεθέντων σὺν ἑτέροις ἐν 'Ιουλιουπόλει. For the phrase προτεθέντων τῇ ἐνεστώσῃ ἡμέρᾳ, see *P.Oxy.* 35, ll. 12-13 as restored by Wilcken (*Reskripten* 32, and *Propositio* 17), and now the Cornell papyrus published by N. Lewis, *BASP* vi (1969), p. 17, l. 4 (this also has a fragment of an affidavit formula in ll. 2 f.).

¹⁰⁹ *P. Yale* 61, ll. 11-16: ἵνα οἱ βουλόμενοι τὰ διαφέροντα ἑαυτοῖς ἐκλαβ(ε)ῖν δύνανται . . . ὅπως εἰ τυγχάνῃ τις ἐπιδοῦς βιβλίδια ἀνελθὼν εἰς τὴν μητροπόλιν τὴν ἐκλεμνὴν ποιήσῃται.

suggested by Premerstein,¹¹⁰ to spare the imperial secretaries work and trouble: work, in that they had only to prepare a fair copy of the imperial subscript, usually a short text, for the emperor's 'signature', and not to copy out themselves the interminable texts of the petitions; trouble, in that the petitioners could be told to inspect the appropriate notice board until their petition was posted with the subscript, and not come and bother the imperial staff to find out when their subscripts would be ready (one can easily imagine a stream of petitioners turning up at the palace day after day with anxious enquiries). The convenience of the imperial secretariat is also the most convincing explanation for the institution of the *propositio* of petitions with subscripts in the first place. The relief it afforded to the secretaries *might* have been a mere by-product of a decision taken for other reasons. However, the other reasons suggested for the introduction of *propositio*, such as to allow access to an interested public to important imperial rulings on points of law, or to guarantee the petitioner the privilege he had been granted by making it public, are unsatisfactory because they do not account for the *mechanical* nature of the system, whereby all subscripts, whatever their intrinsic interest, were published. None but the petitioners themselves can have been interested, for example, in the permission given to Acutianus of Smyrna to copy a decision of Hadrian's in the imperial archives or in the curt orders to comply with decisions already handed down in *apokrimata* nos. 2-3; and the recipients of the latter were not getting any privileges which needed to be made public, while the former only needed a text of the subscript to show the staff of the archives on one occasion. Explanations which connected the institution of *propositio* with the codification of the Edict under Hadrian¹¹¹ result perhaps from the preservation of such a large number of subscripts which modified the private law in the Code, and overlook the fact that perhaps half the total of subscripts issued were concerned with administration and not private law, while of the half that were concerned with private law an unknown proportion simply explained the existing rules to a puzzled petitioner and did not modify the law at all; hence they may have been of as little interest to outsiders as the two *apokrimata* just mentioned. Yet *all* subscripts clearly were published, and this fact can only be accounted for by some explanation in terms of office routine, such as the convenience of the office of the *a libellis* in 'getting the petitioners off their backs'.¹¹² Such an attempt to reduce the pressure on the imperial household also fits in very well with the motives discussed in section 2 for the insistence upon the delivery of petitions by the person involved or a close relative.

(4) *The language of composition of the subscripts*

Wilcken was sure that the Greek texts of imperial subscripts found in the papyri were translations from Latin originals, because the epigraphic texts revealed that it was an invariable practice to issue subscripts in Latin, regardless of whether the petitions to which they were attached were written in Latin or Greek;¹¹³ the existence of a papyrus with epistles written in Greek by Severus himself to a private individual, Aurelius Horion, did not affect the issue because epistles were an entirely different matter from subscripts.¹¹⁴ However, Wilcken originally set out his view that the papyrus texts were translations of Latin originals in 1920, when he believed that they had been composed at Rome, just as the epigraphic texts were. It could be argued that he did not consider sufficiently the possibility that the emperor might adopt a different practice when dealing with petitions in a Greek city, when he was, as it were, taking over from the governor to whom provincial petitioners usually addressed themselves. In these circumstances, the motive suggested above for publishing replies to Greek petitions in Latin at Rome, to make them available to the interested public in the majority language, would not hold. On Wilcken's view the existing texts are presumably

¹¹⁰ *RE* s.v. 'libellus', col. 42: 'eine Entlastung für die kaiserliche Kanzlei'. Wilcken, *Reskripten* 17, envisaged unofficial help from a clerk of the *a libellis* for Acutianus of Smyrna in preparing his copy, but there seems to be no good reason for assuming something which, he admits, is certainly never made explicit in the texts.

¹¹¹ Wilcken, *Reskripten* 20-1, referring to Karlowa; cf. F. von Schwind, *Zur Frage der Publikation im römischen Recht* 167-8.

¹¹² Wilcken, loc. cit., did suggest that a system

introduced for 'Prozessreskripte' later spread to other *libelli*, but did not pursue the idea.

¹¹³ Of the epigraphic texts cited in nn. 9-13, all but those from North Africa (n. 10) have petitions in Greek.

¹¹⁴ U. Wilcken, 'Über den Nutzen der lateinischen Papyri', *Atti del IV Congresso Internazionale di Papirologia, Firenze 1935*, 111-112; his argument was directed against A. Stein in particular (see *RE* s.v. 'libellus', col. 38). For Severus' epistles to Aurelius Horion, see nn. 18 and 63 above.

official translations supplied for the convenience of the Alexandrian and Egyptian public: ¹¹⁵ why should not the emperor have provided for this more simply by composing and issuing his replies directly in Greek?

The publication of the *apokrimata* led to further discussion of the question. Westermann and Schönbauer held that they had been composed in Greek, without advancing any very convincing arguments.¹¹⁶ Schiller, followed by Pringsheim, accepted Wilcken's argument, and in his commentary suggested a number of Latin technical legal terms which might lie behind the Greek.¹¹⁷ However, as David pointed out,¹¹⁸ the use of Latinisms in the sense of Greek equivalents of Latin technical terms does not provide secure proof that the texts as a whole were not composed in Greek: how else could the concepts be conveyed? It may be suggested that more convincing evidence of translation is provided by echoes in the Greek of non-technical phrases found in Latin rescripts of the Severi from the Code. A particularly striking case is *apokrima* no. 3, τοῖς ἐγνωσμένοις πίθεσθαι, which recalls two phrases used by Caracalla, 'placitis obtempera' and 'placitis adquiesce'.¹¹⁹ There is also a phrase in *P.Oxy.* 1405, l. 2, εὐδηλὸν ἐστίν, which may represent one of two phrases used several times in conveying to a petitioner the state of the existing law, 'manifestum est' ¹²⁰ or 'palam est'.¹²¹

Nevertheless, all such attempts to detect traces of Latin underlying such short Greek texts are inevitably subjective. There is one, rather more objective, reason for supposing the Greek texts to have been translations posted separately from the petitions to which the original Latin subscripts were added. In all the papyri where the date of posting is preserved this date is given in terms of Severus' regnal year in Egypt and of the months of the Egyptian calendar. No official entry of the date of publication is preserved in the epigraphic texts, but the subscripts in the Code whose date of posting (indicated by the letters PP) is recorded have dates in terms of consular years and of Roman months. It would be surprising if the office of the *a libellis* abandoned the use of the official Roman calendar, even if they were posting replies composed in Greek for an Egyptian public to read. Precise parallels for the publication in Egypt of imperial constitutions issued in Egypt are hard to find. The subscript of Caracalla of 216 in the Florence papyrus has in fact a date in Roman months and consular years. Of two edicts, published but not issued in Egypt, one of Hadrian has the date of publication at Alexandria in Egyptian form, the other of Caracalla has the date of issue at Rome both in the original Roman form and in its Egyptian equivalent but that of publication at Alexandria only in Egyptian form.¹²² The latter was certainly a translation from a Latin original, which is partly preserved in the Code. If the Greek texts of Severus' subscripts were translations of Latin subscripts prepared by the Prefect's staff ¹²³ to help a Greek-reading public and posted alongside the originals, the translators might very well have rendered the Roman date given for the publication of the originals into Egyptian terms:

¹¹⁵ That the Greek texts are *official* translations posted at Alexandria is shown by the description added at the top of *P.Col.* 123, ἀντίγραφα ἀποκριμάτων (προ) τεθέντων (l. 2), which surely excludes the possibility that these were texts translated by the copyist. The department of the *a libellis* had presumably no translators regularly attached to it (see p. 96 above); the translations may well have been supplied by members of the Prefect's staff, for whom this must have been a regular task (it was they who presumably translated Hadrian's letter to the Prefect Rammius Martialis extending the privileges of soldiers before it was posted in the legionary camp: see *BGU* 140 = Smallwood, *Docs. of Nerva*, etc., no. 333, ll. 1-9).

¹¹⁶ Westermann, *Apok.* 11-13; E. Schönbauer, *AAWW* 1957, 196-7 (I have not seen the article in which he promised to argue for his view, p. 196, n. 43).

¹¹⁷ Schiller, *Apok.* 47 and *passim* in his commentaries on each *apokrima*; F. Pringsheim, *Symbolae Taubenschlag* (= *Eos*, xlviii (1956)), vol. i, 239-40, where he gives a list of Schiller's proposed translations of Latin phrases (some of which must be removed in the light of Youtie's revised text).

¹¹⁸ M. David, *Mnemosyne* xi (1958), 85. Examples

of such Latinisms are τὴν ἐκ τῆς ἡλικίας βοήθειαν for 'aetatis auxilium' (*P.Oxy.* 1020, ll. 5 and 7; *P.Col.* 123, l. 54; see *P.Oxy.* vol. vii, p. 148) and τοὺς γεγραμμένους κληρονόμους for 'heredes scripti' (*P.Col.* 123, l. 29; see Schiller, *Second Thoughts* 338).

¹¹⁹ *Cod.Iust.* ii, 8, 1; ii, 6, 1. D'Ors' view (*Symbolae Taubenschlag*, vol. iii, 83) that τὰ ἐγνωσμένα is used in a technical sense found in the Ptolemaic period may therefore be ruled out (already rejected by Schiller, *Apok.* 55).

¹²⁰ *Cod.Iust.* vi, 46, 1; 47, 1; viii, 28, 1 (Severus himself); v, 60, 1; vii, 72, 1; ix, 47, 3 (Caracalla).

¹²¹ *Cod.Iust.* ii, 11, 3; vii, 46, 1 (Severus). Schiller, *Apok.* 57-63 suggested that οὐ δικαίως ἀξίσις (*P.Col.* 123, l. 15) represent 'contra ius postulas', but all the parallels he cites from the Code date from the Diocletianic period; the nearest examples from Severus himself are 'neque aequam neque usitatam rem desideras' (iv, 2, 1) and 'incivilem rem desideratis' (vi, 2, 6).

¹²² Hadrian's edict: *P.Cairo* 49359 = 49360 = *P.Oslo* 78 = *FIRA* i², 81 = Smallwood, *Docs. Nerva*, etc. 462. Caracalla's edict: *P.Giess.* 40, col. ii, ll. 1-15 (cf. n. 5).

¹²³ For translators on his staff, see n. 115.

there would be no need to give both forms, as the man who published Caracalla's edict did, because the Roman date was visible at the foot of the Latin text.

Whether the surviving texts are translations or not, the fact that Greek texts were published at Alexandria shows that in this instance the emperor and his staff did take into consideration the needs both of the petitioners and of the interested public, even though at Rome petitioners and members of the public who could not read Latin were left to shift for themselves. On the other hand, if the texts were translations, two sets of documents would have been available after the period of display was over. It is reasonable to assume that, if this were the case, the original petitions with the imperial subscripts in Latin at the foot were attached to a large composite roll and carried back to the imperial archives at Rome; the Greek versions could have been left at Alexandria and stored in the Prefect's archives. There is thus a possibility, but no more, that texts of the subscripts, but not of the original petitions, were available for consultation by the provincials after the departure of the imperial court; some of the surviving copies might in that case be the result of a search for precedents in the Prefect's archives, as was suggested in section 1 above.

(5) *Conclusion*

Prevailing views of the *libellus* procedure and of the production of imperial subscripts need to be changed in the following ways, if the arguments advanced above are correct. (1) By no means all petitions to the emperor sought to elicit imperial rulings on questions of law for use in litigation, as the evidence of the Code might lead one to suppose; perhaps half were concerned with private law, and an unknown proportion of those simply sought information. (2) Petitions had usually to be delivered to the emperor by the petitioner himself or by a person closely related to him; this provision may have been intended as much to limit the flow of petitions as to ensure that the person who brought the petition would be able to answer questions. It was only in exceptional cases that governors forwarded to Rome petitions addressed to the emperor, and consequently there was no system of regular publication of subscripts at Alexandria or other provincial capitals, as Wilcken maintained there was. (3) There is no very strong evidence for attributing to Hadrian the institution of the practice of posting the petitions with their attached subscripts outside the imperial residence, and, for all we can tell, it may go back to the origins of the Principate. The blanket publication of all petitions and subscripts, regardless of their intrinsic interest to the public, together with the fact that petitioners had to make their own copies of the subscripts and get them attested, suggests that the main reason for instituting this system of publication was not to make new rulings in private law available to interested parties, nor to guarantee the petitioner the privileges he might have won, but to make things easier for the staff of the *a libellis*. (4) Although subscripts issued at Rome were composed and published in Latin, regardless of the language of the original petitions, those issued during Severus' visit to Alexandria may have been composed in Greek. On the other hand, there is some reason to believe that the surviving texts were translations from Latin originals, translations which must have been produced by the Prefect's staff and posted at the same time as the Latin originals.

This paper began by stressing the traditional obligation of a good monarch to receive and attend to the requests and complaints of his subjects, however humble they were. The Code shows that in the third century the subscript to the *libellus* had become the channel through which a stream of legal advice and new rules flowed from the emperors to their subjects. An examination of the epigraphic and papyrus evidence suggests, however, that the procedure for receiving and responding to petitions was not designed to make things easier for the petitioner, especially if he came from outside Italy. He had to get his petition to Rome (or wherever the imperial court might be), and, once it had been handed in, it was up to him to watch for the posting of a response and to secure an attested copy which alone would secure the privilege he had won, if any. The convenience of the imperial chancery, not that of the petitioner, seems to have determined how the procedure developed.¹²⁴

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¹²⁴ I am grateful to the editor's readers and to Mr. Sherwin-White for criticisms of a first version of this paper, which have produced what it is hoped are

improvements, and to my colleague Leo Rivet for his vigilant scrutiny of the style.